



# FEDERAL REGISTER

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# Rules and Regulations

Federal Register

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

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2016-9393; Directorate Identifier 2014-NM-199-AD; Amendment 39-18935; AD 2017-13-05]

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) 2013-13-16 for all Airbus Model A330-200, A330-200 Freighter, A330-300 series airplanes; and all Airbus Model A340-200, -300, -500, and -600 series airplanes. AD 2013-13-16 required repetitive inspections for discrepancies of the ball-screw assembly of the trimmable horizontal stabilizer actuator (THSA), repetitive greasing of the THSA ball-nut, and replacement of the THSA if necessary; and modification or replacement (as applicable) of the ball-nut assembly, which ends certain repetitive inspections. This new AD requires an inspection, corrective actions if necessary, lubrication of the ball-nut, modification of the THSA, and removal of certain airplanes from the applicability. This AD was prompted by a determination that a modification that automatically detects failure of the ball-screw assembly is necessary. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective August 28, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 28, 2017.

**ADDRESSES:** For service information identified in this final rule, contact

Airbus, Airworthiness Office—ELAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9393.

#### 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-2016-9393; 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:

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 notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2013-13-16, Amendment 39-17504 (78 FR 47537, August 6, 2013) (“AD 2013-13-16”). AD 2013-13-16 applied to all Airbus Model A330-200, A330-200 Freighter, A330-300 series airplanes, and all Airbus Model A340-200, -300, -500, and -600 series airplanes. The NPRM published in the **Federal Register** on December 19, 2016 (81 FR 91882) (“the NPRM”).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness

Directive 2014-0219, dated September 29, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition on all Airbus Model A330 and Model A340 series airplanes. The MCAI states:

Several cases of transfer tube disconnection from the ball-nut of the trimmable horizontal stabilizer actuator (THSA) part number (P/N) 47172 and 47147-400 were detected on the ground during greasing and maintenance. Investigation results showed that this was caused by water ingress into the ball-nut, resulting in the jamming of the ball transfer circuit when the water froze. If the three (independent) ball circuits fail, then the THSA operates on a fail-safe nut (which operates without balls), which jams after several movements on the ballscrew of the THSA.

This condition, if not detected and corrected, could damage the ball screw and the fail-safe nut, possibly resulting in jamming of the THSA and consequent reduced control of the aeroplane.

To detect at an early stage any distortion or initiation of disconnection, [Directorate General for Civil Aviation] DGAC France issued AD 2001-356 and AD 2001-357 to require repetitive inspections of the transfer tubes and their collars and, depending on findings, corrective action(s).

Prompted by another case of transfer tube disconnection, DGAC France issued AD 2001-356R2 and AD 2001-357R2 to require additional repetitive greasing and reinforcement of the ball-nut maintenance greasing instructions.

Subsequently, DGAC France issued AD 2002-037 and AD 2002-038 to require a modification that was also terminating action for the repetitive inspections and greasing tasks required by DGAC France AD 2001-356R2 and AD 2001-357R2 for the THSA P/N 47172 by application of Service Bulletin (SB) A330-27-3085 or SB A340-27-4089 (equivalent to Airbus production modification 49590), as applicable, changing the THSA P/N from 47172 to 47172-300.

Later on, DGAC France issued AD 2002-414 (later revised to R3) and AD 2002-415 (later revised to R2), which superseded the DGAC France AD 2001-356R2, AD 2001-357R2, AD 2002-037, and AD 2002-038, requiring:

- Repetitive inspections of all THSA P/N in service,
- repetitive lubrication of some THSA P/N, and
- replacement of THSA P/N 47172, 47147-400 and 47147-2XX/-3XX.

In addition, the electrical flight control computers monitor the operation of the THSA and the jamming of this actuator could be detected and indicated by messages on the maintenance system and on the [electronic centralized aircraft monitor] ECAM. For that

reason, DGAC France AD 2002–414 and AD 2002–415 also required inspection of the THSA after display of such message(s).

After those [DGAC France] ADs were issued, Airbus introduced 4 new THSA, P/N 47172–500, P/N 47172–510, P/N 47172–520 and P/N 47172–530.

As these new THSA also needed to be inspected/lubricated, EASA issued AD 2010–0192 and [EASA] AD 2010–0193 [which correspond to FAA AD 2013–13–16], which retained the requirements of DGAC France AD F–2002–414R3 and AD F–2002–415R2 respectively, which were superseded, to add required repetitive inspections and lubrications of the new THSA P/N.

Since those [EASA] ADs were issued, all requirements of EASA AD 2010–0192 and [EASA] AD 2010–0193 were transferred into Airbus Airworthiness Limitations Section (ALS) Part 4, except the requirement of paragraph (2.3) of those [EASA] ADs. At this time, compliance with ALS Part 4 tasks is required by EASA AD 2013–0268 (A330 aeroplanes) and [EASA] AD 2013–0269 (A340 aeroplanes), respectively [which correspond to FAA AD 2015–16–02, Amendment 39–18227 (80 FR 48019, August 11, 2015) (A330 airplanes); and AD 2014–23–17, Amendment 39–18033 (79 FR 71304, December 2, 2014) (A340 airplanes); respectively.]

In addition, Airbus developed a Checkable Shear Pin (CSP) for the THSA and an associated additional electrical harness, which consists of installation of two Electrical Detection Devices (EDD) on the lower attachment secondary load path, which gives an indication to the Flight Control Primary Computers of secondary load path engagement.

After embodiment of these modifications on an aeroplane, the repetitive inspections of the ballscrew assembly for integrity of the primary and secondary load paths is no longer required, because the failure is detected automatically by this new device.

For the reasons described above, this [EASA] AD retains only the requirement of paragraph (2.3) of EASA AD 2010–0192 and 2010–0193 [actions following ECAM fault messages], which are superseded, and requires the installation of CSP and associated additional electrical harness on the THSA of the aeroplane. This [EASA] AD also requires, for A340–500/–600 aeroplanes that are post-SB A340–92–5008 (at Revision 06 or earlier), accomplishment of A340 ALS Part 3 task 274000–B0002–1–C, providing a grace period of 3 months for aeroplanes that have exceeded the applicable threshold or interval.

The unsafe condition is the degraded operation of the THSA, which could result in reduced control of the airplane.

Model A330–223F and A330–243F airplanes have been removed from the applicability of this AD to correspond with the MCAI.

Required actions include a detailed inspection and corrective actions if an ECAM fault message is displayed, repetitive lubrication of the THSA ball-nut, and a modification of the THSA by

installing a CSP and associated electrical harness.

Required actions also include certain “Additional Work” that is described in the following service information.

- “Additional Work” in Airbus Service Bulletin A330–27–3143, Revision 01, dated July 10, 2012, is described as removing the closing plug from the electrical harness 4515VB and connecting the electrical harness 4515VB to the THSA.

- “Additional Work” in Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017; and in Airbus Service Bulletin A340–92–4056, Revision 04, dated December 5, 2013; is described as replacement of a certain harness item, installation of placards and cable support, modification of a certain bracket, and installation of a certain spacer.

- “Additional Work” in Airbus Service Bulletin A340–92–5008, Revision 07, dated February 8, 2013, is described as replacing a certain wiring harness, replacing a certain THSA harness, installing additional placards, and modifying a certain wire harness installation order.

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–2016–9393.

#### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

#### New Service Information

Since we issued the NPRM, we have reviewed Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017 (we referred to Airbus Service Bulletin A330–92–3046, Revision 06, dated November 15, 2013, as one of the appropriate sources of service information for installing an electrical harness). Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017, includes minor updates to the procedures and illustrations. We have revised figure 2 to paragraphs (h) and (i) of this AD and figure 3 to paragraph (j) of this AD to refer to Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017. We have also added paragraph (r)(2) to this AD to give credit for actions done in accordance with Airbus Service Bulletin A330–92–3046, Revision 06, dated November 15, 2013.

#### Costs of Compliance Change

The costs of compliance information in the NPRM included a parts cost of \$14,198. We have revised the costs of compliance information in this AD based on receiving updated cost information from the manufacturer to include a parts cost of \$17,481.

#### Conclusion

We reviewed the relevant data, 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

Airbus has issued the following service information. The service bulletins having the same document number are distinct because each revision contains unique editorial changes.

The following service information describes procedures for doing repetitive inspections for integrity of the primary and secondary load paths of the ball-screw assembly of the THSA. These service bulletins are distinct because they apply to different airplane models.

- Airbus Service Bulletin A330–27–3102, Revision 09, dated March 29, 2016.
- Airbus Service Bulletin A340–27–4107, Revision 09, dated March 29, 2016.

The following service information describes procedures for installing two electrical detection devices, also called CSPs, on the lower attachment secondary load path of the THSA, and modifying the THSA. These service bulletins are distinct because they apply to different airplane models equipped with THSAs having different part numbers.

- Airbus Service Bulletin A330–27–3137, including Appendix 01, dated March 20, 2007.
- Airbus Service Bulletin A330–27–3137, Revision 01, including Appendix 1, dated December 6, 2007.
- Airbus Service Bulletin A330–27–3137, Revision 02, dated January 18, 2010.
- Airbus Service Bulletin A330–27–3143, Revision 01, dated July 10, 2012.

- Airbus Service Bulletin A340–27–4136, including Appendix 01, dated March 20, 2007.

- Airbus Service Bulletin A340–27–4136, Revision 01, including Appendix 1, dated December 6, 2007.

- Airbus Service Bulletin A340–27–4136, Revision 02, including Appendix 1, dated February 24, 2010.

- Airbus Service Bulletin A340–27–4143, dated February 21, 2012.

- Airbus Service Bulletin A340–27–5030, Revision 01, including Appendix 1, dated November 20, 2009.

The following service information describes procedures for installing electrical wiring harnesses and brackets to connect the secondary nut detection device to the monitoring systems. These service bulletins are distinct because they apply to different airplane models.

- Airbus Service Bulletin A330–92–3046, Revision 04, dated July 16, 2010.

- Airbus Service Bulletin A330–92–3046, Revision 05, dated November 7, 2011.

- Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017.

- Airbus Service Bulletin A340–92–4056, Revision 03, dated July 16, 2010.

- Airbus Service Bulletin A340–92–4056, Revision 04, dated December 5, 2013.

- Airbus Service Bulletin A340–92–5008, Revision 07, dated February 8, 2013.

The following service information describes system equipment maintenance requirements (SEMRs) that refer to preventative maintenance requirements found necessary to comply with safety objectives. These documents are distinct because they apply to different airplane models.

- Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

- Airbus A340 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

Airbus A340 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015, describes CMRs that are system-related periodic tasks established during type certification.

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 33 airplanes of U.S. registry.

The actions required by AD 2013–13–16, and retained in this AD take about 1 work-hour per product, at an average labor rate of \$85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2013–13–16 is \$85 per product.

We also estimate that it takes about 67 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$17,481 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be \$764,808, or \$23,176 per product.

### Authority for This Rulemaking

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

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

### Regulatory Findings

We determined that this 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) 2013–13–16, Amendment 39–17504 (78 FR 47537, August 6, 2013), and adding the following new AD:

**2017–13–05 Airbus:** Amendment 39–18935; Docket No. FAA–2016–9393; Directorate Identifier 2014–NM–199–AD.

#### (a) Effective Date

This AD is effective August 28, 2017.

#### (b) Affected ADs

This AD replaces AD 2013–13–16, Amendment 39–17504 (78 FR 47537, August 6, 2013) ("AD 2013–13–16").

#### (c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

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

(2) Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes, all manufacturer serial numbers.

#### (d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

#### (e) Reason

This AD was prompted by the determination that a modification that automatically detects failure of the ball-screw assembly is necessary. We are issuing this AD to detect and correct wear on the trimmable horizontal stabilizer actuator (THSA), possibly resulting in damage to the ball-screw and fail-safe nut, which could jam the THSA and result in reduced control of the airplane.

#### (f) Compliance

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

#### (g) Actions for Electronic Centralized Aircraft Monitor (ECAM) Fault Messages

For airplanes other than those identified in figure 1 to paragraphs (g), (h), and (q) of this AD: If, during any flight, one of the "PRIM

X PITCH FAULT” or “STAB CTL FAULT” messages is displayed on the ECAM associated with the “PITCH TRIM ACTR (1CS)” maintenance message, before further flight after each time the message is displayed on the ECAM, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do the applicable detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path; check the checkable shear pins (CSP), if installed; and do all applicable corrective actions; as specified in paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this AD. Do all applicable corrective actions before further flight.

(i) For Model A330 series airplanes: Do the actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3102, Revision 09, dated March 29, 2016, except as required by paragraph (n)(1) of this AD.

(ii) For Model A340–200 and –300 series airplanes: Do the actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–27–4107, Revision 09, dated March 29, 2016, except as required by paragraph (n)(1) of this AD.

(iii) For Model A340–500 and –600 series airplanes: Do the actions 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).

Note 1 to paragraph (g)(1)(iii) of this AD: Guidance for the inspection of the ball-screw assembly can be found in Task 274000–B0002–1–C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, of the Airbus A340 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015.

(2) Lubricate the THSA ball-nut in accordance with the applicable service information specified in paragraph (g)(2)(i), (g)(2)(ii), or (g)(2)(iii) of this AD.

(i) Task 274400–00002–1–E, Lubrication of the THSA ball-nut, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015 (for Model A330 series airplanes).

(ii) Task 274400–00002–1–E, Lubrication of the THSA ball-nut, of Airbus A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015 (for Model A340–200 and –300 series airplanes).

(iii) Task 274000–B0003–1–C, Lubrication of THS Actuator ball-screw nut, of Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015 (for Model A340–500 and –600 series airplanes).

FIGURE 1 TO PARAGRAPHS (g), (h), AND (q) OF THIS AD—DEFINITION OF AIRPLANE GROUPS

Group	Airplane models	On which the following actions or modifications have been done
Group 1 airplanes ...	Airbus Model A330–200 and –300 series airplanes.	On which the actions specified in Airbus Service Bulletin A330–27–3137, dated March 20, 2007; or Revision 01, dated December 6, 2007; and Airbus Service Bulletin A330–92–3046, Revision 04, dated July 16, 2010; or Revision 05, dated November 7, 2011; or Revision 06, dated November 15, 2013; have been embodied in service.
	Airbus Model A340–200 and –300 series airplanes.	On which the actions specified in Airbus Service Bulletin A340–27–4136, including Appendix 1, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; and Airbus Service Bulletin A340–92–4056, Revision 03, dated July 16, 2010; have been embodied in service.
Group 2 airplanes ...	Airbus Model A330–200 and –300 series airplanes and Model A340–200 and –300 series airplanes.	On which Airbus Modifications 55780, 52269, and 56056 have been embodied in production.
	Airbus Model A340–500 and –600 series airplanes.	On which Airbus Modifications 54882, 52191, and 56058 have been embodied in production.
Group 3 airplanes ...	Airbus Model A330–200 and –300 series airplanes.	On which Airbus Service Bulletin A330–27–3137, dated March 20, 2007; or Revision 01, dated December 6, 2007; has been embodied in service and Airbus Modifications 52269 and 56056 have been embodied in production.
	Airbus Model A330–200 and –300 series airplanes.	On which Airbus Modification 55780 has been embodied in production and Airbus Service Bulletin A330–92–3046 Revision 04, dated July 16, 2010; or Revision 05, dated November 07, 2011; or Revision 06, dated November 15, 2013; has been embodied in service.
	Airbus Model A340–200 and –300 series airplanes.	On which Airbus Service Bulletin A340–27–4136, including Appendix 1, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; has been embodied in service and Airbus Modifications 52269 and 56056 have been embodied in production.
	Airbus Model A340–200 and –300 series airplanes.	On which Airbus Modification 55780 has been embodied in production and Airbus Service Bulletin A340–92–4056, Revision 03, dated July 16, 2010, has been embodied in service.

**(h) Installation of CSP and Electrical Harness**

For all airplanes, except Group 2 airplanes specified in figure 1 to paragraphs (g), (h), and (q) of this AD, and except for airplanes

identified in paragraphs (i), (j), and (n)(2) of this AD: Within 12 months after the effective date of this AD, modify the airplane by installing a CSP on the THSA and an additional electrical harness, in accordance with the Accomplishment Instructions of the

Airbus service information specified in figure 2 to paragraphs (h) and (i) of this AD, as applicable to the part number of the THSA installed on the airplane, except as provided by paragraph (n)(2) of this AD.

FIGURE 2 TO PARAGRAPHS (h) AND (i) OF THIS AD—APPLICABLE SERVICE INFORMATION FOR MODIFICATION

THSA Part No. (P/N)	Service bulletin for CSP installation	Service bulletin for electrical harness installation
47172–300 .....	Airbus Service Bulletin A330–27–3137, Revision 02, dated January 18, 2010, for Airbus Model A330–200 and –300 series airplanes; and Airbus Service Bulletin A340–27–4136, Revision 02, including Appendix 1, dated February 24, 2010, for Airbus Model A340–200 and –300 series airplanes.	Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017, for Airbus Model A330–200 and –300 series airplanes; and

FIGURE 2 TO PARAGRAPHS (h) AND (i) OF THIS AD—APPLICABLE SERVICE INFORMATION FOR MODIFICATION—Continued

THSA Part No. (P/N)	Service bulletin for CSP installation	Service bulletin for electrical harness installation
47147-500 .....	Airbus Service Bulletin A330-27-3143, Revision 01, dated July 10, 2012, for Airbus Model A330-200 and -300 series airplanes; and Airbus Service Bulletin A340-27-4143, dated February 21, 2012, for Airbus Model A340-200 and -300 series airplanes.	Airbus Service Bulletin A340-92-4056, Revision 04, dated December 5, 2013, for Airbus Model A340-200 and -300 series airplanes.
47175-200, 47175-300.	Airbus Service Bulletin A340-27-5030, Revision 01, including Appendix 1, dated November 20, 2009, for Airbus Model A340-541 and -642 airplanes.	Airbus Service Bulletin A340-92-5008, Revision 07, dated February 8, 2013, for Airbus Model A340-541 and -642 airplanes.

**(i) “Additional Work” on Previously Modified Airplanes**

For airplanes that have already been modified (installation of CSP on the THSA and electrical harness) before the effective date of this AD in accordance with the Accomplishment Instructions of any previous revision of an Airbus service bulletin specified in figure 2 to paragraphs (h) and (i) of this AD, as applicable: Within 12 months after the effective date of this AD, do the “Additional Work” specified in, and in accordance with, the Accomplishment Instructions of the applicable Airbus service

information specified in figure 2 to paragraphs (h) and (i) of this AD.

**(j) Installation of Electrical Harness on Airplanes Equipped With a CSP**

For airplanes having one of the THSAs installed with a part number listed in figure 3 to paragraph (j) of this AD, and which have been modified by installing a CSP on the THSA as required by paragraph (h) of this AD: Within 12 months after the effective date of this AD, inspect to determine if the electrical harness identified in the applicable Airbus service information specified in figure

3 to paragraph (j) of this AD is installed on the airplane, and if found not to be installed, modify the airplane by installing an electrical harness, in accordance with the Accomplishment Instructions of the Airbus service information specified in figure 3 to paragraph (j) of this AD, as applicable to the part number of the THSA installed on the airplane. Airplanes having one of the THSAs installed with a part number listed in figure 3 to paragraph (j) of this AD already have the CSP installed on the THSA, and only the electrical harness must be installed on the airplane.

FIGURE 3 TO PARAGRAPH (j) OF THIS AD—ELECTRICAL HARNESS INSTALLATION

THSA P/N	Service information for electrical harness installation
47172-500, 47172-510, 47172-520, 47172-530, 47147-700, 47147-710.	Airbus Service Bulletin A330-92-3046, Revision 07, dated January 13, 2017, for Airbus Model A330-200 and -300 series airplanes. Airbus Service Bulletin A340-92-4056, Revision 04, dated December 5, 2013, for Airbus Model A340-200 and -300 series airplanes.
47175-500, 47175-520, 47175-530 .....	Airbus Service Bulletin A340-92-5008, Revision 07, dated February 8, 2013, for Airbus Model A340-541 and -642 airplanes.

**(k) Terminating Action for Repetitive Inspections of Airbus Model A330-200 and -300 Series Airplanes**

Accomplishment of a modification before the effective date of this AD, using the Accomplishment Instructions of Airbus Service Bulletin A330-27-3137, dated March 20, 2007; or Revision 01, dated December 6, 2007; and Airbus Service Bulletin A330-92-3046, Revision 04, dated July 15, 2010; or Revision 05, dated November 7, 2011; or Revision 06, dated November 15, 2013; terminates the repetitive inspections specified in paragraphs (k)(1) through (k)(4) of this AD. Modification of an airplane as required by this paragraph does not constitute terminating action for the actions specified in paragraph (g)(2) of this AD or the additional work specified in paragraph (i) of this AD.

(1) Task 274400-00001-1-E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and check the gap at the secondary nut trunnion, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(2) Task 274400-00001-2-E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load

path and check the CSPs, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(3) Task 274400-00001-3-E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and check the CSPs, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(4) Task 274400-00001-4-E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and check the CSPs, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

**(l) Terminating Action for Repetitive Inspections of Airbus Model A340-200 and -300 Series Airplanes**

Accomplishment of a modification in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340-27-4143, dated February 21, 2012; and Airbus Service Bulletin A340-92-4056, Revision 03, dated July 16, 2010; terminates the actions required by paragraph (g)(1) of this AD for modified Airbus Model A340-200 and -300 series airplanes only. Modification of an airplane as specified in

this paragraph does not constitute terminating action for the actions specified in paragraph (g)(2) of this AD, or the additional work specified in paragraph (i) of this AD.

**(m) Terminating Action for Repetitive Inspections of Airbus Model A340-200 and -300 Series Airplanes**

Accomplishment of a modification before the effective date of this AD using the Accomplishment Instructions of Airbus Service Bulletin A340-27-4136, including Appendix 1, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; and Airbus Service Bulletin A340-92-4056, Revision 03, dated July 16, 2010; terminates the repetitive inspections specified in paragraphs (m)(1) through (m)(4) of this AD. Modification of an airplane as specified in this paragraph does not constitute terminating action for the actions specified in paragraph (g)(2) of this AD, or the additional work specified in paragraph (i) of this AD.

(1) Task 274400-00001-1-E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and gap check at the secondary nut trunnion, of Airbus A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(2) Task 274400-00001-2-E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and CSP check, of Airbus A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(3) Task 274400-00001-3-E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and CSP check, of Airbus A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(4) Task 274400-00001-4-E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and CSP check, of A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

**(n) Exceptions to the Actions in Certain Service Information and Paragraph (h) of This AD**

(1) Where Airbus Service Bulletin A330-27-3102, Revision 09, dated March 29, 2016 (for Model A330 series airplanes); or Airbus Service Bulletin A340-27-4107, Revision 09, dated March 29, 2016 (for Model A340 series airplanes); specifies to contact Airbus for a damage assessment: Before further flight, accomplish the required actions in accordance with the procedures specified in paragraph (s)(2) of this AD.

(2) For airplanes that already had the electrical harness installed during production using Airbus Modifications 52269 and 56056 for Airbus Model A330-200 and -300 series airplanes and Airbus Model A340-200 and -300 series airplanes, and using Airbus Modifications 52191 and 56058 for Model A340-500 and -600 series airplanes: Only the CSP must be installed on the THSA in accordance with applicable Airbus service bulletins and within the compliance time specified in paragraph (h) of this AD.

**(o) Terminating Action for Repetitive Inspections for Airplanes on Which Actions Required by Paragraph (h), (i), or (j) of This AD Are Done**

Modification of an airplane as required by paragraph (h), (i), or (j) of this AD, as applicable, constitutes terminating action for that airplane for the applicable actions identified in paragraphs (o)(1) through (o)(4) of this AD.

(1) For all airplanes: The actions required by paragraph (g) of this AD.

(2) For Model A340-500 and -600 series airplanes: Task 274000-B0002-1-C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, of Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015.

(3) For Model A330-200 and -300 series airplanes: The ALS tasks identified in paragraphs (k)(1) through (k)(4) of this AD.

(4) For Model A340-200 and -300 series airplanes: The ALS tasks identified in paragraphs (m)(1) through (m)(4) of this AD.

**(p) Ball-Screw Assembly Inspection for Certain Airplanes**

For Model A340-500 and -600 airplanes that are in post-Airbus Service Bulletin A340-92-5008, at Revision 06 or earlier, configuration: Before exceeding the threshold or interval, as applicable, of Task 274000-B0002-1-C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, of Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015, or within 3 months after the effective date of this AD, whichever occurs later, accomplish Task 274000-B0002-1-C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, of Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015; and do all applicable corrective actions. Do all applicable corrective actions before further flight using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. Repeat Task 274000-B0002-1-C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, thereafter at the applicable intervals specified in Airbus A340 ALS Part 3—CMRs, Revision 03, dated October 19, 2015.

**(q) Parts Installation Prohibitions**

(1) For all airplanes except Group 2 airplanes as identified in figure 1 to paragraphs (g), (h), and (q) of this AD: After modification of the airplane as required by paragraph (h), (i), or (j) of this AD, as applicable, no person may install any THSA having part number (P/N) 47172-300, P/N 47147-500, P/N 47175-200, or P/N 47175-300.

(2) For Group 2 airplanes, as identified in figure 1 to paragraphs (g), (h), and (q) of this AD: As of the effective date of this AD, no person may install on any Group 2 airplane any THSA having P/N 47172-300, P/N 47147-500, P/N 47175-200, or P/N 47175-300.

**(r) Credit for Previous Actions**

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

(i) Task 274400-00002-1-E, Lubrication of the THSA ball-nut, of Airbus A330 ALS Part 4—Ageing Systems Maintenance, Revision 03, dated September 9, 2011 (for Model A330 series airplanes).

(ii) Task 274400-00002-1-E, Lubrication of the THSA ball-nut, of Airbus A330 ALS Part 4—Ageing Systems Maintenance, Revision 04, dated August 27, 2013 (for Model A330 series airplanes).

(iii) Task 274400-00002-1-E, Lubrication of the THSA ball-nut, of Airbus A340 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated October 12, 2011 (for Model A340-200 and -300 series airplanes).

(iv) Task 274400-00002-1-E, Lubrication of the THSA ball-nut, of Airbus A340 ALS

Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012 (for Model A340-200 and -300 series airplanes).

(2) This paragraph provides credit for the electrical harness installation required by paragraph (h) of this AD and the inspection and electrical harness installation required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A330-92-3046, Revision 06, dated November 15, 2013.

**(s) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to the attention of the person identified in paragraph (t)(2) of this AD. Information may be emailed to: 9-ANM-116-ACO-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

**(t) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014-0219, dated September 29, 2014, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9393.

(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 (u)(3) and (u)(4) of this AD.

**(u) 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 A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(ii) Airbus A340 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015.

(iii) Airbus A340 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(iv) Airbus Service Bulletin A330–27–3102, Revision 09, dated March 29, 2016.

(v) Airbus Service Bulletin A330–27–3137, including Appendix 01, dated March 20, 2007.

(vi) Airbus Service Bulletin A330–27–3137, Revision 01, including Appendix 1, dated December 6, 2007.

(vii) Airbus Service Bulletin A330–27–3137, Revision 02, dated January 18, 2010.

(viii) Airbus Service Bulletin A330–27–3143, Revision 01, dated July 10, 2012.

(ix) Airbus Service Bulletin A330–92–3046, Revision 04, dated July 16, 2010.

(x) Airbus Service Bulletin A330–92–3046, Revision 05, dated November 7, 2011.

(xi) Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017.

(xii) Airbus Service Bulletin A340–27–4107, Revision 09, dated March 29, 2016.

(xiii) Airbus Service Bulletin A340–27–4136, including Appendix 01, dated March 20, 2007.

(xiv) Airbus Service Bulletin A340–27–4136, Revision 01, including Appendix 1, dated December 6, 2007.

(xv) Airbus Service Bulletin A340–27–4136, Revision 02, including Appendix 1, dated February 24, 2010.

(xvi) Airbus Service Bulletin A340–27–4143, dated February 21, 2012.

(xvii) Airbus Service Bulletin A340–27–5030, Revision 01, including Appendix 1, dated November 20, 2009.

(xviii) Airbus Service Bulletin A340–92–4056, Revision 03, dated July 16, 2010.

(xix) Airbus Service Bulletin A340–92–4056, Revision 04, dated December 5, 2013.

(xx) Airbus Service Bulletin A340–92–5008, Revision 07, dated February 8, 2013.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.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 15, 2017.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–14923 Filed 7–21–17; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA–2017–0157; Directorate Identifier 2016–CE–039–AD; Amendment 39–18965; AD 2017–15–05]**

**RIN 2120–AA64**

#### **Airworthiness Directives; Piper Aircraft, Inc. Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 69–13–03 for all Piper Aircraft, Inc. Models PA–23, PA–23–160, PA–23–235, PA–23–250, PA–E23–250, and PA–30 airplanes. AD 69–13–03 required inspection of the heater exhaust extension, replacement of the extension as necessary, and overhaul of the combustion heater assembly. This AD retains the inspection of the heater exhaust extension with replacement of the extension as necessary and removes the overhaul requirement of the combustion heater assembly. This AD was prompted by a recently issued AD that applies to the Meggitt (Troy), Inc. combustion heaters, and the combustion heater AD incorporates corrective actions for the heater that contradict the overhaul requirement of AD 69–13–03. We are issuing this AD to continue to address the unsafe condition on these products and avoid potential contradiction of actions.

**DATES:** This AD is effective August 28, 2017.

#### **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–2017–0157; 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 final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document 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:**

Scott Hopper, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5535; fax: (404) 474–5606; email: [scott.hopper@faa.gov](mailto:scott.hopper@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 69–13–03, Amendment 39–785 (34 FR 9748, June 24, 1969) as amended by AD 69–13–03, Amendment 39–1749 (38 FR 33765, December 7, 1973), (“AD 69–13–03”). AD 69–13–03 applied to certain Piper Aircraft, Inc. Models PA–23, PA–23–160, PA–23–235, PA–23–250, PA–E23–250, and PA–30 airplanes. AD 69–13–03 required inspection of the heater exhaust extension to determine if it is mild steel or stainless steel, repetitive inspections of the mild steel extensions for deterioration, replacement of the extension as necessary, and overhaul of the combustion heater assembly. AD 69–13–03 resulted from the potential of carbon monoxide entering the airplane cabin.

The NPRM was prompted by another AD action that applies to the Meggitt (Troy), Inc. combustion heaters installed on the airplanes AD 69–13–03 applied to. AD 2017–06–03; Amendment 39–18827 (82 FR 15988, March 31, 2017), which applies to the Meggitt combustion heaters incorporates corrective actions for the heater that contradict the overhaul requirement of AD 69–13–03. The NPRM proposed to retain certain requirements of AD 69–13–03 and remove the requirement for overhaul of the heater assembly. We are issuing this AD continue to address the unsafe condition on these products and avoid potential contradiction of actions.

##### **Comments**

We gave the public the opportunity to participate in developing this AD. One comment was received from Ahmed Ali who agrees with the AD action. The following presents the other comment received on the NPRM and the FAA’s response to the comment.

##### **Request To Withdraw NPRM**

Jeff Aryan stated the AD is not necessary. The commenter has owned a Model PA–30 airplane for 25 years and does not believe heater fumes can enter the cabin. He has used the heater for

prolonged periods of time, with and without the engine running, and has not experienced any problems. He stated the exhaust system was well designed and does not need to be changed. He believes owners are not maintaining their airplane to the regulations. We infer the commenter would like for us to withdraw the NPRM.

We disagree with this comment. The potential exists for carbon monoxide to enter the cabin when the mild steel exhaust extension deteriorates. The required actions of this AD will

continue to address the unsafe condition.

We have not changed this AD based on this comment.

**Conclusion**

We reviewed the relevant data, considered the comments 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 NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Costs of Compliance**

We estimate that this AD affects 1,950 airplanes of U.S. registry.

We estimate the following costs to comply with this AD. The new requirements of this AD add no additional economic burden:

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Determine installation of a mild steel or stainless steel heater exhaust extension.	1 work-hour × \$85 per hour = \$85 .....	N/A	\$85	\$165,750

We estimate the following costs to do any necessary corrective actions that

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

determining the number of airplanes that might need these corrective actions:

**ON-CONDITION COSTS**

Action	Labor cost	Parts cost	Cost per product
Inspection of mild steel heater exhaust extension	1 work-hour × \$85 per hour = \$85 .....	Not applicable .....	\$85
Replacement of heater exhaust extension .....	1 work-hour × \$85 per hour = \$85 .....	* \$1,000 .....	1,085
Remove or disable the heater .....	1 work-hour × \$85 per hour = \$85 .....	Not applicable .....	85

\* There are currently no replacement parts available for the heater exhaust extension. The \$1,000 parts cost is the FAA's best estimate if parts were to become available.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

We have determined that this 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 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) 69-13-03, Amendment 39-785 (34 FR 9748, June 24, 1969) as amended by AD 69-13-03, Amendment 39-1749 (38 FR 33765, December 7, 1973), and adding the following new AD:

**2017-15-05 Piper Aircraft, Inc.:**

Amendment 39-18965; Docket No. FAA-2017-0157; Directorate Identifier 2016-CE-039-AD.

**(a) Effective Date**

This AD is effective August 28, 2017.

**(b) Affected ADs**

This AD replaces Airworthiness Directive (AD) 69-13-03, Amendment 39-785 (34 FR 9748, June 24, 1969) as amended by AD 69-13-03, Amendment 39-1749 (38 FR 33765, December 7, 1973) ("AD 69-13-03").

**(c) Applicability**

This AD applies to Piper Aircraft, Inc. Models PA-23, PA-23-160, PA-23-235, PA-23-250, PA-E23-250, and PA-30 airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 21, Air Conditioning.

**(e) Unsafe Condition**

This AD was prompted by the potential of carbon monoxide entering the airplane cabin. We are issuing this AD to prevent failure of the combustion heater exhaust extension, which could lead to carbon monoxide entering the airplane cabin.

**(f) Compliance**

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

**(g) Mild Steel or Stainless Steel Exhaust Extension Determination**

Within the next 25 hours time-in-service (TIS) after December 14, 1973 (the effective date retained from AD 69-13-03 as amended by AD 69-13-03, Amendment 39-785 (38 FR 33765, December 7, 1973)), remove the heater exhaust tube shroud and by means of a magnet determine if Stewart-Warner part number (P/N) 486238 exhaust extension (Piper P/N 754-708) is mild steel (magnetic) or stainless steel (non-magnetic). If the exhaust extension is stainless steel, then no further action is required by this AD.

**(h) Mild Steel Exhaust Extensions**

If there is a mild steel Stewart-Warner P/N 486238 exhaust extension (Piper P/N 754-708) installed on the airplane, within 25 hours TIS after August 28, 2017 (the effective date of this AD), you must do one of the following actions found in paragraph (h)(1) through (3) of this AD.

(1) Replace the mild steel exhaust extension with a stainless steel exhaust extension.

(2) Visually inspect the mild steel exhaust extension for deterioration (cracks, corrosion, rust, and/or flaking) and repetitively thereafter visually inspect the exhaust extension at intervals not to exceed 25 hours TIS or until the mild steel exhaust extension is replaced with a stainless steel exhaust extension.

(3) Disable or remove the combustion heater.

**(i) Deterioration of the Mild Steel Exhaust Extension**

If deterioration (cracks, corrosion, rust, and/or flaking) of the extension is found during any of the inspections required in paragraph (h)(2) of this AD, before further flight, you must do one of the following actions in paragraph (i)(1) or (2) of this AD.

(1) Replace the exhaust extension with a stainless steel exhaust extension or a mild steel P/N 486238 exhaust extension that has been inspected per paragraph (h)(2) of this AD and was found free of deterioration. If you install a mild steel P/N 486238 exhaust extension, you must continue the repetitive

visual inspections required in paragraph (h)(2) of this AD.

(2) Disable or remove the heater.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Atlanta Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k) of this AD.

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

(3) AMOCs approved for paragraphs (a) and (b) of AD 69-13-03 are approved as AMOCs for the corresponding provisions of this AD.

**(k) Related Information**

For more information about this AD, contact Scott Hopper, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474-5535; fax: (404) 474-5606; email: [scott.hopper@faa.gov](mailto:scott.hopper@faa.gov).

Issued in Kansas City, Missouri, on July 12, 2017.

**Pat Mullen,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017-15213 Filed 7-21-17; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA-2017-0115; Directorate Identifier 2017-NE-04-AD; Amendment 39-18967; AD 2017-15-07]**

**RIN 2120-AA64**

**Airworthiness Directives; Safran Helicopter Engines, S.A., Turboshaft Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are superseding airworthiness directive (AD) 2017-04-51 for all Safran Helicopter Engines, S.A., Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines. AD 2017-04-51 required inspecting, wrapping, and replacing the affected drain valve assembly (DV) installed on these Arriel 1 engines. This AD requires inspecting

and wrapping affected DVs and replacing those DVs found to be defective. This AD eliminates the terminating action that existed under AD 2017-04-51 and reduces the population of affected parts. This AD was prompted by reports of additional fuel leaks originating from the DV on certain Arriel engines. We are issuing this AD to correct the unsafe condition on these products.

**DATES:** This AD is effective August 8, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 8, 2017.

We must receive any comments on this AD by September 7, 2017.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Safran Helicopter Engines, S.A., 40220 Tarnos, France; phone: (33) 05 59 74 40 00; fax: (33) 05 59 74 45 15. You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7125. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0115.

**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-2017-0115; 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 mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone:

800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7754; fax: 781-238-7199; email: [robert.green@faa.gov](mailto:robert.green@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2017-0115; Directorate Identifier 2017-NE-04-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

**Discussion**

On March 8, 2017, we issued AD 2017-04-51, Amendment 39-18824 (82 FR 13753, March 15, 2017), for all Safran Helicopter Engines, S.A., Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines. AD 2017-04-51 resulted from reports of fuel leaks originating from the DV on certain Arriel engines. We issued AD 2017-04-51 to prevent an engine compartment fire, in-flight shutdown, and damage to the helicopter.

**Actions Since AD 2017-04-51 Was Issued**

Since we issued AD 2017-04-51, we received reports of additional fuel leaks on DVs with compliant diaphragm hole positions. Also since we issued AD 2017-04-51, the European Aviation Safety Agency (EASA) has issued AD 2017-0064R1, dated June 27, 2017, which requires initial and repetitive inspections and replacement of any DVs that do not pass inspection.

**Related Service Information Under 1 CFR Part 51**

We reviewed Safran Helicopter Engines Alert Mandatory Service Bulletin (MSB) No. A292 73 0853, Version A, dated April 7, 2017. The Alert MSB describes procedures for inspecting, wrapping, and replacing the DV. This service information is available by the means identified in the **ADDRESSES** section.

**FAA’s Determination**

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

**AD Requirements**

This AD requires inspecting and wrapping affected DVs and replacing those DVs found to be defective. This AD requires operators to continue to perform repetitive inspections even if the defective DV is replaced with an affected DV that is eligible for installation.

**FAA’s Justification and Determination of the Effective Date**

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the compliance requirements are within 10 flight hours or 7 days. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

**Costs of Compliance**

We estimate that this AD affects 200 engines installed on helicopters 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
Inspecting, wrapping, and replacing the DV ...	4.5 work-hours × \$85 per hour = \$382.50 .....	\$70	\$452.50	\$90,500

**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**

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 DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends part 39 of the Federal Aviation Regulations (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) 2017-04-51, Amendment 39-18824 (82 FR 13753, March 15, 2017), and adding the following new AD:

**2017-15-07 Safran Helicopter Engines, S.A.:** Amendment 39-18967; Docket No. FAA-2017-0115; Directorate Identifier 2017-NE-04-AD.

#### (a) Effective Date

This AD is effective August 8, 2017.

#### (b) Affected ADs

This AD replaces AD 2017-04-51, Amendment 39-18824 (82 FR 13753, March 15, 2017).

#### (c) Applicability

This AD applies to all Safran Helicopter Engines, S.A., Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines equipped with a drain valve assembly (DV) manufactured, repaired, or overhauled after December 31, 2015; with a diaphragm, part number 9 164 95 002 0, installed.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 7321, Fuel Control/Turbine Engines.

#### (e) Unsafe Condition

This AD was prompted by reports of fuel leaks originating from the DV on certain Arriel engines. We are issuing this AD to prevent an engine compartment fire, in-flight shutdown, and damage to the helicopter.

#### (f) Compliance

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

(1) Within 10 flight hours or 7 days, whichever occurs first, after the effective date of this AD, visually inspect the affected DV for fuel leakage:

(i) If a fuel leak is detected, replace the affected DV with a DV eligible for installation, before the next flight.

(ii) If no fuel leak is detected, before the next flight, wrap the affected DV with a self-amalgamate tape or heat shrinkable tubing using the Accomplishment Instructions, paragraph 2.4, in Safran Helicopter Engines Alert Mandatory Service Bulletin (MSB) No. A292 73 0853, Version A, dated April 7, 2017.

(2) After wrapping an affected DV, as specified in paragraph (f)(1) of this AD, inspect the DV for fuel leakage before each first flight of the day. If a fuel leak is

detected, replace the affected DV with a DV eligible for installation before the next flight.

(3) If, during any inspection required by this AD, the wrapping is found defective (loose, missing, or damaged), before the next flight, remove the wrap and re-wrap the affected DV using the Accomplishment Instructions, paragraph 2.4, of Safran Helicopter Engines Alert MSB No. A292 73 0853, Version A, dated April 7, 2017.

(4) If you replace the affected DV with another affected DV eligible for installation, you must still continue to perform the repetitive inspections required by paragraph (f)(2) of this AD.

#### (g) Installation Prohibition

From the effective date of this AD, do not install any engine with an affected DV on any helicopter unless the DV has been wrapped and is leak-free in accordance with the instructions in paragraph 2.4 of Safran Helicopter Engines Alert MSB No. A292 73 0853, Version A, dated April 7, 2017.

#### (h) Definition

For the purpose of this AD, a DV eligible for installation is:

(1) A DV that is not affected by this AD; or

(2) a DV that is affected by this AD, is leak-free, and is wrapped in accordance with the Accomplishment Instructions, paragraph 2.4, of Safran Helicopter Engines Alert MSB No. A292 73 0853, Version A, dated April 7, 2017.

#### (i) Credit for Previous Actions

You may take credit for the initial inspection and corrective actions (including wrapping of a DV) accomplished before the effective date of this AD using the Accomplishment Instructions, paragraph 2, of Safran Helicopter Engines Alert MSB No. A292 73 0851, Version A, dated January 31, 2017.

#### (j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: [ANE-AD-AMOC@faa.gov](mailto:ANE-AD-AMOC@faa.gov).

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

#### (k) Related Information

(1) For further information about this AD, contact: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7754; fax: 781-238-7199; email: [robert.green@faa.gov](mailto:robert.green@faa.gov).

(2) Refer to MCAI European Aviation Safety Agency AD No. 2017-0064R1, dated June 27, 2017, for more information.

#### (l) 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 the AD specifies otherwise.

(i) Safran Helicopter Engines Alert Mandatory Service Bulletin No. A292 73 0853, Version A, dated April 7, 2017.

(ii) Reserved.

(3) For Safran Helicopter Engines service information identified in this AD, contact Safran Helicopter Engines, S.A., 40220 Tarnos, France; phone: (33) 05 59 74 40 00; fax: (33) 05 59 74 45 15.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781-238-7125.

(5) You may view this service information 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 Burlington, Massachusetts, on July 13, 2017.

**Robert J. Ganley,**

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

[FR Doc. 2017-15434 Filed 7-21-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2017-0385]

RIN 1625-AA00

#### Safety Zone; Canal Fest Water Ski Show; Erie Canal System, Fish Creek, Sylvan Beach, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Erie Canal System, Fish Creek, Sylvan Beach, NY. This safety zone is intended to restrict vessels from portions of the Erie Canal System at Fish Creek during the Canal Fest Water Ski Show on August 13, 2017. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with high speed craft and water skiers. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

**DATES:** This rule is effective from 12:15 p.m. to 2:45 p.m. August 13, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being

available in the docket, go to <http://www.regulations.gov>, type USCG–2017–0385 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 about this rulemaking, call or email LT Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email [D09-SMB-SECBuffalo-WWM@uscg.mil](mailto:D09-SMB-SECBuffalo-WWM@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**

On April 9, 2017, the Sylvan Verona Beach Resort Association notified the Coast Guard that from 12:30 p.m. to 2:30 p.m. on August 13, 2017, it will be conducting a water ski show in the Erie Canal System at Fish Creek in Sylvan Beach, NY. In response, on June 9, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Canal Fest Water Ski Show; Erie Canal System, Fish Creek, Sylvan Beach, NY. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this water ski show. During the comment period that ended July 10, 2017, we received 0 comments.

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 water ski show.

**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 water ski show presents significant risks to public safety and property. Such hazards include high speed craft and multiple water skiers performing in a relatively small area. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the water ski show is taking place.

**IV. Discussion of the Rule**

This rule establishes a safety zone on August 13, 2017 12:15 p.m. to 2:45 p.m. The safety zone will encompass all waters of the Erie Canal System, Fish Creek, Sylvan Beach, NY contained within the following points: 43°11’37.79” N., 075°43’53.27” W., running Northeast to position 43°11’43.15” N., 075°43’44.88” W., then Southeast to 43°11’42.82” N., 075°43’43.42” W. then Southwest to 43°11’36.90” N., 075°43’52.06” W. then returning to the point of origin (NAD83).

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

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.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

We 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 short duration of time. Also, the safety zone is designed to minimize its impact on navigable waters. Thus, restrictions on vessel movement within the particular areas 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.

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 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 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 temporary 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 recordkeeping requirements, Security measures, Waterways.

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T09–0385 to read as follows:

### § 165.T09–0385 Safety Zone; Canal Fest Water Ski Show, Erie Canal System, Fish Creek, Sylvan Beach, NY.

(a) *Location.* The safety zone will encompass all waters of the Erie Canal System, Fish Creek starting at position 43°11'37.79" N., 075°43'53.27" W., running Northeast to position 43°11'43.15" N., 075°43'44.88" W., then Southeast to 43°11'42.82" N., 075°43'43.42" W. then Southwest to 43°11'36.90" N., 075°43'52.06" W. then returning to the point of origin. (NAD 83).

(b) *Enforcement period.* This regulation will be enforced on August 13, 2017 from 12:15 p.m. until 2:45 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: July 18, 2017.

**Joseph S. Dufresne,**

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

[FR Doc. 2017–15392 Filed 7–21–17; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 92

[Docket No. FWS–R7–MB–2015–0172; FF07M01000–178–FXMB12310700000]

RIN 1018–BB24

### Migratory Bird Subsistence Harvest in Alaska; Use of Inedible Bird Parts in Authentic Alaska Native Handicrafts for Sale

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service or we) is amending the permanent migratory bird subsistence-harvest regulations in Alaska. This rule enables Alaska Natives to sell authentic native articles of handicraft or clothing that contain inedible byproducts from migratory birds that were taken for food during the Alaska migratory bird subsistence-harvest season. This rule was developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

**DATES:** This rule is effective August 23, 2017.

**FOR FURTHER INFORMATION CONTACT:** Donna Dewhurst, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop

201, Anchorage, AK 99503; (907) 786-3499.

#### SUPPLEMENTARY INFORMATION:

##### Background

We are amending the permanent migratory bird subsistence-harvest regulations in Alaska. This rule was developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

The Alaska Migratory Bird Co-management Council (Co-management Council) held meetings on April 8-9, 2015, to develop recommendations for changes that would take effect starting during the 2016 harvest season. Changes were recommended for the permanent regulations at subpart A of Title 50 of the Code of Federal Regulations (CFR) at 50 CFR part 92 to allow sale of handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. These recommended changes were presented first to the Pacific Flyway Council and then to the Service Regulations Committee (SRC) for approval at the committee's meeting on July 31, 2015.

We published a proposed rule to make the recommended changes to the regulations at subpart A of 50 CFR part 92 on June 17, 2016 (81 FR 39618). We accepted public comments on the proposed rule for 60 days, ending August 16, 2016. A summary of the comments we received, and our responses to them, is provided below, under Summary of Comments and Responses.

##### This Final Rule

This rule amends the regulations at 50 CFR 92.6 to enable Alaska Natives to sell authentic native articles of handicraft or clothing that contain inedible byproducts from migratory birds that were taken for food during the Alaska migratory bird subsistence-harvest season.

At 50 CFR 92.4, we are adding definitions for "Authentic Native article of handicraft or clothing," "Migratory birds authorized for use in handicrafts or clothing," and "Sale by consignment." We add these definitions to explain the terms we use in our changes to 50 CFR 92.6, which are explained below.

We are adding a provision to 50 CFR 92.6 to allow sale of handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. A request was made by Alaska Native artisans in Kodiak to use the inedible parts, primarily feathers, from

birds taken for food during the subsistence hunt, and incorporate them into handicrafts for sale. Our June 17, 2016, proposed rule (81 FR 39618) was developed in a process involving a committee composed of Alaska Native representatives from Yukon-Kuskokwim Delta, Bering Straits, North Slope, Kodiak, Bristol Bay, Gulf of Alaska, Aleutian-Pribilof Islands, and Northwest Arctic; representatives from the Alaska Department of Fish and Game; and Service personnel.

We derive our authority to issue these regulations from the four migratory bird treaties with Canada, Mexico, Japan, and Russia and from the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703 *et seq.*). Specifically, we are issuing this final rule pursuant to 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with these four treaties, to "issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds." Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States ("the Protocol") provides a legal basis for Alaska Natives to be able to sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. The Letter of Submittal dated May 20, 1996, for the Treaty Protocol states: "The provisions of Article II(4)(b) will be implemented so that birds are taken only for food. Non-edible by-products of birds taken for nutritional purposes incorporated into authentic articles of handicraft by Alaska Natives may be sold in strictly limited situations and pursuant to a regulation by the competent authority in cooperation with management bodies. Regulations allowing such harvest will be consistent with the customary and traditional uses of indigenous inhabitants for their nutritional and essential needs."

Allowing Alaska Natives a limited sale of handicrafts containing inedible migratory bird parts provides a small source of additional income that we conclude is necessary for the "essential needs" of Alaska Natives in predominantly rural Alaska. Moreover, we conclude, consistent with the language of the Protocol and as expressly noted in the Letter of

Submittal, that this limited opportunity for sale is consistent with the customary and traditional uses of Alaska Natives. Finally, we conclude this regulation is consistent with the preservation and maintenance of migratory bird stocks. We previously concluded that our subsistence-hunting-season regulations at 50 CFR part 92 (issued most recently as the Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2016 Season, April 1, 2016, 81 FR 18781) are consistent with the preservation and maintenance of migratory bird stocks. Here, this rule provides for only the additional use of inedible parts of certain species acquired during the legal Alaska subsistence harvest, not any additional hunting. Although we recognize that it is possible that this rule might provide an incentive for Alaska Natives to engage in additional harvest for nutritional purposes, we conclude that any such effect will be minimal. In addition, Alaska migratory bird subsistence harvest rates have continued to decline since the inception of the subsistence-harvest program, reducing concerns about the program's consistency with the preservation and maintenance of stocks of migratory birds. In the unlikely event that any of the 27 species of birds allowed show substantial population declines, FWS retains the ability both remove the eligible species at issue from § 92.6(b), and/or to close the subsistence hunt under § 92.21.

The biggest challenge was developing a list of migratory birds that could be used in handicrafts. This required cross-referencing restricted species listed in the Treaties with Russia, Canada, Mexico, and Japan with those allowed to be taken in the subsistence harvest. Recognizing that the Japan Treaty was the most restrictive, the committee compiled a list of 27 species of migratory birds from which inedible parts could be used in handicrafts for sale. We proposed to allow the limited sale, including consignment sale, by Alaska Natives of handicrafts made using migratory bird parts. Our proposal included a requirement for the artist's tribal certification or Silver Hand insignia to limit counterfeiting of handicrafts.

##### Who is eligible to sell handicrafts containing migratory bird parts under this rule?

Under Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States, only Alaska

Natives are eligible to sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. The Protocol also dictates that sales will be under a strictly limited situation. Eligibility will be shown by a Tribal Enrollment Card, Bureau of Indian Affairs card, or membership in the Silver Hand program. The State of Alaska Silver Hand program helps Alaska Native artists promote their work in the marketplace and enables consumers to identify and purchase authentic Alaska Native art. The insignia indicates that the artwork on which it appears is created by hand in Alaska by an individual Alaska Native artist. Only original contemporary and traditional Alaska Native artwork, not reproductions or manufactured work, may be identified and marketed with the Silver Hand insignia. To be eligible for a 2-year Silver Hand permit, an Alaska Native artist must be a full-time resident of Alaska, be at least 18 years old, and provide documentation of membership in a federally recognized Alaska Native tribe. The Silver Hand insignia may only be attached to original work that is produced in the State of Alaska.

**How will the service ensure that these regulations will not raise overall migratory bird harvest or threaten the conservation of endangered and threatened species?**

Under this rule, Alaska Natives are permitted to only sell authentic native articles of handicraft or clothing that contain an inedible byproduct of migratory birds that were taken for food during the Alaska migratory bird subsistence-harvest season. Harvest and possession of these migratory birds must be conducted using nonwasteful taking.

Under this rule, handicrafts may contain inedible byproducts from only bird species listed at 50 CFR 92.6(b)(1) that were taken for food during the Alaska migratory bird subsistence-harvest season. This list of 27 migratory bird species came from cross-referencing restricted (from sale) species listed in the Treaties with Russia, Canada, Mexico, and Japan with those allowed to be taken in the subsistence harvest. The migratory bird treaty with Japan was the most restrictive and thus dictated the subsistence harvest species from which inedible parts could be used in handicrafts for sale. None of the 27 species are currently ESA listed, are proposed for listing or are candidates for listing. In addition, all sales and transportation of sold items are restricted to within the United States (including territories).

We have monitored subsistence harvest for over 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon-Kuskokwim Delta. In recent years, more intensive harvest surveys combined with outreach efforts focused on species identification have been added to improve the accuracy of information gathered.

*Spectacled and Steller's Eiders*

Spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species. Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Both species are closed to all forms of subsistence harvest and thus are not authorized to have their inedible parts used to make handicrafts for sale. Though use of both king and common eiders is permitted by this regulation, we do not expect that this regulation will have an adverse impact on listed eiders because: Listed eider density in the subsistence-hunt area is low; effects of waterfowl substance harvest are periodically evaluated; listed eiders remain closed to harvest under the MBTA; and we do not expect increased harvest of migratory birds, and consequently listed eiders.

**Endangered Species Act Consideration**

Section 7 of the Endangered Species Act (16 U.S.C. 1536) requires the Secretary of the Interior to "review other programs administered by him and utilize such programs in furtherance of the purposes of the Act" and to "insure that any action authorized, funded, or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat." We conducted an intra-agency consultation with the Service's Fairbanks Fish and Wildlife Field Office on this action as it will be managed in accordance with this final rule and the conservation measures. The consultation on handicraft sales was completed with a Letter of Concurrence dated December 29, 2015 on a not-likely-to-adversely-affect determination for spectacled and Steller's eiders.

**Summary of Comments and Responses**

On June 17, 2016, we published in the **Federal Register** a proposed rule (81 FR 39618) to amend our regulations to allow Alaska Natives to sell authentic Native articles of handicraft or clothing that contain inedible byproducts from migratory birds taken for food during

the Alaska spring and summer migratory bird subsistence harvest. We accepted public comments on the proposed rule for 60 days, ending August 16, 2016. We posted an announcement of the comment-period dates for the proposed rule, as well as the rule itself and related historical documents, on the Co-management Council's Internet homepage. By facsimile (fax), we issued a press release, announcing our request for public comments and the pertinent deadlines for such comments, to the media Statewide in Alaska. Additionally, we made all relevant documents available on <http://www.regulations.gov>. In response to the proposed rule, the Service received 6 responses. The comments are addressed below by topic.

*Comment (1):* We received one comment strongly supporting the proposed rule and commending the co-management process that led to its development.

*Service Response:* We thank the commenter for the show of support for this process.

*Comment (2):* We received one comment questioning how we would ensure that birds taken for inedible parts are not wasted.

*Service Response:* This rule allows the use in handicrafts of inedible parts obtained from migratory birds that have been taken for human consumption. The rule does not allow birds to be taken only for their inedible parts. Moreover, the regulations at 50 CFR 92.6(a) require that all migratory birds harvested for subsistence be taken using nonwasteful techniques, meaning that all edible meat must be retained until the birds have been transported to where they will be consumed, processed, or preserved as human food (see definition of *Nonwasteful taking* at 50 CFR 92.4). Using the inedible parts in craft-making does not exempt the taking from this requirement.

*Comment (3):* We received one comment questioning who would be going to the gift shops and identifying the specific species taken and how they will identify species from the feathers only. The commenter added that it is already difficult to protect Alaska Native crafts from being made by non-Native crafters, and that the proposed rule would bring further complications and more need for enforcement that is not available.

*Service Response:* Our law enforcement agents are trained to identify migratory birds from feathers and other parts. As always, our agents will monitor the trade by proactive enforcement and by responding to

information provided by concerned citizens. As for the concern of non-Native crafters, the Silver Hand program will aid in identifying crafts made from Alaska Natives. Also see our response below on Comment (8) on the authentication requirements.

*Comment (4):* We received one comment stating that the proposed rule declined to list individual Alaska Native entities consulted with, and that the consultation appeared to leave out all Athabaskan people.

*Service Response:* Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), titled "Consultation and Coordination with Indian Tribal Governments," and with the Department of the Interior Policy on Consultation with Indian Tribes (Secretarial Order No. 3317; December 1, 2011), on June 23, 2016, we sent letters via electronic mail to all 229 Alaska Federally recognized Indian tribes, including Athabaskan tribes (which we sent to their official email address), soliciting their input as to whether or not they would like the Service to consult with them on the proposed rule to enable Alaska Natives to sell authentic native articles of handicraft or clothing that contain inedible byproducts from migratory birds. Consistent with Congressional direction (Pub. L. 108–199, div. H, sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also sent similar letters to approximately 200 Alaska Native corporations and other tribal entities Statewide in Alaska. We did not receive any requests to consult.

*Comment (5):* We received two comments that stated that the proposed rule opens up commercial use of migratory birds for the first time and is at odds with the language of the Migratory Bird Treaty Act and the Treaty Protocols. The commenters stated that if we amend our regulations, which already provide for harvest for food, so as to allow commercial sale of bird parts, we must make the two required findings that doing so is necessary to provide for "essential needs" of Alaska Natives and is also consistent with the "preservation and maintenance of stocks of migratory birds." The commenters further stated that nowhere in Article II(4)(b) of the Protocol is commercial sale authorized.

*Service Response:* The commenter is correct that the Article II(4)(b) does not expressly authorize commercial sale. However, Article II(4)(b)(i) recognizes the authority of the United States to promulgate "other regulations" regarding take that are "consistent with

the customary and traditional uses [of Alaska Natives for their] other essential needs." Any ambiguity as to whether the Protocol contemplates commercial sale is resolved by the Letter of Submittal discussed above. Allowing Alaska Natives a limited sale of handicrafts containing inedible migratory bird parts provides a small source of additional income that would meet "essential needs" in predominantly rural Alaska. Similarly, Senate Report 105–5 recognized this in that "Commercial use would not be permitted aside from limited sales of inedible by-products of birds taken for food which are then incorporated into authentic, traditional handicraft items. Such use would be strictly controlled by the competent authorities. This interpretation of takings for "nutritional and other essential needs" can also be traced back to the U.S.-U.S.S.R. Treaty." The MBTA itself allows the Secretary to issue regulations necessary to assure that taking by Alaska Natives will be permitted for their "nutritional and other essential needs, as determined by the Secretary . . . , during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds." 16 U.S.C. 712(1).

As discussed in the "This Final Rule" section, above, we have concluded that this regulation is necessary for the essential needs of Alaska Natives, and that this regulation, and the underlying take for nutritional purposes, is consistent with the preservation and maintenance of migratory bird stocks. To the extent that the commenters are asserting that we are required to issue separate, formal "findings" documents, we disagree. Nothing in the Protocol or the MBTA suggests such a requirement.

*Comment (6):* We received one comment that the proposed rule only addresses inedible bird parts that were obtained through the subsistence harvest and does not address commercial use of inedible bird parts obtained without taking birds.

*Service Response:* Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States ("the Protocol") provides a legal basis for Alaska Natives to be able to sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. The Protocol also dictates that sales must be under a strictly limited situation pursuant to a regulation by a competent authority in cooperation with management bodies. The Protocol does not authorize the taking of migratory

birds for commercial purposes. Under the Protocol, only Alaska Natives are eligible to sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest.

We interpret Article II(4)(b) to narrowly require the use of bird parts be from birds taken as part of the subsistence harvest, and use of bird parts obtained in any other manner (found parts) would not be allowed. The Protocol discusses subsistence hunting and, as explained by the Letter of Submittal, specifically allows only for the "sale of non-edible byproducts of birds taken for nutritional purposes incorporated into authentic articles of handicraft." The Protocol does not expand the sale of non-edible bird parts in to handicraft for birds parts obtained in any other manner.

*Comment (7):* One commenter stated that other than its publication in the **Federal Register**, they were unaware of the Service providing meaningful public notice of the rulemaking and felt that the Service should reopen the comment period and provide broader notice of the proposed rule's availability to more meaningfully engage those members of the public.

*Service Response:* We published our proposed rule in the **Federal Register** on June 17, 2016 (81 FR 39618). The **Federal Register** is the official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as Executive Orders and other presidential documents. One purpose of **Federal Register** publication is to give interested persons an opportunity to participate in the rulemaking process prior to the adoption of a final rule. We accepted public comments on our June 17, 2016, proposed rule for 60 days, ending August 16, 2016.

In addition, we posted an announcement of the comment period dates for the proposed rule, as well as the rule itself and related historical documents, on the Co-management Council's Web site at <http://www.fws.gov/alaska/ambcc/news.htm>. By facsimile (fax), we issued a press release, announcing our request for public comments and the pertinent deadlines for such comments, to the media Statewide in Alaska. Further, we made all relevant documents available on <http://www.regulations.gov>. These measures constitute adequate notice of our proposed amendments to the regulations, and we thus provided adequate opportunities for meaningful engagement to members of the public in the rulemaking process.

*Comment (8):* The Service should consider whether and how allowing the commercial trade in otherwise protected bird parts under the proposed rule could inadvertently serve as a vehicle to provide cover for broader unlawful trade in bird parts both in Alaska and elsewhere.

*Service Response:* Each handicraft item for sale must be accompanied by authentication that it was created by an Alaska Native craft person. These items can be sold by the Alaska Native themselves or by a consignee for the Native craft person, and cannot be resold. The Indian Arts and Crafts Act of 1990 (Pub. L. 101–644) is a truth-in-advertising law that prohibits misrepresentation in marketing of Indian arts and crafts products within the United States. It is illegal to offer or display for sale, or sell any art or craft product in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian Tribe or Indian arts and crafts organization, resident within the United States. For a first-time violation of the Act, an individual can face civil or criminal penalties of up to \$250,000 in fines and 5-year prison term. Also, see the above Comment (3) on law enforcement efforts to identify bird parts.

*Comment (9):* One commenter was concerned that the proposed rule would set a precedent for allowing the commercialization of migratory birds. The commenter believes that allowing such sales would increase the potential for other requests in the future, especially from tribal members in the lower 48 States that also make handicrafts.

*Service Response:* The proposed rule, and this final rule, is authorized by Treaty Protocol specific to Alaska. The Letter of Submittal dated May 20, 1996, for the Treaty Protocol, specifically Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States (“the Protocol”) provides a legal basis for Alaska Natives to be able to sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. See above Comments (5) and (6) for more on the Protocol. Expanding this opportunity to sales by other American Native tribes would require new, additional congressional legislation for authorization.

*Comment (10):* We received one comment stating that the proposed rule is subject to insufficient public and environmental review under the

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

*Service Response:* Article II(b)(ii) of the amended Treaty Protocol specifies that “indigenous inhabitants of the State of Alaska shall be afforded an effective and meaningful role in the conservation of migratory birds including the development and implementation of regulations affecting the non-wasteful taking of migratory birds and the collection of their eggs, by participating on relevant management bodies.” In response to the direction of the Protocol, in 1998, Service initiated Statewide public meetings in Alaska to determine what system of implementation would best meet the needs of the local harvesters. Based on input from the public process, the Service established an organizational structure to meet the mandates of the Treaty. That structure is composed of three key elements. First, the Alaska Migratory Bird Co-management Council (Co-management Council) was established including Federal, State, and Alaska Native. Second, regional management bodies, consisting of local people, were established. The regional bodies provide representatives to the Co-management Council. Third, partner organizations were identified within each region; these partner organizations are responsible for compiling and coordinating communications between their local residents and the Council.

In December 2011 Alaska Native artisans in Kodiak requested to be authorized to use the nonedible parts, mostly feathers, from birds taken for food during the subsistence hunt, and incorporate them into handicrafts for sale. Over a 4-year period, proposed regulations were developed in a process involving a committee composed of Alaska Native representatives from eight rural regions in Alaska (Yukon-Kuskokwim Delta, Bering Straits-Norton Sound, North Slope, Kodiak, Bristol Bay, Gulf of Alaska, Aleutian-Pribilof Islands, Northwest Arctic) and representatives from the Alaska Department of Fish and Game and the Service. This lengthy process involved over 45 public meetings over the course of the development period. All public meetings were announced in advance via press releases.

Regarding the environmental review, we prepared an environmental assessment (EA) and made it available for public review during the comment period on the June 17, 2016, proposed rule (81 FR 39618). We received one public comment specific to the analysis contained in our EA (see *Comment (11)*, below). After evaluation of the public comment, we made a finding of no

significant impact (FONSI) for this final rule, in accordance with 43 CFR 46.325. Thus, we have met the requirements of NEPA.

*Comment (11):* One commenter pointed out that the environmental assessment did not include a detailed analysis of the species proposed for harvest including population size, harvest levels, and what impacts harvest might have on these species. In addition, the commenter stated that there should have been an additional alternative discussed: To open the commercial use of inedible parts only from birds with populations known to be stable or increasing.

*Service Response:* This rule allows inedible byproducts of certain migratory birds taken for food during the Alaska migratory bird subsistence harvest to be used in the making of authentic Native articles of handicraft or clothing. The relevant migratory bird species are set forth at 50 CFR 92.6(b)(1). The 2016 annual subsistence harvest regulations are covered in an October 2015 environmental assessment (EA), “Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2016 Spring/Summer Harvest,” dated October 9, 2015. A thorough description of the affected environment of the subsistence harvest is included in this EA, which covers the migratory bird resource, including: Population information; relationship of Alaska subsistence and waterfowl to the four flyways and Canada; relationship of Alaska subsistence and seabirds to the Pacific Flyway, Canada, and Russia; migratory bird habitat; involved peoples; and the social-economic characteristics of the Alaska subsistence migratory bird harvests.

There is some overlap between species eligible to be harvested in the subsistence harvest and the list of Service’s Birds of Conservation Concern (2008). We discussed this issue in a final rule published in the **Federal Register** on April 2, 2004 (69 FR 17318). If an alternative had been posed in the EA to allow use of inedible parts only from bird species known to be stable or increasing, it would significantly undermine the intended purpose of the proposed regulations, which is to allow the productive use in handicrafts of inedible parts of birds, taken for subsistence purposes, to help Alaska Natives meet their essential needs. We do not expect that allowing Alaska Natives a limited sale of handicrafts containing inedible parts of migratory birds taken during the subsistence season will significantly increase harvest rates or have a significant impact on any of the bird species listed

at 50 CFR 92.6(b)(1) or on the environment. There are several reasons for this. First, Alaska subsistence harvest rates have continued to decline over the past years, similarly to declining Alaska sport-hunting harvest rates. Second, as discussed above, handcraft items must be created by hand by an Alaska Native, so there would be limited producers of handicrafts. Third, product sales will be limited to being conducted by Alaska Natives or their consignees. Fourth, the market for traditional Alaska Native art is limited and not a major item of commerce, especially when international sale is prohibited. Also, continued monitoring of the subsistence harvest will enable tracking trends in harvest levels. Thus in the unlikely event that any of the 27 species of birds allowed show substantial population declines, FWS retains the ability both to remove the eligible species at issue from § 92.6(b), and to close the subsistence hunt under § 92.21.

*Comment (12):* One commenter was concerned that the Service has a limited ability to track subsistence harvest in Alaska and also has no mechanism in place to monitor changes in bird population levels in response to this new activity. The commenter also felt that the Service should specify what levels of harvest and/or bird abundance would trigger a regulatory response to ensure conservation of individual species.

*Service Response:* We have monitored subsistence harvest for the past 25 years through the use of household surveys in the most heavily used subsistence-harvest areas, such as the Yukon-Kuskokwim Delta. In recent years, more intensive surveys combined with outreach efforts focused on species identification have been added to improve the accuracy of information gathered from regions reporting some subsistence harvest of threatened species. Future survey efforts will concentrate on providing Statewide estimates of harvest.

As for monitoring bird population levels, the Service's Migratory Bird Program and its partners developed and continue to carry out a long-term comprehensive survey of migratory bird abundance, the Aerial Waterfowl Breeding Population and Habitat Survey. This survey monitors changes in waterfowl population levels throughout North America, including all primary waterfowl production areas in Alaska. Additional breeding-population surveys on the Yukon Delta and the Arctic Coastal Plain provide annual assessments of waterfowl population size and trend with relatively high

levels of precision. Because migratory birds range widely over their annual cycles within Alaska, the Service also conducts monitoring surveys during migration and midwinter periods. Results from these surveys are reported annually to the Flyways and are posted on Service's Web site at: <https://www.fws.gov/birds/news/160810waterfowl-status.php>.

We do not agree that setting express numerical triggers for a regulatory response would be helpful. Under 50 CFR 92.21, the Service has the authority to close, on an emergency basis, any subsistence harvest activity upon finding that the activity poses an imminent threat to the conservation of any endangered or threatened bird species or other migratory bird population. None of the 27 species are currently ESA listed, proposed for listing, or candidates for listing.

*Comment (13):* One commenter was concerned that the proposed regulations would increase the harvest for the sole purpose of profit and would expand the economic market for use of the inedible bird parts in Native handicrafts.

*Service Response:* Under this rule, handicrafts may contain inedible byproducts from only birds taken for food during the Alaska migratory bird subsistence harvest season. We do not expect that allowing Alaska Natives a limited sale of handicrafts containing inedible parts of migratory birds taken during the subsistence season will significantly increase migratory bird harvest rates. There are several reasons for this. First, Alaska subsistence harvest rates have continued to decline over the past years. Second, as discussed above, handcraft items must be created by hand by an Alaska Native, so there would be limited producers of handicrafts. Third, product sales will be limited to being conducted by Alaska Natives or their consignees. Fourth, the market for traditional Alaska Native art is limited and not a major item of commerce, especially when international sale is prohibited. This rule will increase the market for Alaska Native handicrafts containing inedible bird parts given currently there is no legal market; however, we conclude that the increase will not pose a significant environmental impact. Our law enforcement agents will be monitoring sales closely during and after implementation. Also, continued monitoring of the subsistence harvest will enable tracking trends in harvest levels.

## Summary of Changes From Proposed Rule

We amended the last sentence for clarification in the definition of "Sales by Consignment" to: The consignment seller need not be an Alaska Native and the Alaska Native craftsman retains ownership of the item and will receive money for the item when it is sold. We then also struck "(Alaska Native or non-Alaska Native)" from the beginning of the definition.

## Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, at 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to "issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds."

Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States provides a legal basis for Alaska Natives to be able sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. The Protocol also dictates that sales would be under a strictly limited situation pursuant to a regulation by a competent authority in cooperation with management bodies. The Protocol does not authorize the taking of migratory birds for commercial purposes.

## Required Determinations

### *Executive Order 13771*

This final rule is considered to be an Executive Order (E.O.) 13771 deregulatory action (82 FR 9339, February 3, 2017). The net benefits associated with the implementation of this final rule are estimated to be \$362,200 per year.

### *Regulatory Planning and Review (Executive Orders 12866 and 13563)*

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for

improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

#### *Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 *et seq.*). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

This final rule will affect Alaska Natives selling authentic native articles of handicraft or clothing such as headdresses, native masks, and earrings. We estimate that the majority of Alaska natives selling authentic native articles of handicraft or clothing are small businesses. Alaska Native small businesses within the manufacturing industry, such as Pottery, Ceramics, and Plumbing Fixture Manufacturing (NAICS 327110 small businesses have <750 employees), Leather and Hide Tanning and Finishing (NAICS 316110), Jewelry and Silverware Manufacturing (NAICS 339910 small businesses have <500 employees), and all other Miscellaneous Wood Product

Manufacturing (NAICS 321999 small businesses have <500 employees), may benefit from some increased revenues generated by additional sales. We expect that additional sales or revenue will be generated by Alaska Native small businesses embellishing or adding feathers to some of the existing handicrafts, which may slightly increase profit. The number of small businesses potentially impacted can be estimated by using data from the Alaska State Council of the Arts, which reviews Silver Hand permits. Currently, there are about 1,800 Silver Hand permit holders, of which less than 1 percent sell more than 100 items annually, and they represent a small number of businesses within the manufacturing industry. Due to the small number of small businesses affected and the small increase in overall revenue anticipated from this final rule, it is unlikely that a substantial number of small entities will have more than a small economic effect (benefit). Therefore, we certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act. Therefore, a regulatory flexibility analysis is not required. Accordingly, a small entity compliance guide is not required.

#### *Small Business Regulatory Enforcement Fairness Act*

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

(a) Will not have an annual effect on the economy of \$100 million or more. Alaska Native tribes will have a small economic benefit through being allowed to incorporate inedible bird parts into their authentic handicrafts or handmade clothing and to sell the products. However, the birds must have been harvested for food as part of the existing subsistence hunt, and only a limited list of 27 species may be used. The intent is to allow limited benefits from salvage of the inedible parts, not to provide an incentive for increasing the harvest. This rule should not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities regulated under this final rule are inedible parts of migratory birds taken for food under the subsistence harvest that are incorporated into Native handicrafts. Most, if not all, businesses that sell the authentic Alaska Native handicrafts qualify as small businesses. We have no reason to believe that this final rule will lead to a disproportionate distribution of benefits.

(b) Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This final rule does deal with the sale of authentic Alaska Native handicrafts, but should not have any impact on prices for consumers.

(c) Will 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. This final rule does not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

#### *Unfunded Mandates Reform Act*

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this final rule will not impose a cost of \$100 million or more in any given year on local, State, or tribal governments or private entities. The final rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

#### *Takings (Executive Order 12630)*

Under the criteria in E.O. 12630, this final rule will not have significant takings implications. This final rule is not specific to particular land ownership, but applies to the use of the inedible parts of 27 migratory bird species in authentic Alaska Native handicrafts. A takings implication assessment is not required.

#### *Federalism (Executive Order 13132)*

Under the criteria in E.O. 13132, this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We worked with the State of Alaska to develop this final rule.

#### *Civil Justice Reform (Executive Order 12988)*

The Department, in promulgating this final rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

#### *Government-to-Government Relations With Native American Tribal Governments*

Consistent with E.O. 13175 (65 FR 67249; November 6, 2000), titled "Consultation and Coordination with Indian Tribal Governments," and Department of the Interior Policy on

Consultation with Indian Tribes (December 1, 2011), on June 23, 2016, we sent letters via electronic mail to all 229 Alaska Federally recognized Indian tribes soliciting their input as to whether or not they would like the Service to consult with them on the proposed regulations to allow Alaska Natives to sell authentic Native articles of handicraft or clothing that contain inedible byproducts from migratory birds that were taken for food during the Alaska migratory bird subsistence harvest (81 FR 39618; June 17, 2016). Consistent with Congressional direction (Pub. L. 108–199, div. H, sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also sent similar letters to approximately 200 Alaska Native corporations and other tribal entities in Alaska. We did not receive any requests to consult.

*Paperwork Reduction Act of 1995 (PRA)*

This final rule contains a collection of information that we have submitted to the Office of Management and Budget (OMB) for review and approval under the PRA (44 U.S.C. 3501 *et seq.*). We 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. OMB has reviewed and approved the information collection requirements in this rule and assigned OMB Control Number 1018–0168, which expires 01/31/2020.

This final rule requires that a certification (FWS Form 3–2484) or a Silver Hand insignia accompany each Alaska Native article of handicraft or clothing that contains inedible migratory bird parts. It also requires that all consignees, sellers, and purchasers retain this documentation with each item and produce it upon the request of a law enforcement officer. We have reviewed FWS Form 3–2484 and determined that it is a simple certification, which is not subject to the PRA. We are requesting that OMB approve the recordkeeping requirement to retain the certification or Silver Hand insignia with each item and the requirement that artists and sellers/consignees provide the documentation to buyers.

*Title:* Alaska Native Handicrafts, 50 CFR 92.6.

*OMB Control Number:* 1018–0168.

*Service Form Number(s):* None.

*Type of Request:* Request for a new OMB control number.

*Description of Respondents:* Individuals and businesses.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* Ongoing.  
*Estimated Number of Respondents:* 8,749 (7,749 buyers and 1,000 artists, sellers, and consignees).

*Estimated Number of Annual Responses:* 18,081.

*Estimated Completion Time per Response:* 5 minutes.

*Estimated Total Annual Burden Hours:* 1,507 hours.

*Estimated Total Nonhour Burden Cost:* None.

We accepted public comments on the information collection aspects of our June 17, 2016, proposed rule for 30 days, ending July 18, 2016. We did not receive any comments on the information collection aspects of the proposed rule.

The public may comment, at any time, on the accuracy of the information collection burden in this rule and may submit any comments to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ATTN: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

*Energy Supply, Distribution, or Use (Executive Order 13211)*

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order. Further, we do not expect this final rule to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action under E.O. 13211, and a Statement of Energy Effects is not required.

**List of Subjects in 50 CFR Part 92**

Hunting, Treaties, Wildlife.

**Regulation Promulgation**

For the reasons set out in the preamble, we amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

**PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA**

■ 1. The authority citation for part 92 continues to read as follows:

**Authority:** 16 U.S.C. 703–712.

■ 2. Amend § 92.4 by adding, in alphabetical order, definitions for “*Authentic Native article of handicraft or clothing*,” “*Migratory birds authorized for use in handicrafts or clothing*,” and “*Sale by consignment*” to read as follows:

**§ 92.4 Definitions.**

\* \* \* \* \*

*Authentic Native article of handicraft or clothing* means any item created by

an Alaska Native to which inedible parts of migratory birds authorized for use in handicrafts or clothing are incorporated and which is fashioned by hand, or with limited use of machines, provided no mass production occurs.

\* \* \* \* \*

*Migratory birds authorized for use in handicrafts or clothing* means the species of birds listed at § 92.6(b) that were taken for food in a nonwasteful manner during the Alaska subsistence-harvest season by an eligible person of an included area.

\* \* \* \* \*

*Sale by consignment* means that an Alaska Native sends or supplies an authentic Native article of handicraft or clothing to a person who sells the item for the Alaska Native. The consignment seller need not be an Alaska Native and the Alaska Native craftsman retains ownership of the item and will receive money for the item when it is sold.

\* \* \* \* \*

■ 3. Revise § 92.6 to read as follows:

**§ 92.6 Use and possession of migratory birds.**

You may not sell, offer for sale, purchase, or offer to purchase migratory birds, their parts, or their eggs taken under this part, except as provided in this section.

(a) *Giving and receiving migratory birds.* Under this part, you may take migratory birds for human consumption only. Harvest and possession of migratory birds must be conducted using nonwasteful taking. Edible meat of migratory birds may be given to immediate family members by eligible persons. Inedible byproducts of migratory birds taken for food may be used for other purposes, except that taxidermy is prohibited, and these byproducts may only be given to other eligible persons or Alaska Natives.

(b) *Authentic native articles of handicraft or clothing.* (1) Under this section, authentic native articles of handicraft or clothing may be produced for sale only from the following bird species:

- (i) Tundra swan (*Cygnus columbianus*).
- (ii) Blue-winged teal (*Anas discors*).
- (iii) Redhead (*Aythya americana*).
- (iv) Ring-necked duck (*Aythya collaris*).
- (v) Greater scaup (*Aythya marila*).
- (vi) Lesser scaup (*Aythya affinis*).
- (vii) King eider (*Somateria spectabilis*).
- (viii) Common eider (*Somateria mollissima*).
- (ix) Surf scoter (*Melanitta perspicillata*).

(x) White-winged scoter (*Melanitta fusca*).  
(xi) Barrow's goldeneye (*Bucephala islandica*).  
(xii) Hooded merganser (*Lophodytes cucullatus*).  
(xiii) Pacific loon (*Gavia pacifica*).  
(xiv) Common loon (*Gavia immer*).  
(xv) Double-crested cormorant (*Phalacrocorax auritus*).  
(xvi) Black oystercatcher (*Haematopus bachmani*).  
(xvii) Lesser yellowlegs (*Tringa flavipes*).  
(xviii) Semipalmated sandpiper (*Calidris semipalmatus*).  
(xix) Western sandpiper (*Calidris mauri*).  
(xx) Wilson's snipe (*Gallinago delicata*).  
(xxi) Bonaparte's gull (*Larus philadelphia*).  
(xxii) Mew gull (*Larus canus*).  
(xxiii) Red-legged kittiwake (*Rissa brevirostris*).  
(xxiv) Arctic tern (*Sterna paradisaea*).  
(xxv) Black guillemot (*Cephus grylle*).  
(xxvi) Cassin's auklet (*Ptychoramphus aleuticus*).

(xxvii) Great horned owl (*Bubo virginianus*).

(2) Only Alaska Natives may sell or re-sell any authentic native article of handicraft or clothing that contains an inedible byproduct of a bird listed in paragraph (b)(1) of this section that was taken for food during the Alaska migratory bird subsistence harvest season. Eligibility under this paragraph (b)(2) can be shown by a Tribal Enrollment Card, Bureau of Indian Affairs card, or membership in the Silver Hand program. All sales and transportation of sold items are restricted to within the United States. Each sold item must be accompanied by either a certification (FWS Form 3–2484) signed by the artist or a Silver Hand insignia. Purchasers must retain this documentation and produce it upon the request of a law enforcement officer.

(3) Sales by consignment are allowed. Each consigned item must be accompanied by either a certification (FWS Form 3–2484) signed by the artist or Silver Hand insignia. All consignees, sellers, and purchasers must retain this documentation with each item and

produce it upon the request of a law enforcement officer. All consignment sales are restricted to within the United States.

(4) The Office of Management and Budget reviewed and approved the information collection requirements contained in this section and assigned OMB Control No. 1018–0168. We use the information to monitor and enforce the regulations. We 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. You may send comments on the information collection requirements to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, at the address listed at 50 CFR 2.1(b).

Dated: June 13, 2017.

**Virginia H. Johnson,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2017–15465 Filed 7–21–17; 8:45 am]

**BILLING CODE 4333–15–P**

# Proposed Rules

Federal Register

Vol. 82, No. 140

Monday, July 24, 2017

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2017-0724; Airspace Docket No. 17-AGL-1]

#### Proposed Amendment and Removal of VOR Federal Airways in the Vicinity of Lansing, MI, and Pontiac, MI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify VHF Omnidirectional Range (VOR) Federal airways V-2, V-26, V-84, V-218, and V-510 in the vicinity of Lansing, MI, and to remove airway V-410 in the vicinity of Pontiac, MI. The proposed modifications are required due to the planned decommissioning of the Lansing, MI, VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) and the Pontiac, MI, VORTAC navigation aids which provide navigation guidance for portions of the above routes. Three additional VOR Federal airways impacted by the planned Lansing VORTAC decommissioning (V-45, V-103, and V-233) were proposed for amendment previously in a separate NPRM.

**DATES:** Comments must be received on or before September 7, 2017.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590; telephone: 1(800) 647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2017-0724 and Airspace Docket No. 17-AGL-1 at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the

Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1 (800) 647-5527), is on the ground floor of the building at the above address.

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal-regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html).

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

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

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the National Airspace System (NAS) route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

#### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2017-0724 and Airspace Docket No. 17-AGL-1) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at <http://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2017-0724 and Airspace Docket No. 17-AGL-1." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at [http://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and

phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Blvd., Fort Worth, TX, 76177.

#### Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the ADDRESSES section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### Background

The FAA is planning decommissioning activities for the Lansing, MI, and Pontiac, MI, VORTACs to take place in 2018. These VORTACs were identified for discontinuance by the VOR Minimum Operating Network (VOR MON) program and listed in the Final policy statement notice, "Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network)," published in the **Federal Register** of July 26, 2016 (81FR 48694), Docket No. FAA-2011-1082.

With the planned decommissioning of the Lansing, MI, and Pontiac, MI, VORTACs, the FAA has determined the remaining ground-based NAVAID coverage in the areas is insufficient to enable the continuity of the affected airways. As such, proposed modifications to VOR Federal airways V-2, V-26, V-84, V-218, and V-510 will result in gaps in the route structures. Additionally, the V-410 is proposed to be removed as well. To overcome the gaps that would result in the route structures, the FAA plans to amend the current fixes contained within the project area by converting them into RNAV waypoints that would remain in place to assist pilots and air traffic controllers already familiar with them, for navigation purposes. Instrument flight rules (IFR) traffic could file point-to-point through the affected area using the waypoint fixes that will remain in place, or could receive air traffic control (ATC) radar vectors through the area. VFR pilots who elect to navigate via airways

through the affected area could also take advantage of the waypoint fixes or ATC services listed previously.

#### The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify the descriptions of VOR Federal airways V-2, V-26, V-84, V-218, and V-510; and to remove V-410, due to the planned decommissioning of the Lansing, MI, and Pontiac, MI, VORTACs. Three additional VOR Federal airways impacted by the planned decommissioning of the Lansing and Pontiac VORTACs (V-45, V-103, and V-233) have been proposed for amendment in a separate NPRM (82 FR 11859, February 27, 2017) and are not addressed in this action. The proposed route changes for this action are described below.

**V-2:** V-2 currently extends between the Seattle, WA, VORTAC and the Gardner, MA, VOR/DME, excluding the airspace within Canada. In a separate NPRM, the FAA proposed to remove the airway segment between the Lansing, MI, VORTAC and the Buffalo, NY, VOR/DME and the exclusion statement for the airspace within Canada (82 FR 11859, February 27, 2017). The FAA now proposes to remove the airway segment between the intersection of the Nodine, MN, 122°(T)/121°(M) and Waukon, IA, 053°(T)/048°(M) radials (WEBYE fix) and the Lansing, MI, VORTAC in this NPRM. The unaffected portions of the existing airway would remain as charted in the two remaining segments.

**V-26:** V-26 currently extends between the Blue Mesa, CO, VOR/DME and the Dryer, OH, VOR/DME, excluding the airspace within Canada. In a separate NPRM, the FAA proposed to remove the airway segment between the Lansing, MI, VORTAC and the Dryer, OH, VOR/DME and the exclusion statement for the airspace within Canada (82 FR 11859, February 27, 2017). The FAA now proposes to remove the airway segment between the White Cloud, MI, VOR/DME and the Lansing, MI, VORTAC in this NPRM. The unaffected portions of the existing airway would remain as charted.

**V-84:** V-84 currently extends between the Northbrook, IL, VOR/DME and the Flint, MI, VORTAC; and between the Buffalo, NY, VOR/DME and the Syracuse, NY, VORTAC. In a separate NPRM, the FAA proposed to remove the airway segment between the Lansing, MI, VORTAC and the Flint, MI, VORTAC (82 FR 11859, February 27, 2017). The FAA proposes to remove the airway segment between the Pullman,

MI, VOR/DME and the Lansing, MI, VORTAC in this NPRM. The unaffected portions of the existing airway would remain as charted in the two remaining segments.

**V-218:** V-218 currently extends between the Grand Rapids, MN, VOR/DME and the Rockford, IL, VOR/DME; and between the Keeler, MI, VOR/DME and the Lansing, MI, VORTAC. In a separate final rule action effective August 17, 2017, the FAA added and re-designated a portion of the V-161 airway between the International Falls, MN, VORTAC and the Grand Rapids, MN, VOR/DME to V-218 (82 FR 27986, June 20, 2017). The FAA now proposes to remove the airways segments between the Waukon, IA, VORTAC and the Rockford, IL, VOR/DME; and between the Keeler, MI, VOR/DME and the Lansing, MI, VORTAC in this NPRM. The unaffected portion of the existing airway would remain as charted.

**V-410:** V-410 currently extends between the Pontiac, MI, VORTAC and the London, ON, Canada VOR/DME, excluding the airspace within Canada. The FAA proposes to remove the airway in its entirety.

**V-510:** V-510 currently extends between the Dickinson, ND, VORTAC and the Dells, WI, VORTAC; and between the Oshkosh, WI, VORTAC and the Lansing, MI, VORTAC; and between the Buffalo, NY, VOR/DME and the Rochester, NY, VOR/DME. The FAA proposes to remove the airway segment between the Oshkosh, WI, VORTAC and the Lansing, MI, VORTAC. The unaffected portions of the existing airway will remain as charted in the two remaining segments.

All radials in the route descriptions below that do not reflect True (T)/Magnetic (M) degree radial information are unchanged and stated in True degrees.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

#### Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of

Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for part 71 continues to read as follows:

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

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016 and effective September 15, 2016, is amended as follows:

*Paragraph 6010(a) Domestic VOR Federal Airways.*

\* \* \* \* \*

#### V-2 [Amended]

From Seattle, WA; Ellensburg, WA; Moses Lake, WA; Spokane, WA; Mullan Pass, ID; Missoula, MT; Helena, MT; INT Helena 119° and Livingston, MT, 322° radials; Livingston; Billings, MT; Miles City, MT; 24 miles, 90 miles, 55 MSL, Dickinson, ND; 10 miles, 60 miles, 38 MSL, Bismarck, ND; 14 miles, 62 miles, 34 MSL, Jamestown, ND; Fargo, ND; Alexandria, MN; Gopher, MN; Nodine, MN; to INT Nodine 122°(T)/121°(M) and Waukon, IA, 053°(T)/048°(M) radials. From Buffalo, NY; Rochester, NY; Syracuse, NY; Utica, NY; Albany, NY; INT Albany 084° and Gardner, MA, 284° radials; to Gardner.

\* \* \* \* \*

#### V-26 [Amended]

From Blue Mesa, CO; Montrose, CO; 13 miles, 112 MSL, 131 MSL; Grand Junction, CO; Meeker, CO; Cherokee, WY; Muddy Mountain, WY; 14 miles 12 AGL, 37 miles 75 MSL, 84 miles 90 MSL, 17 miles 12 AGL; Rapid City, SD; Philip, SD; Pierre, SD; Huron, SD; Redwood Falls, MN; Farmington, MN; Eau Claire, WI; Waussau, WI; Green Bay, WI;

INT Green Bay 116° and White Cloud, MI, 302° radials; to White Cloud.

\* \* \* \* \*

#### V-84 [Amended]

From Northbrook, IL; to Pullman, MI. From Buffalo, NY; Geneseo, NY; INT Geneseo 091° and Syracuse, NY, 240° radials; to Syracuse.

\* \* \* \* \*

#### V-218 [Amended]

From International Falls, MN; Grand Rapids, MN; Gopher, MN; to Waukon, IA.

\* \* \* \* \*

#### V-410 [Removed]

\* \* \* \* \*

#### V-510 [Amended]

From Dickinson, ND; INT Dickinson 078° and Bismarck, ND, 290° radials, 28 miles, 38 MSL, Bismarck; INT Bismarck 067° and Jamestown, ND, 279° radials, 14 miles, 65 miles, 34 MSL, Jamestown; Fargo, ND; INT Fargo 110° and Alexandria, MN, 321° radials; Alexandria; INT Alexandria 110° and Gopher, MN, 321° radials; Gopher; INT Gopher 109° and Nodine, MN, 328° radials; Nodine; to Dells, WI. From Buffalo, NY; INT Buffalo 045° and Rochester, NY, 273° radials; to Rochester.

Issued in Washington, DC, on July 17, 2017.

**Scott M. Rosenbloom,**

*Acting Manager, Airspace Policy Group.*

[FR Doc. 2017-15390 Filed 7-21-17; 8:45 am]

**BILLING CODE 4910-13-P**

# Notices

Federal Register

Vol. 82, No. 140

Monday, July 24, 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

July 19, 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 the 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 23, 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), *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.

### Food and Nutrition Service

*Title:* Evaluation of the Direct Certification with Medicaid for Free and Reduced-Priced (DCM–F/RP) Meals Demonstration.

*OMB Control Number:* 0584—New.  
*Summary of Collection:* Section 104 of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108–265) amended section 9(b) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1758(b)) to require all local educational agencies that participate in the National School Lunch Program and/or the School Breakfast Program to establish a system to directly certify as eligible for free school meals children who are members of households receiving assistance under the Supplemental Nutrition Assistance Program. Section 103 of Public Law 111–296, the Healthy, Hunger-Free Kids Act of 2010, amended the NSLA to authorize the USDA's Food and Nutrition Service (FNS) to conduct and evaluate multiyear demonstration projects beginning in July 2012 in selected States and school districts to test the effectiveness of direct certification using income data available in Medicaid administrative records to determine eligibility for free school meals. In response to these mandates, FNS authorized a demonstration in School Year (SY) 2012–2013 for selected States and districts to directly certify students for free meals using income data available through Medicaid. In SY 2016–2017, FNS initiated a new demonstration where selected States will use income data from Medicaid files to identify students in households eligible to receive reduced-price meals and directly certify them at that level, in addition to directly certifying students for free meals. Through the Evaluation of the Direct Certification with Medicaid for Free and Reduced-Priced (DCM–F/RP) Meals Demonstration, FNS will be able to gather the data needed to evaluate the demonstration.

*Need and Use of the Information:* This study will gather data from State Child Nutrition Agency, State Medicaid Agency, and other State Agency staffs, from local school district staffs, and from vendors. FNS will use the data to understand how States are implementing the demonstration, identify challenges encountered during

the implementation, and examine the demonstration's effectiveness in improving certification and participation outcomes and the implications for Federal reimbursement totals and State administrative costs. The data will also help FNS to identify best practices that will shape future replication and improvement.

*Description of Respondents:* State, Local, or Tribal Government; Businesses or other for-profit.

*Number of Respondents:* 203.

*Frequency of Responses:* Reporting: Quarterly, Semi-Annually, and Annually.

*Total Burden Hours:* 1,174.

### Food and Nutrition Service

*Title:* Evaluation of the School Meal Data Collection Process.

*OMB Control Number:* 0584—NEW.

*Summary of Collection:* FNS is conducting a study, the *Evaluation of the School Meal Data Collection Process*, to provide a description and evaluation of the methodologies and processes used to collect and report program data for the school meal programs via the FNS–10, FNS–742, and FNS–834 forms. The key research objectives relate to assessing how schools/sites, SFAs, and State agencies handle the following three functions: Collect/aggregate data, process or validate data, and transmit data about the school meal programs. The ultimate objective is to understand the likely sources of error within each of these functions at each reporting level.

*Need and Use of the Information:* The primary purpose of data collection is to provide a description and evaluation of the methodologies and processes used to collect and report program data via the FNS–10, FNS–742, and FNS–834 forms. FNS objective is to understand the likely sources of error within each of these functions at each reporting level (*i.e.*, school/site to SFA; SFA to State agency; State agency to FNS). Evaluation of the processes and identification of potential sources of error will culminate in a set of recommended practices for improving the process to increase the accuracy of school meal program data.

*Description of Respondents:* State, Local & Tribal Agencies Government.

*Number of Respondents:* 298.

*Frequency of Responses:* Reporting: Annually.

*Total Burden Hours:* 303.

**Food and Nutrition Service**

*Title:* Supplemental Nutrition Assistance Program—Store Applications.

*OMB Control Number:* 0584–0008.

*Summary of Collection:* Section 9(a) of the Food and Nutrition Act of 2008 as amended, (7 U.S.C. 2018 *et seq.*) requires that the Food and Nutrition Service (FNS) provide for the submission of applications for approval by retailers, wholesalers, meal service providers, certain types of group homes, shelters, and state-contracted restaurants that wish to participate in the Supplemental Nutrition Program (SNAP). FNS is responsible for reviewing the application in order to determine whether or not applicants meet eligibility requirements, and make determinations whether to grant or deny authorization to accept and redeem SNAP benefits. FNS will collect information using forms FNS–252, Supplemental Nutrition Assistance Program Application for Store, FNS–252–E, On line Supplemental Nutrition Assistance Program Application for Store, FNS 252–2, Supplemental Nutrition Assistance Program for Meal Service Application, FNS–252–C, Corporate Supplemental Application, and FNS 252–R, Supplemental Nutrition Assistance Program for Stores Reauthorization and FNS–252FE, Supplemental Nutrition Assistance Program Farmer's Market Application.

*Need and Use of the Information:* FNS will collect information to determine the eligibility of retail food stores, wholesale food concern, and food service organizations applying for authorization to accept and redeem SNAP benefits, to monitor these firms for continued eligibility, to sanction stores for noncompliance with the Act, and for Program management purposes. Without the information on the application or reauthorization application, the consequence to the Federal program is the Agency's reduced ability to effectively monitor accountability for program compliance and to detect fraud and abuse.

*Description of Respondents:* Business or other for-profit, Not-for-profit, Farms.

*Number of Respondents:* 132,599.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 19,383.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2017–15435 Filed 7–21–17; 8:45 am]

**BILLING CODE 3410–30–P**

**DEPARTMENT OF AGRICULTURE****Grain Inspection, Packers and Stockyards Administration****Opportunity To Comment on the Applicants for the Georgia Area Consisting of the Entire State of Georgia**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** GIPSA requests comments on the applicants for designation to provide official weighing and official inspection services under the United States Grain Standards Act in the Georgia Area that was open for designation. Georgia Department of Agriculture (GDA) applied for the entire State of Georgia. D.R. Schaal Agency, Inc. (Schaal) applied for all or part of the State of Georgia.

**DATES:** GIPSA will consider comments received by August 23, 2017.

**ADDRESSES:** We invite you to submit comments on these applicants. You may submit comments by any of the following methods:

- *Mail, Courier or Hand Delivery:* Sharon Lathrop, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Sharon Lathrop, 816–872–1257.
- *Email:* [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).
- *Submit Comments using the Internet:* Go to <http://www.regulations.gov>.

Instructions for submitting and reading comments are detailed on the site.

*Read Applications and Comments:* All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

**FOR FURTHER INFORMATION CONTACT:** Sharon Lathrop, 816–891–0415 or [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

**SUPPLEMENTARY INFORMATION:** In the April 17, 2017, **Federal Register** (82 FR 18101), GIPSA asked persons interested in providing official services in the Georgia Area to submit an application for designation.

There were two applicants for the Georgia Area, comprised of the entire State of Georgia that was open for designation: GDA applied for the entire area currently assigned to them. Schaal applied for the entire State or the following 13 counties within the State of Georgia: Bryan, Bulloch, Burke,

Candler, Chatham, Effingham, Emanuel, Evans, Jefferson, Jenkins, Johnson, Screven, and Washington.

**Request for Comments**

GIPSA is publishing this notice to provide interested persons the opportunity to submit comments about the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of the applicants. All comments must be submitted to QACD at the above address or at <http://www.regulations.gov>. GIPSA will consider all comments received timely along with other available information when making a final decision. GIPSA will then publish a notice of the final decision in the **Federal Register**, and will send the applicants written notification of its decision.

**Authority:** 7 U.S.C. 71–87k.

**Randall D. Jones,**

*Acting Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 2017–15417 Filed 7–21–17; 8:45 am]

**BILLING CODE 3410–KD–P**

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[B–18–2017]

**Foreign-Trade Zone (FTZ) 141—Monroe County, New York; Authorization of Production Activity; Xerox Corporation; Subzone 141B; (Xerographic Bulk Toner and Toner Cartridges); Webster, New York**

On March 17, 2017, The County of Monroe, New York, grantee of FTZ 141, submitted a notification of proposed production activity to the FTZ Board on behalf of Xerox Corporation, within Subzone 141B, in Webster, New York.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 16025–16026, March 31, 2017). On July 17, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 19, 2017.

**Elizabeth Whiteman,**

*Acting Executive Secretary.*

[FR Doc. 2017–15463 Filed 7–21–17; 8:45 am]

**BILLING CODE 3510–DS–P**

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board****Foreign-Trade Zone 132—Coos Bay, Oregon Site Renumbering Notice**

Foreign-Trade Zone 132 was approved by the Foreign-Trade Zones Board on August 19, 1986 (Board Order 336, 51 FR 30684, August 28, 1986) and currently consists of three “Sites” totaling 1,235 acres in Coos Bay and North Bend, Oregon.

The current update does not alter the physical boundaries of the sites that have been approved, but instead involves an administrative renumbering of existing *Site 3* to separate unrelated, non-contiguous parcels for record keeping purposes.

Under this revision, the site list for FTZ 132 will be as follows: *Site 1* (284 acres)—marine terminal located at 90330 Transpacific Parkway, North Bend; *Site 2* (520 acres)—Roseburg Lumber Company, 66425 Jordan Cove Road, North Bend; *Site 3* (23 acres)—marine terminal located at California Avenue, North Bend; *Site 4* (37.5 acres)—marine terminal located at 3050 Tremont Avenue, North Bend; *Site 5* (13 acres)—marine terminal located at 1210 Front Street, Coos Bay; *Site 6* (97 acres)—Georgia Pacific Industrial Park, 93783 Newport Lane, Coos Bay; and, *Site 7* (260 acres)—Southwest Oregon Regional Airport, 1451 Airport Lane, North Bend (formerly the North Bend Municipal Airport).

For further information, contact Christopher Kemp at [Christopher.Kemp@trade.gov](mailto:Christopher.Kemp@trade.gov) or (202) 482-0862.

Dated: July 19, 2017.

**Elizabeth Whiteman,**

*Acting Executive Secretary.*

[FR Doc. 2017-15462 Filed 7-21-17; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-580-895, A-583-861]

**Low Melt Polyester Staple Fiber From the Republic of Korea and Taiwan: Initiation of Less-Than-Fair-Value Investigations**

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

**DATES:** July 17, 2017.

**FOR FURTHER INFORMATION CONTACT:** David Crespo at (202) 482-3693 (the Republic of Korea) or Elizabeth Eastwood at (202) 482-3874 (Taiwan),

AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:****The Petitions**

On June 27, 2017, the Department of Commerce (the Department) received antidumping duty (AD) Petitions concerning imports of low melt polyester staple fiber (low melt PSF) from the Republic of Korea (Korea) and Taiwan, filed in proper form on behalf of Nan Ya Plastics Corporation, America (the petitioner).<sup>1</sup> The petitioner is a domestic producer of low melt PSF.<sup>2</sup> On June 30, 2017, the Department requested additional information and clarification of certain areas of the Petitions.<sup>3</sup> The petitioner filed responses to these requests on July 6, 2017, and revised scope language on July 7, 2017.<sup>4</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of low melt PSF from Korea and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing low melt PSF in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

<sup>1</sup> See Letter to the from the petitioner, “Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan—Petition for the Imposition of Antidumping Duties” (June 27, 2017) (the Petitions).

<sup>2</sup> See Volume I of the Petitions at 2.

<sup>3</sup> See Letter from the Department, “Petitions for the Imposition of Antidumping Duties on Imports of Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Supplemental Questions,” (General Issues Supplement) dated June 30, 2017; see also Letter from the Department, “Petition for the Imposition of Antidumping Duties on Imports of Low Melt Polyester Staple Fiber from Taiwan: Supplemental Questions” (Taiwan Supplement), dated June 30, 2017; see also Letter from the Department, “Petition for the Imposition of Antidumping Duties on Imports of Low Melt Polyester Staple Fiber from the Republic of Korea: Supplemental Questions” (Korea Supplement), dated June 30, 2017.

<sup>4</sup> See Letter from the petitioner, “Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan—Petitioner’s Amendment to Volume II Relating to the Republic of Korea Antidumping Duties,” dated July 6, 2017 (Korea Supplemental Response); Letter from the petitioner, “Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan—Petitioner’s Amendment to Volume II Relating to Taiwan Antidumping Duties,” dated July 6, 2017 (Taiwan Supplemental Response); and Letter from the petitioner, “Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan—Petitioner’s Amendment to Volume I Relating to General Issues,” dated July 7, 2017 (General Issues Supplemental Response).

The Department finds that the petitioner filed these Petitions on behalf of the domestic industry, because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.<sup>5</sup>

**Period of Investigation**

Because the Petitions were filed on June 27, 2017, the period of investigation (POI) for both investigations is April 1, 2016, through March 31, 2017, pursuant to 19 CFR 351.204(b)(1).

**Scope of the Investigations**

The product covered by these investigations is low melt PSF from Korea and Taiwan. For a full description of the scope of these investigations, see the “Scope of the Investigations,” in the Appendix to this notice.

**Comments on Scope of the Investigations**

During our review of the Petitions, the Department issued a questionnaire to, and received a response from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>6</sup>

As part of this review, we determined that the scope language of these Petitions overlaps in certain respects with the scope language of the recently-initiated less-than-fair-value (LTFV) investigations of fine denier polyester staple fiber (fine denier PSF) from Korea and Taiwan and the existing AD orders on polyester staple fiber (PSF) from Korea and Taiwan.<sup>7</sup> Specifically, the scope of these Petitions covers all bi-component polyester fiber, where one component melts at a lower temperature than the other component; the scope, as currently written, does not limit the two fiber components to any specific configuration. Further, the scopes of both the fine denier PSF LTFV investigations and the existing PSF AD

<sup>5</sup> See the “Determination of Industry Support for the Petitions” section below.

<sup>6</sup> See General Issues Supplement and General Issues Supplemental Response.

<sup>7</sup> See *Fine Denier Polyester Staple Fiber From the People’s Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 29023, 29029 (June 27, 2017); and *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000).

orders include certain low melt PSF products and exclude others (*i.e.*, they only exclude low melt PSF in “sheath-and-core” configurations). As a result, low melt PSF in other configurations (such as “side-by-side”) is currently covered by the scopes of these investigations, as well as the on-going LTFV investigations on fine denier PSF from Korea and Taiwan, and the existing AD orders on PSF from Korea and Taiwan.

Where the Department has faced the possibility of administering two proceedings covering identical merchandise, we have chosen to craft the scope of the subsequent proceedings to eliminate the potential overlap.<sup>8</sup> Although we have provisionally accepted the scope as defined by the petitioner for purposes of initiation, we are currently evaluating how to address the overlap in product coverage, noted above. If this question is not resolved prior to the preliminary determinations of these proceedings, we intend to include provisionally the following language in the scope:

Excluded from the scope of the investigations on low melt PSF from Korea and Taiwan are any products covered by the existing antidumping duty investigations on fine denier PSF from Korea and Taiwan and the existing antidumping duty orders on certain polyester staple fiber from Korea and Taiwan. *See* {fine denier PSF preliminary determination citation}; *see also Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000).

We invite interested parties to comment on this issue within the deadlines set forth below.

As discussed in the preamble to the Department’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).<sup>9</sup> The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>10</sup> all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested

parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Monday, August 7, 2017, which is the next business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Thursday, August 17, 2017, which is 10 calendar days from the deadline for initial comments.<sup>11</sup>

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of both of the concurrent AD investigations.

#### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>12</sup> An electronically-filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance’s APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

#### Comments on Product Characteristics for AD Questionnaires

The Department will provide interested parties an opportunity to comment on the appropriate physical characteristics of low melt PSF to be reported in response to the Department’s AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in

order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria. Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics used by manufacturers to describe low melt PSF, it may be that only a select few product characteristics take into account commercially-meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on July 31, 2017. Any rebuttal comments must be filed by 5:00 p.m. ET on August 7, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of both the Taiwan and Korea less-than-fair-value investigations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in

<sup>11</sup> See 19 CFR 351.303(b).

<sup>12</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department’s electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/HandbookV%20VonV%20VElectronic%20Filing%20Procedures.pdf>.

<sup>8</sup> See *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil*, 71 FR 2183 (January 13, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>9</sup> See *Antidumping Duties; Countervailing Duties; final Rule*, 62 FR 27296 (May 19, 1997).

<sup>10</sup> See 19 CFR 351.102(b)(21) (defining “factual information”).

order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>13</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>14</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that low melt PSF, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>15</sup>

<sup>13</sup> See section 771(10) of the Act.

<sup>14</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>15</sup> For a discussion of the domestic like product analysis, see Antidumping Duty Investigation Initiation Checklist: Low Melt Polyester Staple Fiber from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping Duty Petitions Covering Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan, (Attachment II); and Antidumping Duty

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2016.<sup>16</sup> In addition, the petitioner provided a letter of support from Fiber Innovation Technology, stating that the company supports the Petitions and providing its own production of the domestic like product in 2016.<sup>17</sup> The petitioner identifies itself and Fiber Innovation Technology as the companies constituting the U.S. low melt PSF industry and states that there are no other known producers of low melt PSF in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.<sup>18</sup>

Our review of the data provided in the Petitions, the General Issues Supplemental Response, and other information readily available to the Department indicates that the petitioner has established industry support for the Petitions.<sup>19</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>20</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>21</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act

Investigation Initiation Checklist: Low Melt Polyester Staple Fiber from Taiwan (Taiwan AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and are on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>16</sup> See Volume I of the Petitions, at 3 and Exhibit I–2.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*, at 2–3 and Exhibits I–1, I–2, and I–11.

<sup>19</sup> See Korea AD Initiation Checklist and Taiwan AD Initiation Checklist, at Attachment II.

<sup>20</sup> See section 732(c)(4)(D) of the Act; see also Korea AD Initiation Checklist, at Attachment II and Taiwan AD Initiation Checklist, at Attachment II.

<sup>21</sup> See Korea AD Initiation Checklist, at Attachment II and Taiwan AD Initiation Checklist, at Attachment II.

because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>22</sup> Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting that the Department initiate.<sup>23</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>24</sup>

The petitioner contends that the industry’s injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; declines in production, capacity utilization, and U.S. shipments; and declines in financial performance.<sup>25</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>26</sup>

#### Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at LTFV upon which the Department based its decision to initiate AD investigations of imports of low melt PSF from Korea and Taiwan. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See Volume I of the Petitions, at 16 and Exhibit I–7.

<sup>25</sup> *Id.*, at 12, 16–30 and Exhibits I–5, I–7 through I–11.

<sup>26</sup> See Korea AD Initiation Checklist, at Attachment III and Taiwan AD Initiation Checklist, at Attachment III.

### Export Price

For Korea and Taiwan, the petitioner based the U.S. price on export price (EP) using: (1) Average unit values of publicly available import data;<sup>27</sup> and (2) price quotes for sales of low melt PSF produced in, and exported from, the subject country and offered for sale in the United States.<sup>28</sup> Where applicable, the petitioner made deductions from U.S. price for movement expenses, consistent with the terms of sale.<sup>29</sup>

### Normal Value

For Korea and Taiwan, the petitioner provided home market price information for low melt PSF produced in, and offered for sale in, both of these countries that was obtained through market research.<sup>30</sup> For both of these countries, the petitioner provided a declaration from a market researcher to support the price information.<sup>31</sup> Where applicable, the petitioner made deductions for movement expenses and credit expenses, consistent with the terms of sale.<sup>32</sup>

The petitioner also provided information that sales of low melt PSF in both Korea and Taiwan were made at prices below the cost of production (COP). Therefore, the petitioner calculated NV based on home market prices and constructed value (CV).<sup>33</sup> For further discussion of COP and NV based on CV, *see* the section “Normal Value Based on Constructed Value,” below.<sup>34</sup>

### Normal Value Based on Constructed Value

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, and packing expenses. For Korea and Taiwan, the petitioner calculated the COM based on the input factors of production from a U.S. producer of low melt PSF, adjusted for known differences between the U.S.

low melt PSF industry and those of Korea and Taiwan during the POI. The input factors of production were valued using publicly available data on costs specific to Korea and Taiwan.<sup>35</sup>

The petitioner determined the usage of raw material inputs based on the average usage rates incurred by the U.S. producer. The prices for raw material inputs were based on Korean and Taiwan import and export data from publicly available data. Labor and energy rates were derived from publicly available sources multiplied by the product-specific usage rates. The petitioner calculated a factory overhead, SG&A, financial expenses, and packing rates based on the experience of Korean and Taiwan producers of comparable merchandise.<sup>36</sup>

Because certain home market prices fell below the COP for both countries, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, the petitioner calculated NV based on CV.<sup>37</sup> Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, financial expenses, packing expenses, and profit. The petitioner calculated CV using the same average COM, SG&A, financial expenses, and packing expenses to calculate the COP.<sup>38</sup> The petitioner relied on the financial statements of the same producer that it used for calculating manufacturing overhead, SG&A, and financial expenses to calculate the profit rate.<sup>39</sup>

### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of low melt PSF from Korea and Taiwan are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for low melt PSF from Korea and Taiwan range from 39.24 to 52.23 percent,<sup>40</sup> and 28.47 to 73.21 percent, respectively.<sup>41</sup>

### Initiation of LTFV Investigations

Based upon the examination of the AD Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of low melt PSF from Korea and Taiwan are being, or are likely to be, sold in the United States at less than fair

value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and countervailing duty (CVD) law were made.<sup>42</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>43</sup> The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.<sup>44</sup>

### Respondent Selection

The petitioner named six companies in Korea,<sup>45</sup> and two companies in Taiwan,<sup>46</sup> as producers/exporters of low melt denier PSF. Following standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of companies in Korea or Taiwan is large, the Department intends to review U.S. Customs and Border Protection (CBP) data for U.S. imports of low melt PSF during the POI under the appropriate Harmonized Tariff Schedule of the United States subheading listed within the scope in the Appendix, below, and if it determines that it cannot individually examine each company based upon the Department's resources, then the Department will select respondents based on those data. We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of the announcement of the initiation of these investigations. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web

<sup>27</sup> See Korea AD Initiation Checklist and Taiwan AD Initiation Checklist.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> See Letter from the petitioner, “Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan,” dated June 29, 2017 (FMR Report).

<sup>31</sup> *Id.*

<sup>32</sup> See Korea AD Initiation Checklist and Taiwan AD Initiation Checklist.

<sup>33</sup> *Id.*

<sup>34</sup> In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for both investigations, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

<sup>35</sup> See Taiwan AD Initiation Checklist and Korea AD Initiation Checklist.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See Korea AD Initiation Checklist.

<sup>41</sup> See Taiwan AD Initiation Checklist.

<sup>42</sup> See Trade Preferences Extension Act of 2015, Pub. L. 114–27, 129 Stat. 362 (2015).

<sup>43</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

<sup>44</sup> *Id.*, at 46794–95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/housebill/1295/text/pl>.

<sup>45</sup> See Volume I of the Petitions at Exhibit I–4.

<sup>46</sup> *Id.*

site at <http://enforcement.trade.gov/apo>. Interested parties may submit comments regarding the CBP data and respondent selection by 5:00 p.m. ET seven calendar days after the placement of the CBP data on the record of that investigation. Interested parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for initial comments.

Comments for the above-referenced investigations must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET by the dates noted above. We intend to make our decision regarding respondent selection in the Korea and Taiwan investigations within 20 days of publication of this notice.

#### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Korea and Taiwan via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of low melt PSF from the Korea and/or Taiwan are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination for either country will result in the investigation being terminated with respect to that country. Otherwise, these investigations will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting

factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>47</sup> 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.<sup>48</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>49</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of

petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>50</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 17, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

#### Appendix

##### Scope of the Investigations

The merchandise subject to these investigations is synthetic staple fibers, not carded or combed, specifically bi-component polyester fibers having a polyester fiber component that melts at a lower temperature than the other polyester fiber component (low melt PSF). The scope includes bi-component polyester staple fibers of any denier or cut length. The subject merchandise may be coated, usually with a finish or dye, or not coated.

Low melt PSF is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 5503.20.0015. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the merchandise under the investigations is dispositive.

[FR Doc. 2017–15475 Filed 7–21–17; 8:45 am]

**BILLING CODE 3510-DS-P**

<sup>50</sup> See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>47</sup> See 19 CFR 351.301(b).

<sup>48</sup> See 19 CFR 351.301(b)(2).

<sup>49</sup> See section 782(b) of the Act.

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

RIN 0648–XF565

**Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings**

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Committees.

**DATES:** The meetings will be held beginning at 9 a.m. on Tuesday, August 8, 2017, and ending at 1 p.m. on Thursday, August 10, 2017. For agenda details, see **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** The meeting will be held at: Courtyard Marriott, 21 N. Juniper Street, Philadelphia, PA 19107; telephone: (215) 496–3200.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, [www.mafmc.org](http://www.mafmc.org) also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

**SUPPLEMENTARY INFORMATION:** The following items are on the agenda; though agenda items may be addressed out of order (changes will be noted on the Council's Web site when possible.)

**Tuesday, August 8, 2017***Surfclam/Ocean Quahog*

Review scoping comments for excessive shares alternatives to the Excessive Shares Amendment and discuss next steps for amendment development and discuss Surfclam overfishing limit (OFL) and acceptable biological catch (ABC).

*Risk Policy Framework—Meeting 1*

Initiate framework and review risk policy and ABC framework alternatives.

*Demersal Committee Meeting as a Committee of the Whole With the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup and Black Sea Bass and Bluefish Boards*

## Bluefish Specifications

Review SSC, Monitoring Committee, Advisory Panel, and staff recommendations for 2018 specifications, recommend any changes if necessary and review the ASMFC Bluefish Fishery Management Plan.

## Scup Specifications

Review SSC, Monitoring Committee, Advisory Panel, and staff recommendations for 2018–19 specifications, recommend any changes to 2018 specifications if necessary and consider setting specifications for 2019.

## Summer Flounder Amendment

Approve Demersal Committee and ASMFC Board recommendations regarding alternatives.

**Wednesday, August 9, 2017**

*Demersal Committee Meeting as a Committee of the Whole With the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup and Black Sea Bass Boards*

## Summer Flounder Specifications

Review SSC, Monitoring Committee, Advisory Panel, and staff recommendations regarding previously implemented 2018 specifications and recommend any changes if necessary.

## Summer Flounder Recreational Issues

Report from the Board's Summer Flounder Recreational Working Group on work toward short- and long-term improvements to recreational specifications process.

## Black Sea Bass Specifications

Review SSC, Monitoring Committee, Advisory Panel, and staff recommendations regarding previously implemented 2018 specifications and recommend any changes if necessary.

## Black Sea Bass Recreational Issues and Amendment Consideration

Discuss potential opening of black sea bass wave 1 fishery in 2018, report from Board on addendum for 2018 black sea bass recreational management, report from Board on potential reconsideration of northern state's wave 6 measures and review initiation of black sea bass amendment (December 2015 motion).

## Law Enforcement Reports

Reports will be received from the NOAA Office of Law Enforcement and the U.S. Coast Guard.

## Ecosystem Approach to Fisheries Management Risk Assessment

Review and approve draft risk elements for risk matrix.

**Thursday, August 10, 2017***Business Session*

Committee Reports (SSC); Executive Director's Report on chub mackerel amendment update, MAFMC involvement in NEFMC Groundfish Framework 57 (southern windowpane flounder accountability measures) and review timing of the Nantucket/Martha's Vineyard Squid Buffer Framework Action; Science Report; Organization Reports; Liaison Reports; and Continuing and New Business.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: July 19, 2017.

**Tracey L. Thompson,**

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

[FR Doc. 2017–15502 Filed 7–21–17; 8:45 am]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

RIN 0648–XF353

**Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits**

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. This Exempted Fishing Permit (EFP) would allow one commercial fishing vessels to fish outside of the Northeast multispecies regulations in support of gear research to target healthy haddock and redfish stocks. Specifically, this EFP would require a temporary exemption from minimum mesh sizes, and possession limits to enable catch sampling.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

**DATES:** Comments must be received on or before August 8, 2017.

**ADDRESSES:** You may submit written comments by any of the following methods:

- *Email:* [nmfs.gar.efp@noaa.gov](mailto:nmfs.gar.efp@noaa.gov). Include in the subject line “GMRI Off-bottom Trawl EFP.”

- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “GMRI Off-bottom Trawl EFP.”

**FOR FURTHER INFORMATION CONTACT:** Emily Keiley, Fishery Management Specialist, 978–281–9116.

**SUPPLEMENTARY INFORMATION:** GMRI submitted a complete application for an EFP on April 27, 2017, in support of research associated with a 2016 Saltonstall-Kennedy Program project titled “Complementary testing of off-bottom trawls to target Georges Bank haddock.” The EFP requests the ability to use two sub-legal sized codends to target and haddock.

The overall goal of this project is to test the efficacy of an off-bottom trawl fitted with a small-mesh codend to access healthy haddock and redfish stocks while avoiding other groundfish stocks. Additional objectives include the development of a fuel-efficient trawl that also reduces disruption to benthic habitat. One vessel, the F/V *Teresa Marie IV*, would conduct a three-phase research plan to test the off-bottom trawl with two different codends: A 4.5-inch (11.43-cm) diamond mesh when targeting redfish, and a 5.1-inch (12.954-cm) square mesh when targeting haddock. The proposed off-bottom trawl would require an exemption from the Northeast multispecies minimum mesh size requirements at § 648.80(a)(3)(ii), because the codend and extension mesh size would be less than the minimum regulated mesh.

The 4.5-inch (11.43-cm) diamond mesh codend was previously authorized for use in the redfish exempted fishery, through a regulatory exemption to sectors, based on the results of previous redfish selectivity research (REDNET). This exemption has been modified a number of times in order to balance the conservation requirements, and economic goals of the fishery. In fishing year 2017, a 5.5-inch (14.0-cm) mesh was authorized within the redfish exemption area. During the REDNET study, substantial catches of redfish with low levels of incidental catch or bycatch of regulated species were observed when using a 4.5-inch (11.43-cm) mesh codend.

The square-mesh 5.1-inch (12.954-cm) codend was selected based on the Canadian haddock fishery, which uses a 5-inch (12.7-cm) square-mesh codend. The Canadian Department of Fisheries and Oceans has also conducted studies on the selectivity of various mesh sizes. This codend mesh size has been approved for use in a previous EFP issued to Atlantic Trawlers Fishing, Inc. Only a small number of trips were taken under that EFP, which limited the ability to produce statistically reliable results, but there were indications that haddock selectivity between the 5.1-inch (12.954-cm) square mesh codend and 6.5-inch (16.51-cm) diamond mesh codend were similar.

During Phase 1, the captain and crew of the F/V *Teresa Marie IV* would familiarize themselves with the operation of the off-bottom trawl. Testing would include how to deploy the trawl to a desired operating depth, maintain depth, adjust depth, and haul back. This phase would be carried out in August or September 2017 (Table 1). Five days-at-sea would be required for testing. Tow duration could be as short

as 30 minutes or as long as 3 to 4 hours, depending on the outcome of the gear testing. Testing of the net, outfitted with the square-mesh 5.1-inch (12.954-cm) codend, would occur in open areas of Georges Bank (Statistical Areas 512, 513, and 515) for three days. Testing of the net, outfitted with the 4.5-inch (11.43-cm) codend, would occur in the redfish exemption area for two days. The off-bottom trawl would be equipped with Simrad and NOTUS sensors to provide acoustic images of the fishing circle, trawl geometry and height above the seabed, and fish entering the trawl. A GMRI research technician would be on board to conduct catch sampling and collect data on the performance of the net. The primary purpose of the trip is to demonstrate the ability to control net position within the water column and net geometry. Catch is likely to be minimal in this phase; many tows will be conducted in areas where limited catch is expected, as the purpose of this phase to optimize gear performance, not demonstrate catch composition. However, any legal-size groundfish catch would be retained for sale, consistent with the Northeast Multispecies Fishery Management Plan (FMP), and all catch would be attributed against the applicable sector Annual Catch Entitlement (ACE), consistent with standard catch accounting procedures.

In Phase 2, the off-bottom trawl would be evaluated during a 5-day controlled study on-board the F/V *Teresa Marie IV* conducted in August or September 2017 (Table 1). The off-bottom trawl would be tested at two towing speeds (3 and 4 kts) while actively fishing in order to represent normal working conditions. Testing of the net outfitted with the 5.1-inch (12.954-cm) square-mesh codend would occur in open areas of Georges Bank (Statistical Areas 512, 513, and 515) for 3 days-at-sea (DAS). Testing of the net outfitted with the 4.5-inch (11.43-cm) diamond codend would occur in the redfish exemption area for 2 days. Underwater cameras would be used to film the off-bottom trawl in operation, in conjunction with net mensuration equipment to examine the trawl geometry and clearance over the seabed, as well as the catch as it enters the trawl and reaches the codend. Catch would be retained for sale. Catch would be attributed against the applicable sector ACE, consistent with standard catch accounting procedures.

Phase 3 would test the off-bottom trawl using both codends under a wide range of commercial conditions to broadly characterize the fishing performance of the net. The off-bottom trawl would be fished from the F/V

*Teresa Marie IV*. Phase 3 would include ten 8-day trips occurring from August through December 2017. Trips would be

split between Georges Bank and the Gulf of Maine targeting haddock and redfish, respectively. Targeted redfish fishing,

with the 4.5-inch (11.43-cm) codend, would only occur within the sector redfish exemption area (Table 1).

TABLE 1—PROPOSED EFP TRIPS

Phase	Number of trips	DAS per trip	Season	Location (statistical areas)	Target species
1	1	5	August/September	512, 513, 515 (3 days) 521, 522 (2 days)	Redfish. Haddock.
2	1	5	August/September	512, 513, 515 (3 days) 521, 522 (2 days)	Redfish. Haddock.
3	10	8	August–October	521, 522 (5 days) 512, 513, 515 (3 days)	Haddock. Redfish.
			October–December	512, 513, 515 (5 days) 521, 522 (3 days)	Redfish. Haddock.

The applicant has stated that estimating anticipated catch for this project using the off-bottom trawl is a challenging exercise given a lack of historical evidence using a trawl of this design. Subsequently, catch from the *Teresa Marie IV* using a haddock separator trawl in fishing year 2016 was used to estimate anticipated catch using the off-bottom trawl. The average catch of haddock per trip was 5,500 pounds (2,495-kg) in the Gulf of Maine, 6,400 pounds (2,903-kg) in the Eastern U.S./Canada management area of Georges Bank, and 22,300 pounds (10,115-kg) in Georges Bank West. The average catch of redfish in the Gulf of Maine was 2,000 pounds (907-kg) per trip. The average catch of cod per trip was 180 pounds (82-kg) in the Gulf of Maine, 70 pounds (32-kg) in the Eastern U.S./Canada management area of Georges Bank, and 530 pounds (240-kg) in Georges Bank West. The off-bottom trawl is expected to catch at least as much haddock as a bottom trawl, with substantial reductions in cod catch, and the complete elimination of flatfish catch. If these ratios are not realized the applicant has indicated that the off-bottom trawl would be deemed unsuccessful and the project may be abandoned.

All trips would carry a GMRI sampler, an assigned at-sea observer, or an independently contracted data collection technician. In Phases 1 and 2, a GMRI sampler would be onboard to document the operational performance of the off-bottom trawl, and sample catch. In Phase 3, a GMRI sampler would be onboard the *F/V Teresa Marie IV* during at least two fishing trips. An assigned at-sea observer or independent contracted data collection technician would collect data during remaining trips with the off-bottom trawl. The volume of the catch is anticipated to be large, so subsampling protocols have been developed. The dimensions of the

boats' checker pens would be measured. Catches emptied into these pens would be estimated by recording the depth of the catch in each pen. Efforts would be made to spread the catch evenly in these pens, and up to 10 measurements of catch depth would be recorded in each pen in random locations. This would provide an estimate of total catch volume. Legal-sized haddock are placed on a conveyor belt and then filleted. A subsample of the total catch would be taken from the checker pens to estimate total catch, including cod and other non-target species by weight. All fish in the subsample would be weighed, and length measurements would be taken for cod and other non-target catch. All bycatch would be returned to the sea as soon as practicable following data collection. Exemption from minimum sizes would support catch sampling activities, and ensure the vessel is not in conflict with possession regulations while collecting catch data. All trips would otherwise be conducted in a manner consistent with normal commercial fishing conditions and catch consistent with the Northeast Multispecies FMP would be retained for sale. Trips not accompanied by GMRI researchers would be required to carry an At-Sea Monitor (ASM), Northeast Fishery Observer Program (NEFOP) observer, or privately contracted data collection technician. On trips assigned to carry an ASM or observer by NEFOP, normal sampling protocols would be carried out. The vessel is responsible for notifying its monitoring provider of upcoming research trips and ensuring a research technician is present on all EFP trips not selected for observer coverage through Pre-trip Notification System (PTNS).

GMRI needs this exemption to allow them to conduct testing of a net configuration that is prohibited by the current regulations. If approved, the applicant may request minor

modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: July 19, 2017.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 2017-15487 Filed 7-21-17; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XF564**

**Gulf of Mexico Fishery Management Council; Public Meeting**

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will hold a four-day meeting to consider actions affecting the Gulf of Mexico fisheries in the exclusive economic zone (EEZ).

**DATES:** The meeting will be held on Monday, August 7 through Thursday, August 10, 2017.

**ADDRESSES:** The meeting will take place at the Marriott Plaza, located at 555 South Alamo Street, San Antonio, TX 78205; telephone: (210) 229-1000.

*Council address:* Gulf of Mexico Fishery Management Council, 2203 N.

Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348-1630.

**FOR FURTHER INFORMATION CONTACT:**

Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348-1630.

**SUPPLEMENTARY INFORMATION:**

**Agenda**

*Monday, August 7, 2017; 10:30 a.m.–5 p.m.*

The Administrative/Budget Committee will review and approve the Final 2017 Budget Funding Report, and review of SOPPS guidance on Advisory Panel Appointments; and, the Education and Outreach Committee will review and discuss the technical committee report from their August 2017 meeting. After the lunch break, the Gulf SEDAR Committee will hold a discussion on the 2017 Extended Recreational Red Snapper Season; and review the SEDAR Assessment Schedule. The Sustainable Fisheries Committee will receive a presentation on the protocol for authorizing Sea Turtle Release Gear and review a discussion paper. This Committee will also receive updates on Lionfish Research, Actions and Efforts by Federal and State Agencies.

*Tuesday, August 8, 2017; 8:30 a.m.–5 p.m.*

The Reef Fish Management Committee will review and discuss taking final action on Framework Action—Greater Amberjack Annual Catch Limit (ACL) and Management Measures; discuss draft Amendment 42—Federal Reef Fish Headboard Survey Vessels and Final Action on Referendum Eligibility Requirements, and draft Amendment 41—Federal Charter-For-Hire Reef Fish Management Discussion and Final Action on Referendum Eligibility Requirements. The committee will receive a Review of the For-Hire Permit Moratorium and Transfers; discuss draft Framework Action to modify the Annual Catch Target (ACT) for Red Snapper Federal For-Hire and Private Angler Components; and receive a presentation on the Grouper-Tilefish Individual Fishing Quota (IFQ) Program 5-year review. The committee will end the day reviewing a revised options paper for Amendment 36B—Modifications to Commercial IFQ Programs and NMFS' response regarding referendum requirements for auctions and discuss the next steps for the Ad Hoc Red Snapper IFQ Advisory Panel.

*Wednesday, August 9, 2017; 8:30 a.m.–5:30 p.m.*

The Reef Fish Management Committee will reconvene and review options papers for Status Determination Criteria and Optimum Yield (OY) for Reef Fish Stocks, and draft documents on State Management of Recreational Red Snapper for Louisiana, Mississippi, and Alabama.

The Full Council will convene mid-morning (approximately 10:45 a.m.) with a call to order, announcements, introductions; adoption of agenda; and approval of minutes. The Council will review Exempted Fishing Permit (EFPs) Applications, and a summary of public comments; and, receive a presentation from Texas Law Enforcement. After lunch, the Council will receive public testimony from 1:30 p.m. until 5:30 p.m. on the following agenda items: Final Action on Framework Action—Greater Amberjack ACL and Management Measures; Final Action on Referendum Eligibility Requirements for Reef Fish Amendment 42—Reef Fish Management for Headboat Survey Vessels; and Final Action on Referendum Eligibility Requirements for Reef Fish Amendment 41—Allocation-Based Management for Federally Permitted Charter Vessels; and, open testimony on any other fishery issues or concerns.

*Thursday, August 10, 2017; 8:30 a.m.–4 p.m.*

The Council will receive reports from the following Management Committees: Reef Fish, Gulf SEDAR, Administrative/Budget, Sustainable Fisheries, and Outreach and Education. Upon returning from lunch, the Council will review and vote on Exempted Fishing Permit (EFP) Applications, if any; and receive updates from the South Atlantic Fishery Management Council, Gulf States Marine Fisheries Commission, U.S. Coast Guard, U.S. Fish and Wildlife Service, and the Department of State. Under Other Business, the Council will receive an update and next steps for the Generic For-Hire Electronic Reporting Amendment.

**Meeting Adjourns**

You may listen in to the August 2017 Council Meeting via webinar by registering at <https://attendee.gotowebinar.com/register/2332013968662616323>. After registering, you will receive a confirmation email containing information about joining the webinar.

The timing and order in which agenda items are addressed may change as required to effectively address the issue. The latest version will be posted on the

Council's file server, which can be accessed by going to the Council's Web site at <http://www.gulfcouncil.org> and clicking on FTP Server under Quick Links. For meeting materials, select the "Briefing Books/Briefing Book 2017-08" folder on Gulf Council file server. The username and password are both "gulfguest". The meetings will be webcast over the internet. A link to the webcast will be available on the Council's Web site, <http://www.gulfcouncil.org>.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: July 19, 2017.

**Tracey L. Thompson,**

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

[FR Doc. 2017-15492 Filed 7-21-17; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

[Transmittal No. 17-08]

**36(b)(1) Arms Sales Notification**

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification.

**FOR FURTHER INFORMATION CONTACT:**

Kathy Valadez, (703) 697-9217 or Pamela Young, (703) 697-9107; DSCA/D SA-RAN.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal

17-08 with attached Policy Justification and Sensitivity of Technology.

Dated: July 18, 2017.

Aaron Siegel,
Alternate OSD Federal Register Liaison Officer, Department of Defense.



DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 209
ATLINGTON, VA 22202-5408

MAY 10 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-08, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of India for defense articles and services estimated to cost \$75 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

[Signature]
J. W. Rixey
Vice Admiral, USN
Director

- Enclosures:
1. Transmittal
2. Policy Justification



Transmittal No. 17-08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Government of India.

(ii) Total Estimated Value:

Table with 2 columns: Item, Value. Major Defense Equipment\* \$ 0 million, Other \$75 million, TOTAL \$75 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:

Major Defense Equipment (MDE): None

Non-MDE include: Thirty-eight thousand thirty-four (38,034) M50 General Purpose Masks. Joint Service Lightweight Integrated Suit Technology (JSLIST) consisting of:

- Thirty-eight thousand thirty-four (38,034) Suits
Thirty-eight thousand thirty-four (38,034) Pairs of Trousers
Thirty-eight thousand thirty-four (38,034) Pairs of Gloves
Thirty-eight thousand thirty-four (38,034) Pairs of Boots
Thirty-eight thousand thirty-four (38,034) NBC Bags
Eight hundred fifty-four (854) Aprons
Eight hundred fifty-four (854) Alternative Aprons
Nine thousand five hundred nine (9,509) Quick Doff Hood
One hundred fourteen thousand one hundred two (114,102) M61 Filters
Also included is training, technical data, U.S. Government technical assistance, staging/consolidation, and transportation line.
(iv) Military Department: Army
(v) Prior Related Cases, if any: None

- (vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None
(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex Attached.

(viii) Date Report Delivered to Congress: May 10, 2017

\* As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Government of India—CBRN Support Equipment

The Government of India (GoI) has requested a possible sale of 38,034 M50 general purpose masks; Joint Service Lightweight Integrated Suit Technology (JSLIST), which consists of 38,034 each: suits, pairs of trousers, pairs of gloves, pairs of boots and NBC bags; 854 aprons; 854 alternative aprons; 9,509

Quick Doff Hoods; and 114,102 M61 filters. Also included in the potential sale is training; technical data; U.S. Government technical assistance; staging/consolidation; transportation; and other related elements of logistics support. The estimated cost is \$75 million.

This proposed sale will contribute to the foreign policy and national security of the United States, by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in South Asia.

The GoI intends to use these defense articles and services to modernize its armed forces. This will contribute to the Indian military's goal to update its capability while enhancing the relationship between India and the United States. The GoI will have no difficulty absorbing these defense articles into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor involved in this program is Avon Protection Systems, Inc., Cadillac, MI. At this time, there are no known offset agreements proposed in connection with this potential sale.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17-08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Joint Service Lightweight Integrated Suit Technology (JSLIST) is a chemical and biological protective garment meant to be worn over the operational uniform of the user. It has an outer shell made up of a 50% nylon and 50% cotton poplin blend material with a water repellent finish. The liner layer consists of a nonwoven front laminated to activated carbon spheres and bonded to a tricot knit back that absorbs chemical agents. When the JSLIST coat and trousers are combined with boots, gloves, and a chemical protective mask, JSLIST provides protection against chemical and biological agents, radioactive fallout particles, and battlefield contaminants. The highest level of information that could be disclosed by the transfer of the JSLIST. Suit is UNCLASSIFIED. JSLIST is considered a U.S. military uniform item, and as such, any unit being sold to Foreign Military Sales customers will not utilize an actively-used U.S. military camouflage pattern in accordance with the Security Assistance Management Manual (SAMM), Chapter 4, paragraph 4.5.6. and 10 U.S.C. 771.

2. The M50 Joint Service General Purpose Mask is the U.S. Armed Forces' field protective mask. The system used two M61 filters integrated into the air inlet system to protect against nuclear, biological and chemical threats including select toxic industrial

chemicals. The highest level of information that could be disclosed by the transfer of the M50 is UNCLASSIFIED.

3. All defense articles and services listed in this transmittal are authorized for release and export to the Government of India.

[FR Doc. 2017-15393 Filed 7-21-17; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 16-70]

#### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Kathy Valadez, (703) 697-9217 or Pamela Young, (703) 697-9107; DSCA/DSCA-RAN.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 16-70 with attached Policy Justification and Sensitivity of Technology.

Dated: July 19, 2017.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*



DEFENSE SECURITY COOPERATION AGENCY  
201 12TH STREET SOUTH, STE 200  
ARLINGTON, VA 22202-5400

JUN 29 2017

The Honorable Paul D. Ryan  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16-70, concerning the Department of the Navy proposed Letter(s) of Acceptance to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost \$80 million. After this letter is delivered to our office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey  
Vice Admiral, USN  
Director

Enclosures:

- 1. Transmittal
- 2. Policy Justification
- 3. Sensitivity of Technology



Transmittal No. 16-70

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Taipei Economic and Cultural Representative Office (TECRO) in the United States

(ii) *Total Estimated Value:*

Major Defense Equipment\* \$0 million

Other ..... \$80 million  
Total ..... \$80 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Non-MDE Includes:* AN/SLQ-32(V)3 Electronic Warfare System upgrade hardware, software, support equipment and parts,

publications, training, engineering and technical assistance.

(iv) *Military Department:* Navy (LHW)

(v) *Prior Related Cases, if any:* FMS Cases TW-P-SDV, TW-P-GNT, and TW-P-GOU

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or*

*Defense Services Proposed to be Sold:*  
See Attached annex

(viii) *Date Report Delivered to Congress:* 29 JUN 2017

\* as defined in Section 47(6) of the Arms Export Control Act.

#### **POLICY JUSTIFICATION**

*Taipei Economic and Cultural Representative Office (TECRO) in the United States—AN/SLQ-32(V)3 Upgrade*

TECRO has requested a possible sale to upgrade the AN/SLQ-32(V)3 Electronic Warfare Systems in support of four (4) ex-KIDD Class (now KEELUNG Class) destroyers. This sale will include AN/SLQ-32(V)3 upgrade hardware, software, support equipment and parts, publications, training, engineering and technical assistance. The total estimated program cost is \$80 million.

This proposed sale is consistent with United States law and policy, as expressed in Public Law 96-8.

This proposed sale serves U.S. national, economic and security interests by supporting the recipient's continuing efforts to modernize its armed forces and enhance its defensive capabilities. The proposed sale will help improve the security of the recipient and assist in maintaining political stability, military balance and economic progress in the region.

The proposed sale will improve the recipient's capability in current and future defensive efforts. The recipient will use the enhanced capability as a deterrent to regional threats and to strengthen homeland defense. The proposed sale will improve operational readiness and enhance the electronic warfare capability onboard the ex-KIDD Class destroyers. The recipient will have no difficulty in absorbing this equipment into its armed forces.

The proposed sale will not alter the basic military balance in the region.

The prime contractor will be Raytheon Missiles Systems Company of Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale.

It is estimated that during implementation of this proposed sale, a number of U.S. Government and contractor representatives will be assigned to the recipient or travel there intermittently during the program.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 16-70

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No vii

#### (vii) *Sensitivity of Technology:*

1. The AN/SLQ-32(V)3 is an electronic warfare system providing shipboard identification and cataloguing of the electronic signature of missiles and aircraft. The system consists of sensors and computers which process electronic signals within parameters established in a threat library. The customer currently has an earlier version of this equipment in inventory.

a. The AN/SLQ-32(V)3 upgrade consists of hardware, technical documentation, and software. The highest classification of the hardware to be exported is SECRET. The highest classification of software to be exported is SECRET.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives in the Policy justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Taipei Economic and Cultural Representative Office (TECRO) in the United States.

[FR Doc. 2017-15442 Filed 7-21-17; 8:45 am]

**BILLING CODE 5001-06-P**

## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

[Transmittal No. 17-21]

#### **Arms Sales Notification**

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Pamela Young, (703) 697-9107 or Kathy Valadez, (703) 697-9217; DSCA/DSA-RAN.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17-21 with attached Policy Justification.

Dated: July 19, 2017.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*



DEFENSE SECURITY COOPERATION AGENCY  
201 12TH STREET SOUTH, STE 238  
ARLINGTON, VA 22202-9408

MAY 10 2017

The Honorable Paul D. Ryan  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-21, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of the United Arab Emirates for defense articles and services estimated to cost \$2.0 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J.W. Rixey  
Vice Admiral, USN  
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)



Transmittal No. 17-21

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

- (i) *Prospective Purchaser:* Government of the United Arab Emirates (UAE)
- (ii) *Total Estimated Value:*

Major Defense Equipment *	\$1.0 billion
Other .....	\$1.0 billion
<b>Total .....</b>	<b>\$2.0 billion</b>

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE):*  
Sixty (60) Patriot Advanced Capability 3 (PAC-3) Missiles with canisters  
One hundred (100) Patriot Guidance Enhanced Missile-Tactical (GEM-T) Missiles

*Non-MDE includes:*

Also included are canisters, tools and test equipment, support equipment, publications and technical documentation, spare and repair parts, U.S. Government and contractor technical, engineering and logistics

support services, and other related elements of logistics and program support.

(iv) *Military Department:* Army (AE-B-ZUG, Amendment 8)

(v) *Prior Related Cases, if any:* AE-B-ZUG

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* May 10, 2017

\*As defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION**

*Government of the United Arab Emirates (UAE)—Patriot PAC-3 and GEM-T Missiles*

The Government of the United Arab Emirates has requested the possible sale of sixty (60) Patriot Advanced Capability 3 (PAC-3) missiles with canisters and one hundred (100) Patriot Guidance Enhanced Missile-Tactical (GEM-T) missiles. Also included are

canisters, tools and test equipment, support equipment, publications and technical documentation, spare and repair parts, U.S. Government and contractor technical, engineering and logistics support services, and other related elements of logistics and program support. The estimated cost is \$2 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the security of an important ally which has been, and continues to be, a force for political stability and economic progress in the Middle East. This sale is consistent with U.S. initiatives to provide key allies in the region with modern systems that will enhance interoperability with U.S. forces and increase security.

The proposed sale will enhance the UAE's capability to meet current and future aircraft and missile threats. The UAE will use the capability as a deterrent to regional threats and to strengthen its homeland defense. The UAE has fielded the Patriot system since 2009 and will have no difficulty

absorbing these additional missiles into its armed forces.

The proposed sale of these missiles will not alter the basic military balance in the region.

The prime contractor for the PAC-3 Missile is Lockheed-Martin in Dallas, Texas. The prime contractor for the GEM-T missile is Raytheon Company in Andover, Massachusetts. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require additional contractor representatives to the UAE. It is not expected additional U.S. Government personnel will be required in country for an extended period of time. U.S. Army Aviation and Missile Life Cycle Management Command (AMCOM) currently maintains a field office in UAE in support of UAE Patriot systems.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17-21

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Patriot Advanced Capability-3 Missile Segment Enhancement/Configuration-3 Ground Support Equipment (PAC-3 MSE/C-3) Air Defense System. The Patriot Advanced Capability-3/Configuration-3 Ground Support Equipment (PAC-3/C-3) Air Defense System contains classified CONFIDENTIAL hardware components, SECRET tactical software, and critical/sensitive technology. The PAC-3 Missile Four-Pack and Guidance Enhanced Missile (GEM-T) hardware is classified CONFIDENTIAL and the associated launcher hardware is UNCLASSIFIED. The items requested represent significant technological advances for UAE. The PAC-3/C-3 Air Defense System continues to hold a significant technology lead over other surface-to-air missile systems in the world.

2. The PAC-3/C-3 sensitive/critical technology is primarily in the area of design and production know-how and primarily inherent in the design, development and/or manufacturing data related to the following components:

- a. Radar Enhancement Phase III (REP-3) Exciter Assemblies
- b. Radar Digital Processor
- c. Modern Adjunct Processor
- d. REP-3 Traveling Wave Tube

e. Classification, Discrimination, and Identification-3 (CDI-3) Digital Signal Processor

f. CDI-3 Analog/Digital Converters

g. Hardware-in-the-Loop and Digital Simulations

h. Surface Acoustic Wave (SAW) Oscillators

i. PAC-3 Missile Guidance Processor Unit

j. PAC-3 Seeker

k. PAC-3 Missile Software

l. PAC-3 MSE Software

m. GEM-T Fuze

n. GEM-T SAW Oscillator

o. Selected areas of the Patriot Ground Equipment software

p. Multiband Radio Frequency Datalink (MRFDL)

3. Information on vulnerability to electronic countermeasures and counter-countermeasures, system performance capabilities and effectiveness, survivability and vulnerability data, PAC-3 and GEM-T Missile seeker capabilities, non-cooperative target recognition, low observable technologies, select software/software documentation and test data are classified up to and including SECRET.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapons systems effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that the Government of the UAE can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sustainment program is necessary to the furtherance of the U.S. foreign policy and national security objectives outlined in the policy justification.

6. All defense articles and services listed in this transmittal are authorized for release and export to the Government of the UAE.

[FR Doc. 2017-15483 Filed 7-21-17; 8:45 am]

**BILLING CODE 5001-06-P**

**DEPARTMENT OF EDUCATION**

[Docket No.: ED-2017-ICCD-0021]

**Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Consolidated State Plan**

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before August 23, 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-0021. 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 216-42, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Melissa Siry, 202-260-0926.

**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:* Consolidated State Plan.

*OMB Control Number:* 1810-0576.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 52.

*Total Estimated Number of Annual Burden Hours:* 108,155.

*Abstract:* Section 8302 of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), permits each SEA, in consultation with the Governor, to apply for program funds through submission of a consolidated State plan or a consolidated State application (in lieu of individual program State plans). The purpose of consolidated State plans as defined in ESEA is to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery; to enhance program integration; and to provide greater flexibility and less burden for State educational agencies.

Dated: July 19, 2017.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2017-15449 Filed 7-21-17; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0061]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Independent Living Services for Older Individuals Who Are Blind

**AGENCY:** Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before August 23, 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-0061. 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 216-42, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact James Billy, 202-245-7273.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in

response to this notice will be considered public records.

*Title of Collection:* Independent Living Services for Older Individuals Who are Blind.

*OMB Control Number:* 1820-0608.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 56.

*Total Estimated Number of Annual Burden Hours:* 336.

*Abstract:* Section 752(h)(2) of the Rehabilitation Act of 1973, as amended, and the corresponding regulations in 34 CFR 367.31(c) require each grantee under the Independent Living Services for Older Individuals Who Are Blind (IL-OIB) program to submit an annual report to the Commissioner of the Rehabilitation Services Administration (RSA) on essential demographic, service, and outcome information. There is no difference between this and the previously approved data collection instrument which will expire on August 31, 2017. RSA therefore requests an extension of the approval to use this data collection instrument.

Dated: July 18, 2017.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2017-15399 Filed 7-21-17; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

[OE Docket No. EA-437]

### Application To Export Electric Energy; EnerTime Energy Resources, LLC

**AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.

**ACTION:** Notice of application.

**SUMMARY:** EnerTime Energy Resources, LLC (Applicant) has applied for authority to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

**DATES:** Comments, protests, or motions to intervene must be submitted on or before August 23, 2017.

**ADDRESSES:** Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585-0350. Because of delays in handling conventional mail, it is recommended that documents be

transmitted by overnight mail, by electronic mail to [Electricity.Exports@hq.doe.gov](mailto:Electricity.Exports@hq.doe.gov), or by facsimile to 202-586-8008.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On May 22, 2017, DOE received an application from the Applicant for authority to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities.

In its application, the Applicant states that it does not own or control any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that the Applicant proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

**Procedural matters:** Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning the Applicant's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA-437. An additional copy is to be provided to Fernando Miller, EnerTime Energy Resources, LLC, 700 Milam, Suite 1300, Houston, TX 77002.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy

Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at <http://energy.gov/node/11845>, or by emailing Angela Troy at [Angela.Troy@hq.doe.gov](mailto:Angela.Troy@hq.doe.gov).

Issued in Washington, DC, on July 14, 2017.

**Christopher Lawrence**,  
*Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2017-15460 Filed 7-21-17; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Nevada

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

**DATES:** Wednesday, August 16, 2017 4:00 p.m.

**ADDRESSES:** Bob Ruud Community Center, 150 North Highway 160, Pahrump, Nevada 89060.

**FOR FURTHER INFORMATION CONTACT:** Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 167, North Las Vegas, Nevada 89030. Phone: (702) 630-0522; Fax (702) 295-2025 or Email: [NSSAB@nnsa.doe.gov](mailto:NSSAB@nnsa.doe.gov).

**SUPPLEMENTARY INFORMATION:** *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE-EM and site management in the areas of environmental restoration, waste management, and related activities.

#### Tentative Agenda

1. Recommendation Development for Groundwater Communication—Work Plan Item #7
2. Briefing and Recommendation Development for Long-term Monitoring at Closed Industrial and Soils Sites—Work Plan Item #3

**Public Participation:** The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical

disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

**Minutes:** Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: [http://www.nnss.gov/NSSAB/pages/MM\\_FY17.html](http://www.nnss.gov/NSSAB/pages/MM_FY17.html).

Issued at Washington, DC on July 18, 2017.

**LaTanya R. Butler**,

*Deputy Committee Management Officer.*

[FR Doc. 2017-15474 Filed 7-21-17; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Proposed Agency Information Collection

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice and Request for OMB Review and Comment.

**SUMMARY:** The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will support the administration and enforcement of the Department of Energy's regulations, issued pursuant to section 705 of the Defense Production Act of 1950 as amended (EPAS regulation). The collection assures the availability of records for at least 3 years of transactions that are directly related to the placement of contracts or purchase orders under the EPAS regulation by contractors with suppliers to acquire items (materials, products, and services) needed to fill defense orders. Such records would include administrative, accounting, purchasing, scheduling, production, and shipping records, the receipt and acceptance or rejection of contractors' orders by suppliers, and any other relevant and material record

to evidence the timely production and delivery of items.

**DATES:** Comments regarding this collection must be received on or before August 23, 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, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202-395-4650.

**ADDRESSES:** Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to Jeff Baumgartner, U.S. Department of Energy, OE-30, 1000 Independence Avenue SW., Washington, DC 20585 or by fax at 202-586-2623, or by email at [Jeffrey.Baumgartner@hq.doe.gov](mailto:Jeffrey.Baumgartner@hq.doe.gov).

**FOR FURTHER INFORMATION CONTACT:**

Written comments may be sent to Jeff Baumgartner, U.S. Department of Energy, OE-30, 1000 Independence Avenue SW., Washington, DC 20585 or by fax at 202-586-2623, or by email at [Jeffrey.Baumgartner@hq.doe.gov](mailto:Jeffrey.Baumgartner@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** This information collection request contains: (1) OMB No. 1910-5159; (2) Information Collection Request Title: Energy Priorities and Allocations System; (3) Type of Request: Extension; (4) Purpose: To meet requirements of the Defense Production Act (DPA) priorities and allocations authority with respect to all forms of energy necessary or appropriate to promote the national defense. Data supplied will be used to evaluate applicants requesting special priorities assistance to fill a rate order issued pursuant to the DPA and DOE's implementing regulations at 10 CFR part 217. This data will also be used to conduct audits and for enforcement purposes. This collection will only be used if the Secretary of Energy determines that his authority under the DPA is necessary to maximize domestic energy supplies or to address an energy shortage. The last collection by DOE under this authority was in 2001; (5) Annual Estimated Number of Respondents: 10 or more as this collection is addressed to a substantial majority of the energy industry; (6) Annual Estimated Number of Total Responses: 10 or more as this collection is addressed to a substantial majority of the energy industry; (7) Annual Estimated Number of Burden Hours: 32 minutes per response; (8) Annual

Estimated Reporting and Recordkeeping Cost Burden: \$0.

**Statutory Authority:** Defense Production Act of 1950 as amended (50 U.S.C. 4501 *et seq.*); Executive Order 13603.

Issued in Washington, DC on July 11, 2017.

**Devon Streit,**

*Deputy Assistant Secretary, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2017-15459 Filed 7-21-17; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case Numbers EPS-001, EPS-002, EPS-003 and EPS-004]

#### Notice of Petition for Waiver of Apple, Inc., Microsoft Corporation, Poin2 Lab, and Hefei Bitland Information Technology Co., Ltd. From the Department of Energy External Power Supplies Test Procedure and Grant of Interim Waiver

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

**ACTION:** Notice of petitions for waiver, granting of interim waiver, and request for public comment.

**SUMMARY:** This notice announces receipt of and publishes petitions for waivers from Apple, Inc. ("Apple"), Microsoft Corporation ("Microsoft"), Poin2 Lab ("Poin2"), and Hefei Bitland Information Technology Co., Ltd. ("Bitland") (collectively, "the petitioners") seeking an exemption from specific portions of the U.S. Department of Energy's ("DOE's") test procedure for determining external power supply ("EPS") energy efficiency. The waiver requests pertain to adaptive EPSs that support a particular International Electrotechnical Commission standard. Under the existing DOE test procedure, the average active mode efficiency of an adaptive EPS must be tested at both its lowest and highest achievable output voltages. The petitioners contend that since their products operate above 2 amps current at the lowest achievable output voltages under rare conditions and for only brief periods of time, the suggested alternative testing approach detailed in their waiver petition requests is needed to measure the active mode efficiency of their products in a representative manner. DOE is granting the petitioners with an interim waiver from the DOE EPS test procedure for the specified basic models of EPSs, subject to use of the alternative test procedure as set forth in this document and is

soliciting comments, data, and information concerning the petitions and the suggested alternate test procedure.

**DATES:** DOE will accept comments, data, and information with regard to the petition until August 23, 2017.

**ADDRESSES:** You may submit comments, identified by Docket No. EERE-2017-BT-WAV-0043, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [AS\\_Waiver\\_Requests@ee.doe.gov](mailto:AS_Waiver_Requests@ee.doe.gov) Include the Docket No. EERE-2017-BT-WAV-0043 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

- *Postal Mail:* Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, Petition for Waiver Docket No. EERE-2017-BT-WAV-0043, 1000 Independence Avenue SW., Washington, DC 20585-0121.

Telephone: (202) 586-0371. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., 6th Floor, Washington, DC, 20024. Telephone: (202) 586-6636. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

*Docket:* The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeremy Dommu, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-9870. Email: [appliancestandardsquestions@ee.doe.gov](mailto:appliancestandardsquestions@ee.doe.gov).

Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0103. Telephone: (202) 586-8145. Email: [Michael.Kido@hq.doe.gov](mailto:Michael.Kido@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:****I. Background and Authority**

Title III, Part B<sup>1</sup> of the Energy Policy and Conservation Act of 1975 (“EPCA”), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes the external power supplies (“EPSs”), which are the focus of this notice.<sup>2</sup> Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for EPSs is contained in Title 10 of the Code of Federal Regulations (“CFR”) part 430, subpart B, Appendix Z, *Uniform Test Method for Measuring the Energy Consumption of External Power Supplies*.

DOE’s regulations set forth at 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered consumer product when: (1) The petitioner’s basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii).

DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As

soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 430.27(l).

The waiver process also allows DOE to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

**II. Petition for Waiver of Test Procedure and Application for Interim Waiver**

On June 8, 2017 and June 22, 2017, the Information Technology Industry Council (“ITI”), on behalf of the petitioners, filed petitions for waivers from the DOE test procedure for EPSs under 10 CFR 430.27 for several basic models of adaptive EPSs that meet the provisions of the International Electrotechnical Commission’s “Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery” (“IEC 62680–1–2:2017”) specification.<sup>3</sup> All four waiver petitions were nearly identical in that they focused on each company’s respective basic models of adaptive EPSs that utilize the IEC 62680–1–2:2017 specification and provided the same rationale for why the waiver and the suggested alternative test method detailed in each petition is necessary. The IEC specification describes the particular architecture, protocols, power supply behavior, connectors, and cabling necessary for managing power delivery over a universal serial bus (“USB”) connection at power levels of up to 100 watts (“W”). The purpose behind this specification is to help provide a standardized approach for power supply and peripheral developers to ensure

backward compatibility while retaining product design and marketing flexibility. See generally, IEC 62680–1–2:2017 (Abstract) (describing the standard’s general provisions and purpose).

In the view of the petitioners, applying the DOE test procedure to the adaptive EPSs specified in their petitions would yield results that would be unrepresentative of the active-mode efficiency of those products. The DOE test procedure requires that the average active-mode efficiency for adaptive EPSs be measured by testing the unit twice—once at the highest achievable output voltage (“V”) and once at the lowest. The test procedure requires that active-mode efficiency be measured at four loading conditions relative to the nameplate output current of the EPS. See 10 CFR 430.23(bb) and 10 CFR part 430, subpart B, Appendix Z. The lowest achievable output voltage supported by the IEC 62680–1–2:2017 specification is 5V and the nameplate current at this voltage output is 3 amps (“A”), resulting in a power output of 15 W. The petitioners contend that while the IEC 62680–1–2:2017 specification requires the tested EPS to support this power output, the 15W at 5V condition will be rarely used and only for brief periods of time. Accordingly, the petitioners assert that the DOE test procedure’s measurement of efficiency at this power level is unrepresentative of the true energy consumption of these EPSs. Consequently, they seek a waiver from DOE to permit them to use an alternative test procedure to measure the energy efficiency of the specified adaptive EPSs that support the IEC 62680–1–2:2017 specification by testing these devices at the lowest voltage, 5V, and at an output power at 10W instead of 15W. In light of the similarities among these petitions, DOE is responding to them simultaneously in a single response.

Under the current test procedure, when testing an adaptive EPS at the lowest achievable output voltage, the measured average active mode efficiency is equal to the average efficiency when testing the EPS at 100%, 75%, 50%, and 25% of the nameplate output current of the EPS at that voltage. See 10 CFR 430 Appendix Z, sections 1.f and 4(a)(i)(E), and Table 1). Thus, for an adaptive EPS with a lowest output voltage of 5V and a nameplate output current of 3A (resulting in a 15W output at 100% of the nameplate output current), the average active mode efficiency at the lowest output voltage would be equal to the average of the efficiencies when testing at 15W, 11.25W, 7.5W, and

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

<sup>2</sup> All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (“EPIA”), Public Law 114–11 (April 30, 2015).

<sup>3</sup> International Electrotechnical Commission Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery specification, <https://webstore.iec.ch/publication/26174/>.

3.75W. The petitioners suggested that these requirements be modified for their products when calculating the average active mode efficiency—namely, by using the average of four loading conditions representing the same respective percentages of an output current of 2A. Doing so would mean that the average active mode efficiency would equal the average of the efficiencies when testing at 10W, 7.5W, 5W, and 2.5W. The petitioners suggested taking the results from this alternative approach and comparing them against the DOE efficiency requirements at 10W. In their view, this approach is consistent with the current energy conservation standards for EPS, which scale based on the power output for which the EPS is tested.

The following table lists the basic model numbers for which each petitioner requests a waiver and interim waiver.

**TABLE 1—BASIC MODEL NUMBERS SUBMITTED BY EACH PETITIONER FOR A WAIVER AND INTERIM WAIVER**

Company	Basic model No.
Apple .....	A1718, A1719, A1540.
Microsoft .....	AC-100.
Poin2 .....	A16-045N1A.
Bitland .....	A045R053L.

The petitioners assert that the test procedure for the lowest voltage level does not reflect actual use in the field. The IEC 62680-1-2:2017 specification requires USB-compliant products to support 15W at 5V. However, according to the petitioners, adaptive EPSs operating at 5 volts do not exceed 10W for almost all usage conditions. In their view, when charging a product that is sold or intended to be used with the EPS, the EPS charges at 5 volts only with a dead battery or fully charged battery (and then at 0.5A or less). At other times when more power is needed, the EPS will use a higher voltage rail (greater than 5V). (A “voltage rail” refers to a single voltage provided by the relevant power supply unit through a dedicated circuit/wire used for that voltage.) The same holds true for other end-use products manufactured by the respective manufacturers. The petitioners further state and provide data demonstrating that when using an adaptive EPS that supports the IEC 62680-1-2:2017 specification to charge an end-use product of a manufacturer different from the one who manufactured the EPS, it is likely that the product would charge at less than 10W at 5V, or may even be

capable of exploiting the ability of an adaptive EPS to provide higher voltages for faster charging. Accordingly, the petitioners argue that the current DOE test procedure, which requires that efficiency be measured above 10W at the lowest voltage condition, results in a measurement that is grossly unrepresentative of the actual energy consumption characteristics of the adaptive EPS being tested.

The petitioners also request an interim waiver from the existing DOE test procedure for immediate relief. As previously noted, an interim waiver may be granted if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

DOE understands that absent an interim waiver, the basic models identified by the petitioners cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the suggested alternate procedure and concludes that it will allow for the accurate measurement of the energy use of these products, while alleviating the testing problems associated with petitioner’s implementation of EPS testing for their adaptive EPSs that support the IEC 62680-1-2:2017 specification. Consequently, DOE has determined that the petition for waiver will likely be granted and has decided that it is desirable for public policy reasons to grant the petitioners immediate relief pending a determination on the petition for waiver.

**III. Summary of Grant of Interim Waiver**

For the reasons stated above, DOE has informed the petitioners that it is granting the petitions for interim waiver from testing for the specified EPS basic models through separate correspondence to each petitioner, which includes an Order granting the petitions, subject to the certain specifications and conditions. The substance of the Interim Waiver Order is summarized below:

After careful consideration of all the material submitted by the petitioners in this matter, DOE grants an interim waiver regarding the specified basic models. Accordingly, it is ORDERED that:

(1) The petitioners must test and rate the EPSs of the following basic models as set forth in paragraph (2) below:

Company	Basic model No.
Apple .....	A1718, A1719, A1540.
Microsoft .....	AC-100.
Poin2 .....	A16-045N1A.
Bitland .....	A045R053L.

(2) The applicable method of test for the basic models listed in paragraph (1) is the test procedure for EPSs prescribed by DOE at 10 CFR part 430, subpart B, Appendix Z, except that under section 4(a)(i)(E) and Table 1 of Appendix Z, adaptive EPSs that meet the IEC 62680-1-2:2017 specification must be tested such that the 100% nameplate loading condition when testing at the lowest achievable output voltage is 2A (which corresponds to an output power of 10 watts). The 75%, 50%, and 25% loading conditions shall be scaled accordingly and the nameplate output power of such an EPS, at the lowest output voltage, shall be equal to 10 watts.

(3) Representations. The petitioners are permitted to make representations about the energy use of the respective adaptive EPS for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.37.

(4) This interim waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(h) and (l).

(5) This interim waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic model’s true energy consumption characteristics.

(6) Granting of this interim waiver does not release the petitioners from the certification requirements set forth at 10 CFR part 429.

**IV. Alternate Test Procedure**

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of products and equipment covered by the statute. (42 U.S.C. 6293(c); 6314(d)) Consistent representations about the energy efficiency of covered products and equipment are important for consumers evaluating products when making purchasing decisions and for manufacturers to demonstrate compliance with applicable DOE energy

conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27 and after considering public comments on the petition, DOE will announce its decision as to an alternate test procedure for the petitioners in a subsequent Decision and Order.

During the period of the interim waiver granted in this notice, the petitioners must test the basic models listed in Table 1 according to the test procedure for EPS prescribed by DOE at 10 CFR part 430, subpart B, Appendix Z, except that the 100% nameplate loading condition when testing at the lowest achievable output voltage must be 2A (which corresponds to an output power of 10W), and the 75%, 50%, and 25% loading conditions shall scale accordingly (i.e. 1.5A, 1A, and 0.5A, respectively). The nameplate output power of the EPS at the lowest output voltage shall be equal to 10W.

## V. Summary and Request for Comments

This document announces DOE's receipt of the petitioners' petitions for waiver from the DOE test procedure for EPSs and announces DOE's decision to grant the petitioners with an interim waiver from the test procedure for the adaptive EPSs listed in Table 1 of this document. DOE is publishing the petitions from Apple, Microsoft, Poin2, and Bitland for waiver in their entirety, pursuant to 10 CFR 430.27(b)(1)(iv). The petitions contain no confidential information. The petitions include a suggested alternate test procedure to determine the energy consumption of these EPSs. The petitioners are required to use this alternate procedure, as specified in section IV of this notice, as a condition of the grant of interim waiver, and after considering public comments on the petition, DOE will publish in the **Federal Register** either a decision as to the continued use of this alternate procedure (or a modified version thereof) in a subsequent Decision and Order or a new or amended test procedure that addresses the issues presented in the waiver.

DOE solicits comments from interested parties on all aspects of the petition, including the suggested alternate test procedure and calculation methodology. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioners is: Ms. Alexandria McBride, Director of Environment and Sustainability, Information Technology Industry Council, 1101 K Street NW Suite 610, Washington, DC 20005. All

comment submissions must include the agency name and Docket No. EERE-2017-BT-WAV-0043 for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format ("PDF"), or text (American Standard Code for Information Interchange ("ASCII")) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies to DOE: One copy of the document marked "confidential" with all of the information believed to be confidential included, and one copy of the document marked "non-confidential" with all of the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on July 11, 2017.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency Energy Efficiency and Renewable Energy.*

## BEFORE THE UNITED STATES DEPARTMENT OF ENERGY WASHINGTON, D.C. 20585

In the Matter of: Energy Efficiency  
Program: Test Procedure for External Power  
Supplies

Docket No. EERE-2014-BT-TP-0043; RIN  
1904-AD36

## PETITION OF APPLE INC. FOR WAIVER AND APPLICATION FOR INTERIM WAIVER OF TEST PROCEDURE FOR EXTERNAL POWER SUPPLIES

Apple Inc. respectfully submits this Petition for Waiver and Application for Interim Waiver<sup>4</sup> as related to the Department of Energy's (DOE) test procedure for external power supplies (EPS)<sup>5</sup> as applied to certain adaptive EPSs.<sup>6</sup>

Apple Inc. is located at 1 Infinite Loop, Cupertino, CA 95014. Telephone number: (408) 996-1010.

<sup>4</sup> See 10 CFR 430.27 (waiver and interim waiver).

<sup>5</sup> *Id.* Part 430, Subpart B, Appendix Z.

<sup>6</sup> An adaptive EPS is an external power supply that can alter its output voltage during active-mode based on an established digital communication protocol with the end-use application without any user-generated action. 10 CFR § 430.2.

Apple Inc. revolutionized personal technology with the introduction of the Macintosh in 1984. Today, Apple Inc. leads the world in innovation with iPhone, iPad, Mac, Apple Watch and Apple TV. Apple's four software platforms—iOS, macOS, watchOS and tvOS—provide seamless experiences across all Apple devices and empower people with breakthrough services including the App Store, Apple Music, Apple Pay and iCloud. Apple's more than 100,000 employees are dedicated to making the best products on earth, and to leaving the world better than we found it.

The adaptive EPS basic models listed in Appendix I hereto meet the criteria for a waiver.<sup>7</sup> The current DOE test procedure evaluates the models in a manner that is that is grossly unrepresentative of their actual energy consumption characteristics in real-world usage. This circumstance has already been recognized by DOE, and it has indicated a willingness to review the situation. Apple Inc. urges that a waiver be granted that will provide for the alternate test procedure discussed herein, under which lowest voltage average efficiency would be measured at 10 watts (W). This is far more representative of the actual energy consumption characteristics of most such products in real-world usage than the 15W required by the current DOE test procedure. DOE "will grant a waiver from the test procedure requirements" in these circumstances.<sup>8</sup>

## I. BASIC MODELS FOR WHICH A WAIVER IS REQUESTED.

The basic models for which a waiver is requested are the adaptive EPSs set forth in Appendix I hereto. They are manufactured by Apple Inc. and are distributed in commerce under the Apple brand name.

## II. NEED FOR THE REQUESTED WAIVER.

Adaptive EPSs are highly beneficial products. They allow efficient charging with less resistive loss. They can be readily reused when devices are replaced; thus, there is less need to include EPSs in the box with a new device. This all is of significant benefit to the consumer—as well as to the environment, including reduced landfill, packaging, and transportation.

Under the current DOE test procedure, average active-mode efficiency for adaptive EPSs is to be measured by testing the unit twice—once at the highest achievable output

<sup>7</sup> *Id.* § 430.27(f)(2).

<sup>8</sup> *Id.*

voltage and once at the lowest.<sup>9</sup> Testing is to be across four load points (100%, 75%, 50%, and 25%) for each of the highest and lowest voltage levels.<sup>10</sup> The average efficiency is deemed to be the arithmetic mean of the efficiency values calculated at the four load points.<sup>11</sup>

The lowest achievable output voltage supported by the basic models is 5 volts (V). They are designed to provide a maximum power of 15W when this voltage is selected. 15W is an element of the USB Power Delivery Specification,<sup>12</sup> which requires USB compliant products to support 15W at 5V. However, adaptive EPSs do not exceed 10W for almost all usage. 15W at 5V will only be used in rare use scenarios and only for brief periods of time. Therefore, the DOE test procedure's evaluation at this power level is unrepresentative of the true energy consumption of the basic models in real-world usage.

In that regard, where the adaptive EPS listed in Appendix I is used with an intended end use product (IEUP) manufactured by Apple Inc.,<sup>13</sup> the adaptive EPS is required to support 15W (5V 3A [amps]) as required by the USB Power Delivery Specification, but the IEUP product is designed never to consume this level of power. The IEUP charges at 5 volts only (i) with respect to a dead battery, 0.5A, i.e., 2.5W, for up to 120 seconds; or (ii) for end of charge (battery fully charged—trickle power at < 0.5A). At other times, particularly when power above 10W is needed, the IEUP commands the EPS to use a higher voltage rail, as this is more efficient. Therefore, evaluation of adaptive EPSs at the 15W power level when evaluating efficiency at the lowest voltage rail (5V) is grossly unrepresentative of the actual energy consumption characteristics of these models in real-world usage.

The same holds true of other end use products (OEUP)<sup>14</sup> manufactured by Apple Inc. that can be connected to basic models of adaptive EPSs listed in Appendix I hereto. When power above 10W is needed, any IEUP manufactured by Apple uses a higher voltage rail, as this is more efficient.

The situation is the same for basic models of adaptive EPSs listed in

Appendix 1 to be used with OEUPs from another manufacturer. These OEUPs are highly likely to be mobile phones (smartphones or feature phones) or tablets.<sup>15</sup> As discussed herein, they are highly likely to charge at less than 10W at 5V, and to use a higher voltage rail when power above 10W is needed.

As shown in Table 1, mobile phones dominate the portable device market and are ubiquitous world-wide. The most likely OEUP to be charged from an adaptive EPS is a mobile phone. Note that all mobile phones are able to be charged from an adaptive EPS using an appropriate cable.

#### TABLE 1

See the following website for figures of the "TABLE 1": <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

As shown in Table 2, smartphones dominate the U.S. market.

#### TABLE 2

See the following website for figures of the "TABLE 2": <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

Table 3 demonstrates that the vast majority of the shipments supporting mobile phones and tablets charge at 10W or less at 5V. For mobile phones and tablets sold in 2016: 97% of North American shipments and 97.4% of worldwide shipments charge below 10W at 5V. For charging at and above 10W at 5V the comparable numbers for smartphones and tablets sold in 2016 represented a mere 3% of North American shipments and 2.6% of worldwide shipments.<sup>16</sup> These figures include the 2016 introduction of smartphones that use USB Type-C as the phone's charging interface. Some of these have the capability of charging at  $\geq 10W$  at 5V, but the proportion is not known so a conservative assumption is made (see below). Furthermore, some of

these smartphones are capable of exploiting the ability of an adaptive EPS to provide higher voltages, and thus would be expected to use these higher voltages for faster charging and not charge at  $\geq 10W$  at 5V, but again the proportion is not known. (The proportion of USB Type-C smartphones that exploit the capabilities of adaptive EPSs might be expected to grow in the future.) In the figures above and in Table 3 the generous assumption is made that all such phones can charge at  $\geq 10W$  at 5V.

#### TABLE 3

See the following website for figures of the "TABLE 3": <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

Distortion caused by the test procedure when used to test the efficiency of adaptive EPSs at the lowest voltage level was highlighted during the test procedure rulemaking for EPSs.

It was stressed that the test procedure for the lowest voltage level does not reflect actual use in the field.<sup>17</sup> DOE was receptive and indicated that it could make changes when more information was known. "[I]n response to comments, in response to changing markets, in response to innovative technologies, we can always change the way we do things in the future."<sup>18</sup> DOE also stated that it had not yet done any data collection on adaptive EPSs.<sup>19</sup>

DOE's final test procedure rule<sup>20</sup> acknowledged that adaptive EPSs are a "new EPS technology," are "unique among EPSs" and "were not considered when the current test procedure was first adopted." Therefore, that test procedure "did not explicitly address the unique characteristics of these types of EPSs to ensure reproducible and repeatable results."<sup>21</sup>

Recognizing the unrepresentative nature of the test procedure at the lowest voltage level, DOE also stated:

At higher output voltages, EPSs typically have greater efficiency due to a lower loss ratio of the fixed voltage drops in the conversion circuitry to the nominal output voltage. These losses do not increase linearly with output voltage, so higher output voltages typically provide greater conversion efficiency.<sup>22</sup>

<sup>15</sup> A smartphone is a mobile phone that performs many of the functions of a computer, typically having a touchscreen interface, Internet access, and an operating system capable of running downloaded applications. A feature phone is a mobile phone that is unable to run downloaded applications, and thus lacks the capabilities of a smartphone. A tablet is a small portable computer that accepts its input directly on a screen rather than via a keyboard or mouse, has Internet access, and an operating system capable of running downloaded applications.

<sup>16</sup> Laptops are not included in the market analysis. They usually do not charge from adaptive EPSs. Newly introduced laptops that can charge from adaptive EPSs typically only charge at 5V (i) with respect to a dead battery, 0.5A, i.e., 2.5W, for up to 120 seconds; or (ii) for end of charge (battery fully charged—trickle power at < 0.5A). Some non-IT products, such as some children's toys, charge using default power (0.5A, 2.5W), while some use 1.5A, 7.5W.

<sup>17</sup> DOE, Transcript, External Power Supply Test Procedure NOPR Meeting at 94–100 (Nov. 21, 2014).

<sup>18</sup> Transcript at 99 (Ashley Armstrong, DOE).

<sup>19</sup> *Id.* at 108 (Jeremy Dommu, DOE).

<sup>20</sup> 80 Fed. Reg. 51424 (Aug. 25, 2015).

<sup>21</sup> *Id.* 51426, 51431–32.

<sup>22</sup> *Id.* 51432.

<sup>9</sup> *Id.* Part 430, Subpart B, Appendix Z, § 4(a)(i)(E).

<sup>10</sup> *Id.* §§ 4(a)(i)(C), (E), (H).

<sup>11</sup> *Id.* § 4(a)(i)(H).

<sup>12</sup> IEC 62680–1–2:2017, Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery Specification. See <https://webstore.iec.ch/publication/26174>.

<sup>13</sup> An IEUP is a product that is sold or intended to be used with the unit under test (UUT) and constitutes the primary load for the UUT.

<sup>14</sup> An OEUP is a product other than an IEUP that can be used with the UUT and constitutes the primary load for the UUT.

### III. PROPOSED ALTERNATE TEST PROCEDURE

Apple Inc. proposes the following alternate test procedure to evaluate the performance of the basic models listed in Appendix I hereto.

Apple Inc. shall be required to test the performance of the basic models listed in Appendix I according to the test procedures for adaptive EPSs in 10 CFR Part 430, Subpart B, Appendix Z, except that it shall modify test measurements calculation for 5V (lowest voltage level [LV]):

- Measure at 4 points: 100%, 75%, 50%, & 25% of 10 W load points at 5V (LV).
- Take the average.
- Compare results against DOE efficiency requirement at 10W.

The waiver should continue until DOE adopts an applicable amended test procedure.

### IV. REQUEST FOR INTERIM WAIVER.

Apple Inc. also requests an interim waiver for its testing and rating of the

models in Appendix I. The petition for waiver is likely to be granted, as evidenced by its merits. Without waiver relief, Apple Inc. would be subject to requirements that clearly should not apply to its products identified herein. And without such relief, Apple Inc. will be obliged to market products that, while meeting the requirements of the current DOE test procedure, will not comply with the international USB Power Delivery Specification (IEC 62680–1–2:2017). This will put Apple Inc. at a competitive disadvantage and impact Apple Inc.'s reputation for delivering standards compliant products. Apple Inc. would like to be compliant with the international USB Power Delivery Specification for the benefit of the USB adaptive charger ecosystem.

### V. LIST OF MANUFACTURERS

A list of manufacturers of all other basic models distributed in commerce in the United States and known to Apple Inc. to incorporate design

characteristic(s) similar to those found in the basic models that are the subject of the petition is set forth in Appendix II hereto.

\* \* \*

Apple Inc. requests expedited treatment of the Petition and Application. It is also willing to promptly provide any additional information DOE requires to act expeditiously.

### VI. CONCLUSION

DOE should grant Apple Inc. the requested waiver and interim waiver for the models listed in Appendix I hereto.

Respectfully submitted,  
May 30, 2017  
Carlos Ribas  
Director Power Systems Engineering  
Apple Inc.

### APPENDIX I

The waiver and interim waiver requested herein should apply to testing and rating of the following basic models.

Model	Product type	Nameplate input rating (AC)	Nameplate output rating (DC)
A1718 .....	Adaptive Single Voltage External Power Supply	100–240V~, 50–60Hz, 1.5A .....	Highest output voltage: 20.3V, 3A (60.9W). Lowest output voltage: 5V, 3A (15W).
A1719 .....	Adaptive Single Voltage External Power Supply	100–240V~, 50–60Hz, 1.5A .....	Highest output voltage: 20.3V, 4.3A (87W). Lowest output voltage: 5V, 3A (15W).
A1540 .....	Adaptive Single Voltage External Power Supply	100–240V~, 50–60Hz, 0.75A .....	Highest output voltage: 14.5V, 2A (87W). Lowest output voltage: 5V, 3A (15W).

### APPENDIX II

The following are manufacturers of all other basic models distributed in commerce in the United States and known to Apple Inc. to incorporate design characteristics similar to those found in the basic models that are the subject of the petition for waiver.

Acbel  
Active-Semi, Inc.  
Bitland  
Chicony Power Technology  
Chrontel, Inc  
Dell  
HONOR ELECTRONIC CO.LTD  
Huntkey  
Ever Win International Corp.  
Griffin Technology LLC  
LG Electronics USA, Inc  
Liteon  
Lucent Trans Electronics Co., Ltd.  
Mobileconn Technology Co., Ltd.  
Pihong Technology Co., Ltd.  
Poin2 Lab.  
Renesas Electronics Corp.  
Salcomp Plc  
Samsung  
STMicroelectronics  
Superior Communications  
Texas Instruments

Ventev Mobile  
Weltrend Semiconductor  
Xentris Wireless

Sources include: “USB Power Brick”,  
USB Implementers Forum, Inc.  
Accessed <<http://www.usb.org/kcompliance/view/CertifiedUSBPowerBricks.pdf>

### BEFORE THE UNITED STATES DEPARTMENT OF ENERGY WASHINGTON, D.C. 20585

In the Matter of: Energy Efficiency Program: Test Procedure for External Power Supplies  
Docket No. EERE–2014–BT–TP–0043; RIN 1904–AD36

### PETITION OF MICROSOFT CORPORATION FOR WAIVER AND APPLICATION FOR INTERIM WAIVER OF TEST PROCEDURE FOR EXTERNAL POWER SUPPLIES

Microsoft Corporation (Microsoft) respectfully submits this Petition for Waiver and Application for Interim Waiver<sup>1</sup> as related to the Department of Energy's (DOE) test procedure for

external power supplies (EPS)<sup>2</sup> as applied to certain adaptive EPSs.<sup>3</sup>

Microsoft is located at 1 Microsoft Way, Redmond, Washington 98052. Telephone: (425) 882–8080.

The adaptive EPS basic models listed in Appendix I hereto meet the criteria for a waiver.<sup>4</sup> The current DOE test procedure evaluates the models in a manner that is that is grossly unrepresentative of their actual energy consumption characteristics in real-world usage. This situation has already been recognized by DOE, and it has indicated a willingness to review the situation. Microsoft Corporation urges that a waiver be granted that will provide for the alternate test procedure discussed herein, under which lowest voltage average efficiency would be measured at 10 watts (W). This is far more representative of actual energy consumption characteristics of the

<sup>2</sup> *Id.* Part 430, Subpart B, Appendix Z.

<sup>3</sup> An adaptive EPS is an external power supply that can alter its output voltage during active-mode based on an established digital communication protocol with the end-use application without any user-generated action. 10 C.F.R. § 430.2.

<sup>4</sup> *Id.* § 430.27(f)(2).

<sup>1</sup> See 10 CFR 430.27 (waiver and interim waiver).

product in real-world usage than the 15W required by the current DOE test procedure. DOE “will grant a waiver from the test procedure requirements” in these circumstances.<sup>5</sup>

## I. BASIC MODELS FOR WHICH A WAIVER IS REQUESTED.

The basic models for which a waiver is requested are the adaptive EPSs set forth in Appendix I hereto. They are distributed in commerce under the Microsoft brand name.

## II. NEED FOR THE REQUESTED WAIVER.

Adaptive EPSs are highly beneficial products. They allow efficient charging with less resistive loss. They can be readily reused when devices are replaced; thus, there is less need to include EPSs in the box with a new device. This all is of significant benefit to the consumer—as well as to the environment, including reduced landfill, packaging, and transportation.

Under the current DOE test procedure, average active-mode efficiency for adaptive EPSs is to be measured by testing the unit twice—once at the highest achievable output voltage and once at the lowest.<sup>6</sup> Testing is to be across four load points (100%, 75%, 50%, and 25%) for each of the highest and lowest voltage levels.<sup>7</sup> The average efficiency is deemed to be the arithmetic mean of the efficiency values calculated at the four load points.<sup>8</sup>

The lowest achievable output voltage supported by the basic models is 5 volts (V). They are designed to provide a maximum power of 15W when this voltage is selected. 15W is an element of the USB Power Delivery Specification,<sup>9</sup> which requires the product to support 15W at 5V.

However, adaptive EPSs do not exceed 10W for almost all usage. 15W at 5V will only be used in rare use scenarios and only for brief periods of time. Therefore, the DOE test procedure’s evaluation at this power level is unrepresentative of the true energy consumption of the basic models in real-world usage.

In that regard, where the adaptive EPS listed in Appendix I is used with an intended end use product (IEUP),<sup>10</sup> the adaptive EPS is required to support 15W

(5V 3A [amps]) due to the USB Power Delivery Specification, but the IEUP product very rarely consumes this level of power. The IEUP charges at 5 volts only (i) with respect to a dead battery, 0.5A, i.e., 2.5W, for up to 120 seconds; or (ii) for end of charge (battery fully charged—trickle power at < 0.5A). Therefore, evaluation of adaptive EPSs at the 15W power level is grossly unrepresentative of the actual energy consumption characteristics of these models in real-world usage.

The same holds true of other end use products (OEUP)<sup>11</sup> that can be connected to basic models of adaptive EPSs listed in Appendix I hereto.

The situation is the same for basic models of adaptive EPSs listed in Appendix 1 to be used with OEUPs from another manufacturer. These OEUPs are highly likely to be mobile phones (smartphones or feature phones) or tablets.<sup>12</sup> As discussed herein, they are highly likely to charge at less than 10W.

As shown in Table 1, mobile phones dominate the portable device market and are ubiquitous world-wide. The most likely OEUP to be charged from an adaptive EPS is a mobile phone. Note that all mobile phones are able to be charged from an adaptive EPS using an appropriate cable.

### TABLE 1

See the following website for figures of the “TABLE 1”: <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

As shown in Table 2, smartphones dominate the U.S. market.

### TABLE 2

See the following website for figures of the “TABLE 2”: <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

Table 3 demonstrates that the vast majority of the shipments supporting mobile phones and tablets charge at 10W or less at 5V. For mobile phones and tablets sold in 2016: 97% of North American shipments and 97.4% of worldwide shipments charge below

10W at 5V. For charging at and above 10W at 5V the comparable numbers for smartphones and tablets sold in 2016 represented a mere 3% of North American shipments and 2.6% of worldwide shipments.<sup>13</sup> These figures include the introduction in 2016 of smartphones that use USB Type-C as the phone’s charging interface. Some of these have the capability of charging at ≥10W at 5V, but proportion is not known so a conservative assumption is made (see below). Furthermore, some of these are capable of exploiting the ability of an adaptive EPS to provide higher voltages, and thus would be expected to use these higher voltages for faster charging and not charge at ≥10W at 5V, but again the proportion is not known. (The proportion of USB Type-C smartphones that exploit the capabilities of adaptive EPSs might grow in the future to some extent.) In the figures above and in Table 3 the generous assumption is made that all such phones can charge at ≥10W at 5V.

### TABLE 3

See the following website for figures of the “TABLE 3”: <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

Distortion caused by the test procedure as applied for efficiency of adaptive EPSs at the lowest voltage level was highlighted during the test procedure rulemaking for EPSs.

It was stressed that the test procedure for the lowest voltage level does not reflect actual use in the field.<sup>14</sup> DOE was receptive and indicated that it could make changes when more information was known. “[I]n response to comments, in response to changing markets, in response to innovative technologies, we can always change the way we do things in the future.”<sup>15</sup> DOE also stated that it had not done any data collection on adaptive EPSs yet.<sup>16</sup>

DOE’s final test procedure rule<sup>17</sup> acknowledged that adaptive EPSs are a “new EPS technology,” are “unique among EPSs” and “were not considered when the current test procedure was

<sup>11</sup> An OEUP is a product other than an IEUP that can be used with the UT and constitutes the primary load for the UUT.

<sup>12</sup> A smartphone is a mobile phone that performs many of the functions of a computer, typically having a touchscreen interface, internet access, and an operating system capable of running downloaded applications. A feature phone is a mobile phone that is unable to run downloaded applications, and thus lacks the capabilities of a smartphone. A tablet is a small portable computer that accepts its input directly on a screen rather than via a keyboard or mouse, has internet access, and an operating system capable of running downloaded applications.

<sup>13</sup> Laptops are not included in the market analysis. They usually do not charge from adaptive EPSs. Newly introduced laptops that can charge from adaptive EPSs typically only charge at 5V (i) with respect to a dead battery, 0.5A, i.e., 2.5W, for up to 120 seconds; or (ii) for end of charge (battery fully charged—trickle power at < 0.5A). Non-IT products such as children’s toys that charge usually charge using default power (0.5A, 2.5W); some use 1.5A, 7.5W.

<sup>14</sup> DOE, Transcript, External Power Supply Test Procedure NOPR Meeting at 94–100 (Nov. 21, 2014).

<sup>15</sup> Transcript at 99 (Ashley Armstrong, DOE).

<sup>16</sup> *Id.* at 108 (Jeremy Dommu, DOE).

<sup>17</sup> 80 Fed. Reg. 51424 (Aug. 25, 2015).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* Part 430, Subpart B, Appendix Z, § 4(a)(i)(E).

<sup>7</sup> *Id.* §§ 4(a)(i)(C), (E), (H).

<sup>8</sup> *Id.* § 4(a)(i)(H).

<sup>9</sup> IEC 62680–1–2:2017, Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery Specification. See <https://webstore.iec.ch/publication/26174>.

<sup>10</sup> An IEUP is a product that is sold or intended to be used with the unit under test (UUT) and constitutes the primary load for the UUT.

first adopted.” Therefore, that test procedure “did not explicitly address the unique characteristics of these types of EPSs to ensure reproducible and repeatable results.”<sup>18</sup>

Virtually acknowledging the problem with the unrepresentative nature of the test procedure at the lowest voltage level, DOE also stated:

At higher output voltages, EPSs typically have greater efficiency due to a lower loss ratio of the fixed voltage drops in the conversion circuitry to the nominal output voltage. These losses do not increase linearly with output voltage, so higher output voltages typically provide greater conversion efficiency.<sup>19</sup>

### III. PROPOSED ALTERNATE TEST PROCEDURE

Microsoft Corporation proposes the following alternate test procedure to evaluate the performance of the basic models listed in Appendix I hereto.

A company subject to the waiver shall be required to test the performance of the basic models listed in Appendix I according to the test procedures for adaptive EPSs in 10 CFR Part 430, Subpart B, Appendix Z, except that it shall modify test measurements calculation for 5V (lowest voltage level [LV]):

- Measure at 4 points: 100%, 75%, 50%, & 25% of 10 W load points at 5V (LV).
- Take the average.
- Compare results against DOE efficiency requirement at 10W.

The waiver should continue until DOE adopts an applicable amended test procedure.

### IV. REQUEST FOR INTERIM WAIVER.

Microsoft Corporation also requests an interim waiver for its testing and rating of the models in Appendix I. The petition for waiver is likely to be granted, as evidenced by its merits. Without waiver relief, the models would be subject to requirements that clearly should not apply to them. And without such relief, there will be economic hardship. Sales of adaptive EPSs will be inhibited, to the detriment of manufacturers, users and distributors of adaptive EPSs and the products that use adaptive EPSs.

### V. LIST OF MANUFACTURERS

A list of manufacturers of all other basic models distributed in commerce in the United States and known to Microsoft Corporation to incorporate design characteristic(s) similar to those

found in the basic models that are the subject of the petition is set forth in Appendix II hereto.

\* \* \*

Microsoft Corporation requests expedited treatment of the Petition and Application. It is also willing to provide promptly any additional information the Department thinks it needs to act with expedition.

### VI. CONCLUSION.

DOE should grant the requested waiver and interim waiver for the models listed in Appendix I hereto.

Respectfully submitted,  
Ted Eckert  
Microsoft Corporation  
7 June, 2017

### APPENDIX I

The waiver and interim waiver requested herein should apply to testing and rating of the following basic models: AC-100

### APPENDIX II

The following are manufacturers of all other basic models distributed in commerce in the United States and known to Microsoft Corporation to incorporate design characteristics similar to those found in the basic models that are the subject of the petition for waiver:

Acbel  
Active-Semi, Inc.  
Apple, Inc  
Bitland  
Chicony Power Technology  
Chrontel, Inc  
Dell  
HONOR ELECTRONIC CO.LTD  
Huntkey  
Ever Win International Corp.  
Griffin Technology LLC  
LG Electronics USA, Inc  
Liteon  
Lucent Trans Electronics Co., Ltd.  
Mobileconn Technology Co., Ltd.  
Pihong Technology Co., Ltd.  
Poin2 Lab.  
Renesas Electronics Corp.  
Salcomp Plc  
Samsung  
STMicroelectronics  
Superior Communications  
Texas Instruments  
Ventev Mobile  
Weltrend Semiconductor  
Xentris Wireless

Sources include: “USB Power Brick”,  
USB Implementers Forum, Inc.

Accessed < <http://www.usb.org/kcompliance/view/CertifiedUSBPowerBricks.pdf>

### THE UNITED STATES DEPARTMENT OF ENERGY WASHINGTON, D.C. 20585

In the Matter of: Energy Efficiency Program: Test Procedure for External Power Supplies

Docket No. EERE-2014-BT-TP-0043; RIN 1904-AD36

### PETITION OF POIN2 LAB. FOR WAIVER AND APPLICATION FOR INTERIM WAIVER OF TEST PROCEDURE FOR EXTERNAL POWER SUPPLIES

Poin2 Lab. respectfully submits this Petition for Waiver and Application for Interim Waiver<sup>1</sup> as related to the Department of Energy’s (DOE) test procedure for external power supplies (EPS)<sup>2</sup> as applied to certain adaptive EPSs.<sup>3</sup>

Poin2 Lab. is located at 1404 Seoul Forest L-Tower, Seongdong-Gu, Seoul, 14789, South Korea. Telephone: (+82) 02-552-9012.

The adaptive EPS basic models listed in Appendix I hereto meet the criteria for a waiver.<sup>4</sup> The current DOE test procedure evaluates the models in a manner that is that is grossly unrepresentative of their actual energy consumption characteristics in real-world usage. This situation has already been recognized by DOE, and it has indicated a willingness to review the situation. Poin2 Lab. urges that a waiver be granted that will provide for the alternate test procedure discussed herein, under which lowest voltage average efficiency would be measured at 10 watts (W). This is far more representative of actual energy consumption characteristics of the product in real-world usage than the 15W required by the current DOE test procedure. DOE “will grant a waiver from the test procedure requirements” in these circumstances.<sup>5</sup>

### I. BASIC MODELS FOR WHICH A WAIVER IS REQUESTED.

The basic models for which a waiver is requested are the adaptive EPSs set forth in Appendix I hereto. They are manufactured by Chicony Power Technology and are distributed in commerce under the Chicony brand name.

<sup>1</sup> See 10 CFR 430.27 (waiver and interim waiver).

<sup>2</sup> *Id.* Part 430, Subpart B, Appendix Z.

<sup>3</sup> An adaptive EPS is an external power supply that can alter its output voltage during active-mode based on an established digital communication protocol with the end-use application without any user-generated action. 10 C.F.R. § 430.2.

<sup>4</sup> *Id.* § 430.27(f)(2).

<sup>5</sup> *Id.*

<sup>18</sup> *Id.* 51426, 51431-32.

<sup>19</sup> *Id.* 51432.

## II. NEED FOR THE REQUESTED WAIVER.

Adaptive EPSs are highly beneficial products. They allow efficient charging with less resistive loss. They can be readily reused when devices are replaced; thus, there is less need to include EPSs in the box with a new device. This all is of significant benefit to the consumer—as well as to the environment, including reduced landfill, packaging, and transportation.

Under the current DOE test procedure, average active-mode efficiency for adaptive EPSs is to be measured by testing the unit twice—once at the highest achievable output voltage and once at the lowest.<sup>6</sup> Testing is to be across four load points (100%, 75%, 50%, and 25%) for each of the highest and lowest voltage levels.<sup>7</sup> The average efficiency is deemed to be the arithmetic mean of the efficiency values calculated at the four load points.<sup>8</sup>

The lowest achievable output voltage supported by the basic models is 5 volts (V). They are designed to provide a maximum power of 15W when this voltage is selected. 15W is an element of the USB Power Delivery Specification,<sup>9</sup> which requires the product to support 15W at 5V. However, adaptive EPSs do not exceed 10W for almost all usage. 15W at 5V will only be used in rare use scenarios and only for brief periods of time. Therefore, the DOE test procedure's evaluation at this power level is unrepresentative of the true energy consumption of the basic models in real-world usage.

In that regard, where the adaptive EPS listed in Appendix I is used with an intended end use product (IEUP) manufactured by Poin2 Lab.,<sup>10</sup> the adaptive EPS is required to support 15W (5V 3A [amps]) due to the USB Power Delivery Specification, but the IEUP product very rarely consumes this level of power. The IEUP charges at 5 volts only (i) with respect to a dead battery, 0.5A, i.e., 2.5W, for up to 120 seconds; or (ii) for end of charge (battery fully charged—trickle power at < 0.5A). Therefore, evaluation of adaptive EPSs at the 15W power level is grossly unrepresentative of the actual energy consumption characteristics of these models in real-world usage.

The same holds true of other end use products (OEUP)<sup>11</sup> manufactured by Poin2 Lab. that can be connected to basic models of adaptive EPSs listed in Appendix I hereto.

The situation is the same for basic models of adaptive EPSs listed in Appendix 1 to be used with OEUPs from another manufacturer. These OEUPs are highly likely to be mobile [sic]

As shown in Table 1, mobile phones dominate the portable device market and are ubiquitous world-wide. The most likely OEUP to be charged from an adaptive EPS is a mobile phone. Note that all mobile phones are able to be charged from an adaptive EPS using an appropriate cable.

### TABLE 1

See the following website for figures of the “TABLE 1”: <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

As shown in Table 2, smartphones dominate the U.S. market.

### TABLE 2

See the following website for figures of the “TABLE 2”: <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

Table 3 demonstrates that the vast majority of the shipments supporting mobile phones and tablets charge at 10W or less at 5V. For mobile phones and tablets sold in 2016: 97% of North American shipments and 97.4% of worldwide shipments charge below 10W at 5V. For charging at and above 10W at 5V the comparable numbers for smartphones and tablets sold in 2016 represented a mere 3% of North American shipments and 2.6% of worldwide shipments.<sup>12</sup> These figures include the introduction in 2016 of smartphones that use USB Type-C as the phone's charging interface. Some of these have the capability of charging at ≥10W at 5V, but the proportion is not known so a conservative assumption is made (see below). Furthermore, some of these are capable of exploiting the ability of an adaptive EPS to provide higher voltages, and thus would be expected to use these higher voltages for

faster charging and not charge at ≥10W at 5V, but again the proportion is not known. (The proportion of USB Type-C smartphones that exploit the capabilities of adaptive EPSs might grow in the future to some extent.) In the figures above and in Table 3 the generous assumption is made that all such phones can charge at ≥10W at 5V.

### TABLE 3

See the following website for figures of the “TABLE 1”: <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

Distortion caused by the test procedure as applied for efficiency of adaptive EPSs at the lowest voltage level was highlighted during the test procedure rulemaking for EPSs.

It was stressed that the test procedure for the lowest voltage level does not reflect actual use in the field.<sup>13</sup> DOE was receptive and indicated that it could make changes when more information was known. “[I]n response to comments, in response to changing markets, in response to innovative technologies, we can always change the way we do things in the future.”<sup>14</sup> DOE also stated that it had not done any data collection on adaptive EPSs yet.<sup>15</sup>

DOE's final test procedure rule<sup>16</sup> acknowledged that adaptive EPSs are a “new EPS technology,” are “unique among EPSs” and “were not considered when the current test procedure was first adopted.” Therefore, that test procedure “did not explicitly address the unique characteristics of these types of EPSs to ensure reproducible and repeatable results.”<sup>17</sup>

Virtually acknowledging the problem with the unrepresentative nature of the test procedure at the lowest voltage level, DOE also stated:

At higher output voltages, EPSs typically have greater efficiency due to a lower loss ratio of the fixed voltage drops in the conversion circuitry to the nominal output voltage. These losses do not increase linearly with output voltage, so higher output voltages typically provide greater conversion efficiency.<sup>18</sup>

## III. PROPOSED ALTERNATE TEST PROCEDURE

Poin2 Lab. proposes the following alternate test procedure to evaluate the

<sup>6</sup> *Id.* Part 430, Subpart B, Appendix Z, § 4(a)(i)(E).

<sup>7</sup> *Id.* §§ 4(a)(i)(C), (E), (H).

<sup>8</sup> *Id.* § 4(a)(i)(H).

<sup>9</sup> IEC 62680-1-2:2017, Universal serial bus interfaces for data and power—Part 1-2: Common components—USB Power Delivery Specification. See <https://webstore.iec.ch/publication/26174>.

<sup>10</sup> An IEUP is a product that is sold or intended to be used with the unit under test (UUT) and constitutes the primary load for the UUT.

<sup>11</sup> An OEUP is a product other than an IEUP that can be used with the UT and constitutes the primary load for the UUT.

<sup>12</sup> Laptops are not included in the market analysis. They usually do not charge from adaptive EPSs. Newly introduced laptops that can charge from adaptive EPSs typically only charge at 5V (i) with respect to a dead battery, 0.5A, i.e., 2.5W, for up to 120 seconds; or (ii) for end of charge (battery fully charged—trickle power at < 0.5A). Non-IT products such as children's toys that charge usually charge using default power (0.5A, 2.5W); some use 1.5A, 7.5W.

<sup>13</sup> DOE, Transcript, External Power Supply Test Procedure NOPR Meeting at 94–100 (Nov. 21, 2014).

<sup>14</sup> Transcript at 99 (Ashley Armstrong, DOE).

<sup>15</sup> *Id.* at 108 (Jeremy Dommu, DOE).

<sup>16</sup> 80 Fed. Reg. 51424 (Aug. 25, 2015).

<sup>17</sup> *Id.* 51426, 51431–32.

<sup>18</sup> *Id.* 51432.

performance of the basic models listed in Appendix I hereto.

Poin2 Lab. shall be required to test the performance of the basic models listed in Appendix I according to the test procedures for adaptive EPSs in 10 C.F.R. Part 430, Subpart B, Appendix Z, except that it shall modify test measurements calculation for 5V (lowest voltage level [LV]):

- Measure at 4 points: 100%, 75%, 50%, & 25% of 10 W load points at 5V (LV).

- Take the average.
- Compare results against DOE efficiency requirement at 10W.

The waiver should continue until DOE adopts an applicable amended test procedure.

#### IV. REQUEST FOR INTERIM WAIVER

Poin2 Lab. also requests an interim waiver for its testing and rating of the models in Appendix I. The petition for waiver is likely to be granted, as evidenced by its merits. Without waiver relief, Poin2 Lab. would be subject to requirements that clearly should not apply to such products. And without such relief, Poin2 Lab. will suffer economic hardship. Sales of adaptive EPSs will be inhibited, to the detriment of Poin2 Lab. and to users and distributors of adaptive EPSs and the products that use adaptive EPSs.

#### V. LIST OF MANUFACTURERS

A list of manufacturers of all other basic models distributed in commerce in the United States and known to Poin2 Lab. to incorporate design characteristic(s) similar to those found in the basic models that are the subject of the petition is set forth in Appendix II hereto.

\* \* \*

Poin2 Lab. requests expedited treatment of the Petition and Application. It is also willing to provide any additional information the Department thinks it needs to act with expedition.

#### VI. CONCLUSION

DOE should grant Poin2 Lab the requested waiver and interim waiver for the models listed in Appendix I hereto.

Respectfully submitted,  
Jeongseon Euh  
June 7, 2017

#### APPENDIX I

The waiver and interim waiver requested herein should apply to testing and rating of the following basic models: A16-045N1A

#### APPENDIX II

The following are manufacturers of all other basic models distributed in

commerce in the United States and known to Poin2 Lab. to incorporate design characteristics similar to those found in the basic models that are the subject of the petition for waiver:

Acbel  
Active-Semi, Inc. Apple, Inc Bitland  
Chicony Power Technology Chronel,  
Inc  
Dell  
HONOR ELECTRONIC CO.LTD  
Huntkey  
Ever Win International Corp. Griffin  
Technology LLC  
LG Electronics USA, Inc Liteon  
Lucent Trans Electronics Co., Ltd.  
Mobileconn Technology Co., Ltd.  
Pihong Technology Co., Ltd.  
Renasas Electronics Corp. Salcomp Plc  
Samsung STMicroelectronics Superior  
Communications Texas Instruments  
Ventev Mobile  
Weltrend Semiconductor Xentris  
Wireless  
*Sources include: "USB Power Brick",  
USB Implementers Forum, Inc.  
Accessed < [http://www.usb.org/  
kcompliance/view/  
CertifiedUSBPowerBricks.pdf](http://www.usb.org/kcompliance/view/CertifiedUSBPowerBricks.pdf)*

BEFORE THE UNITED STATES  
DEPARTMENT OF ENERGY  
WASHINGTON, D.C. 20585

In the Matter of: Energy Efficiency  
Program: Test Procedure for External  
Power Supplies

Docket No. EERE-2014-BT-TP-0043;  
RIN 1904-AD36

#### PETITION OF HEFEI BITLAND INFORMATION TECHNOLOGY CO., LTD. FOR WAIVER AND APPLICATION FOR INTERIM WAIVER OF TEST PROCEDURE FOR EXTERNAL POWER SUPPLIES

Hefei Bitland Information Technology Co., Ltd. (Bitland) respectfully submits this Petition for Waiver and Application for Interim Waiver<sup>19</sup> as related to the Department of Energy's (DOE) test procedure for external power supplies (EPS)<sup>20</sup> as applied to certain adaptive EPSs.<sup>21</sup>

Bitland is located at No. 4088, Jinziu Road, National Hefei Economic & Technology Development Area, Hefei, Anhui, China. TTelephone: 0755-6685.2000 ext. 81379.

The adaptive EPS basic models listed in Appendix I hereto meet the criteria for a waiver.<sup>22</sup> The current DOE test

<sup>19</sup> See 10 C.F.R. § 430.27 (waiver and interim waiver).

<sup>20</sup> *Id.* Part 430, Subpart B, Appendix Z.

<sup>21</sup> An adaptive EPS is an external power supply that can alter its output voltage during active-mode based on an established digital communication protocol with the end-use application without any user-generated action. 10 C.F.R. § 430.2.

<sup>22</sup> *Id.* § 430.27(f)(2).

procedure evaluates the models in a manner that is that is grossly unrepresentative of their actual energy consumption characteristics in real-world usage. This situation has already been recognized by DOE, and it has indicated a willingness to review the situation. Bitland urges that a waiver be granted that will provide for the alternate test procedure discussed herein, under which lowest voltage average efficiency would be measured at 10 watts (W). This is far more representative of actual energy consumption characteristics of the product in real-world usage than the 15W required by the current DOE test procedure. DOE "will grant a waiver from the test procedure requirements" in these circumstances.<sup>23</sup>

#### VII. BASIC MODELS FOR WHICH A WAIVER IS REQUESTED.

The basic models for which a waiver is requested are the adaptive EPSs set forth in Appendix I hereto. They are manufactured by Chicony Power Technology and are distributed in commerce under the Chicony brand name.

#### VIII. NEED FOR THE REQUESTED WAIVER.

Adaptive EPSs are highly beneficial products. They allow efficient charging with less resistive loss. They can be readily reused when devices are replaced; thus, there is less need to include EPSs in the box with a new device. This all is of significant benefit to the consumer—as well as to the environment, including reduced landfill, packaging, and transportation.

Under the current DOE test procedure, average active-mode efficiency for adaptive EPSs is to be measured by testing the unit twice—once at the highest achievable output voltage and once at the lowest.<sup>24</sup> Testing is to be across four load points (100%, 75%, 50%, and 25%) for each of the highest and lowest voltage levels.<sup>25</sup> The average efficiency is deemed to be the arithmetic mean of the efficiency values calculated at the four load points.<sup>26</sup>

The lowest achievable output voltage supported by the basic models is 5 volts (V). They are designed to provide a maximum power of 15W when this voltage is selected. 15W is an element of the USB Power Delivery

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* Part 430, Subpart B, Appendix Z, § 4(a)(i)(E).

<sup>25</sup> *Id.* §§ 4(a)(i)(C), (E), (H).

<sup>26</sup> *Id.* § 4(a)(i)(H).

Specification,<sup>27</sup> which requires the product to support 15W at 5V. However, adaptive EPSs do not exceed 10W for almost all usage. 15W at 5V will only be used in rare use scenarios and only for brief periods of time. Therefore, the DOE test procedure's evaluation at this power level is unrepresentative of the true energy consumption of the basic models in real-world usage.

In that regard, where the adaptive EPS listed in Appendix I is used with an intended end use product (IEUP) manufactured by Bitland,<sup>28</sup> the adaptive EPS is required to support 15W (5V 3A [amps]) due to the USB Power Delivery Specification, but the IEUP product very rarely consumes this level of power. The IEUP charges at 5 volts only (i) with respect to a dead battery, 0.5A, i.e., 2.5W, for up to 120 seconds; or (ii) for end of charge (battery fully charged—trickle power at < 0.5A). Therefore, evaluation of adaptive EPSs at the 15W power level is grossly unrepresentative of the actual energy consumption characteristics of these models in real-world usage.

The same holds true of other end use products (OEUP)<sup>29</sup> manufactured by Bitland that can be connected to basic models of adaptive EPSs listed in Appendix I hereto.

The situation is the same for basic models of adaptive EPSs listed in Appendix 1 to be used with OEUPs from another manufacturer. These OEUPs are highly likely to be mobile

As shown in Table 1, mobile phones dominate the portable device market and are ubiquitous world-wide. The most likely OEUP to be charged from an adaptive EPS is a mobile phone. Note that all mobile phones are able to be charged from an adaptive EPS using an appropriate cable.

#### TABLE 1

See the following website for figures of the "TABLE 1": <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

As shown in Table 2, smartphones dominate the U.S. market.

#### TABLE 2

See the following website for figures of the "TABLE 2": <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

<sup>27</sup> IEC 62680-1-2:2017, Universal serial bus interfaces for data and power—Part 1-2: Common components—USB Power Delivery Specification. See <https://webstore.iec.ch/publication/26174>.

<sup>28</sup> An IEUP is a product that is sold or intended to be used with the unit under test (UUT) and constitutes the primary load for the UUT.

<sup>29</sup> An OEUP is a product other than an IEUP that can be used with the UT and constitutes the primary load for the UUT.

Table 3 demonstrates that the vast majority of the shipments supporting mobile phones and tablets charge at 10W or less at 5V. For mobile phones and tablets sold in 2016: 97% of North American shipments and 97.4% of worldwide shipments charge below 10W at 5V. For charging at and above 10W at 5V the comparable numbers for smartphones and tablets sold in 2016 represented a mere 3% of North American shipments and 2.6% of worldwide shipments.<sup>30</sup> These figures include the introduction in 2016 of smartphones that use USB Type-C as the phone's charging interface. Some of these have the capability of charging at  $\geq 10W$  at 5V, but the proportion is not known so a conservative assumption is made (see below). Furthermore, some of these are capable of exploiting the ability of an adaptive EPS to provide higher voltages, and thus would be expected to use these higher voltages for faster charging and not charge at  $\geq 10W$  at 5V, but again the proportion is not known. (The proportion of USB Type-C smartphones that exploit the capabilities of adaptive EPSs might grow in the future to some extent.) In the figures above and in Table 3 the generous assumption is made that all such phones can charge at  $\geq 10W$  at 5V.

#### TABLE 3

See the following website for figures of the "TABLE 1": <https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043>

Distortion caused by the test procedure as applied for efficiency of adaptive EPSs at the lowest voltage level was highlighted during the test procedure rulemaking for EPSs.

It was stressed that the test procedure for the lowest voltage level does not reflect actual use in the field.<sup>31</sup> DOE was receptive and indicated that it could make changes when more information was known. "[I]n response to comments, in response to changing markets, in response to innovative technologies, we can always change the way we do things in the future."<sup>32</sup> DOE

<sup>30</sup> Laptops are not included in the market analysis. They usually do not charge from adaptive EPSs. Newly introduced laptops that can charge from adaptive EPSs typically only charge at 5V (i) with respect to a dead battery, 0.5A, i.e., 2.5W, for up to 120 seconds; or (ii) for end of charge (battery fully charged—trickle power at < 0.5A). Non-IT products such as children's toys that charge usually charge using default power (0.5A, 2.5W); some use 1.5A, 7.5

<sup>31</sup> DOE, Transcript, External Power Supply Test Procedure NOPR Meeting at 94-100 (Nov. 21, 2014).

<sup>32</sup> Transcript at 99 (Ashley Armstrong, DOE).

also stated that it had not done any data collection on adaptive EPSs yet.<sup>33</sup>

DOE's final test procedure rule<sup>34</sup> acknowledged that adaptive EPSs are a "new EPS technology," are "unique among EPSs" and "were not considered when the current test procedure was first adopted." Therefore, that test procedure "did not explicitly address the unique characteristics of these types of EPSs to ensure reproducible and repeatable results."<sup>35</sup>

Virtually acknowledging the problem with the unrepresentative nature of the test procedure at the lowest voltage level, DOE also stated:

At higher output voltages, EPSs typically have greater efficiency due to a lower loss ratio of the fixed voltage drops in the conversion circuitry to the nominal output voltage. These losses do not increase linearly with output voltage, so higher output voltages typically provide greater conversion efficiency.<sup>36</sup>

#### IX. PROPOSED ALTERNATE TEST PROCEDURE

Bitland. proposes the following alternate test procedure to evaluate the performance of the basic models listed in Appendix I hereto.

Bitland shall be required to test the performance of the basic models listed in Appendix I according to the test procedures for adaptive EPSs in 10 C.F.R. Part 430, Subpart B, Appendix Z, except that it shall modify test measurements calculation for 5V (lowest voltage level [LV]):

- Measure at 4 points: 100%, 75%, 50%, & 25% of 10 W load points at 5V (LV).
- Take the average.
- Compare results against DOE efficiency requirement at 10W.

The waiver should continue until DOE adopts an applicable amended test procedure.

#### X. REQUEST FOR INTERIM WAIVER

Bitland also requests an interim waiver for its testing and rating of the models in Appendix I. The petition for waiver is likely to be granted, as evidenced by its merits. Without waiver relief, Bitland would be subject to requirements that clearly should not apply to such products. And without such relief, Bitland will suffer economic hardship. Sales of adaptive EPSs will be inhibited, to the detriment of Bitland and to users and distributors of adaptive EPSs and the products that use adaptive EPSs.

<sup>33</sup> *Id.* at 108 (Jeremy Dommu, DOE).

<sup>34</sup> 80 Fed. Reg. 51424 (Aug. 25, 2015).

<sup>35</sup> *Id.* 51426, 51431-32.

<sup>36</sup> *Id.* 51432.

**XI. LIST OF MANUFACTURER**

A list of manufacturers of all other basic models distributed in commerce in the United States and known to Bitland to incorporate design characteristic(s) similar to those found in the basic models that are the subject of the petition is set forth in Appendix II hereto.

\* \* \*

Bitland requests expedited treatment of the Petition and Application. It is also willing to provide any additional information the Department thinks it needs to act with expedition.

**XII. CONCLUSION**

DOE should grant Bitland the requested waiver and interim waiver for the models listed in Appendix I hereto.

Respectfully submitted,  
Robert Hsiao  
June 22, 2017

**APPENDIX I**

The waiver and interim waiver requested herein should apply to testing and rating of the following basic models: A045R053L provided by Chicony Power Technology.

**APPENDIX II**

The following are manufacturers of all other basic models distributed in commerce in the United States and known to Bitland to incorporate design characteristics similar to those found in the basic models that are the subject of the petition for waiver:

Acbel  
Active-Semi, Inc. Apple, Inc Bitland  
Chicony Power Technology Chrontel,  
Inc  
Dell  
HONOR ELECTRONIC CO.LTD  
Huntkey  
Ever Win International Corp. Griffin  
Technology LLC  
LG Electronics USA, Inc Liteon  
Liteon  
Lucent Trans Electronics Co., Ltd.  
Mobileconn Technology Co., Ltd.  
Phihong Technology Co., Ltd.  
Poin2 Lab.  
Renasas Electronics Corp. Salcomp Plc  
Samsung  
STMicroelectronics  
Superior Communications Texas  
Instruments  
Ventev Mobile  
Weltrend Semiconductor  
Xentris Wireless

Sources include: "USB Power Brick",  
USB Implementers Forum, Inc.

Accessed < <http://www.usb.org/kcompliance/view/CertifiedUSBPowerBricks.pdf>

[FR Doc. 2017-15134 Filed 7-21-17; 8:45 am]

BILLING CODE 6450-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory  
Commission**

[Project No. 14590-001]

**Pike Island Energy, LLC; Notice of  
Intent To File License Application,  
Filing of Pre-Application Document,  
Approving Use of the Traditional  
Licensing Process**

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 14590-001.

c. *Dates Filed:* May 31, 2017 and June 13, 2017.

d. *Submitted By:* Pike Island Energy, LLC.

e. *Name of Project:* Pike Island Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Pike Island Locks and Dam on the Ohio River, in Belmont and Jefferson Counties, Ohio, and Ohio County, West Virginia. The project would occupy United States lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Alan W. Skelly, J.S., CEO; Pike Island Energy, LLC, 127 Longwood Boulevard, Mount Orab, Ohio 45154; (513) 375-9242; email: [awskelly@gmail.com](mailto:awskelly@gmail.com).

i. *FERC Contact:* Chelsea Hudock at (202) 502-8448; or email at [chelsea.hudock@ferc.gov](mailto:chelsea.hudock@ferc.gov).

j. Pike Island Energy, LLC filed its pre-application document on May 31, 2017. On June 13, 2017, Pike Island Energy, LLC filed its request to use the Traditional Licensing Process, and provided public notice of its request on June 2, 2017. In a letter dated July 18, 2017, the Director of the Division of Hydropower Licensing approved Pike Island Energy, LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402. We are also initiating consultation with the Ohio State Historic Preservation Officer and West Virginia State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Pike Island Energy, LLC as the Commission's non-federal representative for carrying out informal

consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Pike Island Energy, LLC filed a Pre-Application Document (PAD); including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (<http://www.ferc.gov>), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCONlineSupport@ferc.gov](mailto:FERCONlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: July 18, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-15433 Filed 7-21-17; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory  
Commission****Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* CP16-17-002.

*Applicants:* Millennium Pipeline Company, L.L.C.

*Description:* Abbreviated Application for a Limited Amendment of Certificate of Public Convenience and Necessity of Millennium Pipeline Company, L.L.C.

*Filed Date:* 06/02/2017.

*Accession Number:* 20170602-5155.

*Comment Date:* 5:00 p.m. Eastern Time on Friday, August 4, 2017.

*Docket Numbers:* RP17-900-000.

*Applicants:* Dominion Energy Questar Pipeline, LLC.

*Description:* Dominion Energy Questar Pipeline, LLC submits tariff filing per 154.204: Firm Peaking

Deliverability Service to be effective 9/1/2017.

*Filed Date:* 07/14/2017.

*Accession Number:* 20170714–5005.

*Comment Date:* 5:00 p.m. Eastern Time on Wednesday, July 26, 2017.

*Docket Numbers:* RP17–901–000.

*Applicants:* Equitrans, L.P.

*Description:* Equitrans, L.P. submits tariff filing per 154.204: 10–1–2016 Formula-Based Negotiated Rates to be effective 10/1/2016.

*Filed Date:* 07/14/2017.

*Accession Number:* 20170714–5007.

*Comment Date:* 5:00 p.m. Eastern Time on Wednesday, July 26, 2017.

*Docket Numbers:* RP17–902–000.

*Applicants:* Alliance Pipeline L.P.

*Description:* Alliance Pipeline L.P. submits tariff filing per 154.204: Fuel Gas Imbalance Management to be effective 9/1/2017.

*Filed Date:* 07/14/2017.

*Accession Number:* 20170714–5076.

*Comment Date:* 5:00 p.m. Eastern Time on Wednesday, July 26, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2017.

**Nathaniel J. Davis, Sr.**

*Deputy Secretary.*

[FR Doc. 2017–15425 Filed 7–21–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER16–1914–001.

*Applicants:* Patua Acquisition Company, LLC.

*Description:* Notice of Non-Material Change in Status of Patua Acquisition Company, LLC.

*Filed Date:* 7/17/17.

*Accession Number:* 20170717–5130.

*Comments Due:* 5 p.m. ET 8/7/17.

*Docket Numbers:* ER17–1636–003.

*Applicants:* Great River Hydro, LLC.

*Description:* Notice of Non-Material Change in Status of Great River Hydro, LLC.

*Filed Date:* 7/17/17.

*Accession Number:* 20170717–5124.

*Comments Due:* 5 p.m. ET 8/7/17.

*Docket Numbers:* ER17–2101–000.

*Applicants:* Deseret Generation & Transmission Co-operative, Inc.

*Description:* § 205(d) Rate Filing: OATT Attachment 7/8 Sec. 17.3 Amend. to be effective 9/15/2017.

*Filed Date:* 7/17/17.

*Accession Number:* 20170717–5041.

*Comments Due:* 5 p.m. ET 8/7/17.

*Docket Numbers:* ER17–2102–000.

*Applicants:* Midcontinent

Independent System Operator, Inc., Union Electric Company.

*Description:* § 205(d) Rate Filing: 2017–07–17\_SA 3032 Ameren-City of Hannibal Construction Agreement to be effective 6/29/2017.

*Filed Date:* 7/17/17.

*Accession Number:* 20170717–5051.

*Comments Due:* 5 p.m. ET 8/7/17.

*Docket Numbers:* ER17–2103–000.

*Applicants:* Midcontinent Independent System Operator, Inc., MidAmerican Energy Company, ITC Midwest LLC.

*Description:* § 205(d) Rate Filing: 2017–07–17\_SA 3031\_MEC-ITCM Hills-Montezuma FCA to be effective 9/16/2017.

*Filed Date:* 7/17/17.

*Accession Number:* 20170717–5077.

*Comments Due:* 5 p.m. ET 8/7/17.

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: July 18, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017–15426 Filed 7–21–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. AD17–1–000]

#### Billing Procedures for Annual Charges for the Costs of Other Federal Agencies for Administering Part I of the Federal Power Act; Notice Reporting Costs for Other Federal Agencies' Administrative Annual Charges for Fiscal Year 2016

1. The Federal Energy Regulatory Commission (Commission) is required to determine the reasonableness of costs incurred by other Federal agencies (OFAs)<sup>1</sup> in connection with their participation in the Commission's proceedings under the Federal Power Act (FPA) Part I<sup>2</sup> when those agencies seek to include such costs in the administrative charges licensees must pay to reimburse the United States for the cost of administering Part I.<sup>3</sup> The Commission's *Order on Remand and Acting on Appeals of Annual Charge Bills*<sup>4</sup> determined which costs are eligible to be included in the administrative annual charges and it established a process for Commission review of future OFA cost submittals. This order established a process whereby the Commission would annually request each OFA to submit cost data, using a form<sup>5</sup> specifically designed for this purpose. In addition, the order established requirements for detailed cost accounting reports and other documented analyses, which explain the cost assumptions contained in the OFAs' submissions.

2. The Commission has completed its review of the forms and supporting documentation submitted by the U.S.

<sup>1</sup> The OFAs include: the U.S. Department of the Interior (Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, National Park Service, U.S. Fish and Wildlife Service, Office of the Solicitor, Office of Environmental Policy & Compliance, Office of Hearings and Appeals and Office of Policy Analysis); the U.S. Department of Agriculture (U.S. Forest Service); the U.S. Department of Commerce (National Marine Fisheries Service); and the U.S. Army Corps of Engineers.

<sup>2</sup> 16 U.S.C. 794–823d (2012).

<sup>3</sup> See *id.* 803(e)(1) and 42 U.S.C. 7178.

<sup>4</sup> 107 FERC ¶ 61,277, *order on reh'g*, 109 FERC ¶ 61,040 (2004).

<sup>5</sup> Other Federal Agency Cost Submission Form, available at <https://www.ferc.gov/docs-filing/forms.asp#ofa>.

Department of the Interior (Interior), the U.S. Department of Agriculture (Agriculture), and the U.S. Department of Commerce (Commerce) for fiscal year (FY) 2016. This notice reports the costs the Commission included in its administrative annual charges for FY 2017.

### Scope of Eligible Costs

3. The basis for eligible costs that should be included in the OFAs' administrative annual charges is prescribed by the Office of Management and Budget's (OMB) Circular A-25—*User Charges* and the Federal Accounting Standards Advisory Board's Statement of Federal Financial Accounting Standards (SFFAS) Number 4—*Managerial Cost Accounting Concepts and Standards for the Federal Government*. Circular A-25 establishes Federal policy regarding fees assessed for government services and provides specific information on the scope and type of activities subject to user charges. SFFAS Number 4 provides a conceptual framework for federal agencies to determine the full costs of government goods and services.

4. Circular A-25 provides for user charges to be assessed against recipients of special benefits derived from Federal activities beyond those received by the general public.<sup>6</sup> With regard to

licensees, the special benefit derived from federal activities is the license to operate a hydropower project. The guidance provides for the assessment of sufficient user charges to recover the *full* costs of services associated with these special benefits.<sup>7</sup> SFFAS Number 4 defines full costs as the costs of resources consumed by a specific governmental unit that contribute directly or indirectly to a provided service.<sup>8</sup> Thus, pursuant to OMB requirements and authoritative accounting guidance, the Commission must base its OFA administrative annual charge on all direct and indirect costs incurred by agencies in administering Part I of the FPA. The special form the Commission designed for this purpose, the Other Federal Agency Cost Submission Form, captures the full range of costs recoverable under the FPA and the referenced accounting guidance.<sup>9</sup>

### Commission Review of OFA Cost Submittals

5. The Commission received cost forms and other supporting documentation from the Departments of the Interior, Agriculture, and Commerce. The Commission completed a review of each OFA's cost submission forms and supporting reports. In its examination of the OFAs' cost data, the

Commission considered each agency's ability to demonstrate a system or process which effectively captured, isolated, and reported FPA Part I costs as required by the Other Federal Agency Cost Submission Form.

6. The Commission held a Technical Conference on April 6, 2017 to report its initial findings to licensees and OFAs. Representatives for several licensees and most of the OFAs attended the conference. Following the technical conference, a transcript was posted, and licensees had the opportunity to submit comments to the Commission regarding its initial review.

7. Idaho Falls Group (Idaho Falls) filed written comments,<sup>10</sup> stating its general support of the Commission's analysis but raising questions regarding certain various individual cost submissions. These issues are addressed in the Appendix to this notice.

8. After additional review, full consideration of the comments presented, and in accordance with the previously cited guidance, the Commission accepted as reasonable any costs reported via the cost submission forms that were clearly documented in the OFAs' accompanying reports and/or analyses. These documented costs will be included in the administrative annual charges for FY 2017.

## Summary of Reported & Accepted Costs for Fiscal Year 2016

	Municipal		Non-Municipal		TOTAL	
	Reported	Accepted	Reported	Accepted	Reported	Accepted
<b>Department of Interior</b>						
Bureau of Indian Affairs	132,741	132,132	344,502	342,859	477,243	474,991
Bureau of Land Management	84,217	84,560	827	301	85,044	84,861
Bureau of Reclamation	1,618	1,618	43,432	43,432	45,050	45,050
National Park Service	396,101	397,587	383,724	382,238	779,825	779,825
U.S. Fish and Wildlife Service	851,646	851,585	1,011,653	1,008,621	1,863,299	1,860,206
U.S. Geological Survey					-	-
Office of the Solicitor	7,285	7,285	265,434	263,572	272,719	270,857
Office of Environmental Policy & Compliance	13,398	13,263	184,821	182,964	198,219	196,227
Office of Hearings and Appeals	3,534	3,534	21,769	21,769	25,303	25,303
Office of Policy Analysis	-	-	-	-	-	-
<b>Department of Agriculture</b>						
U.S. Forest Service	590,388	391,169	1,387,229	1,140,664	1,977,617	1,531,833
<b>Department of Commerce</b>						
National Marine Fisheries Service	988,392	1,001,321	433,335	413,454	1,421,727	1,414,775
<b>TOTAL</b>	<b>3,069,320</b>	<b>2,884,054</b>	<b>4,076,726</b>	<b>3,799,874</b>	<b>7,146,046</b>	<b>6,683,928</b>

9. Figure 1 summarizes the total reported costs incurred by Interior, Agriculture, and Commerce with respect to their participation in administering Part I of the FPA. Additionally, Figure 1 summarizes the reported costs that the Commission determined were clearly documented and accepted for inclusion

in its FY 2017 administrative annual charges.

### Summary Findings of Commission's Costs Review

10. As presented in Figure 1, the Commission determined that \$6,683,928 of the \$7,146,046 in total reported costs

were reasonable and clearly documented in the OFAs' accompanying reports and/or analyses. Based on this finding, 6% of the total reported cost was determined to be unreasonable. The Commission noted the most significant issue with the documentation provided by the OFAs

<sup>6</sup> OMB Circular A-25 6.

<sup>7</sup> OMB Circular A-25 6.a.2.

<sup>8</sup> SFFAS Number 4 ¶ 7.

<sup>9</sup> To avoid the possibility of confusion that has occurred in prior years as to whether costs were being entered twice as Other Direct Costs and Overhead, the form excluded Other Direct Costs.

<sup>10</sup> See Letter from Charles R. Sensiba, Van Ness Feldman, to the Honorable Kimberly D. Bose, FERC, Docket No. AD17-1-000 (filed May 15, 2017).

was the lack of supporting documentation to substantiate costs reported on the "Other Federal Agency Cost Submission Form."

11. The cost reports that the Commission determined were clearly documented and supported could be traced to detailed cost-accounting reports, which reconciled to data provided from agency financial systems or other pertinent source documentation. A further breakdown of these costs is included in the Appendix to this notice, along with an explanation of how the Commission determined their reasonableness.

#### Points of Contact

12. If you have any questions regarding this notice, please contact Norman Richardson at (202) 502-6219 or Raven Rodriguez at (202) 502-6276.

Dated: July 18, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-15431 Filed 7-21-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

#### Filings Instituting Proceedings

*Docket Numbers:* RP17-896-000.  
*Applicants:* Northern Natural Gas Company.

*Description:* Northern Natural Gas Company submits tariff filing per 154.204: 20170711 Remove Ft. Buford to be effective 8/11/2017.

*Filed Date:* 07/11/2017.

*Accession Number:* 20170711-5099.

*Comment Date:* 5:00 p.m. Eastern Time on Monday, July 24, 2017.

*Docket Numbers:* RP17-897-000.  
*Applicants:* Algonquin Gas Transmission, LLC.

*Description:* Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate and Non-Conforming—Narragansett—510985 to be effective 7/17/2017.

*Filed Date:* 07/12/2017.

*Accession Number:* 20170712-5196.

*Comment Date:* 5:00 p.m. Eastern Time on Monday, July 24, 2017.

*Docket Numbers:* RP17-899-000.  
*Applicants:* OXY USA Inc., Occidental Energy Marketing, Inc., Hess Corporation.

*Description:* Joint Petition for Temporary Waiver of Capacity Release of OXY USA Inc., et al.

*Filed Date:* 07/12/2017.

*Accession Number:* 20170712-5203.

*Comment Date:* 5:00 p.m. Eastern Time on Wednesday, July 19, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: July 13, 2017.

**Nathaniel J. Davis, Sr.**

Deputy Secretary

[FR Doc. 2017-15424 Filed 7-21-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 3511-023]

#### Lower Saranac Hydro, LLC ; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 3511-023.

c. *Date Filed:* May 31, 2017.

d. *Submitted By:* Lower Saranac Hydro, LLC.

e. *Name of Project:* Groveville Hydroelectric Project.

f. *Location:* On Fishkill Creek near the city of Beacon, New York. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Kevin M. Webb, Hydro Licensing Manager, Lower Saranac Hydro, LLC, 100 Brickstone Square, Suite 300, Andover, MA 01810; (978) 935-6039; email: [kevin.webb@enel.com](mailto:kevin.webb@enel.com).

i. *FERC Contact:* Chris Millard at (202) 502-8256; or email at [christopher.millard@ferc.gov](mailto:christopher.millard@ferc.gov).

j. Lower Saranac Hydro, LLC filed a request to use the Traditional Licensing Process on May 31, 2017 and provided public notice of the request on June 7, 2017. In a letter dated July 18, 2017, the Director of the Division of Hydropower Licensing approved Lower Saranac Hydro, LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Lower Saranac Hydro, LLC as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Lower Saranac Hydro, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (<http://www.ferc.gov>), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCONlineSupport@ferc.gov](mailto:FERCONlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 3511-023. Pursuant to 18 CFR 16.8, 16.9, and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license.

All applications for license for this project must be filed by May 31, 2020.

p. Register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: July 18, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-15432 Filed 7-21-17; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. OR17-15-000]

#### Western Refining Conan Gathering, LLC; Notice of Petition for Declaratory Order

Take notice that on July 12, 2017, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2016), Western Refining Conan Gathering, LLC (Western), filed a petition for a declaratory order seeking approval of the tariff rate structure and terms of service for phase I of its proposed Conan Crude Oil Gathering Pipeline System, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the eLibrary link and is available for review in the

Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5:00 p.m. Eastern time on August 11, 2017.

Dated: July 17, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-15429 Filed 7-21-17; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP17-469-000]

#### WBI Energy Transmission, Inc.; Notice of Application

Take notice that on June 30, 2017, WBI Energy Transmission, Inc. (WBI), 1250 West Century Avenue, Bismarck, North Dakota 58503, filed in Docket No. CP17-469-000, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, requesting authorization for abandonment of its Billy Creek Storage Field, the associated injected and recoverable native cushion gas and associated facilities, as well as to construct, install, modify and/or operate certain pipeline facilities to facilitate the withdrawal of the cushion gas prior to the abandonment of the storage facilities located in Johnson County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886)208-3676 or TTY, (202) 502-8659.

Any questions regarding this Application should be directed to Lori Myerchin, Manager, Regulatory Affairs, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, (701) 530-1563 (email [lori.myerchin@wbienergy.com](mailto:lori.myerchin@wbienergy.com)).

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and

place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission.

Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and ill not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

*Comment Date:* 5:00 p.m. Eastern Time on August 7, 2017.

Dated: July 17, 2017.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2017-15428 Filed 7-21-17; 8:45 am]

**BILLING CODE 6717-01-P**

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of the Termination of the Receivership of 10151—Commerce Bank of Southwest Florida Fort Myers, Florida

*Notice Is Hereby Given:* that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Commerce Bank of Southwest Florida, Fort Myers, Florida ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Commerce Bank of Southwest Florida on November 20, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the

receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 19, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. 2017-15439 Filed 7-21-17; 8:45 am]

**BILLING CODE 6714-01-P**

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of the Termination of the Receivership of 10133—Riverview Community Bank, Otsego, Minnesota

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Riverview Community Bank, Otsego, Minnesota ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Riverview Community Bank on October 23, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 19, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. 2017-15438 Filed 7-21-17; 8:45 am]

**BILLING CODE 6714-01-P**

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## 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 18, 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](mailto:BOS.SRC.Applications.Comments@bos.frb.org):

1. *South Shore Bancorp*, MHC, South Weymouth, Massachusetts; to acquire Braintree Bancorp, MHC, Braintree, Massachusetts, and thereby indirectly acquire Braintree Co-operative Bank, Braintree, Massachusetts.

Board of Governors of the Federal Reserve System, July 19, 2017.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2017-15451 Filed 7-21-17; 8:45 am]

**BILLING CODE 6210-01-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 Application for Exemption from Prohibited Service at Savings and Loan Holding Companies (FR LL-12; OMB No. 7100-0338).

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve 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 22, 2017.

**ADDRESSES:** You may submit comments, identified by *FR LL-12*, 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](mailto: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 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 Elmaghribi—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 Proposal

The Board invites public comment on the following information collection, which is 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:** Application for Exemption from Prohibited Service at Savings and Loan Holding Companies.

**Agency form number:** FR LL-12.

**OMB control number:** 7100-0337.

**Frequency:** On occasion.

**Respondents:** Individuals and savings and loan holding companies.

**Estimated number of respondents:** 15.

**Estimated average hours per response:** 16.

**Estimated annual burden hours:** 240.

**General Description of Report:** The Federal Deposit Insurance (FDI) Act and Regulation LL (12 CFR part 238) prohibit individuals who have been convicted of certain criminal offenses or who have agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such criminal offenses from participating in the affairs of a savings and loan holding company (SLHC) or any of its subsidiaries without the written consent of the Board. In order for such a person to participate in the conduct of the affairs of any SLHC, the SLHC or the individual must file an application seeking to obtain an exemption from the Board. The Board will use any information provided by the applicant when considering an exemption request concerning a prohibited person. Such considerations will include, but are not limited to, whether the prohibited person would participate in the major policymaking functions of the SLHC or would threaten the safety and soundness of any subsidiary insured depository institution of the SLHC or the public confidence in the insured depository institution.

**Legal authorization and confidentiality:** The Board has determined that this information collection is authorized by section 19(e)(2) of the FDI Act, which states that the "Board . . . may provide exemptions [from the prohibition] by regulation or order . . . if the exemption is consistent with the purposes of this subsection" (12 U.S.C. 1829(e)(2)). The Board exercises general supervision over SLHCs, which includes

examination authority and the imposition of reporting and recordkeeping requirements (12 U.S.C. 1467a(b)(2)). This information collection is required in order for prohibited persons to obtain the benefit of becoming, or continuing service as, an institution-affiliated party of an SLHC, and for an SLHC to permit that prohibited person to engage in any conduct or continue any relationship prohibited by section 19(e) of the FDI Act.

As required information, the information submitted can be withheld pursuant to sections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6), (b)(8)). The applicability of these exemptions would need to be determined on a case-by-case basis.

Board of Governors of the Federal Reserve System, July 18, 2017.

**Margaret McCloskey Shanks,**

*Deputy Secretary of the Board.*

[FR Doc. 2017-15401 Filed 7-21-17; 8:45 am]

**BILLING CODE 6210-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Comment Request**

*Title:* The Early Head Start Family and Child Experiences Survey 2018 (Baby FACES 2018).

*OMB No.:* 0970-0354.

*Description:* The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) seeks approval to collect descriptive information for the Early Head Start Family and Child Experiences Survey 2018 (Baby FACES 2018). This information collection is to provide nationally representative data on Early Head Start (EHS) programs, centers, classrooms, staff, and families to guide program planning, technical assistance, and research.

The proposed data collection builds upon a prior study (Baby FACES 2009; OMB 0970-0354) that longitudinally followed two cohorts of children through their experience in the program. While that study provided a great deal

of information about program participation over time and about services received by children and families, it did not allow for national level estimates of service quality, nor inferences about children who enter the program after 15 months of age. To fill these knowledge gaps and to answer additional questions about how programs function, the proposed Baby FACES 2018 design will include a cross-section of a nationally representative sample of programs, centers, home visitors, teachers, classrooms, children and families. This will allow nationally representative estimates at all levels at a point in time and will include the entire age span of enrolled children.

The goal of this work is to obtain updated information on EHS programs and understand better how program processes support relationships (e.g., between home visitors and parents, between parents and children, and between teachers and children) which are hypothesized to lead to improved child and family outcomes.

*Respondents:* Early Head Start program directors, child care center directors, teachers and home visitors, and parents of enrolled children.

**ANNUAL BURDEN ESTIMATES**

[2 Year Clearance]

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Classroom/home visitor sampling form from EHS staff .....	587	294	1	.17	50
Child roster form from EHS staff .....	587	294	1	.33	97
Parent consent form .....	2,887	1,444	1	.17	245
Parent survey .....	2,310	1,155	1	.5	578
Parent Child Report (PCR) .....	2,310	1,155	1	.25	289
Staff survey (Teacher survey and Home Visitor survey) ....	1,397	699	1	.5	349
Staff Child Report (SCR) .....	1,097	549	2.5	.25	343
Program director survey .....	140	70	1	.5	35
Center director survey .....	493	247	1	.33	82

*Estimated Total Annual Burden Hours:* 2,068.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: [OPREinfocollection@acf.hhs.gov](mailto:OPREinfocollection@acf.hhs.gov).

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of

having its full effect if OMB receives it within 30 days of publication.

Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: [OIRA\\_SUBMISSION@OMB.EOP.GOV](mailto:OIRA_SUBMISSION@OMB.EOP.GOV), Attn: Desk Officer for the Administration for Children and Families.

**Mary Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2017-15427 Filed 7-21-17; 8:45 am]

**BILLING CODE 4184-22-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of the Secretary**

[Document Identifier: 0990-new-30D]

**Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request**

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** 30-Day 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. 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 23, 2017.

**ADDRESSES:** Submit your comments to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) or via facsimile to (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:** Sherrette Funn, [Sherette.Funn@hhs.gov](mailto:Sherette.Funn@hhs.gov) or (202) 795-7714.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the document identifier 0990-new-30D for reference.

*Information Collection Request Title:* Evaluation of the Certified Community Behavioral Health Clinic Demonstration. *OMB No.:* 0990-NEW.

*Abstract:* The Office of the Assistant Secretary for Planning and Evaluation (ASPE) at the U.S. Department of Health and Human Services (HHS) is requesting Office of Management and Budget (OMB) approval for data collection activities to support the evaluation of the Certified Community Behavioral Health Clinic (CCBHC) demonstration program.

In April 2014, Section 223 of the Protecting Access to Medicare Act (PAMA) mandated the CCBHC demonstration to address some of the challenges of access, coordination, financing, and quality facing community mental health centers (CMHCs) across the country. The CCBHC demonstration is intended to improve the availability, quality, and outcomes of CMHC ambulatory care by establishing a standard definition and criteria for CCBHCs, and developing a new payment system that accounts for the total cost of providing comprehensive services to all individuals who seek care. The demonstration also aims to more fully integrate primary and behavioral health care services; ensure more consistent use of evidence-based practices; and, through enhanced standardized reporting requirements, offer an opportunity to assess the quality of care provided by CCBHCs across the country. The demonstration and its evaluation offer an opportunity to examine the implementation and outcomes of CCBHCs. The evaluation will provide critical information to Congress and the larger behavioral health community about innovative ways CCBHCs are attempting to improve care and the effects of a well-defined, comprehensive

service array on client outcomes and costs.

*Need and Proposed Use of the Information:* Section 223 of PAMA requires the Secretary of HHS to provide annual reports to Congress that include an assessment of access to community-based mental health services under Medicaid, the quality and scope of CCBHC services, and the impact of the demonstration on federal and state costs of a full range of mental health services. In addition, PAMA requires the Secretary to provide recommendations regarding continuation, expansion, modifications, or termination of the demonstration no later than December 31, 2021. The data collected under this submission will help ASPE address research questions for the evaluation, and inform the required reports to Congress.

*Likely Respondents:*

- Certified Community Behavioral Health Clinic demonstration grantees, this includes leadership, providers, care managers, and administrative and financial management staff;
- State Medicaid Officials;
- State Mental Health Officials; and
- State Consumer/Family Representatives.

The total annual burden hours estimated for this ICR are summarized in the table below.

#### TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Respondents/activity	Number of sites	Number of respondents per site	Responses per respondent	Total responses	Hours per response	Total hour burden
CCBHC site leadership staff—site interview .....	8	1	1	8	2	16
CCBHC frontline providers—site interview .....	8	4	1	24	1	24
CCBHC care managers—site interview ..	8	2	1	16	1	16
CCBHC administrative/finance staff—site interview .....	8	2	1	16	1	16
State Medicaid official—telephone interview .....	8	2	3	48	1	48
State mental health official—telephone interview .....	8	2	3	48	1	48
State consumer/family representative—telephone interview .....	8	2	1	16	1	16
CCBHC site leadership staff—completion of report .....	76	1	2	152	4	608
<b>Total .....</b>	<b>132</b>	<b>16</b>	<b>13</b>	<b>178</b>	<b>16</b>	<b>792</b>

**Darius Taylor,**

*Information Collection Clearance Officer.*

[FR Doc. 2017-15448 Filed 7-21-17; 8:45 am]

**BILLING CODE 4150-05-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Announcement of Intent To Establish the Tick-Borne Disease Working Group and Solicitation of Nominations for Appointment to the Working Group Membership; Correction**

**AGENCY:** Office of the Assistant Secretary for Health, Office of the Secretary, U.S. Department of Health and Human Services.

**ACTION:** Notice; correction.

**SUMMARY:** The U.S. Department of Health and Human Services published a notice in the **Federal Register**, dated Monday, July 17, 2017, to announce its intent to establish the Tick-Borne Disease Working Group (Working Group) and to invite nominations for membership. This notice contained incorrect information.

**FOR FURTHER INFORMATION CONTACT:** CAPT Richard Henry, Office of HIV/AIDS and Infectious Disease Policy; Telephone: (202) 795-7615; Fax (202) 691-2101; email address: richard.henry@hhs.gov.

**Correction**

In the **Federal Register**, dated July 17, 2017, on page 32711, correct the first sentence of the Summary to read:

**SUMMARY:** The U.S. Department of Health and Human Services (HHS) announces its intent to establish the Tick-Borne Disease Working Group (Working Group).

Dated: July 18, 2017.

**Donald Wright,**

*Acting Assistant Secretary for Health.*

[FR Doc. 2017-15473 Filed 7-21-17; 8:45 am]

**BILLING CODE 4150-28-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of the Secretary**

[Document Identifier: OS-4040-0001]

**Agency Information Collection Request. 30-Day Public Comment Request, Grants.gov**

**AGENCY:** Office of the Secretary, HHS.

In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. The ICR requests modification of the Research and Related Other Project Information form, OMB Control Number 4040-0001, for the addition of two exemptions to the form in compliance with 45 CFR 46 Subpart A, The Federal Policy for the Protection of Human Subjects (Common Rule). Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the ICR must be received on or before August 23, 2017.

**ADDRESSES:** Submit your comments to *OIRA\_submission@omb.eop.gov* or via facsimile to (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:** To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, to *Ed.Calimag@hhs.gov*, or call the Reports Clearance Office on (202) 690-7569. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the *Grants.gov* OMB Desk Officer; faxed to OMB at 202-395-6974.

*Proposed Project:* Research and Related Other Project Information, OMB Control Number 4040-0001—Office within *Grants.gov*—Specific program collecting the data (is applicable).

*Abstract:* Grant applicants are required to provide additional information as a supplement to their application for Federal assistance to awarding agencies using the Research and Related Other Project Information form. If applicants use human subjects in their research, the applicant must adhere to 45 CFR 46 Subpart A, The Federal Policy for the Protection of Human Subjects (Common Rule). The Common Rule defined six exemptions from research guidelines. Two additional exemptions were added to revisions of the Common Rule on January 17, 2017 for a total of eight exemptions. The Research and Related Other Project Information form must be updated in order to accommodate the additional two exemptions.

**ESTIMATED ANNUALIZED BURDEN TABLE**

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Research and Related Other Project Information .....	137,669	1	1	137,669
Total .....	137,669	.....	.....	137,669

**Darius Taylor,**

*Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.*

[FR Doc. 2017-15447 Filed 7-21-17; 8:45 am]

**BILLING CODE 4151-AE-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Integrated Preclinical/Clinical AIDS Vaccine Development Program (U19).

*Date:* August 16, 2017.

*Time:* 11:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Jay R. Radke, Ph.D., AIDS Review Branch, Scientific Review Program, Division of Extramural Activities, Room #3G11B, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC-9823, Bethesda, MD 20892-9823, (240) 669-5046, [jay.radke@nih.gov](mailto:jay.radke@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 18, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-15397 Filed 7-21-17; 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; Small Business: Respiratory Science.

*Date:* July 25, 2017.

*Time:* 2:30 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Sara Ahlgren, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4136, Bethesda, MD 20892, 301-435-0904, [sara.ahlgren@nih.gov](mailto:sara.ahlgren@nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions: Small Grant Mechanisms.

*Date:* July 26, 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.

*Contact Person:* Lisa Steele, Ph.D., Scientific Review Officer, PSE IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301-594-6594, [steeleln@csr.nih.gov](mailto:steeleln@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 18, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-15394 Filed 7-21-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial

Review Group, Obstetrics and Maternal-Fetal Biology Subcommittee.

*Date:* October 27, 2017.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Peter Zelazowski, Ph.D., Scientific Review Officer, National Institutes of Health, NICHD, SRB, 6710B Rockledge Drive, Bethesda, MD 20892, 301-435-6902, [Peter.Zelazowski@nih.gov](mailto:Peter.Zelazowski@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 18, 2017.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-15398 Filed 7-21-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of Specialized (P50) and Comprehensive (P60) Alcohol Research Centers (RFA AA 17-001 and AA 17-002).

*Date:* August 25, 2017.

*Time:* 1:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm. 2085, Bethesda, MD 20892, 301-451-2067, [srinivar@mail.nih.gov](mailto:srinivar@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: July 18, 2017.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-15396 Filed 7-21-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Eye Institute Special Emphasis Panel; NEI Mentored Career Development Award Applications.

*Date:* August 10, 2017.

*Time:* 9:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20852.

*Contact Person:* Jeanette M Hosseini, Ph.D., Scientific Review Officer, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892, 301-451-2020, [jeanetteh@mail.nih.gov](mailto:jeanetteh@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 18, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-15395 Filed 7-21-17; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG-2016-0934]

#### Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625-0007

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for reinstatement, without change, of the following collection of information: 1625-0007, Characteristics of Liquid Chemicals Proposed for Bulk Water Movement. Our ICR describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** Comments must reach the Coast Guard and OIRA on or before August 23, 2017.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG-2016-0934] to the Coast Guard using the Federal eRulemaking Portal at <http://www.regulations.gov>. Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email:* [dhsdeskofficer@omb.eop.gov](mailto:dhsdeskofficer@omb.eop.gov).

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention: Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at <http://www.regulations.gov>. Additionally, copies are available from: Commandant (CG-612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593-7710.

**FOR FURTHER INFORMATION:** Contact Mr. Anthony Smith, Office of Information Management, telephone 202-475-3532, or fax 202-372-8405, for questions on these documents.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995;

44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG-2016-0934], and must be received by August 23, 2017.

#### Submitting Comments

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

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

2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at <http://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625-0007.

#### Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (81 FR 95156, December 27, 2016) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collections.

#### Information Collection Request

*Title:* Characteristics of Liquid Chemicals Proposed for Bulk Water Movement.

*OMB Control Number:* 1625-0007.

*Summary:* Chemical manufacturers submit chemical data to the Coast Guard. The Coast Guard evaluates the information for hazardous properties of the chemical to be shipped via tank vessel. A determination is made as to the kind and degree of precaution which must be taken to protect the vessel and its contents.

*Need:* Title 46 CFR parts 30 to 40, 151, 153, and 154 govern the transportation of hazardous materials. The chemical industry constantly produces new materials that must be moved by water. Each of these new materials has unique characteristics that require special attention to their mode of shipment.

*Forms:* None.

*Respondents:* Manufacturers of chemicals.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated annual burden of 600 hours a year remains unchanged.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: July 18, 2017.

**Marilyn Scott-Perez,**

*U.S. Coast Guard, Chief, Office of Information Management.*

[FR Doc. 2017-15403 Filed 7-21-17; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG-2016-0926]

#### Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625-0008

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625-0008, Regattas and Marine Parades; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** Comments must reach the Coast Guard and OIRA on or before August 23, 2017.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG-2016-0926] to the Coast Guard using the Federal eRulemaking Portal at <http://www.regulations.gov>. Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email:* [dhsdeskofficer@omb.eop.gov](mailto:dhsdeskofficer@omb.eop.gov).

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention: Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at <http://www.regulations.gov>. Additionally, copies are available from: Commandant (CG-612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593-7710.

**FOR FURTHER INFORMATION:** Contact Mr. Anthony Smith, Office of Information Management, telephone 202-475-3532, or fax 202-372-8405, for questions on these documents.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An

ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG-2016-0926], and must be received by August 23, 2017.

#### Submitting Comments

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

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

OIRA posts its decisions on ICRs online at <http://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625-0008.

### Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (81 FR 95158, December 27, 2016) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collections.

### Information Collection Request

*Title:* Regattas and Marine Parades.

*OMB Control Number:* 1625-0008.

*Summary:* 46 U.S.C. 1233 authorizes the Coast Guard to issue rules to promote the safety of life on navigable waters during regattas or marine parades. Title 33 CFR 100.15 promulgates the rules for providing notice of, and additional information for permitting regattas and marine parades (marine events) to the Coast Guard.

*Need:* The Coast Guard needs to determine whether a marine event may present a substantial threat to the safety of human life on navigable waters and determine which measures are necessary to ensure the safety of life during the events. Sponsors must notify the Coast Guard in order for the Coast Guard to learn of the events and address environmental impacts.

*Forms:* CG-4423, Application for Marine Event.

*Respondents:* Sponsors of marine events.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated burden has decreased from 5,500 hours to 5,271 hours a year due to the decrease in the number of respondents submitting applications online.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: July 18, 2017.

**Marilyn Scott-Perez,**

*U.S. Coast Guard, Chief, Office of Information Management.*

[FR Doc. 2017-15402 Filed 7-21-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG-2016-0801]

### Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625-0086

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for reinstatement, with change, of the following collection of information: 1625-0086, Great Lakes Pilotage. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** Comments must reach the Coast Guard and OIRA on or before August 23, 2017.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG-2016-0801] to the Coast Guard using the Federal eRulemaking Portal at <http://www.regulations.gov>. Alternatively, you may submit comments to OIRA using one of the following means:

(1) Email: [dhsdeskofficer@omb.eop.gov](mailto:dhsdeskofficer@omb.eop.gov).

(2) Mail: OIRA, 725 17th Street NW., Washington, DC 20503, attention: Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at <http://www.regulations.gov>. Additionally, copies are available from: Commandant (CG-612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593-7710.

**FOR FURTHER INFORMATION:** Contact Mr. Anthony Smith, Office of Information Management, telephone 202-475-3532, or fax 202-372-8405, for questions on these documents.

### SUPPLEMENTARY INFORMATION:

### Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An

ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG-2016-0801], and must be received by August 23, 2017.

### Submitting Comments

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

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

OIRA posts its decisions on ICRs online at <http://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0086.

### Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (81 FR 85984, November 29, 2016) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collections.

### Information Collection Request

*Title:* Great Lakes Pilotage.

*OMB Control Number:* 1625–0086.

*Summary:* The Office of Great Lakes Pilotage is seeking a revision of OMB's current approval for Great Lakes Pilotage data collection requirements for the three U.S. pilot associations it regulate. This revision would require continued submission of data to an electronic collection system. This system is identified as the Great Lakes Electronic Pilot Management System which will eventually replace the manual paper submissions currently used to collect data on bridge hours, vessel delay, vessel detention, vessel cancellation, vessel movement, pilot travel, revenues, pilot availability, and related data. This revision ensures the required data is available in a timely manner and allows immediate accessibility to data crucial from both an operational and rate-making standpoint.

*Need:* To comply with the statutory and regulatory requirements respecting the rate-making and oversight functions imposed upon the agency.

*Forms:* CG–4509, Application for Registration as United States Registered Pilot.

*Respondents:* The three U.S. pilot associations regulated by the Office of Great Lakes Pilotage and members of the public applying to become Great lakes Registered Pilots.

*Frequency:* Daily, Weekly, Monthly, Quarterly, Semi-annually, Annually, On occasion; Frequency dictated by marine traffic levels and association staffing.

*Hour Burden Estimate:* The estimated burden has increased from 18 hours to 19 hours a year.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: July 18, 2017.

**Marilyn Scott-Perez,**  
Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2017–15400 Filed 7–21–17; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### Extension of the Air Cargo Advance Screening (ACAS) Pilot Program

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

**ACTION:** General notice.

**SUMMARY:** On October 24, 2012, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** that announced the formalization and expansion of the Air Cargo Advance Screening (ACAS) pilot program that would run for six months. CBP subsequently published several notices extending the pilot period and/or reopening the application period to new participants for limited periods. The most recent notice extended the pilot period through July 26, 2017. This document announces that CBP is extending the pilot period for an additional year. The ACAS pilot is a voluntary test in which participants submit a subset of required advance air cargo data to CBP at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States.

**DATES:** CBP is extending the ACAS pilot program through July 26, 2018. Comments concerning any aspect of the announced test may be submitted at any time during the test period.

**ADDRESSES:** Written comments concerning program, policy, and technical issues may be submitted via email to [CBPCCS@cbp.dhs.gov](mailto:CBPCCS@cbp.dhs.gov). In the subject line of the email, please use “Comment on ACAS pilot”.

**FOR FURTHER INFORMATION CONTACT:** Craig Clark, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs & Border Protection, via email at [craig.clark@cbp.dhs.gov](mailto:craig.clark@cbp.dhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 24, 2012, CBP published a general notice in the **Federal Register** (77 FR 65006, corrected in 77 FR 65395<sup>1</sup>) that announced the

formalization and expansion of the ACAS pilot. The notice provided a description of the ACAS pilot, set forth eligibility requirements for participation, and invited public comments on any aspect of the test. In brief, the ACAS pilot revises the time frame for pilot participants to transmit a subset of mandatory advance electronic information for air cargo. CBP regulations implementing the Trade Act of 2002 specify the required data elements and the time frame for submitting them to CBP. Pursuant to title 19, Code of Federal Regulations (19 CFR) 122.48a, the required advance information for air cargo must be submitted no later than the time of departure of the aircraft for the United States (from specified locations) or four hours prior to arrival in the United States for all other locations.

The ACAS pilot is a voluntary test in which participants agree to submit a subset of the required 19 CFR 122.48a data elements (ACAS data) at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States. The ACAS data is used to target high-risk air cargo. CBP intends to amend the CBP regulations to incorporate ACAS as an ongoing regulatory program. The results of the ACAS pilot will help determine the relevant data elements, the time frame within which data must be submitted to permit CBP to effectively target, identify and mitigate any risk with the least practicable impact on trade operations, and any other related procedures and policies.

#### Extension of the ACAS Pilot Period

The October 2012 notice announced that the ACAS pilot would run for six months. The notice provided that if CBP determined that the pilot period should be extended, CBP would publish another notice in the **Federal Register**. The October 2012 notice also stated that applications for new ACAS pilot participants would be accepted until November 23, 2012. CBP subsequently published several notices extending the pilot period and/or reopening the application period to new participants for limited periods. On December 26, 2012, CBP published a notice in the **Federal Register** (77 FR 76064) reopening the application period for new participants until January 8, 2013. On January 3, 2013, the **Federal Register** published a correction (78 FR 315) stating that the correct date of the close of the reopened application period was

<sup>1</sup> This **Federal Register** notice, published on October 26, 2012, corrected the email address under the **ADDRESSES** heading for submitting applications

or comments. The correct email address is [CBPCCS@cbp.dhs.gov](mailto:CBPCCS@cbp.dhs.gov).

January 10, 2013. On April 23, 2013, CBP published a notice in the **Federal Register** (78 FR 23946) extending the ACAS pilot period through October 26, 2013, and reopening the application period through May 23, 2013. On October 23, 2013, CBP published a notice in the **Federal Register** (78 FR 63237) extending the ACAS pilot period through July 26, 2014, and reopening the application period through December 23, 2013. On July 28, 2014, CBP published a notice in the **Federal Register** (79 FR 43766) extending the ACAS pilot period through July 26, 2015, and reopening the application period through September 26, 2014. On July 27, 2015, CBP published a notice in the **Federal Register** (80 FR 44360) extending the ACAS pilot period through July 26, 2016, and reopening the application period through October 26, 2015. Finally, on July 22, 2016, CBP published a notice in the **Federal Register** (81 FR 47812) extending the ACAS pilot period through July 26, 2017, without reopening the application period.

Each extension of the pilot period and reopening of the application period allowed for a significant increase in the diversity and number of pilot participants. The current pilot participants now represent a strong sample size of the air cargo community and new pilot participants are not being accepted.

To address air cargo security vulnerabilities, CBP intends to amend the CBP regulations to incorporate ACAS as an ongoing regulatory program. The regulation will take into account the results of the pilot and the concerns of industry. CBP would like the pilot to continue during the rulemaking process to provide continuity in the flow of advance air cargo security information and serve as a partial stop-gap security measure. CBP would also like to continue to provide pilot participants with the additional opportunity to adjust and test business procedures and operations in preparation for the forthcoming rule.

For these reasons, CBP is extending the ACAS pilot period through July 26, 2018.

Date: July 18, 2017.

**Todd C. Owen,**

*Executive Assistant Commissioner, Office of Field Operations.*

[FR Doc. 2017-15441 Filed 7-21-17; 8:45 am]

**BILLING CODE 9111-14-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2017-0002; Internal Agency Docket No. FEMA-B-1736]

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before October 23, 2017.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov) for comparison.

You may submit comments, identified by Docket No. FEMA-B-1736, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [www.floodmaps.fema.gov/fhm/fmx\\_main.html](http://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [http://floodsrp.org/pdfs/srp\\_fact\\_sheet.pdf](http://floodsrp.org/pdfs/srp_fact_sheet.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing

Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov) for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 28, 2017.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

Community	Community map repository address
<b>Rockingham County, New Hampshire (All Jurisdictions)</b>	
Maps Available for Inspection Online at: <a href="http://www.fema.gov/preliminaryfloodhazarddata">http://www.fema.gov/preliminaryfloodhazarddata</a>	
<b>Project: 12-01-1574S Preliminary Dates: April 9, 2014 and February 24, 2016</b>	
Seabrook Beach Village District .....	Seabrook Beach Village District, Warren H. West Memorial Building, 210 Ocean Boulevard, Seabrook, NH 03874.
Town of Exeter .....	Town Office, 10 Front Street, Exeter, NH 03833.

[FR Doc. 2017-15421 Filed 7-21-17; 8:45 am]  
**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Docket ID FEMA-2017-0002; Internal Agency Docket No. FEMA-B-1729]

**Proposed Flood Hazard Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.  
**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and

others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before October 23, 2017.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov) for comparison.

You may submit comments, identified by Docket No. FEMA-B-1729, to Rick Sacbabit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbabit@fema.dhs.gov](mailto:patrick.sacbabit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbabit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbabit@fema.dhs.gov](mailto:patrick.sacbabit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [www.floodmaps.fema.gov/fhm/fmx\\_main.html](http://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the

floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found

online at [http://floodsrp.org/pdfs/srp\\_fact\\_sheet.pdf](http://floodsrp.org/pdfs/srp_fact_sheet.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For

communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov) for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 16, 2017.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

I. Non-watershed-based studies:

Community	Community map repository address
<b>Santa Barbara County, California and Incorporated Areas</b> Maps Available for Inspection Online at: <a href="http://www.fema.gov/preliminaryfloodhazarddata">http://www.fema.gov/preliminaryfloodhazarddata</a> <b>Project: 12-09-1163S Preliminary Date: December 15, 2016</b>	
City of Carpinteria .....	Public Works Department, 5775 Carpinteria Avenue, Carpinteria, CA 93013.
City of Goleta .....	City Hall, Planning and Environmental Review Department, 130 Cremona Drive, Suite B, Goleta, CA 93117.
City of Santa Barbara .....	Community Development Department, Building and Safety Division, 630 Garden Street, Santa Barbara, CA 93101.
Unincorporated Areas of Santa Barbara County .....	Naomi Schwartz County Office Building, 130 East Victoria Street, Suite 200, Santa Barbara, CA 93101.

<b>Coos County, Oregon and Incorporated Areas</b> Maps Available for Inspection Online at: <a href="http://www.fema.gov/preliminaryfloodhazarddata">http://www.fema.gov/preliminaryfloodhazarddata</a> <b>Project: 16-10-0539S Preliminary Date: November 30, 2016</b>	
City of Bandon .....	City Hall, 555 Highway 101, Bandon, OR 97411.
City of Coos Bay .....	City Hall, 500 Central Avenue, Coos Bay, OR 97420.
City of Coquille .....	City Hall, 851 North Central Boulevard, Coquille, OR 97423.
City of Lakeside .....	City Hall, 915 North Lake Road, Lakeside, OR 97449.
City of Myrtle Point .....	City Hall, 424 5th Street, Myrtle Point, OR 97458.
City of North Bend .....	City Hall, 835 California Street, North Bend, OR 97459.
City of Powers .....	City Hall, 275 Fir Street, Powers, OR 97466.
Confederated Tribes of Coos, Lower Umpqua and Siuslaw .....	1245 Fulton Avenue, Coos Bay, OR 97420.
Coquille Indian Tribe .....	Coquille Indian Tribe Administrative Building, 3050 Tremont Avenue, North Bend, OR 97459.
Unincorporated Areas of Coos County .....	Coos County Courthouse, 250 North Baxter Street, Coquille, OR 97423.

[FR Doc. 2017-15419 Filed 7-21-17; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-4318-DR; Docket ID FEMA-2017-0001]

**Arkansas; Amendment No. 1 to Notice of a Major Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA-4318-DR), dated June 15, 2017, and related determinations.

**DATES:** June 28, 2017.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and

Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 15, 2017.

Prairie, White, and Woodruff Counties for Individual Assistance (already designated for Public Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals

and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Brock Long,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2017-15422 Filed 7-21-17; 8:45 am]

**BILLING CODE 9110-23-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Docket ID FEMA-2017-0002; Internal Agency Docket No. FEMA-B-1731]

**Proposed Flood Hazard Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before October 23, 2017.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov) for comparison.

You may submit comments, identified by Docket No. FEMA-B-1731, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and

Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [www.floodmaps.fema.gov/fhm/fmx\\_main.html](http://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements

outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [http://floodsrp.org/pdfs/srp\\_fact\\_sheet.pdf](http://floodsrp.org/pdfs/srp_fact_sheet.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov) for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 28, 2017.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

I. Non-Watershed-Based Studies:

Community	Community map repository address
<b>Howell County, Missouri and Incorporated Areas</b> Maps Available for Inspection Online at: <a href="http://www.fema.gov/preliminaryfloodhazarddata">http://www.fema.gov/preliminaryfloodhazarddata</a> <b>Project: 16-07-1463S Preliminary Date: December 16, 2016</b>	
City of West Plains .....	City Hall, 1910 Holiday Lane, West Plains, MO 65775.
Unincorporated Areas of Howell County .....	Howell County Courthouse, Assessor's Office, 101 Courthouse, West Plains, MO 65775.

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Docket ID FEMA-2017-0002; Internal Agency Docket No. FEMA-B-1734]

**Changes in Flood Hazard Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

**DATES:** These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

**ADDRESSES:** The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov) for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [www.floodmaps.fema.gov/fhm/fmx\\_main.html](http://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at [www.msc.fema.gov](http://www.msc.fema.gov) for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 28, 2017.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

State and country	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arizona:						
Maricopa .....	City of Tempe (17-09-0156P).	The Honorable Mark Mitchell Mayor, City of Tempe, P.O. Box 5002 Tempe, AZ 85280.	City Hall Engineering Department, 31 East 5th Street, Tempe, AZ 85281.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Sep. 29, 2017 ....	040054
Pinal .....	Unincorporated Areas of Pinal County (16-09-0931P).	The Honorable Stephen Miller, Chairman, Board of Supervisors, Pinal County, 135 North Pinal Street, Florence, AZ 85132.	Pinal County, Engineering Department, 31 North Pinal Street, Building F, Florence, AZ 85132.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Sep. 22, 2017 ....	040077
California:						
Fresno .....	City of Clovis (17-09-0445P).	The Honorable Bob Whalen, Mayor, City of Clovis, 1033 5th Street, Clovis, CA 93612.	Building Division, 1033 5th Street, Clovis, CA 93612.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Oct. 2, 2017 .....	060044

State and country	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Los Angeles ...	City of Santa Clarita (17-09-0916P).	The Honorable Cameron Smyth, Mayor, City of Santa Clarita, 23920 Valencia Boulevard, Suite 300, Santa Clarita, CA 91355.	City Hall, Planning Department, 23920 Valencia Boulevard, Suite 300, Santa Clarita, CA 91355.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Oct. 6, 2017 .....	060729
Illinois: Kane .....	Village of Carpentersville (17-05-1258P).	The Honorable John Skillman, Village President, Village of Carpentersville, 1200 L.W. Besinger Drive, Carpentersville, IL 60110.	Village Hall, 1200 L.W. Besinger Drive, Carpentersville, IL 60110.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Oct. 5, 2017 .....	170322
Kansas: Johnson .....	City of Overland Park (16-07-1770P).	The Honorable Carl Gerlach, Mayor, City of Overland Park, 8500 Santa Fe Drive, Overland Park, KS 66212.	City Hall, 8500 Santa Fe Drive, Overland Park, KS 66212.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Sep. 14, 2017 ....	200174
Tennessee: Smith .....	Unincorporated Areas of Smith County (16-04-7918P).	The Honorable Michael Nesbitt, Mayor, Smith County, 122 Turner High Circle, Carthage, TN 37030.	Smith County Turner Building, 122 Turner High Circle, Carthage, TN 37030.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Sep. 22, 2017 ....	470283
Trousdale .....	Unincorporated Areas of Trousdale County (16-04-7918P).	The Honorable Carroll Carman, Mayor, Trousdale County, 328 Broadway, Room 6-10, Hartsville, TN 37074.	Trousdale County, Sheriff Department, 210 Broadway, Hartsville, TN 37074.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Sep. 22, 2017 ....	470192
Wisconsin: Outagamie .....	City of Appleton (17-05-1963P).	The Honorable Timothy Hanna, Mayor, City of Appleton, 100 North Appleton Street, Appleton, WI 54911.	City Hall, 100 North Appleton Street, Appleton, WI 54911.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Sep. 29, 2017 ....	555542
Waukesha .....	Village of Sussex (17-05-0632P).	The Honorable Gregory L. Goetz, President, Village of Sussex, N64W23760 Main Street, Sussex, WI 53089.	Village Hall, N64W23760 Main Street, Sussex, WI 53089.	<a href="http://www.msc.fema.gov/lomc">http://www.msc.fema.gov/lomc</a>	Sep. 15, 2017 ....	550490

[FR Doc. 2017-15418 Filed 7-21-17; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

#### New Agency Information Collection Activity Under OMB Review: Security Appointment Center (SAC) Visitor Request Form and Foreign National Vetting Request

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 30-Day notice.

**SUMMARY:** This notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal**

**Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on December 21, 2016, 81 FR 93694. The collection involves gathering information from individuals who plan to visit any of the TSA facilities in the National Capital Region.<sup>1</sup>

**DATES:** Send your comments by August 23, 2017. A comment to OMB is most effective if OMB receives it within 30 days of publication.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to [dhsdeskofficer@omb.eop.gov](mailto:dhsdeskofficer@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Christina A. Walsh, TSA PRA Officer,

<sup>1</sup> TSA facilities in the National Capital Region include TSA Headquarters, the Freedom Center, the Transportation Security Integration Facility (TSIF), the Metro Park office complex (Metro Park), and the Annapolis Junction facility (AJ).

Office of Information Technology (OIT), TSA-11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598-6011; telephone (571) 227-2062; email [TSAPRA@tsa.dhs.gov](mailto:TSAPRA@tsa.dhs.gov).

#### 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

*Title:* Security Appointment Center (SAC) Visitor Request Form and Foreign National Vetting Request.

*Type of Request:* New collection.

*OMB Control Number:* 1652-XXXX.

*Form(s):* TSA Form 2802.

*Affected Public:* Visitors to TSA facilities in the National Capital Region.

*Abstract:* The Secretary of the Department of Homeland Security (DHS) is authorized to protect property owned, occupied, or secured by the Federal Government. See 40 U.S.C. 1315. See also 41 CFR 102-81.15 (requires Federal agencies to be responsible for maintaining security at their own or leased facilities). DHS Instruction Manual 121-01-011-01 (Visitor Management at DHS Headquarters and DHS Component Headquarters Facilities (April 19, 2014)) requires all DHS components to vet visitors using the National Crime Information Center (NCIC) system before allowing them access to agency facilities. The Security Appointment Center (SAC) Visitor Request Form and Foreign National Vetting Request process manages risks posed by individuals entering the building who have not been subject to a criminal history records check. TSA will use the collected information (social security number, date of birth and, if a foreign visitor, passport information) to vet visitors via the NCIC system.

*Number of Respondents:* 24,702.

*Estimated Annual Burden Hours:* An estimated 412 hours annually.

Dated: July 19, 2017.

**Christina A. Walsh,**

*TSA Paperwork Reduction Act Officer, Office of Information Technology.*

[FR Doc. 2017-15490 Filed 7-21-17; 8:45 am]

**BILLING CODE 9110-05-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R1-ES-2017-N064;  
FXES11140100000-178-FF01E00000]

#### Notice of Intent To Prepare a Draft Environmental Impact Statement for the Proposed Deschutes River Basin Habitat Conservation Plan in Oregon

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent; notice of public scoping meetings; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), intend to prepare a draft environmental impact statement (EIS) in accordance with the requirements of the National Environmental Policy Act (NEPA) to evaluate the potential impacts on the human environment caused by alternatives to the Deschutes River Basin Habitat Conservation Plan (Deschutes River Basin HCP). The Deschutes River Basin HCP is being prepared in support of a request for an Endangered Species Act (ESA) incidental take permit (ITP) or ITPs authorizing incidental take of listed species caused by covered activities. The potential applicants for the ITP(s) include the City of Prineville, the Arnold Irrigation District, Central Oregon Irrigation District, North Unit Irrigation District, Ochoco Irrigation District, Swalley Irrigation District, Three Sisters Irrigation District, Tumalo Irrigation District, and the Lone Pine Irrigation District in Oregon. These eight irrigation districts comprise the Deschutes Basin Board of Control (DBBC). We are also announcing the initiation of a public scoping period to engage Federal, Tribal, State, and local governments and the public in the identification of issues and concerns, potential impacts, and possible alternatives to the proposed action for consideration in the draft EIS. The National Marine Fisheries Service (NMFS) is a cooperating agency in the draft EIS process.

**DATES:** The public scoping period begins with the publication of this notice in the **Federal Register**. To ensure consideration, please send your written comments postmarked no later than September 22, 2017. The Service will consider all comments on the scope of the draft EIS analysis that are received or postmarked by this date. Comments received or postmarked after this date will be considered to the extent practicable.

*Public meetings:* The Service will conduct four public scoping meetings:

Two in Madras, Oregon, and two in Bend, Oregon. The two Madras scoping meetings will be held on August 14, 2017, from 2 to 4 p.m. and 6 to 8 p.m., respectively, and the two Bend scoping meetings will be held on August 15, 2017, from 2 to 4 p.m. and 6 to 8 p.m., respectively.

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods and note that your information request or comment is in reference to the development of the Deschutes Basin HCP and the preparation of the associated draft EIS:

- *U.S. mail:* U.S. Fish and Wildlife Service, Bend Field Office, Attn: Peter Lickwar, 63095 Deschutes Market Road, Bend, Oregon 97701-9857.

- *In-person Drop-off, Viewing, or Pickup:* Call (541) 383-7146 to make an appointment during regular business hours to drop off comments or view received comments at the above location. Written comments will also be accepted at the public meetings.

- *Email:* [peter\\_lickwar@fws.gov](mailto:peter_lickwar@fws.gov). Include "Deschutes River Basin HCP-draft EIS" in the subject line of the message.

- *Fax:* U.S. Fish and Wildlife Service at 541-383-7638; Attn: Peter Lickwar.

We request that you send comments by only one of the methods described above. See the Public Availability of Comments section below for more information.

*Public meetings:* The addresses of the scoping meetings are as follows:

*Madras, Oregon:* Inn at Cross Keys Station, 66 NW Cedar St, Madras, OR 97741.

*Bend, Oregon:* U.S. Forest Service Building, 63095 Deschutes Market Road, Bend, OR 97701.

#### FOR FURTHER INFORMATION CONTACT:

Peter Lickwar, U.S. Fish and Wildlife Service, (see **ADDRESSES** above); email at [peter\\_lickwar@fws.gov](mailto:peter_lickwar@fws.gov) or telephone 541-383-7146. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** The Service intends to prepare a draft EIS in accordance with the requirements of NEPA to evaluate the potential impacts on the human environment caused by alternatives to the Deschutes River Basin HCP. The Deschutes River Basin HCP is being prepared in support of a request for an ESA ITP or ITPs authorizing incidental take of listed species caused by covered activities. The potential applicants for the ITP(s) include the City of Prineville, the Arnold Irrigation District, Central

Oregon Irrigation District, North Unit Irrigation District, Ochoco Irrigation District, Swalley Irrigation District, Three Sisters Irrigation District, Tumalo Irrigation District, and the Lone Pine Irrigation District in Oregon. These eight irrigation districts (Districts) comprise the DBBC.

We are also announcing the initiation of a public scoping period to engage Federal, Tribal, State, and local governments and the public in the identification of issues and concerns, potential impacts, and possible alternatives to the proposed action for consideration in the draft EIS. The conservation measures in the Deschutes River Basin HCP would be designed to minimize and mitigate impacts caused by the take of covered listed species that may result from the storage, release, diversion and return of irrigation water by the Districts and the City of Prineville.

This notice was prepared pursuant to pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*), and the requirements of NEPA (42 U.S.C. 4321 *et seq.*), and its implementing regulations in the Code of Federal Regulations at 40 CFR 1506.6. The primary purpose of the scoping process is for the public and other agencies to assist in developing the draft EIS by identifying important issues and identifying alternatives that should be considered.

The NMFS is a cooperating agency in the draft EIS process, and intends to adopt the draft EIS to address the impacts of issuing an ITP addressing listed species under its jurisdiction.

### Background

Section 9 of the ESA prohibits “take” of fish and wildlife species listed as endangered under section 4 (16 U.S.C. 1538 and 16 U.S.C. 1533, respectively). The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term “take” means to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct” (16 U.S.C. 1532(19)). The term “harm” is defined by regulation as “an act which actually kills or injures wildlife. Such acts may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering” (50 CFR 17.3). The term “harass” is defined in the regulations as “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such

an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering” (50 CFR 17.3).

Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
- The applicant will develop a proposed HCP and ensure that adequate funding for the plan will be provided;
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32.

### Plan Area

The Plan Area for the Deschutes River Basin HCP covers approximately 10,700 square miles of land in central Oregon. Bounded by the Cascades Mountains on the west, the Ochoco Mountains on the east, and the Columbia River to the north, the Deschutes River Basin includes six major tributaries above Lake Billy Chinook. Tributaries to the Deschutes River above the lake include the Crooked River, Metolius River, Little Deschutes River, Crescent Creek, Tumalo Creek, and Whychus Creek. Major tributaries of the lower Deschutes River include Shitike Creek, Trout Creek, Warm Springs River, and the White River. The first water diversions in the Deschutes River Basin started in the late 1860s, however, irrigation districts did not start to form until circa 1900.

The eight irrigation districts (Districts) are quasi-municipal corporations formed and operated under Oregon State law to distribute water to irrigators within designated district boundaries. The Districts span Crook, Deschutes, Jefferson, Klamath, and Wasco counties in Oregon. The Districts lie along and utilize the waters of the Deschutes River and its tributaries, including the Little Deschutes River, Crescent Creek, Crooked River, Ochoco Creek, Tumalo

Creek, Whychus Creek, and a number of smaller tributaries within the greater Deschutes River Basin. The City of Prineville (City), located in Crook County, is a municipality of about 7,350 residents. The City lies at the confluence of the Crooked River and Ochoco Creek, and has an economy based on agriculture and light industry.

The goals of the proposed Deschutes River Basin HCP are to avoid and minimize incidental take of the covered species associated with the Districts’ and the City’s activities, and to mitigate the impacts of unavoidable take, primarily by modifying irrigation water storage, release, and diversion operations in the Deschutes River Basin, including the mainstem Deschutes River and its tributaries. The Deschutes River Basin HCP would provide a district-wide permitting approach for the Districts and the City. The proposed term for the Deschutes River Basin HCP and ITP(s) is from 20 to 40 years.

### Covered Activities

The Districts and the City are seeking incidental take authorization under the ESA for activities that they conduct, permit, or otherwise authorize. The proposed covered activities may include, but are not limited to: Operation and maintenance of storage dams and reservoirs; operation and maintenance of diversions, pumps, and intakes; operation and maintenance of water conveyance and delivery systems; diversion of water; return flow; and conservation measures and associated construction activities.

### Covered Species

Covered species under the proposed Deschutes River Basin HCP include threatened and endangered species listed under the ESA, and currently unlisted species that have the potential to become listed during the life of the HCP. The Districts and the City are proposing to seek incidental take coverage for three federally listed species, and two non-listed species. The Deschutes River Basin HCP would provide long-term conservation and management of these species, which are discussed in more detail in the following paragraphs.

The Oregon spotted frog (*Rana pretiosa*) is a native aquatic species endemic to the Pacific Northwest. It was federally listed as threatened under the ESA on September 29, 2014 (79 FR 51658).

The bull trout (*Salvelinus confluentus*) is a member of the genus *Char*, and is native to Oregon. The bull trout has specific habitat requirements that influence its abundance and

distribution. The bull trout is seldom found in waters where temperatures exceed 59 to 64 degrees Fahrenheit. The final listing determination of threatened status for the bull trout in the coterminous United States was made on November 1, 1999 (64 FR 58910).

The steelhead (*Oncorhynchus mykiss*) in the Deschutes River Basin is part of the Middle Columbia River Distinct Population Segment that was listed by NMFS as threatened, effective on February 6, 2006 (71 FR 834). However, on January 15, 2013, NMFS issued a final rule that designated the steelhead upstream of the Pelton Round Butte Hydroelectric Project on the Deschutes River as a nonessential experimental population (78 FR 2893). This designation has an expiration date of 12 years from the effective date of the rule. Unlike other anadromous members of the family Salmonidae, steelhead do not necessarily die after spawning and sometimes spawn more than once.

The Districts and the City also propose to cover the following non-listed species under NMFS jurisdiction under the Deschutes River Basin HCP: The sockeye salmon (*Oncorhynchus nerka*), and the Middle Columbia River spring-run Chinook salmon (*Oncorhynchus tshawytscha*).

#### Draft Environmental Impact Statement

For purposes of NEPA compliance, preparation of an EIS is required for actions that are expected or have the potential to significantly impact the human environment (40 CFR 1500–1508).

To determine whether a proposed Federal action would require the preparation of an EIS, the Service must consider two distinct factors: Context and intensity (40 CFR 1508.27, Service and National Marine Fisheries Service HCP Handbook 2016). Context refers to the geographic scale (local, regional, or national) of significance of short and/or long-term effects/impacts of a proposed action. Intensity refers to the severity of the effects/impacts relative to the affected settings, including the degree to which the proposed action affects: an endangered or threatened species or designated critical habitat; public health or safety; scientific, historic or cultural resources; or other aspects of the human environment.

In determining whether the preparation of an EIS is warranted, we must also consider the ten components of intensity, as set forth under 40 CFR 1508.27(b):

1. Impacts that may be both beneficial and adverse. A significant impact may exist even if the Federal agency believes

that on balance the effect will be beneficial.

2. The degree to which the proposed action affects public health or safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

5. The degree to which the potential impacts are highly uncertain or involve unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA.

10. Whether the action threatens a violation of Federal, state, or local law or requirements imposed for the protection of the environment.

In this case, and after considering the above factors, the Service has determined that the Deschutes River Basin HCP–ITP action has the potential to significantly impact the human environment for the following reasons:

The Deschutes River Basin encompasses 10,500 square miles in Central Oregon and the Deschutes River is a major tributary to the Columbia River. On that basis, the covered area is of local, regional, and national significance.

The Applicants store, manage, and release water from the Deschutes River and its reservoirs for irrigation and municipal purposes. Hundreds of miles of irrigation conveyance systems are managed by the Applicants. Under the Deschutes River Basin HCP, modernization of these conveyance systems, which is already underway, is a covered activity that is likely to result in water conservation for farmers and listed species, and take decades to complete. Some portions of the conveyance systems have been listed on

the National Historic Register, and will require additional analysis under NEPA. The covered activities may affect four ESA-listed species (the Oregon spotted frog, steelhead, spring chinook and the bull trout) and their critical habitat that by virtue of their listings and designations are of local, regional, and national significance. Given the geographic scale of the HCP and the nature and scope of the covered activities and species, the context and intensity of potential adverse and beneficial impacts of implementing the HCP on the human environment are likely to be of local, regional, and national significance.

The Service performed internal NEPA scoping for the Deschutes River Basin HCP–ITP action in close coordination with NMFS as a cooperating agency. During that internal scoping process, Service and NMFS staff reviewed the proposed ITP action and the purpose and need for taking the action, and identified the environmental issues requiring detailed analysis as well as identified connected, similar, and cumulative actions. The internal scoping analysis concluded that the proposed ITP action:

- Involves instream flow and habitat restoration decisions that significantly affect biodiversity and ecosystem functions across a large geographic area;
- Involves management decisions that are significantly controversial;
- Has highly uncertain effects or involve unique or unknown risks to biological, physical or other factors;
- Establishes precedents for future actions with significant effects;
- Will contribute to other individually insignificant but cumulatively significant impacts;
- Will have positive effects on wetlands, rivers, and ecologically critical areas but may have adverse effects on historic resources (canals) and farmlands;
- May affect some areas covered by the National Historic Preservation Act;
- Will adversely affect endangered or threatened species, their critical habitat, or other non-target species; and
- Will have social or economic impacts interrelated with significant natural or physical environmental effects.

The Service also determined with NMFS that the proposed Deschutes River Basin HCP–ITP action: Is of sufficient size and complexity to warrant an EIS; is similar to previous HCP's issued in the Pacific Northwest that likewise required the preparation of an EIS; and may have significant effects on the human environment. On that basis and in accordance with

regulations at 40 CFR 1501.4, 1507.3, and 1508.27, the Service believes preparation of an EIS is warranted. As such, we do not intend to prepare an environmental assessment for this action.

Therefore, before deciding whether to issue an ITP(s) for the Deschutes River Basin HCP, we will prepare a draft EIS to analyze the environmental impacts associated with this action. As noted above, NMFS is a cooperating agency in the draft EIS process, and intends to adopt the draft EIS to address the impacts on the human environment of issuing an ITP(s) addressing listed species under its jurisdiction.

Under NEPA, a reasonable range of alternatives to a proposed project is developed and considered in the Service's environmental review document. In the draft EIS, the Service will consider the following alternatives: (1) No action (no ITP issuance); (2) the proposed action, which includes the issuance of take authorizations as described in the proposed Deschutes River Basin HCP; and (3) a range of additional reasonable alternatives. Alternatives considered for analysis in a draft EIS for an HCP may include: Variations in the permit term or permit structure; the level of take allowed; the level, location, or type of minimization, mitigation, or monitoring provided under the HCP; the scope of covered activities; the list of covered species; or a combination of these factors.

The draft EIS will identify and analyze the potential direct, indirect, and cumulative impacts of Service authorization of incidental take under permit issuance and of implementing the proposed Deschutes River Basin HCP on biological resources, land uses, utilities, air quality, water resources, cultural resources, socioeconomics and environmental justice, recreation, aesthetics, and other environmental issues that could occur with implementation of each alternative. The Service will also identify measures, consistent with NEPA and other relevant considerations of national policy, to avoid or minimize any significant impacts of the proposed action on the quality of the human environment. Following completion of the draft EIS, the Service will publish a notice of availability and a request for comment on the draft EIS and the applicants' permit application(s), which will include a draft of the proposed Deschutes River Basin HCP.

#### Public Scoping

The primary purpose of the scoping process is for the public to assist the Service, Districts, and the City in

developing a draft EIS by identifying important issues and alternatives related to the applicants' proposed action. The scoping meetings will include presentations by the Service, Districts, and the City followed by informal questions and discussions. The Service welcomes written comments from all interested parties in order to ensure we identify a full range of issues and alternatives related to the proposed permit request. The Service requests that comments be specific. In particular, we seek comments on the following:

1. Management issues and goals to be considered in the development of the HCP;
2. Existing environmental conditions in the Districts and the City;
3. Other plans or projects that might be relevant to this proposed project;
4. Permit duration;
5. Areas and specific landforms that should or should not be covered;
6. Biological information concerning species in the proposed plan area;
7. Relevant data concerning these species;
8. Additional information concerning the range, distribution, population size, and population trends of the covered species;
9. Current or planned activities in the Plan Area and their possible impacts on the covered species;
10. Species that should or should not be covered;
11. Covered activities including potential avoidance, minimization, and mitigation measures;
12. Monitoring and adaptive management provisions;
13. Funding suggestions; and
14. Alternatives for analysis.

We will accept written comments at the public meetings. You may also submit written comments to the Service at our U.S. mail address, by email, or by fax (see **ADDRESSES** above). Once the draft EIS and draft HCP are prepared, there will be further opportunity for public comment on the content of these documents through an additional 90-day public comment period.

#### Public Availability of Comments

Comments and materials we receive, as well as supporting documentation we use in preparing the draft EIS, will become part of the public record and will be available for public inspection by appointment, during regular business hours, at the Service's Bend Field Office (see **FOR FURTHER INFORMATION CONTACT** section). Before including your address, phone number, email address, or other personal identifying information in your comment(s), you should be aware that your entire comment(s)—including your

personal identifying information—may be made publicly available at any time. While you can ask us in your comment(s) to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meeting should contact Peter Lickwar (see **FOR FURTHER INFORMATION CONTACT**). To allow sufficient time to process requests, please call no later than August 1, 2017. Information regarding the applicants' proposed action is available in alternative formats upon request.

#### Authority

The environmental review of this project will be conducted in accordance with the requirements of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.*), Council on Environmental Quality Regulations (40 CFR parts 1500–1508), other applicable Federal laws and regulations, and applicable policies and procedures of the Service. This notice is furnished in accordance with 40 CFR 1501.7 of the NEPA regulations to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the draft EIS.

#### Theresa E. Rabot,

*Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.*

[FR Doc. 2017–15479 Filed 7–21–17; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS–WASO–NAGPRA–23496; PPWOCRADN0–PCU00RP14.R50000]

### Notice of Intent To Repatriate Cultural Items: Cincinnati Art Museum, Cincinnati, OH

**AGENCY:** National Park Service, Interior.  
**ACTION:** Notice.

**SUMMARY:** The Cincinnati Art Museum, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Cincinnati Art Museum. If no additional claimants come forward, transfer of

control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Cincinnati Art Museum at the address in this notice by August 23, 2017.

**ADDRESSES:** Jay Pattison, Chief Registrar, Cincinnati Art Museum, 953 Eden Park Drive, Cincinnati, OH 45202, telephone (513) 639-2909, email [jay.pattison@cincyart.org](mailto:jay.pattison@cincyart.org).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Cincinnati Art Museum, Cincinnati, OH, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

### History and Description of the Cultural Items

At some time between the mid-1920s and mid-1930s, two cultural items were removed from the Lac du Flambeau Chippewa Reservation in Vilas County, WI. The two cultural items are two wooden pipe stems. The upper section of the first pipe stem (CAM accession number 1988.253) is carved into a spiral shape and trimmed with loom-woven beadwork. The lower section is flat, with a strip of beaver fur at each end. The upper section of the second pipe stem (CAM accession number 1988.256) is carved with spool and ovoid shapes that are decorated with brass tacks. The pipe is trimmed with beaver fur at its center. The lower section is flat with incised, linear abstract designs on one side. At an unknown date, the two pipe stems were acquired by Dr. Bernard S. Mason, along with other objects originating from the Lac du Flambeau Chippewa Reservation. Upon Dr. Mason's death in 1953, ownership of his collection of Native American objects was transferred to John L. Holden. In 1988, Mr. Holden donated a portion of

this collection that included the two pipe stems to the Cincinnati Art Museum.

Museum accession, catalogue, and documentary records, as well as consultation with representatives from the Lac du Flambeau Band of Lake Superior Chippewa Indians, indicate that the two cultural items are Chippewa, and are from the Lac du Flambeau Chippewa Reservation of Wisconsin. The two objects are illustrated as line drawings in Dr. Mason's book, *Crafts of the Woods*, South Brunswick and New York: A. S. Barnes and Co, 1973 (originally published in 1939), page 20, Figure 202C and Figure 202D. The pipes, combined with a ceremonial Warrior Drum, comprise an ensemble of sacred objects that are needed by traditional Lac du Flambeau Chippewa religious leaders for the practice of Native American religions by their present-day adherents.

### Determinations Made by the Cincinnati Art Museum

Officials of the Cincinnati Art Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the two cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the two pipe stems and the Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin.

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Jay Pattison, Chief Registrar, Cincinnati Art Museum, Cincinnati, OH 45202, telephone (513) 639-2909, email [jay.pattison@cincyart.org](mailto:jay.pattison@cincyart.org), by August 23, 2017. After that date, if no additional claimants have come forward, transfer of control of the two pipe stems to the Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin may proceed.

The Cincinnati Art Museum is responsible for notifying the Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin that this notice has been published.

Dated: May 31, 2017.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2017-15468 Filed 7-21-17; 8:45 am]

**BILLING CODE 4312-52-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-23582;  
PPWOCRADNO-PCU00RP14.R50000]

### Notice of Intent To Repatriate Cultural Items: State Historical Society of North Dakota, Bismarck, ND

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The State Historical Society of North Dakota, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects and objects of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the State Historical Society of North Dakota. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the State Historical Society of North Dakota at the address in this notice by August 23, 2017.

**ADDRESSES:** Melissa Thompson, State Historical Society of North Dakota, 612 East Boulevard Avenue, Bismarck, ND 58505, telephone (701) 328-2691, email [methompson@nd.gov](mailto:methompson@nd.gov).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the State Historical Society of North Dakota, Bismarck, ND, that meet the definition of sacred objects, and objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in

this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

### History and Description of the Cultural Item

On an unknown date, an unknown number of cultural items were removed from an unknown site in an unknown location. In August of 2016, a bison skull was found in the Museum Division storage space. The cultural item was found in a box dating to the 1950s that was used for storage of items in the possession of the State Historical Society of North Dakota (SHSND), but never formally accessioned or cataloged into the museum collection. Museum opinion is that the bison skull was placed in the storage box in the 1950s, but no other provenance is available. There is a label in the box that reads: "Fragments of buffalo skull found on the site of the final Sun Dance held by the Teton Sioux, and believed to be the skull used in that ceremony as the red paint applied to the buffalo skull in the Sun Dance is discernable on the specimen." The sacred object/object of cultural patrimony is the broken partial skull of an old bison.

The buffalo skull was identified by Standing Rock Sioux of North & South Dakota tribal archeologist Kelly Morgan as belonging to the Teton Sioux and/or Lakota Sioux of the Oceti Sakowin (Seven Council Fires) that make up what is often referred to as the "Sioux Nation." Their first reservation land was negotiated under the Treaty of Traverse des Sioux in 1851, and then initially reduced under the Treaty of 1858. These treaties were unilaterally abrogated by the United States Government after the U.S.-Dakota War of 1862, and Dakota people were force-marched and ethnically-cleansed from their Minnesota homeland in 1863. In 1873, the Standing Rock Indian reservation was established. The distinctive Dakota, Lakota, and Nakota identity is still pervasive at Standing Rock. The Standing Rock Sioux, as well as all other members of the Oceti Sakowin, practiced the seven sacred rites of the Dakota, Lakota, and Nakota nations. The Sun Dance is the third of the sacred rites, and is still practiced today. Skulls in the Sun Dance are used in the "Dragging of the Skulls" ceremony and as an altar in the dance. The red spot on the top of this bison's skull signifies that the skull was used in a Sun Dance ceremony.

### Determinations Made by the State Historical Society of North Dakota

Officials of the State Historical Society of North Dakota have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object/object of cultural patrimony and the Standing Rock Sioux Tribe of North & South Dakota.

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Melissa Thompson, State Historical Society of North Dakota, 612 East Boulevard Avenue, Bismarck, ND 58505, telephone (701) 328-2691, email [methompson@nd.gov](mailto:methompson@nd.gov), by August 23, 2017. After that date, if no additional claimants have come forward, transfer of control of the sacred object/object of cultural patrimony to the Standing Rock Sioux Tribe of North & South Dakota may proceed.

The State Historical Society of North Dakota is responsible for notifying the Standing Rock Sioux Tribe of North & South Dakota and the Upper Sioux Community, Minnesota that this notice has been published.

Dated: June 15, 2017.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2017-15469 Filed 7-21-17; 8:45 am]

**BILLING CODE 4312-52-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-23460;  
PPWOCRADNO-PCU00RP14.R50000]

### Notice of Intent To Repatriate Cultural Items: The Museum of Anthropology at Washington State University, Pullman, WA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Museum of Anthropology at Washington State University, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Museum of Anthropology at Washington State University. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Museum of Anthropology at Washington State University at the address in this notice by August 23, 2017.

**ADDRESSES:** Mary Collins, Director Emeritus, Museum of Anthropology Washington State University, Pullman, WA 99164-4910 telephone, (509) 592-6929, email [collinsm@wsu.edu](mailto:collinsm@wsu.edu).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Museum of Anthropology at Washington State University, Pullman, WA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National

Park Service is not responsible for the determinations in this notice.

### History and Description of the Cultural Item(s)

In 1970, an unknown number of human remains and cultural items were removed from site 45AS8 in Asotin County, WA. Thirteen historic era burials were archeologically excavated from site 45AS8 as part of a highway relocation project. At that time, most of the human remains and associated funerary objects were reburied on the Nez Perce Reservation at the Old Spalding Cemetery in Spalding, ID. In 2013, the remaining 47 (unassociated) funerary objects that were determined to be from 45AS8 were located in storage at the Museum of Anthropology at Washington State University. The 47 unassociated funerary objects are 8 lots of flakes; 2 nails; 3 lots of small unidentifiable bone fragments; 4 lots of glass beads; 23 lots of coffin fragments; 3 lots of metal fragments; and 4 lots of buttons.

### Determinations Made by the Museum of Anthropology at Washington State University

Officials of the Museum of Anthropology at Washington State University have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 47 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Confederated Tribes of the Colville Reservation and Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho).

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Mary Collins, Director Emeritus, the Museum of Anthropology at Washington State University, Pullman, WA 99164-4910 telephone (509) 592-6929, email [collinsm@wsu.edu](mailto:collinsm@wsu.edu), by August 23, 2017. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the

Confederated Tribes of the Colville Reservation and Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho) may proceed.

The Museum of Anthropology at Washington State University is responsible for notifying the Confederated Tribes of the Colville Reservation and Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho) that this notice has been published.

Dated: May 24, 2017.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2017-15467 Filed 7-21-17; 8:45 am]

**BILLING CODE 4312-52-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-PWR-PWRO-21467; PPPWOLYMS1-PPMSPD1Z.YM0000]

### Draft Environmental Impact Statement/ Mountain Goat Management Plan, Olympic National Park, Clallam, Grays Harbor, Jefferson and Mason County, Washington

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement (DEIS) for a Mountain Goat Management Plan (Plan) at Olympic National Park (Park), Washington. The DEIS evaluates the impacts of a range of alternatives for managing exotic mountain goats in the park.

**DATES:** All written comments on the DEIS must be postmarked or submitted not later than 60 days following publication of the Environmental Protection Agency's (EPA) Notice of Availability of the DEIS in the **Federal Register**. After the EPA Notice of Availability is published, the NPS will schedule public meetings to be held during the comment period. Dates, times, and locations of these meetings will be announced in press releases and on the NPS Planning, Environment, and Public Comment Web site for the Plan/DEIS at <http://parkplanning.nps.gov/olyngoat>.

**FOR FURTHER INFORMATION CONTACT:** Please contact Christina Miller at (360) 565-3004. Information will be available for public review online at <http://parkplanning.nps.gov/olyngoat> and in the office of the Superintendent, Olympic National Park, 600 East Park Ave., Port Angeles, WA 98362.

**SUPPLEMENTARY INFORMATION:** The purpose of the Plan/DEIS is to allow the NPS to reduce or eliminate impacts to park resources from exotic mountain goats, while reducing potential public safety issues associated with the presence of mountain goats in the Park. Management direction is needed to address resource management and human safety issues resulting from the presence of exotic mountain goats in the Park. This Plan/DEIS evaluates the impacts of the no-action alternative (Alternative A) and three action alternatives (Alternatives B, C, and D). Alternative D is identified as the agency's preferred alternative in the DEIS. *Alternative A* would involve full implementation of the 2011 Mountain Goat Action Plan, including management of individual mountain goats in visitor use areas according to a continuum of mountain goat-human interactions. Specific management actions could range from hazing to lethal removal of hazardous mountain goats. *Alternative B* would focus exclusively on the capture of mountain goats within the park and on adjacent Olympic National Forest lands followed by transfer of ownership to Washington Department of Fish & Wildlife (WDFW). Subsequent translocation would be conducted at the discretion of WDFW to other areas, including portions of the Cascade Mountain Range where mountain goats are native and supplementation of the existing population would further mountain goat conservation efforts. *Alternative C* would use lethal removal to significantly reduce or eliminate mountain goats from the park and adjacent Olympic National Forest lands. *Alternative D* would utilize a combination of capture and translocation and lethal removal tools to reduce or eliminate mountain goats from the Park. Capture and translocation would occur in most areas prior to direct reduction activities. Once a point of diminishing returns for capture operations is reached, management would continue using lethal removal activities. The U.S. Forest Service and the Washington Department of Fish and Wildlife are cooperating agencies on this plan.

*How to Comment:* You are encouraged to comment on the draft Mountain Goat Management Plan/EIS online at <http://parkplanning.nps.gov/olyngoat>. You may also mail or hand-deliver your comments to Olympic National Park, Attn: Mountain Goat Management Plan, 600 East Park Ave., Port Angeles, WA 98362. Written comments will also be accepted during scheduled public

meetings discussed above. Comments will not be accepted by email or in any other method than those specified above. Comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. 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.

**Authority:** 42 U.S.C. 4321 *et seq.*

Dated: July 18, 2017.

**Laura E. Joss,**

*Regional Director, Pacific West.*

[FR Doc. 2017-15482 Filed 7-21-17; 8:45 am]

**BILLING CODE 4312-52-P**

## DEPARTMENT OF THE INTERIOR

### Office of Natural Resources Revenue

[Docket No. ONRR-2011-0009; DS63644000 DR2000000.CH7000 178D0102R2]

#### Agency Information Collection Activities: Collection of Monies Due the Federal Government

**AGENCY:** Office of Natural Resources Revenue (ONRR), Interior.

**ACTION:** Notice.

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), ONRR is inviting comments on a collection of information requests that we will submit to the Office of Management and Budget (OMB) for review and approval. This Information Collection Request (ICR) covers the paperwork requirements in title 30, *Code of Federal Regulations* (CFR), part 1218. This ICR pertains to cross-lease netting in calculation of late-payment interest; a lessee's designation of designee; and Tribal permission for recoupment on Indian oil and gas leases.

**DATES:** You must submit your written comments on or before September 22, 2017.

**ADDRESSES:** You may submit comments on this ICR to ONRR by using one of the following three methods. Please reference "ICR 1012-0008" in your comments.

- Electronically go to <http://www.regulations.gov>. In the entry titled "Enter Keyword or ID," enter "ONRR-

2011-0009," then click "Search." Follow the instructions to submit public comments. ONRR will post all comments.

- Email comments to Mr. Armand Southall, Regulatory Specialist, at [Armand.Southall@onrr.gov](mailto:Armand.Southall@onrr.gov).
- Hand-carry or mail comments, using an overnight courier service, to ONRR. Our courier address is Building 53, entrance E-20, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Visitor parking is available near entrance E-20, with a phone to request entry. Call Mr. Armando Salazar at (303) 231-3585 or Ms. Janet Giron at (303) 231-3088 to gain entrance.

**FOR FURTHER INFORMATION CONTACT:** For questions on technical issues, contact Mr. Hans Meingast, Financial Services, FM, ONRR, telephone (303) 231-3382, or email [Hans.Meingast@onrr.gov](mailto:Hans.Meingast@onrr.gov). For other questions, contact Mr. Armand Southall, telephone (303) 231-3221, or email [Armand.Southall@onrr.gov](mailto:Armand.Southall@onrr.gov). You may also contact Mr. Southall to obtain copies (free of charge) of (1) the ICR, (2) any associated forms, and (3) the regulations that require the subject collection of information. You may also review the information collection request online at <http://www.reginfo.gov/public/do/PRAMain>.

#### SUPPLEMENTARY INFORMATION:

**Abstract:** The Secretary of the United States Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws, the Secretary's responsibility is to manage mineral resources production on Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected. ONRR performs the royalty management functions and assists the Secretary in carrying out the Department's responsibilities. We have posted those laws pertaining to mineral leases on Federal and Indian lands and the OCS at [http://www.onrr.gov/Laws\\_R\\_D/PubLaws/default.htm](http://www.onrr.gov/Laws_R_D/PubLaws/default.htm).

#### I. General Information

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the minerals. Such information is generally available

within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals. The information collected includes data necessary to ensure that production is accurately valued and that royalties are appropriately paid.

#### II. Information Collections

This ICR covers unique reporting circumstances, including (1) cross-lease netting in calculation of late-payment interest; (2) a lessee's designation of a designee; and (3) Tribal permission for recoupment on Indian oil and gas leases.

##### A. Cross-Lease Netting in Calculation of Late-Payment Interest

Regulations at § 1218.54 require ONRR to assess interest on unpaid or underpaid amounts. ONRR distributes these interest revenues to States, Indian Tribes, and the U.S. Treasury based on financial lease distribution information. Current regulations at § 1218.42 provide that an overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine the net payment subject to interest when certain conditions are met. This process is called cross-lease netting. The payor must demonstrate that a cross-lease netting exception exists by submitting production reports, pipeline allocation reports, or other similar documentary evidence. This information is necessary in order for ONRR to determine the correct amount of interest that the lessee owes and to ensure that we collect in full all monies owed to the Federal government.

##### B. Designation of Designee

The Royalty Simplification and Fairness Act (RSFA) defines a "lessee" to include both the owner of operating rights and the owner of record title. Under RSFA, owners of operating rights are primarily liable, and owners of lease record title secondarily liable for making royalty and related payments on Federal oil and gas leases (see 30 CFR 1218.52). It is common however, for a payor other than a lessee to make these payments. When a payor makes payments on behalf of a lessee, RSFA section 6(g) requires that the lessee designate the payor as its designee and notify ONRR of its designation in writing. We designed form ONRR-4425, Designation Form for Royalty Payment Responsibility, to request all the information necessary for lessees to comply with these RSFA requirements when choosing to designate an agent to pay for them. We require this information to ensure proper mineral revenue collection.

*C. Tribal Permission for Recoupment on Indian Oil and Gas Leases*

Overpayments on Tribal Indian leases may be recouped against royalties or other revenues owed in a month under other leases for which that Tribe is a lessor. To do so, lessees must comply with regulations at 30 CFR 1218.53(b), allowing only lessees with written permission from the Tribe to recoup overpayments on one lease against a different lease for which the Tribe is the lessor. The payor must provide ONRR with a copy of the Tribe's written permission.

**III. OMB Approval**

We are requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge the duties of the office and may also result in the loss of royalty payments. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

**IV. Data**

*Title:* Collection of Monies Due the Federal Government—30 CFR part 1218.  
*OMB Control Number:* 1012-0008.

*Bureau Form Number:* Form ONRR-4425.

*Frequency:* On occasion.  
*Estimated Number and Description of Respondents:* 35 Federal and Indian lessees.

*Estimated Annual Reporting and Recordkeeping "Hour" Burden:* 59 hours.

We have not included in our estimates certain requirements performed in the normal course of business, which are considered usual and customary. The following table shows the estimated burden hours by CFR section and paragraph:

**RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS**

Citation 30 CFR Part 1218	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
<b>Subpart A—General Provisions—Cross-lease netting in calculation of late-payment interest</b>				
1218.42(b) and (c) .....	Cross-lease netting in calculation of late-payment interest. (b) Royalties attributed to production from a lease or leases which should have been attributed to production from a different lease or leases may be offset . . . if . . . the payor submits production reports, pipeline allocation reports, or other similar documentary evidence pertaining to the specific production involved which verifies the correct production information . . . (c) If ONRR assesses late-payment interest and the payor asserts that some or all of the interest is not owed . . . the burden is on the payor to demonstrate that the exception applies . . .	2	25	50
<b>Subpart B—Oil and Gas, General—How does a lessee designate a Designee?</b>				
1218.52 (a), (c), and (d) .....	How does a lessee designate a Designee? (a) If you are a lessee under 30 U.S.C. 1701(7), and you want to designate a person to make all or part of the payments due under a lease on your behalf . . . you must notify ONRR . . . in writing of such designation . . . (c) If you want to terminate a designation . . . you must provide [the following] to ONRR in writing . . . (d) ONRR may require you to provide notice when there is a change in the percentage of your record title or operating rights ownership. ONRR currently uses Form ONRR-4425, Designation Form for Royalty Payment Responsibility, to collect this information.	0.75	5	4
<b>Subpart B—Oil and Gas, General—Recoupment of overpayments on Indian mineral leases</b>				
1218.53 (b) .....	Recoupment of overpayments on Indian mineral leases. (b) With written permission authorized by tribal statute or resolution, a payor may recoup an overpayment against royalties or other revenues owed . . . under other leases . . . A copy of the tribe's written permission must be furnished to ONRR . . .	1	5	5
Total Burden .....	.....	.....	35	59

*Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden:* We have identified no "non-hour cost" burden associated with this collection of information.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it

displays a currently valid OMB control number.

**V. Request for Comments**

Section 3506(c)(2)(A) of the PRA requires each agency to " \* \* \* provide

60-day notice in the **Federal Register** \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*.”

Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information that ONRR collects; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting “non-hour cost” burden to respondents or record-keepers resulting from the collection of information. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods that you use to estimate (1) major cost factors, including system and technology acquisition, (2) expected useful life of capital equipment, (3) discount rate(s), and (4) the period over which you incur costs. Capital and startup costs include, among other items, computers and software that you purchase to prepare for collecting information and monitoring, sampling, and testing equipment, and record-storage facilities. Generally, your estimates should not include equipment or services purchased (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Federal government; or (iv) as part of customary and usual business, or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you, without charge, upon request. We also will post the ICR at [http://www.onrr.gov/Laws\\_R\\_D/FRNotices/FRInfColl.htm](http://www.onrr.gov/Laws_R_D/FRNotices/FRInfColl.htm).

**Public Comment Policy:** ONRR will post all comments, including names and addresses of respondents at <http://www.regulations.gov>. Before including Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal

information in your comment(s), you should be aware that your entire comment (including PII) may be made available to the public at any time. While you may ask us, in your comment, to withhold PII from public view, we cannot guarantee that we will be able to do so.

*ONRR Information Collection Coordinator:* Armand Southall (303) 231-3221.

#### Authority

The authorities for this action are the Mineral Leasing Act of 1920 (30 U.S.C. 192), Outer Continental Shelf Lands Act (43 U.S.C. 1353), Indian Mineral Development Act of 1982 (Pub. L. 97-382—Dec. 22, 1982), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Gregory J. Gould,**

*Director for Office of Natural Resources Revenue.*

[FR Doc. 2017-15470 Filed 7-21-17; 8:45 am]

**BILLING CODE 4335-30-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Partial Consent Decree Under the Clean Water Act

On July 19, 2017, the Department of Justice lodged a proposed Partial Consent Decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States v. The City of Cleveland Heights, Ohio and The State of Ohio*, Civil Action No. 17-cv-1517.

The United States filed this lawsuit under the Clean Water Act. The United States' complaint alleges that the City of Cleveland Heights, Ohio violated the Clean Water Act and the City's stormwater permit by allowing discharges of untreated sanitary sewage into local streams flowing to Lake Erie. The complaint seeks injunctive relief and civil penalties. The State of Ohio is named as a defendant solely to satisfy Section 309(e) of the Clean Water Act 33 U.S.C. 1319(e).

The Partial Consent Decree requires Cleveland Heights to perform a comprehensive study of its sewer system and submit a plan, for EPA approval, to eliminate sanitary sewer overflows. The agreement also requires certain early action projects to reduce sanitary sewage overflows and improvements to the City's sewer system operations. The Partial Consent Decree does not resolve the United States' claims. The schedule for implementing the approved plan and

the civil penalty for the City's violations will be established separately.

The publication of this notice opens a period for public comment on the Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. The City of Cleveland Heights, Ohio and The State of Ohio*, D.J. Ref. No. 90-5-1-1-10457. All comments 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 .....	<a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a> .
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the Partial Consent Decree may be examined and downloaded at this Justice Department Web site: <http://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the Partial 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 \$22.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$12.25.

**Randall M. Stone,**

*Acting Assistant Section Chief,  
Environmental Enforcement Section,  
Environment and Natural Resources Division.*

[FR Doc. 2017-15450 Filed 7-21-17; 8:45 am]

**BILLING CODE 4410-15-P**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request

**AGENCY:** National Science Foundation.  
**ACTION:** Submission for OMB Review; Comment Request.

**SUMMARY:** Under the Paperwork Reduction Act of 1995, and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed continuing information collection. This

is the second notice for public comment; the first was published in the **Federal Register** at 82 FR 22857 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at <http://www.reginfo.gov/public/do/PRAMain>.

**DATES:** Written comments on this notice must be received by August 23, 2017, to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

**FOR FURTHER INFORMATION CONTACT:** Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292-7556; or send email to [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF 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.

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

*Title of Collection:* Graduate Research Fellowship Application.

*OMB Approval Number:* 3145-0023.

*Type of Request:* Intent to seek approval to extend with revision an information collection for three years.

*Abstract:* Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 *et seq.*), as amended, states that "The Foundation is authorized to

award, within the limits of funds made available \* \* \* scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, biological, engineering, social, and other sciences at accredited U.S. institutions selected by the recipient of such aid, for stated periods of time."

The Graduate Research Fellowship Program has two goals:

- To select, recognize, and financially support, early in their careers, individuals with the demonstrated potential to be high achieving scientists and engineers;
- To broaden participation in science and engineering of underrepresented groups, including women, minorities, persons with disabilities, and veterans.

The list of GRFP Awardees recognized by the Foundation may be found via FastLane through the NSF Web site: [https://www.fastlane.nsf.gov/grfp/AwardeeList.do?](https://www.fastlane.nsf.gov/grfp/AwardeeList.do?method=loadAwardeeList)

*method=loadAwardeeList.* The GRF Program is described in the Solicitation available at: <https://www.nsf.gov/pubs/2016/nsf16588/nsf16588.pdf>.

*Estimate of Burden:* This is an annual application program providing three years of support to individuals, usable over a five-year fellowship period. The application deadlines are in late October. It is estimated that each submission is averaged to be 12 hours per respondent, which includes three references (on average) for each application. It is estimated that it takes two hours per reference for each applicant.

*Respondents:* Individuals.

*Estimated Number of Responses:* 15,000.

*Estimated Total Annual Burden on Respondents:* 180,000 hours.

*Frequency of Responses:* Annually.

Dated: July 18, 2017.

**Suzanne H. Plimpton,**  
Reports Clearance Officer, National Science Foundation.

[FR Doc. 2017-15430 Filed 7-21-17; 8:45 am]

**BILLING CODE 7555-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81162; File No. SR-Phlx-2017-47]

### Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 996A

July 18, 2017.

On June 8, 2017, NASDAQ PHLX LLC ("Phlx" 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" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 996A (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 23, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 21, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-Phlx-2017-47).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**

Assistant Secretary.

[FR Doc. 2017-15408 Filed 7-21-17; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 80967 (June 19, 2017), 82 FR 28719 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81156; File No. SR-BatsBYX-2017-13]

**Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 4.17, Consolidated Audit Trail—Fee Dispute Resolution**

July 18, 2017.

On May 23, 2017, Bats BYX Exchange, Inc. (“BYX” 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” or “Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 7, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 5, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to

disapprove the proposed rule change (File Number SR-BatsBYX-2017-13).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-15413 Filed 7-21-17; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81161; File No. SR-BOX-2017-19]

**Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 16100 (Consolidated Audit Trail—Fee Dispute Resolution) To Establish the Procedures for Resolving Potential Disputes Related to CAT Fees Charged to Industry Members**

July 18, 2017.

On May 25, 2017, BOX Options Exchange LLC (“BOX” 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” or “Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 16100 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 7, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the

proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 5, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-BOX-2017-19).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-15409 Filed 7-21-17; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81167; File No. SR-NASDAQ-2017-059]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 6896 and Chapter IX, Section 9**

July 18, 2017.

On June 8, 2017, The NASDAQ Stock Market LLC (“Nasdaq” 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” or “Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 6896 and Chapter IX, Section 9 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 22, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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,

<sup>1</sup> 15 U.S.C. 78s(b)(2).

<sup>2</sup> 17 CFR 200.30-3(a)(31).

<sup>3</sup> 15 U.S.C. 78s(b)(1).

<sup>4</sup> 17 CFR 240.19b-4.

<sup>5</sup> Securities Exchange Act Release No. 80952 (June 16, 2017), 82 FR 28540 (“Notice”).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 80836 (June 1, 2017), 82 FR 26539 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 80831 (June 1, 2017), 82 FR 26536 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 20, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NASDAQ–2017–059).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017–15414 Filed 7–21–17; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81157; File No. SR–BatsBZX–2017–39]

### Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 4.17, Consolidated Audit Trail—Fee Dispute Resolution

July 18, 2017.

On May 23, 2017, Bats BZX Exchange, Inc. (“BZX” 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” or “Exchange Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 7, 2017.<sup>3</sup> The Commission received

no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 5, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsBZX–2017–39).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017–15412 Filed 7–21–17; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81159; File No. SR–BatsEDGX–2017–24]

### Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 4.17, Consolidated Audit Trail—Fee Dispute Resolution

July 18, 2017.

On May 23, 2017, Bats EDGX Exchange, Inc. (“EDGX” 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” or “Exchange Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 7, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 5, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsEDGX–2017–24).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017–15410 Filed 7–21–17; 8:45 am]

**BILLING CODE 8011–01–P**

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> Securities Exchange Act Release No. 80833 (June 1, 2017), 82 FR 26529 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30–3(a)(31).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30–3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> Securities Exchange Act Release No. 80834 (June 1, 2017), 82 FR 26542 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30–3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81158; File No. SR-BatsEDGA-2017-14]

### Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 4.17, Consolidated Audit Trail—Fee Dispute Resolution

July 18, 2017.

On May 23, 2017, Bats EDGA Exchange, Inc. (“EDGA” 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” or “Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 7, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 5, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to

disapprove the proposed rule change (File Number SR-BatsEDGA-2017-14).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-15411 Filed 7-21-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32734; File No. 812-14607]

### Barings LLC, et al.

July 18, 2017.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice of an application for an order under section 17(b) of the Investment Company Act of 1940 (the “Act”) granting an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d-1 thereunder permitting certain joint transactions.

**APPLICANTS:** Barings LLC (the “Barings Adviser”), Barings Global Advisors Limited (“BGA”), certain investment companies or series of investment companies advised by the Barings Adviser (the “Barings Funds”), certain series of MassMutual Premier Funds, MassMutual Select Funds, MML Series Investment Fund, and MML Series Investment Fund II (the “MML Funds”) advised by MML Investment Advisers, LLC (the “MML Adviser” and, together with the Barings Adviser and BGA, the “Advisers”) (the MML Funds together with the Barings Funds, the “Funds”); and Jeffries LLC (“JEFLLC”), Jeffries International Limited (“JIL”) and Jeffries Leveraged Credit Products, LLC (“JLCP”) and, together with JEFLLC and JIL, the “Jeffries Trading Entities” and the Jeffries Trading Entities, together with the Advisers and the Funds, the “Applicants”).

**SUMMARY OF APPLICATION:** As more fully described in the application, applicants seek an order to permit “Securities Transactions” consisting of: (1) Primary and secondary market transactions in fixed-income securities executed on a principal basis between the Funds and the Jeffries Trading Entities; and (2) certain types of transactions in which the Jeffries Trading Entities and the Funds might each participate jointly or have a joint interest (“Joint Transactions”). The order would apply

only under circumstances in which a Jeffries Trading Entity might be deemed an affiliated person of an affiliated person (a “second-tier affiliate”) of a Fund solely as a result of the formation of Jeffries Finance LLC (“JFIN”), a joint venture of which each of Massachusetts Mutual Life Insurance Co. (“MassMutual”), the indirect parent company of each of the Advisers, and Jeffries Group LLC (“Jeffries”), the parent company of each of the Jeffries Trading Entities, own more than 25% of the outstanding voting securities, as that term is defined in Section 2(a)(42) of the Act.

**FILING DATES:** The application was filed on February 2, 2016, and subsequently amended on July 15, 2016, December 20, 2016 and May 12, 2017.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 14, 2017 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. The Applicants: c/o Gregory D. Sheehan, Esq. and Brian D. McCabe, Esq., Ropes & Gray LLP, Prudential Tower, 800 Boylston Street, Boston, MA 02199, with copies to Christopher DeFrancis, Esq., Barings LLC, 1500 Main Street, Springfield, MA 01115 and Sheldon Francis, Esq., Barings LLC, 550 South Tyron Street, Suite 3300, Charlotte, NC 28202.

**FOR FURTHER INFORMATION CONTACT:** Kyle R. Ahlgren, Senior Counsel, at (202) 551-6857, or Aaron T. Gilbride, Acting Branch Chief, at (202) 551-6906 (Division of Investment Management, Chief Counsel’s Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or an applicant using the Company name box, at <http://>

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 80835 (June 1, 2017), 82 FR 26549 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

[www.sec.gov/search/search.htm](http://www.sec.gov/search/search.htm) or by calling (202) 551-8090.

### Applicants' Representations

1. Each Fund is an open-end or closed-end management investment company registered under the Act and is organized as a business trust under the laws of Massachusetts, or as a series thereof. The Funds have a variety of investment objectives, but each may invest some or all of its assets in fixed-income securities.

2. The Barings Adviser, a member of the MassMutual Financial Group, is an indirect wholly-owned subsidiary of MassMutual and is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the "Advisers Act"). The Barings Adviser acts as investment adviser to each of the Barings Funds and as an investment sub-adviser to certain of the MML Funds. BGA serves as a sub-adviser with respect to certain of the Barings Funds, subject to the supervision of the Barings Adviser.

3. The MML Adviser, a member of the MassMutual Financial Group, is a direct wholly-owned subsidiary of MassMutual and is registered as an investment adviser under the Advisers Act. The MML Adviser acts as investment adviser to each of the MML Funds and supervises 32 affiliated or unaffiliated sub-advisers (including the Barings Adviser) with respect to certain MML Funds.

4. Each Jeffries Trading Entity is a wholly-owned subsidiary of Jeffries. Jeffries is an indirect, wholly-owned subsidiary of Leucadia National Corporation, a diversified holding company. JEFLLC is a broker-dealer registered with the Commission pursuant to section 15 of the Securities Exchange Act of 1934, as amended, and JIL is authorized and regulated by the UK Financial Conduct Authority. Each of JEFLLC and JIL conducts a diversified, full service securities business, including (but not limited to) as a dealer and underwriter for fixed-income securities. JEFLLC is a primary dealer in U.S. government securities and JIL is a primary dealer in government securities of Germany, the Netherlands, Portugal, Slovenia and the United Kingdom. JLCP is a loan trading entity active in the loan trading market.

5. JFIN, the MassMutual/Jeffries joint venture, structures, underwrites and syndicates senior secured loans to corporate borrowers. JFIN also purchases syndicated loans in the secondary market. JFIN operates separately from the "Jeffries Entities" (defined as Jeffries or any other entity that is under common control with JFIN

that is not controlled by or under common control with MassMutual) and the "MassMutual Entities" (defined as MassMutual, the Advisers, or any other MassMutual entity that is not JFIN). Jeffries has no interest in, and will not control (within the meaning of Section 2(a)(9) of the Act) directly or indirectly, the MassMutual Entities. MassMutual has no interest in, and will not control (within the meaning of Section 2(a)(9) of the Act) directly or indirectly the Jeffries Entities.

6. The Jeffries Trading Entities and the Advisers operate as separate, independent businesses. The Jeffries Trading Entities, on the one hand, and the Advisers, on the other, have separate ownership, and each has its own separate officers and employees, is separately capitalized and maintains its own separate books and records and physically separate offices. No director, officer, or employee of the Funds or the Advisers is or will be a director, officer or employee of the Jeffries Trading Entities. Officers and employees of each Adviser may not communicate confidential and non-public investment-related information outside of the Adviser, except in connection with a conflicts clearing process set up for that purpose. There is not, and will not be, any express or implied understanding between any Jeffries Trading Entity and any Adviser that an Adviser will cause a Fund to enter into Securities Transactions or give preference to the Jeffries Trading Entity in effecting such transactions between the Fund and the Jeffries Trading Entity. All decisions by the Funds to enter into portfolio transactions are determined solely by their respective Advisers in accordance with the investment objectives of the Fund.

7. As more fully described in the application, the Securities Transactions include: (i) The purchase of fixed-income securities by a Fund in underwritten offerings in which a Jeffries Trading Entity is a manager or member of the underwriting syndicate, and where a Fund purchases underwritten fixed-income securities from the Jeffries Trading Entity; (ii) the purchase by a Fund of fixed-income securities from, or the sale of fixed-income securities to, a Jeffries Trading Entity, in transactions in which the Jeffries Trading Entity is acting as a principal; and (iii) participation in certain specific arrangements or transactions that a Fund may participate in with a Jeffries Trading Entity (including tender option bond trust structures ("TOBs"), certain asset-backed or mortgage-backed securitization structures, loan

syndicates, and investments in the same company.

8. If the Jeffries Trading Entities were considered to be second-tier affiliates of the Funds, a Securities Transaction would potentially violate one or more of section 17(a) or section 17(d) of the Act and rule 17d-1 thereunder. Applicants assert that the inability of the Funds to execute Securities Transactions involving the Jeffries Trading Entities imposes a hardship on the Funds by prohibiting the Funds from engaging in Securities Transactions with a dealer or trader with a substantial market share in certain fixed income markets and by preventing the Funds from purchasing or selling securities that the Funds would have purchased or sold in transactions in which a Jeffries Trading Entity has some involvement.

### Applicants' Legal Analysis

1. Applicants request an order under section 6(c) and section 17(b) of the Act granting an exemption from section 17(a) of the Act and under section 17(d) of the Act and rule 17d-1 thereunder permitting certain joint transactions. Section 6(c) of the Act, in relevant part, authorizes the Commission to exempt any person or transaction, or any class or classes of persons or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provision of the Act. Section 17(b) of the Act authorizes the Commission to issue an exemptive order if the Commission finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any persons concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act.

2. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling to or purchasing from such registered company any security or other property and from borrowing money or other property from such investment company. Due to their second-tier affiliation, any Securities Transaction by the Funds involving Jeffries Trading Entities would be subject to section 17(a) of the Act where it constitutes a principal transaction between them. Applicants note that the primary purpose of section 17(a) is to prevent a person with the power to control an investment company from engaging in

self-dealing to the detriment of the investment company's shareholders, and contend that when the person acting on behalf of an investment company has no direct or indirect pecuniary interest in a party to a principal transaction, then the abuse that section 17(a) is designed to prevent is not present. Applicants submit that no risk of self-dealing would present itself in any Securities Transaction because the Jeffries Trading Entities will have no influence over portfolio decisions by the Advisers, and the Advisers would receive no unfair pecuniary advantage from engaging in the Securities Transactions with the Jeffries Trading Entities.

3. Section 17(d) of the Act and rule 17d-1 thereunder prohibit any affiliated person of or principal underwriter for a registered investment company or any second-tier affiliate, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the Commission and granted by order. Rule 17d-1 provides that, in passing upon applications for such an order, the Commission will consider whether the participation of a registered investment company in a joint transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other applicants. Due to their second-tier affiliation, any Securities Transaction by the Funds involving Jeffries Trading Entities would be subject to section 17(d) of the Act and rule 17d-1 thereunder where it constitutes a joint transaction between them. Applicants note that section 17(d) and rule 17d-1 thereunder were intended to prohibit abuses arising from conflicts of interest where rather than being on opposite sides of a transaction, an investment company and its affiliates share "some element of combination" in a transaction. Applicants submit that in no event will the Jeffries Trading Entities have the ability to influence the decisions of the Advisers on behalf of the Funds, and that participation by the Funds in such transactions with the Jeffries Trading Entities would be on a basis similar to the Jeffries Trading Entities, unless any difference is related to the differing nature of their participation in the transaction.

4. Applicants submit that the circumstances under which the Securities Transactions would be conducted, including in particular the

proposed conditions for the order (detailed below) satisfy the statutory standards for relief. Applicants contend that the "structural" conditions are intended to assure that the Advisers and the Funds continue to operate independently of, and free of any undue influence by, Jeffries and the Jeffries Trading Entities, while the "transactional" conditions are designed to assure that the terms of the individual transactions are fair from the perspective of the Funds. Applicants further contend that: (i) The Securities Transactions are reasonable and fair and do not involve the risk of overreaching due to the independence of the Jeffries Trading Entities from the Advisers; (ii) the Fund's participation in Joint Transactions will be on a basis no less advantageous than that of similarly situated trading entities due to the complete separation of the Advisers from the Jeffries Trading Entities and the inability of the Jeffries Trading Entities to influence the Advisers; (iii) the order would be appropriate in the public interest and consistent with the policies of the Funds, and that prohibiting the Funds from engaging in Securities Transactions involving the Jeffries Trading Entities would harm the interests of shareholders of the Funds by preventing the Adviser from investing in a way which is most beneficial to the shareholders; and (iv) the Securities Transactions are consistent with the purposes of the Act and the protection of investors, as evidenced by the independence of the businesses of MassMutual and Jeffries and the adoption of procedures designed to ensure that the terms of particular Securities Transactions involving the Jeffries Trading Entities are fair and reasonable and do not involve overreaching.

#### **Applicants' Conditions**

Applicants agree that the order granting the requested relief will be subject to the following conditions:

##### *Applicants' Structural Conditions*

1. Jeffries will control none of the Advisers or the Funds or any principal underwriter for the Funds, directly or indirectly, within the meaning of Section 2(a)(9) of the Act and Jeffries will not exercise, or attempt to exercise, control over any Fund. The order will remain in effect only so long as MassMutual, or such other entity no controlling, controlled by or under common control with Jeffries, primarily controls the Advisers.

2. The Jeffries Trading Entities will not directly or indirectly consult with MassMutual, the Advisers or any

portfolio manager of the Advisers concerning securities purchases or sales or the selection of a broker or dealer for any Securities Transaction placed or to be placed on behalf of a Fund, or otherwise seek to influence the choice of broker or dealer for any Securities Transaction by a Fund other than in the normal course of sales activities of the same nature that are being carried out during the same time period with respect to unaffiliated institutional clients of the Jeffries Trading Entity.

3. No officer, director or employee of JFIN will directly or indirectly seek to influence in any way the terms of any Securities Transaction covered by the order.

4. The Advisers and the Jeffries Trading Entities will operate as separate organizations, with separate capitalization, separate books and records, separate officers and employees, and physically separate offices. The Jeffries Trading Entities will adopt, and implement, policies and that prohibit the Jeffries Trading Entities from (i) linking any approval or action relating to JFIN to any action by any Fund or by any Adviser relating to any Fund or (ii) using the existence of JFIN as a basis for seeking to persuade any Fund or Adviser to engage in business with the Jeffries Trading Entity. The Funds have adopted policies designed to keep information about their holdings and transactions on a confidential basis, prior to any public disclosures, except in connection with the ordinary course of business as permitted by the portfolio holdings disclosure policies approved by the Funds' directors and involving communications of the same nature as are being made during the same period to unaffiliated trading partners of the Funds. Pursuant to these policies, the Advisers will designate information regarding investment advisory and portfolio execution matters relating to the Funds as information that may or may not be communicated between JFIN, on one hand, and the Advisers, on the other hand, prior to any public disclosure.

5. The Jeffries Trading Entities will not adopt any compensation scheme any component of which is based on (i) a factor that treats the Funds differently than unaffiliated counterparties or (ii) the amount of business done by the Funds with the Jeffries Trading Entities, except to the extent such business might affect indirectly the profits or losses of the Jeffries Trading Entities.

6. The respective legal/compliance departments of the Advisers and the Jeffries Trading Entities will prepare guidelines for their respective personnel to make certain that Securities

Transactions effected pursuant to the order comply with its conditions, and that the respective Advisers and Jeffries Trading Entities maintain an arms-length relationship. The respective compliance departments of the Advisers and Jeffries Trading Entities will monitor periodically the activities of the Advisers and Jeffries Trading Entities, respectively, to make certain that the conditions to the order are met.

#### *Applicants' Transactional Conditions*

With respect to each Securities Transaction entered into or effected pursuant to the order:

1. Each Fund's Board, including a majority of its disinterested directors/trustees (the "Necessary Majority"), shall approve, and the Fund shall implement, procedures governing all transactions pursuant to the order and the Fund's Board shall no less frequently than quarterly review all such transactions and receive and review a report of those transactions. Such report, which will be prepared by the Fund's Adviser, and reviewed and approved by the Fund's Chief Compliance Officer, will indicate for each transaction that the conditions of the order have been satisfied, and will include a discussion of any significant changes in the volume, type or terms of transactions between the relevant Fund and the relevant Jeffries Trading Entity, the reasons for these changes, and a determination that such changes are appropriate. In addition, annually and prior to entering into a Securities Transaction with a Jeffries Trading Entity that no Fund has previously traded with, the Board will consider (i) whether the level of Securities Transactions with Jeffries Trading Entities is appropriate and (ii) whether continued reliance on the order in any applicable category of fixed-income instruments is appropriate in light of the need of the Funds to have the Jeffries Trading Entities available as trading counterparties, as evidenced by, among other things, the aggregate market share of the Jeffries Trading Entities in each such category.

2. For each transaction, the Advisers will adhere to a "best execution" standard and will consider only the interests of the Funds and will not take into account the impact of a Fund's investment decision on the Jeffries Trading Entities or their affiliates. Before entering into any such transaction, the Adviser will determine that the transaction is consistent with the investment objectives and policies of the Fund and is in the best interests of the Fund and its shareholders.

3. Each Fund will (i) for so long as the order is relied upon, maintain and preserve in an easily accessible place a written copy of the procedures and conditions (and any modifications thereto) that are described herein, and (ii) maintain and preserve for a period of not less than six years from the end of the fiscal year in which any Securities Transaction in which the Fund's Adviser knows that both a Jeffries Trading Entity and the Fund directly or indirectly have an interest occurs, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold by the Fund, a description of the Jeffries Trading Entity's interest or role in the transaction, the terms of the transaction, and the information or materials upon which the determination was made that each such transaction was made in accordance with the procedures and conditions set forth in the application.

4. Except for Securities Transactions involving repurchase agreements and variable rate demand notes, before any secondary market principal transaction in fixed income securities is entered into between a Fund and a Jeffries Trading Entity, the Fund's Adviser will obtain a competitive quotation for the same securities (or in the case of securities for which quotations for the same securities are not available, a competitive quotation for securities with substantially identical maturities, credit risk and repayment terms (including floating or fixed-rate coupons, attached options, or any other provisions that affect the expected size or timing of the payments from the securities) as the securities to be purchased or sold) from at least two unaffiliated market counter-parties that are in a position to quote favorable market prices. For each such transaction, the Adviser will determine, based upon the quotations and such other relevant information (such as available transaction prices and any other information regarding the value of securities) as is reasonably available to the Adviser, that the price available from the Jeffries Trading Entity is at least as favorable as that available from other sources.

a. With respect to each such transaction involving repurchase agreements, a Fund will enter into such agreements only where the Adviser has determined, based upon relevant information reasonably available to the Adviser, that the income to be earned from the repurchase agreement is at least equal to that available from other sources. Before any repurchase

agreements are entered into pursuant to the exemption, the Fund or the Adviser must obtain competitive quotations from at least two unaffiliated dealers with respect to repurchase agreements comparable to the type of repurchase agreement involved, except that if quotations are unavailable from two such dealers, only one other competitive quotation is required.

b. With respect to each such transaction involving variable rate demand notes for which dealer quotes are not ordinarily available, a Fund will only undertake purchases and sales where the Adviser has determined, based on relevant information reasonably available to the Adviser, that the income earned from the variable rate demand note is at least equal to that of variable rate demand notes of comparable quality that are available from other sources.

5. With respect to securities offered in a primary market underwritten transaction, a Fund will undertake such purchase from a Jeffries Trading Entity only where the Adviser has determined, based upon relevant information reasonably available to the Adviser, that the securities were purchased at a price that is no more than the price paid by each other purchaser of securities from the Jeffries Trading Entity or other members of the underwriting syndicate in that offering or in any concurrent offering of the securities, and on the same terms as such other purchasers (except in the case of an offering conducted under the laws of a country other than the United States, for any rights to purchase that are required by law to be granted to existing securities holders of the issuer).

6. In the case of an arrangement regarding a tender option bond trust for which a Jeffries Trading Entity acts as a liquidity provider or remarketing agent and owns an interest (or may own an interest as a result of such capacity):

a. (i) The Necessary Majority of the Fund's Board will adopt procedures designed to assure that it is in the best interests of the Fund to participate in any such arrangements. Such procedures will take into consideration, among other things, the terms of the arrangement, the nature of the respective interests in the trusts that may be held by the Jeffries Trading Entity and the Funds, and the circumstances under which the Jeffries Trading Entity may cause termination of the trust and the transfer of the underlying bonds back to the Fund; and (ii) where the Jeffries Trading Entity owns the residual interest and a Fund owns a floating rate interest: (1) The Fund must be eligible to participate in

any discretionary tender on the same basis as any similarly situated holder of floating rate interests; (2) the Fund must participate in any mandatory tender on the same basis as each similarly situated holder; and (3) less than 50% of the floating rate interests must be owned by Funds (and other discretionary accounts) managed by the Fund's Adviser.

b. Before any such arrangements are entered into pursuant to the exemption, where the Fund holds the residual interest, the Fund or the Adviser must obtain competitive quotations from at least two unaffiliated institutions with respect to fees charged by such institutions for acting as liquidity provider or remarketing agent, except that if quotations are unavailable from two such institutions, only one other competitive quotation is required. Any fees paid to the Jeffries Trading Entity as liquidity provider or remarketing agent will be no greater than the lowest of such quotations, unless the Board finds that such difference is justified by a corresponding difference in the nature of the services provided.

7. With respect to asset-backed securities or mortgage-backed securities that are newly issued by special purpose entities sponsored by a Jeffries Trading Entity (or an affiliate) under circumstances in which both the following are true: (i) The residual interest in the special purpose entity is owned directly or indirectly by the Jeffries Trading Entity (or an affiliate), and (ii) the Jeffries Trading Entity (or an affiliate) acts as the servicer of assets, purchases of such securities will be made by a Fund only where, based on relevant information that is reasonably available to the Adviser, the Adviser believes that, upon the close of the transaction, Funds (and other discretionary advisory accounts) managed by the Adviser will purchase less than 50% of the dollar amount of securities of each class acquired by the Fund in the aggregate, and the Fund participates in each such class on the same terms as other purchasers of that class.

8. With respect to a syndicated loan facility in which a Fund and a Jeffries Trading Entity participate in a manner that might otherwise be prohibited by section 17(d) of the Act and rule 17d-1 thereunder, (a) the participation by the Fund and the Jeffries Trading Entity will involve no coordination between the Fund and the Jeffries Trading Entity beyond that of a type the Jeffries Trading Entity engages in with other unaffiliated participants in such facility, (b) the terms of the Fund's participation in the facility (to the extent within the

knowledge and control of the Jeffries Trading Entity) will be on a basis no less advantageous than that of other similarly situated participants (*i.e.*, the Fund will receive the same priority, security, interest rate and fees as other participants in the same tranche or other portion of the loan in which the Fund is a participant), except to the extent such difference is related to services performed with respect to the facility or their role in the facility and (c) in the case of the primary syndication of a loan facility where the Jeffries Trading Entity is lead agent with primary responsibility for structuring, arranging or placing such facility, the Fund will participate in the facility only where, based on relevant information that is reasonably available to the Adviser, the Adviser believes that, upon conclusion of allocations to holders of record in the primary syndication of the facility, less than 50% of the participants will be held by Funds (and other discretionary advisory accounts) managed by the Adviser.

9. With respect to situations in which a Fund and a Jeffries Trading Entity (or an affiliate) have invested in the same company and that might otherwise be prohibited by section 17(d) of the Act and rule 17d-1 thereunder (other than a syndicated loan transaction, which is subject to Transactional Condition (8) above), (a) the Fund's and the Jeffries Trading Entity's (or affiliate's) investment will involve no coordination between the Jeffries Trading Entity (or an affiliate) and the Fund beyond that of a type the Jeffries Trading Entity (or an affiliate) engages in with other unaffiliated investors in such company and (b) the Fund will participate or invest in a type or class of securities (*e.g.*, equity securities) of the company only where, based on relevant information that is reasonably available to the Adviser, the Adviser believes that, upon the close of the investment transaction, less than 50% of the dollar amount of the securities of such type or class will be owned by Funds (and other discretionary advisory accounts) managed by the Adviser.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-15404 Filed 7-21-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81163; File No. SR-CHX-2017-11]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Article 23, Rule 13, Consolidated Audit Trail—Fee Dispute Resolution

July 18, 2017.

On June 5, 2017, the Chicago Stock Exchange, Inc. ("CHX" 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" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt Article 23, Rule 13 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 19, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 17, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 80916 (June 13, 2017), 82 FR 27904 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

disapprove the proposed rule change (File Number SR-CHX-2017-11).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-15407 Filed 7-21-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32736; 812-14753]

### Morningstar Funds Trust and Morningstar Investment Management LLC

July 18, 2017.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements in rule 20a-1 under the Act, Item 19(a)(3) of Form N-1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6-07(2)(a), (b), and (c) of Regulation S-X (“Disclosure Requirements”). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

**APPLICANTS:** Morningstar Funds Trust (the “Trust”), a Delaware statutory trust registered under the Act as an open-end management investment company, and Morningstar Investment Management LLC (the “Initial Adviser”), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (collectively with the Trust, the “Applicants”).

**FILING DATES:** The application was filed on March 6, 2017 and amended on June 12, 2017.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests

should be received by the Commission by 5:30 p.m. on August 14, 2017, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicants: 22 West Washington Street, Chicago, IL 60602.

**FOR FURTHER INFORMATION CONTACT:** Bruce R. MacNeil, Senior Counsel, at (202) 551-6817, or Katlin C. Bottock, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel’s Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

#### Summary of the Application

1. The Adviser will serve as the investment adviser to the Subadvised Series pursuant to an investment advisory agreement with the Trust (the “Investment Management Agreement”).<sup>1</sup> The Adviser will provide the Subadvised Series with continuous and comprehensive investment management services, subject to the supervision of, and policies established by, the board of trustees of the Trust (“Board”). The Investment Management Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more sub-advisers (each, a “Sub-Adviser” and collectively, the “Sub-Advisers”) the responsibility to provide the day-to-day portfolio

<sup>1</sup> Applicants request relief with respect to the named Applicants, as well as to any future series of the Trust and any other registered open-end management investment company or series thereof that: (a) Is advised by the Initial Adviser, its successors, or any entity controlling, controlled by or under common control with the Initial Adviser or its successors (each, also an “Adviser”); (b) uses the multi-manager structure described in the application; and (c) complies with the terms and conditions set forth in the application (each, a “Subadvised Series”). For purposes of the requested order, “successor” is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

investment management of each Subadvised Series, subject to the supervision and direction of the Adviser.<sup>2</sup> The primary responsibility for managing each Subadvised Series will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Sub-Advisers pursuant to Sub-Advisory Agreements and materially amend existing Sub-Advisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f-2 under the Act.<sup>3</sup> Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Series to disclose (as both a dollar amount and a percentage of the Subadvised Series’ net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Adviser; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser (collectively, “Aggregate Fee Disclosure”).

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Series shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Series’ shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the

<sup>2</sup> A “Sub-Adviser” for a Subadvised Series is (1) an indirect or direct “wholly-owned subsidiary” (as such term is defined in the Act) of the Adviser for that Subadvised Series, or (2) a sister company of the Adviser for that Subadvised Series that is an indirect or direct “wholly-owned subsidiary” of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a “Wholly-Owned Sub-Adviser” and collectively, the “Wholly-Owned Sub-Advisers”), or (3) not an “affiliated person” (as such term is defined in section 2(a)(3) of the Act) of the Subadvised Series, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to a Subadvised Series (“Non-Affiliated Sub-Advisers”).

<sup>3</sup> The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in Section 2(a)(3) of the Act, of the Subadvised Series, the Trust or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Series (“Affiliated Sub-Adviser”).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreements will remain subject to shareholder approval while the role of the Sub-Advisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Series. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Series.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-15405 Filed 7-21-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81166; File No. SR-IEX-2017-21]

### Self-Regulatory Organizations; Investors Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 15.130 To Establish the Procedures for Resolving Potential Disputes Related to CAT Fees Charged to Industry Members

July 18, 2017.

On June 6, 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" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 15.130 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 20, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 18, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-IEX-2017-21).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-15415 Filed 7-21-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81165; File No. SR-MIAX-2017-24]

### Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Exchange Rule 1713 Consolidated Audit Trail—Fee Dispute Resolution

July 18, 2017.

On May 23, 2017, Miami International Securities Exchange, LLC ("MIAX Options" 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" or "Exchange Act")<sup>1</sup> and Rule 19b-4

thereunder,<sup>2</sup> a proposed rule change to adopt Exchange Rule 1713 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 7, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 5, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-MIAX-2017-24).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-15416 Filed 7-21-17; 8:45 am]

BILLING CODE 8011-01-P

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 80936 (June 15, 2017), 82 FR 28153 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 80837 (June 1, 2017), 82 FR 26526 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81164; File No. SR–CBOE–2017–043]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 6.97, Consolidated Audit Trail (CAT) Compliance Rule—Fee Dispute Resolution

July 18, 2017.

On May 23, 2017, Chicago Board Options Exchange, Incorporated (“CBOE” 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” or “Exchange Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 6.97 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the *Federal Register* on June 7, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates September 5, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to

disapprove the proposed rule change (File Number SR–CBOE–2017–043).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

Eduardo A. Aleman,  
Assistant Secretary.

[FR Doc. 2017–15406 Filed 7–21–17; 8:45 am]

BILLING CODE 8011–01–P

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995 requires federal agencies to publish a notice in the *Federal Register* concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

**DATES:** Submit comments on or before September 22, 2017.

**ADDRESSES:** Send all comments to Susan Suckfiel, Supervisory Financial Analyst, Office of Financial Program Operations, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Susan Suckfiel, Supervisory Financial Analyst, Office Financial Program Operations, [susan.suckfiel@sba.gov](mailto:susan.suckfiel@sba.gov) 202–205–6443, or Curtis B. Rich, Management Analyst, 202–205–7030, [curtis.rich@sba.gov](mailto:curtis.rich@sba.gov).

**SUPPLEMENTARY INFORMATION:** The objective of the debt collection activities is to obtain immediate repayment or arrive at a satisfactory arrangement for future repayment of debts owed to the Government. SBA uses the financial information provided by the debtor on Form 770 in making a determination regarding the compromise of such debts and other liquidation proceedings including litigation by the Agency and/or the Department of Justice.

### Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the

burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

### Summary of Information Collection

(1) *Title:* Financial Statement of Debtor.

*Description of Respondents:* SBA Lenders.

*Form Number:* SBA Form 770.

*Total Estimated Annual Responses:* 5,000.

*Total Estimated Annual Hour Burden:* 5,000.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2017–15436 Filed 7–21–17; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995 requires federal agencies to publish a notice in the *Federal Register* concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

**DATES:** Submit comments on or before September 22, 2017.

**ADDRESSES:** Send all comments to Susan Suckfiel, Supervisory Financial Analyst, Office of Financial Program Operations, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Susan Suckfiel, Supervisory Financial Analyst, Office Financial Program Operations, [susan.suckfiel@sba.gov](mailto:susan.suckfiel@sba.gov) 202–205–6443, or Curtis B. Rich, Management Analyst, 202–205–7030, [curtis.rich@sba.gov](mailto:curtis.rich@sba.gov).

**SUPPLEMENTARY INFORMATION:** Lenders requesting SBA to purchase the guaranty portion of a loan are required to supply the Agency with a certified transcript of the loan account. This form is uniform and convenient means for lenders to report and certify loan

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> Securities Exchange Act Release No. 80832 (June 1, 2017), 82 FR 26523 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30–3(a)(31).

accounts to purchase by SBA. The Agency uses the information to determine date of loan default and whether Lender disbursed and serviced the loan according to Loan Guaranty agreement.

#### Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

#### Summary of Information Collection

(1) *Title:* Lender's Transcript of Account.

*Description of Respondents:* SBA Lenders.

*Form Number:* SBA Form 1149.

*Total Estimated Annual Responses:* 15,000.

*Total Estimated Annual Hour Burden:* 30,000.

**Curtis B. Rich,**

*Management Analyst.*

[FR Doc. 2017-15437 Filed 7-21-17; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in Utah

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation.

**ACTION:** Notice of limitation on claims for judicial review.

**SUMMARY:** The FHWA, on behalf of the Utah Department of Transportation (UDOT), is issuing this notice to announce actions taken by UDOT. The actions relate to the proposed I-80 and State Street Interchange project in the County of Salt Lake, State of Utah. Those actions grant licenses, permits and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of UDOT, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 21, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less

than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For UDOT: Brandon Weston, Director of Environmental Services, UDOT Environmental Services, P.O. Box 148380, Salt Lake City, UT 84114; telephone: (801) 965-4603; email: [brandonweston@utah.gov](mailto:brandonweston@utah.gov). UDOT's normal business hours are 8:00 a.m. to 5:00 p.m. (Mountain Standard Time), Monday through Friday, except State and Federal holidays.

**SUPPLEMENTARY INFORMATION:** The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being or have been carried-out by UDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated January 17, 2017 and executed by FHWA and UDOT. Notice is hereby given that the UDOT has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the I-80 and State Street Interchange project in the State of Utah. This project proposes to replace the existing I-80 and State Street interchange located in the City of South Salt Lake, Salt Lake County, Utah. The project consists of the following improvements: Construct a Main Street westbound on-ramp with a westbound frontage road between State Street and Main Street (interchange configuration to remain similar to existing configuration on the south side); Widen I-80 structure and add additional lanes on State Street under structure; Construct free-flow right-turn lane on the eastbound off-ramp; Eliminate right-turn on red light for the eastbound on-ramp; and Realign curb so all traffic uses striped lanes (frontage road access allowed from ramp lanes) for the eastbound on-ramp. These improvements were identified in the Final Environmental Impact Statement as Alternative 3N—Split Diamond at Main Street, North Side Only. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project (Final Environmental Impact Statement I-80 and State Street Interchange in South Salt Lake City, Utah, Project No. F-180-3[180]123), approved on July 18, 2017, in the UDOT Record of Decision (ROD) for the project (Utah Department of Transportation Record of Decision for I-80 and State Street Interchange in South Salt Lake City, Utah) issued on July 18, 2017, and in other documents in the UDOT project records. The FEIS, ROD, and other project records are available by

contacting UDOT at the address provided above. The UDOT FEIS and ROD can be viewed and downloaded from the project Web site at <http://www.udot.utah.gov/i80statestreet/>.

This notice applies to the EIS and ROD, the Section 4(f) Determination, the NHPA Section 106 Review, and all other Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401-7671q].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303; 23 U.S.C. 138]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667d]; Migratory Bird Treaty Act [16 U.S.C. 703-712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470aa-470mm]; Archeological and Historic Preservation Act [16 U.S.C. 469-469c].

6. *Noise:* Federal-Aid Highway Act of 1970 [Pub. L. 91-605, 84 Stat. 1713].

7. *Executive Orders:* E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287 Preserve America.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: July 18, 2017.

**Ivan Marrero,**

*Division Administrator, Federal Highway Administration, Salt Lake City, Utah.*

[FR Doc. 2017-15478 Filed 7-21-17; 8:45 am]

**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in Utah

**AGENCY:** Utah Department of Transportation (UDOT), Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice of limitation on claims for judicial review of actions by UDOT on behalf of FHWA, and Federal agencies.

**SUMMARY:** This notice announces certain actions taken by UDOT on behalf of FHWA and other Federal agencies that are final within the meaning of applicable laws. The actions relate to a proposed highway project located on US-89, from 11400 South to 10600 South, in the County of Salt Lake, State of Utah. Those actions grant licenses, permits and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of UDOT, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 21, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For UDOT: Brandon Weston, Director of Environmental Services, UDOT Environmental Services, PO Box 148380, Salt Lake City, UT 84114; telephone: (801) 965-4603; email: [brandonweston@utah.gov](mailto:brandonweston@utah.gov). UDOT's normal business hours are 8:00 a.m. to 5:00 p.m. (Mountain Standard Time), Monday through Friday, except State and Federal holidays.

**SUPPLEMENTARY INFORMATION:** The environmental review, consultation, and other actions required by applicable Federal environmental laws and regulations for this project are being or have been carried-out by UDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated January 17, 2017 and executed by FHWA and UDOT pursuant to 23 U.S.C. 327. Notice is hereby given that UDOT has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the US-89; 11400 South to 10600 South project in the State of Utah. This project proposes to improve US-89 (State Street) from 11400 South to 10600 South to address traffic congestion located in the Cities of Sandy and Draper, Salt Lake County, Utah. The project consists of widening State Street from five to seven lanes and adding (1) a second southbound to westbound right-turn lane at the State Street and 11400 South intersection, (2) a traffic signal at the Scheels driveway, and (3) a raised median on select sections of State Street to limit left-turns. These improvements were identified in the Environmental

Assessment for the project. The actions by UDOT and the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project (US-89; 11400 South to 10600 South Environmental Assessment in Salt Lake County, Utah, Project No. F-0089(375)364), approved on July 18, 2017, in the UDOT Finding of No Significant Impact (FONSI) for the project (Utah Department of Transportation Finding of No Significant Impact for US-89; 11400 South to 10600 South in Salt Lake County, Utah) issued on July 18, 2017, and in other documents in the UDOT project records. The EA, FONSI, and other project records are available by contacting UDOT at the address provided above. The EA and FONSI can be viewed and downloaded from the project Web site at <https://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:4845>.

This notice applies to the EA, the FONSI, the Section 4(f) Determination, the NHPA Section 106 Review, and all other UDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to the following laws (including their implementing regulations):

- General:** National Environmental Policy Act (NEPA), 42 U.S.C. 4321-4351; Federal-Aid Highway Act, 23 U.S.C. 109 and 23 U.S.C. 128.
- Air:** Clean Air Act, 42 U.S.C. 7401-7671q.
- Land:** Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303; 23 U.S.C. 138; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.
- Wildlife:** Endangered Species Act, 16 U.S.C. 1531-1544 and Section 1536; Fish and Wildlife Coordination Act, 16 U.S.C. 661-667d; Migratory Bird Treaty Act, 16 U.S.C. 703-712.
- Water:** Section 404 of the Clean Water Act, 33 U.S.C. 1344; E.O. 11990, Protection of Wetlands.
- Historic and Cultural Resources:** Section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f; Archeological Resources Protection Act of 1977, 16 U.S.C. 470aa-470mm; Archeological and Historic Preservation Act, 16 U.S.C. 469-469c.
- Noise:** Federal-Aid Highway Act of 1970, Public Law 91-605, 84 Stat. 1713.
- Executive Orders:** E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287

Preserve America; E.O. 12898, Federal Actions to Address Environmental Justice and Low-Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

**Ivan Marrero,**

*Division Administrator, Federal Highway Administration, Salt Lake City, Utah.*

[FR Doc. 2017-15480 Filed 7-21-17; 8:45 am]

**BILLING CODE 4910-RY-P**

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## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### Prompt Payment Interest Rate; Contract Disputes Act

**AGENCY:** Bureau of the Fiscal Service, Treasury.

**ACTION:** Notice, interest rates.

**SUMMARY:** For the period beginning July 1, 2017, and ending on December 31, 2017, the prompt payment interest rate is 2-3/8 per centum per annum.

**DATES:** July 1, 2017, to December 31, 2017.

**ADDRESSES:** Comments or inquiries may be mailed to: E-Commerce Division, Bureau of the Fiscal Service, 401 14th Street SW., Room 306F, Washington, DC 20227. Comments or inquiries may also be emailed to [PromptPayment@fiscal.treasury.gov](mailto:PromptPayment@fiscal.treasury.gov).

**FOR FURTHER INFORMATION CONTACT:**

Thomas M. Burnum, E-Commerce Division, (202) 874-6430; or Thomas Kearns, Attorney-Advisor, Office of the Chief Counsel, (202) 874-7036.

**SUPPLEMENTARY INFORMATION:** An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, Sec. 12, Public Law 95-563, 92 Stat. 2389, and the Prompt Payment Act, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under

the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of such penalty. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). "The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made." 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning July 1, 2017, and ending on December 31, 2017, is 2–3/8 per centum per annum.

**David A. Lebryk,**

*Fiscal Assistant Secretary.*

[FR Doc. 2017–15456 Filed 7–21–17; 8:45 am]

**BILLING CODE 4810–AS–P**

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## DEPARTMENT OF THE TREASURY

### United States Mint

#### Pricing for the 2017 225th Anniversary Enhanced Uncirculated Coin Set

**AGENCY:** United States Mint, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The United States Mint is announcing the price of the 2017 225th Anniversary Enhanced Uncirculated Coin Set. Each set will be priced at \$29.95. The set will be produced at the United States Mint at San Francisco.

**FOR FURTHER INFORMATION CONTACT:** Katrina McDow, Marketing Specialist, Numismatic and Bullion Directorate; United States Mint, 801 9th Street NW., Washington, DC 20220, or call 202–354–8495.

**Authority:** 31 U.S.C. 5111(a)(2).

Dated: July 17, 2017.

**David Motl,**

*Acting Deputy Director, United States Mint.*

[FR Doc. 2017–15452 Filed 7–21–17; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF VETERANS AFFAIRS

### National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, that the National Research Advisory Council will hold a meeting on Wednesday, September 6, 2017, in Conference Room 730 at 810 Vermont Avenue NW., Washington, DC. The meeting will

convene at 9:00 a.m. and end at 3:00 p.m. This meeting is open to the public.

The agenda will include an overview of the merit review process, infrastructure update, review of potential Common Rule changes and service updates. No time will be allocated at this meeting for receiving oral presentations from the public. Members of the public wanting to attend may contact Melissa Cooper, Designated Federal Officer, Office of Research and Development (10P9), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 461–6044, or by email at [Melissa.Cooper@va.gov](mailto:Melissa.Cooper@va.gov) no later than close of business on August 30, 2017.

Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Due to security protocols, and in order to prevent delays in clearance processing, you should allow an additional 30 minutes before the meeting begins. Any member of the public seeking additional information should contact Melissa Cooper at the phone number or email address noted above.

Dated: July 18, 2017.

**LaTonya L. Small,**

*Federal Advisory Committee Management Office.*

[FR Doc. 2017–15388 Filed 7–21–17; 8:45 am]

**BILLING CODE P**



# FEDERAL REGISTER

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Vol. 82

Monday,

No. 140

July 24, 2017

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Part II

## Department of Commerce

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National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Geophysical Survey in the Central Pacific Ocean; Notices

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

RIN 0648–XF330

**Takes of Marine Mammals Incidental To Specified Activities; Taking Marine Mammals Incidental to a Geophysical Survey in the Central Pacific Ocean**

**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 a request from the University of Hawaii (UH) for authorization to take marine mammals incidental to a marine geophysical survey in the Central Pacific Ocean. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

**DATES:** Comments and information must be received no later than August 23, 2017.

**ADDRESSES:** Comments 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.Carduner@noaa.gov](mailto:ITP.Carduner@noaa.gov).

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

information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:****Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) 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 our proposed action (*i.e.*, the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. Accordingly, NMFS is preparing an Environmental Assessment (EA) to consider the environmental impacts associated with the issuance of the proposed IHA. NMFS’ EA is available at [www.nmfs.noaa.gov/pr/permits/incidental/research.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm). We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

**Summary of Request**

On March 15, 2016, NMFS received a request from the UH for an IHA to take marine mammals incidental to conducting a marine geophysical survey in the Central Pacific Ocean. On May 16, 2017, we deemed UH’s application for authorization to be adequate and complete. UH’s request is for take of a small number of 24 species of marine mammals by Level B harassment and Level A harassment. Neither UH nor NMFS expects mortality to result from this activity, and, therefore, an IHA is appropriate. The planned activity is not expected to exceed one year, hence, we do not expect subsequent MMPA incidental harassment authorizations would be issued for this particular activity.

**Description of Proposed Activity****Overview**

UH, in collaboration with the Japan Agency for Marine-Earth Science and Technology (JAMSTEC), proposes to conduct a marine seismic survey north of Hawaii in the Central Pacific Ocean over the course of five and a half days in September 2017. The proposed survey would occur north of the Hawaiian Islands, in the approximate area 22.6–25.0° N. and 153.5–157.4° W. (See Figure 1 in IHA application). The project area is partly within the exclusive economic zone (EEZ) of the United States and partly in adjacent international waters. Water depths in the area range from 4000 to 5000 m. The survey would involve one source vessel, the Japan-flagged R/V (research vessel) *Kairei*. The *Kairei* would deploy a 32-airgun array with a total volume of ~7800 cubic inches (in<sup>3</sup>) as an energy source.

### Dates and Duration

The seismic survey would be carried out for approximately five and a half days, including three and half days within the Hawaiian Islands EEZ and two days in international waters. The survey would start on approximately September 15, 2017. Exact dates of the activities are not known as they are dependent on logistics and weather conditions. Seismic activities would occur 24 hours per day during the proposed survey.

### Specific Geographic Region

The survey would encompass the approximate area 22.6–25.0° N. and 153.5–157.4° W. in the central Pacific Ocean north of Hawaii, partly within the Hawaiian Islands EEZ and partly in international waters. Water depth in the survey area ranges from approximately 4000 to 5000 m. Representative survey track lines are shown in Figure 1 in the IHA application. However, some deviation in actual track lines could be necessary for reasons such as poor data quality, inclement weather, or mechanical issues with the research vessel and/or equipment. The *Kairei* would likely depart from Honolulu, Hawaii and return to Honolulu.

### Detailed Description of Specific Activity

Conventional seismic methodology would be used to image a typical/stable oceanic crust, mantle, and the boundary between the Earth's crust and the mantle (called the Mohorovičić discontinuity (Moho)). The data obtained from the survey would be used to help better inform and further refine planning efforts for a proposed "Project Mohole" under consideration for scheduling by the International Ocean Discovery Program (IODP). The total survey effort would consist of ~1083 kilometers (km) of transect lines (Figure 1 in IHA application).

The R/V *Kairei* has a length of 106.0 meters (m), a beam of 16.0 m, and a maximum draft of 4.7 m. Its propulsion system consists of two diesel engines, each producing 2206 kW, which drive the two propellers at 600 revolutions per minute (rpm). The operation speed during seismic acquisition would be ~8.3 km/hour (~4.5 knots (kn)). When not towing seismic survey gear, the *Kairei* typically cruises at 30 km/hour (~16.2 kn) and has a range of ~18,000 km.

During the survey, the *Kairei* would deploy an airgun array (*i.e.*, a certain number of airguns of varying sizes in a certain arrangement) as an energy source (Table 1). An airgun is a device used to emit acoustic energy pulses into

the seafloor and generally consists of a steel cylinder that is charged with high-pressure air. Release of the compressed air into the water column generates a signal that reflects (or refracts) off the seafloor and/or subsurface layers having acoustic impedance contrast. When fired, a brief (~0.1 second) pulse of sound is emitted by all airguns nearly simultaneously. The airguns are silent during the intervening periods with the array typically fired on a fixed distance (or shot point) interval. The return signal is recorded by a listening device and later analyzed with computer interpretation and mapping systems used to depict the subsurface.

The airgun array to be used would consist of 32 Bolt Annular Port airguns, with a total volume of ~7800 in<sup>3</sup>. The airguns would be configured as four identical linear arrays or "strings" (See Figure 2 in the IHA application for a visual representation of the strings). Each string would have 8 airguns; the first and last airguns in the strings would be spaced 10 m apart. All 8 airguns in each string would be fired simultaneously. The 4 airgun strings would be towed behind the *Kairei* and would be distributed across an area ~40 m × 10 m. The shot interval would be ~22 seconds. The firing pressure of the array would be ~2000 psi. During firing, a brief (~0.1 s) pulse of sound would be emitted. The airguns would be silent during the intervening periods. The array would be towed at a depth of 10 m. It is expected that the airgun array would be active 24 hours per day during seismic activities. Specifications of the *Kairei's* airgun array are shown in Table 1. Source levels of the *Kairei's* airgun array are shown in Table 6.

TABLE 1—SPECIFICATIONS OF THE R/V KAIREI AIRGUN ARRAY

Number of airguns ....	32.
Tow depth of energy source.	10 meters (m).
Dominant frequency components.	2–120 Hz.
Total volume .....	~7800 in. <sup>3</sup>
Pulse duration .....	~0.1 second.
Shot interval .....	~22 seconds.

The receiving system would consist of one 6 km long hydrophone streamer and ocean bottom seismometers (OBSs). As the airgun array is towed along the survey lines, the hydrophone streamer would receive the returning acoustic signals and transfer the data to the on-board processing system. The OBSs would record the returning acoustic signals internally for later analysis. Upon arrival at the survey area, two OBSs would be deployed. The streamer

and airgun array would then be deployed, and seismic operations would commence. After completion of seismic operations, the OBSs would be recovered by UH via a separate vessel; the recovery cruise would be funded by the National Science Foundation.

Survey protocols generally involve a predetermined set of survey, or track, lines. The seismic acquisition vessel (source vessel) travels down a linear track for some distance until a line of data is acquired, then turn and acquire data on a different track. In the case of the proposed survey, the two shorter north-south lines would each be surveyed once, while the longer west-east line would be surveyed twice (see Figure 1 in the IHA application).

In addition to the operations of the airgun array, a SeaBeam 3012 multibeam echosounder (MBES) would also be operated from the *Kairei* continuously throughout the survey. The MBES would operate at 12 kilohertz (kHz) and would be hull-mounted on the *Kairei*. The transmitting beamwidth of the MBES would be 2° fore-aft and 150° (max.) athwartship, or 120° (in water up to 4500 m deep), and 100° (in water up to 8000 m).

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see "Proposed Mitigation" and "Proposed Monitoring and Reporting").

### Description of Marine Mammals in the Area of Specified Activities

Section 4 of the application summarizes available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SAR; [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/)), and more general information about these species (*e.g.*, physical and behavioral descriptions) may be found on NMFS' Web site ([www.nmfs.noaa.gov/pr/species/mammals/](http://www.nmfs.noaa.gov/pr/species/mammals/)).

Table 2 lists all species with expected potential for occurrence in the central Pacific Ocean and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is 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 (as

described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

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 or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may

extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific SARs (e.g., Carretta *et al.* 2017). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2016 SARs (Carretta *et al.* 2017), available online at: [www.nmfs.noaa.gov/pr/sars](http://www.nmfs.noaa.gov/pr/sars), except where noted otherwise.

TABLE 2—MARINE MAMMALS THAT COULD OCCUR IN THE PROJECT AREA

Species	Stock	ESA/MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance <sup>2</sup> (CV, Nmin, most recent abundance survey) <sup>3</sup>	PBR <sup>4</sup>	Relative occurrence in project area
<b>Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)</b>					
<b>Family: Balaenopteridae</b>					
Humpback whale ( <i>Megaptera novaeangliae</i> ) <sup>5</sup> .	Central North Pacific.	-/-; N .....	10,103 (0.300; 7,890; 2006).	83 .....	Seasonal; throughout known breeding grounds during winter and spring (most common November through April).
Blue whale ( <i>Balaenoptera musculus</i> ).	Central North Pacific.	E/D; Y ....	81 (1.14; 38; 2010) .....	0.1 .....	Seasonal; infrequent winter migrant; few sightings, mainly fall and winter; considered rare.
Fin whale ( <i>Balaenoptera physalus</i> ).	Hawaii .....	E/D; Y ....	58 (1.12; 27; 2010) .....	0.1 .....	Seasonal, mainly fall and winter; considered rare.
Sei whale ( <i>Balaenoptera borealis</i> ).	Hawaii .....	E/D; Y ....	178 (0.90; 93; 2010) .....	0.2 .....	Rare; limited sightings of seasonal migrants that feed at higher latitudes.
Bryde's whale ( <i>Balaenoptera brydei/edeni</i> ).	Hawaii .....	-/-; N .....	798 (0.28; 633; 2010) .....	6.3 .....	Uncommon; distributed throughout the Hawaiian Exclusive Economic Zone.
Minke Whale ( <i>Balaenoptera acutorostrata</i> ).	Hawaii .....	-/-; N .....	n/a (n/a; n/a; 2010) .....	Undet. ..	Seasonal, mainly fall and winter; considered rare.
<b>Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)</b>					
<b>Family: Physeteridae</b>					
Sperm whale ( <i>Physeter macrocephalus</i> ).	Hawaii .....	E/D; Y ....	3,354 (0.34; 2,539; 2010)	10.2 .....	Widely distributed year round.
<b>Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)</b>					
<b>Family: Kogiidae</b>					
Pygmy sperm whale <sup>6</sup> ( <i>Kogia breviceps</i> ).	Hawaii .....	-/-; N .....	7,139 (2.91; n/a; 2006) ...	Undet. ..	Widely distributed year round.
Dwarf sperm whale <sup>6</sup> ( <i>Kogia sima</i> ).	Hawaii .....	-/-; N .....	17,519 (7.14; n/a; 2006) ..	Undet. ..	Widely distributed year round.
<b>Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)</b>					
<b>Family: Delphinidae</b>					
Killer whale ( <i>Orcinus orca</i> ) .....	Hawaii .....	-/-; N .....	101 (1.00; 50; 2010) .....	1 .....	Uncommon; infrequent sightings.
False killer whale ( <i>Pseudorca crassidens</i> ).	Hawaii Pelagic ....	-/-; N .....	1,540 (0.66; 928; 2010) ...	9.3 .....	Regular.
Pygmy killer whale ( <i>Feresa attenuata</i> ).	Hawaii .....	-/-; N .....	3,433 (0.52; 2,274; 2010)	23 .....	Year-round resident.
Short-finned pilot whale ( <i>Globicephala macrorhynchus</i> ).	Hawaii .....	-/-; N .....	12,422 (0.43; 8,872; 2010).	70 .....	Commonly observed around Main Hawaiian Islands and Northwestern Hawaiian Islands.
Melon headed whale ( <i>Peponocephala electra</i> ).	Hawaiian Islands	-/-; N .....	5,794 (0.20; 4,904; 2010)	4 .....	Regular.
Bottlenose dolphin ( <i>Tursiops truncatus</i> ).	Hawaii pelagic ....	-/-; N .....	5,950 (0.59; 3,755; 2010)	38 .....	Common in deep offshore waters.
Pantropical spotted dolphin ( <i>Stenella attenuata</i> ).	Hawaii pelagic ....	-/-; N .....	15,917 (0.40; 11,508; 2010).	115 .....	Common; primary occurrence between 100 and 4,000 m depth.
Striped dolphin ( <i>Stenella coeruleoalba</i> ).	Hawaii .....	-/-; N .....	20,650 (0.36; 15,391; 2010).	154 .....	Occurs regularly year round but infrequent sighting during survey.
Spinner dolphin <sup>6</sup> ( <i>Stenella longirostris</i> ).	Hawaii pelagic ....	-/-; N .....	3,351 (0.74; n/a; 2006) ...	Undet. ..	Common year-round in offshore waters.
Rough-toothed dolphin ( <i>Steno bredanensis</i> ).	Hawaii .....	-/-; N .....	6,288 (0.39; 4,581; 2010)	46 .....	Common throughout the Main Hawaiian Islands and Hawaiian Islands EEZ.
Fraser's dolphin ( <i>Lagenodelphis hosei</i> ).	Hawaii .....	-/-; N .....	16,992 (0.66; 10,241; 2010).	102 .....	Tropical species only recently documented within Hawaiian Islands EEZ (2002 survey).

TABLE 2—MARINE MAMMALS THAT COULD OCCUR IN THE PROJECT AREA—Continued

Species	Stock	ESA/MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance <sup>2</sup> (CV, N <sub>min</sub> , most recent abundance survey) <sup>3</sup>	PBR <sup>4</sup>	Relative occurrence in project area
Risso's dolphin ( <i>Grampus griseus</i> ).	Hawaii .....	-/-; N .....	7,256 (0.41; 5,207; 2010)	42 .....	Previously considered rare but multiple sightings in Hawaiian Islands EEZ during various surveys conducted from 2002–2012.
<b>Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)</b>					
<b>Family: Ziphiidae</b>					
Cuvier's beaked whale ( <i>Ziphius cavirostris</i> ).	Hawaii .....	-/-; N .....	1,941 (n/a; 1,142; 2010) ..	11.4 .....	Year-round occurrence but difficult to detect due to diving behavior.
Blainville's beaked whale ( <i>Mesoplodon densirostris</i> ).	Hawaii .....	-/-; N .....	2,338 (1.13; 1,088; 2010)	11 .....	Year-round occurrence but difficult to detect due to diving behavior.
Longman's beaked whale ( <i>Indopacetus pacificus</i> ).	Hawaii .....	-/-; N .....	4,571 (0.65; 2,773; 2010)	28 .....	Considered rare; however, multiple sightings during 2010 survey.

<sup>1</sup> 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 (see footnote 3) 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.

<sup>2</sup> Abundance estimates from Carretta *et al.* (2017) unless otherwise noted.

<sup>3</sup> CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.

<sup>4</sup> Potential biological removal (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 size (OSP).

<sup>5</sup> Values for humpback whale are from the 2015 Alaska SAR (Muto *et al.* 2015).

<sup>6</sup> Values for spinner dolphin, dwarf and pygmy sperm whale are from Barlow *et al.* (2006).

All species that could potentially occur in the proposed survey area are included in Table 2. We have reviewed UH's species descriptions, including life history information, distribution, regional distribution, diving behavior, and acoustics and hearing, for accuracy and completeness. We refer the reader to Section 4 of UH's IHA application, rather than reprinting the information here. Below, for the 24 species that are likely to be taken by the activities described, we offer a brief introduction to the species and relevant stock as well as available information regarding population trends and threats, and describe any information regarding local occurrence.

#### Humpback Whale

Humpback whales are found worldwide in all ocean basins. In winter, most humpback whales occur in the subtropical and tropical waters of the Northern and Southern Hemispheres (Muto *et al.*, 2015). These wintering grounds are used for mating, giving birth, and nursing new calves. Humpback whales migrate nearly 3,000 mi (4,830 km) from their winter breeding grounds to their summer foraging grounds in Alaska.

There are five stocks of humpback whales, one of which occurs in Hawaii: 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

(Muto *et al.*, 2015). Humpback whales occur seasonally in Hawaii, with peak sightings between December and May each year; however, sightings have occurred in other months in very low numbers. Most humpback whales congregate off the island of Maui in the shallow protected waters but can be seen off all of the islands including the Northwestern Hawaiian Islands (Baird 2016).

Humpback whales were listed as endangered under the Endangered Species Conservation Act (ESCA) in June 1970. In 1973, the ESA replaced the ESCA, and humpbacks continued to be listed as endangered. NMFS recently evaluated the status of the species, and on September 8, 2016, NMFS divided the species into 14 distinct population segments (DPS), removed the current species-level listing, and in its place listed four DPSs as endangered and one DPS as threatened (81 FR 62259; September 8, 2016). The remaining nine DPSs were not listed. The Hawaii DPS is the only DPS that occurs in the survey area and is not listed under the ESA (81 FR 62259; September 8, 2016). The Central North Pacific stock is still considered a depleted and strategic stock under the MMPA.

#### Blue Whale

The blue whale has a cosmopolitan distribution and tends to be pelagic, only coming nearshore to feed and possibly to breed (Jefferson *et al.* 2008). Blue whale migration is less well defined than for some other rorquals,

and their movements tend to be more closely linked to areas of high primary productivity, and hence prey, to meet their high energetic demands (Branch *et al.* 2007). Generally, blue whales are seasonal migrants between high latitudes in the summer, where they feed, and low latitudes in the winter, where they mate and give birth (Lockyer and Brown 1981). Some individuals may stay in low or high latitudes throughout the year (Reilly and Thayer 1990; Watkins *et al.* 2000). Blue whales belonging to the central Pacific stock appear to feed in summer southwest of Kamchatka, south of the Aleutians, and in the Gulf of Alaska (Stafford 2003; Watkins *et al.* 2000), and in winter migrate to lower latitudes in the western and central Pacific, including Hawaii (Stafford *et al.* 2001).

From ship line-transect surveys, Wade and Gerrodette (1993) estimated 1,400 blue whales for the eastern tropical Pacific. A 2010 shipboard line-transect survey of the entire Hawaiian Islands EEZ resulted in a summer/fall abundance estimate of 81 (CV = 1.14) blue whales (Bradford *et al.* 2013). This is currently the best available abundance estimate for this stock within the Hawaii EEZ, though the majority of blue whales would be expected to be at higher latitudes feeding grounds at this time of year. Blue whales are listed as endangered under the ESA, and the Central North Pacific Stock of blue whales is considered a depleted and strategic stock under the MMPA.

### *Fin Whale*

Fin whales are found throughout all oceans from tropical to polar latitudes. They have been considered rare in Hawaiian waters and are absent to rare in eastern tropical Pacific waters (Hamilton *et al.* 2009). The fin whale most commonly occurs offshore but can also be found in coastal areas (Aguilar 2009). Most populations migrate seasonally between temperate waters where mating and calving occur in winter, and polar waters where feeding occurs in summer (Aguilar 2009). However, recent evidence suggests that some animals may remain at high latitudes in winter or low latitudes in summer (Edwards *et al.* 2015).

During spring and summer, fin whale occurrence in Hawaii is considered rare (DoN 2005). There were 5 sightings of fin whales during summer–fall surveys in 2002, most to the northwest of the Main Hawaiian Islands (Barlow *et al.* 2004) and two sightings in the Hawaiian Islands EEZ during summer–fall 2010 (Bradford *et al.* 2013); there were no sightings in or near the proposed survey area (Carretta *et al.* 2015). Two additional sightings in the EEZ were made by observers on Hawaii-based longline fishing vessels, including one near the proposed survey area (Carretta *et al.* 2015). Fin whales are listed as endangered under the ESA, and the Hawaii stock of fin whales is considered depleted under the MMPA.

### *Sei Whale*

The sei whale occurs in all ocean basins (Horwood 2009) but appears to prefer mid-latitude temperate waters (Jefferson *et al.* 2008). It undertakes seasonal migrations to feed in subpolar latitudes during summer and returns to lower latitudes during winter to calve (Horwood 2009). The sei whale is pelagic and generally not found in coastal waters (Harwood and Wilson 2001). It occurs in deeper waters characteristic of the continental shelf edge region (Hain *et al.* 1985) and in other regions of steep bathymetric relief such as seamounts and canyons (Kenney and Winn 1987; Gregr and Trites 2001).

Sei whales occur seasonally in Hawaii in the winter and spring months and feed in higher latitude feeding grounds in the summer and fall (Carretta *et al.*, 2016). Sightings of this species are rare in Hawaii. The species stays offshore of the islands in deeper waters (Baird 2016). Sei whales are listed as endangered under the ESA, and the Hawaii stock of sei whales is considered a depleted and strategic stock under the MMPA.

### *Bryde's Whale*

The Bryde's whale occurs in all tropical and warm temperate waters in the Pacific, Atlantic, and Indian oceans, between 40° N. and 40° S. (Kato and Perrin 2009). Although there is a pattern of movement toward the Equator in the winter and the poles during the summer, Bryde's whale does not undergo long seasonal migrations, remaining in warm (>16 °C) water year-round (Kato and Perrin 2009).

Bryde's whales are known to occur in both shallow coastal and deeper offshore waters (Jefferson *et al.* 2008). In Hawaii, Bryde's whales are typically seen offshore (*e.g.*, Barlow *et al.* 2004; Barlow 2006), but Hopkins *et al.* (2009) reported a Bryde's whale within 70 km of the Main Hawaiian Islands. During summer–fall surveys of the Hawaiian Islands EEZ, 13 sightings were made in 2002 (Barlow 2006) and 32 sightings were made during 2010 (Bradford *et al.* 2013). Bryde's whales were primarily sighted in the western half of the Hawaiian Islands EEZ, with the majority of sightings associated with the Northwestern Hawaiian Islands; none was made in or near the proposed survey area (Barlow *et al.* 2004; Barlow 2006; Bradford *et al.* 2013; Carretta *et al.* 2015). The Bryde's whale is not listed under the ESA, and the Hawaii stock is not listed as depleted or strategic under the MMPA.

### *Minke Whale*

The minke whale has a cosmopolitan distribution ranging from the tropics and subtropics to the ice edge in both hemispheres (Jefferson *et al.* 2008) and is thought to occur seasonally in Hawaii, from November through March (Rankin and Barlow 2005), though their migration routes or destinations are unknown. While they are generally believed to be uncommon in Hawaiian waters, several studies using acoustic detections suggest that minke whales may be more common than previously thought (Rankin *et al.* 2007; Oswald *et al.* 2011; Martin *et al.* 2012). Acoustic detections have been recorded around the Hawaiian Islands during fall–spring surveys in 1997 and 2000–2006 (Rankin and Barlow 2005; Barlow *et al.* 2008; Rankin *et al.* 2008), and from seafloor hydrophones positioned ~50 km from the coast of Kauai during February–April 2006 (Martin *et al.* 2012). Passive acoustic detections of minke whales have been recorded at ALOHA station (22.75° N., 158° W.) from October to May for decades (Oswald *et al.* 2011). A lack of sightings is likely related to misidentification or low detection capability in poor sighting conditions

(Rankin *et al.* 2007). The minke whale is not listed under the ESA, and the Hawaii stock is not listed as depleted under the MMPA.

### *Sperm Whale*

Sperm whales are widely distributed across the entire North Pacific and into the southern Bering Sea in summer, but the majority are thought to be south of 40° N. in winter (Rice 1974, 1989; Goshō *et al.* 1984; Miyashita *et al.* 1995). The Hawaii stock includes animals found both within the Hawaiian Islands EEZ and in adjacent high seas waters; however, because data on abundance, distribution, and human-caused impacts are largely lacking for high seas waters, the status of the Hawaii stock is evaluated based on data from U.S. EEZ waters of the Hawaiian Islands (NMFS 2005).

Sperm whales are widely distributed in Hawaiian waters throughout the year (Mobley *et al.* 2000). During summer–fall surveys of the Hawaiian Islands EEZ, 43 sightings were made in 2002 (Barlow 2006) and 41 were made in 2010 (Bradford *et al.* 2013). Sightings were widely distributed across the EEZ during both surveys; numerous sightings occurred in and adjacent to the proposed survey area (Barlow *et al.* 2004; Barlow 2006; Bradford *et al.* 2013). Sperm whales are listed as endangered under the ESA, and the Hawaii stock is considered depleted and strategic under the MMPA.

### *Pygmy Sperm Whale*

Pygmy sperm whales are found in tropical and warm-temperate waters throughout the world (Ross and Leatherwood 1994) and prefer deeper waters with observations of this species in greater than 4,000 m depth (Baird *et al.*, 2013). Sightings are rare of this species. They are difficult to sight at sea, because of their dive behavior and perhaps because of their avoidance reactions to ships and behavior changes in relation to survey aircraft (Würsig *et al.* 1998). Both pygmy and dwarf sperm whales are sighted primarily along the continental shelf edge and slope and over deeper waters off the shelf (Hansen *et al.* 1994; Davis *et al.* 1998; Jefferson *et al.* 2008). There is a single stock of Pygmy sperm whales in Hawaii. Current abundance estimates for this stock are unknown. Pygmy sperm whales are not listed as endangered or threatened under the ESA, and the Hawaii stock is not considered strategic or designated as depleted under the MMPA.

### *Dwarf Sperm Whale*

Dwarf sperm whales are found throughout the world in tropical to

warm-temperate waters (Carretta *et al.*, 2014). They are usually found in waters deeper than 500 m, most often sighted in depths between 500 and 1,000 m, but they have been documented in depths as shallow as 106 m and as deep as 4,700 m (Baird 2016). This species is often alone or in small groups of up to two to four individuals (Baird 2016). When there are more than two animals together, they are often loosely associated, with up to several hundred meters between pairs of individuals (Baird 2016). There is one stock of dwarf sperm whales in Hawaii. Sighting data suggests a small resident population off Hawaii Island (Baird 2016). It has been suggested that this species is probably one of the more abundant species of cetaceans in Hawaiian waters (Baird 2016), though there are no current abundance estimates for this stock. Dwarf sperm whales are not listed as endangered or threatened under the ESA, and the Hawaii stock is not designated as depleted or strategic under the MMPA.

#### *Killer Whale*

Killer whales have been observed in all oceans and seas of the world (Leatherwood and Dahlheim 1978). Although reported from tropical and offshore waters (Heyning and Dahlheim 1988), killer whales prefer the colder waters of both hemispheres, with greatest abundances found within 800 km of major continents (Mitchell 1975). High densities of the species occur in high latitudes, especially in areas where prey is abundant.

Killer whales are considered rare in Hawaiian waters (Carretta *et al.* 2017). Twenty one sighting records were reported in Hawaiian waters between 1994 and 2004 (Baird *et al.* 2006). During summer-fall surveys of the Hawaiian Islands EEZ, two sightings were made in 2002 (Barlow *et al.* 2004; Barlow 2006) and one was made in 2010 (Bradford *et al.* 2013), none near the proposed survey area (Barlow *et al.* 2004; Bradford *et al.* 2013; Carretta *et al.* 2017). Numerous additional sightings in and north of the EEZ have been made by observers on longliners, some in and near the proposed survey area (Carretta *et al.* 2017). Killer whales are not listed as endangered or threatened under the ESA (with the exception of the endangered Southern Resident DPS which does not occur in the survey area), and the Hawaii stock is not designated as depleted or strategic under the MMPA.

#### *False Killer Whale*

False killer whales are found worldwide in tropical and warm-

temperate waters (Stacey *et al.* 1994). In the North Pacific, this species is well known from southern Japan, Hawaii, and the eastern tropical Pacific. The species generally inhabits deep, offshore waters, but sometimes is found over the continental shelf and occasionally moves into very shallow water (Jefferson *et al.* 2008; Baird 2009).

Telemetry, photo-identification, and genetic studies have identified three independent populations of false killer whales in Hawaiian waters: Main (insular) Hawaiian Islands, Northwestern Hawaiian Islands, and surrounding pelagic stock (Chivers *et al.* 2010; Baird *et al.* 2010, 2013; Bradford *et al.* 2014). Based on the ranges of these stocks, only the Hawaii pelagic stock is expected to occur in the survey area (Carretta *et al.* 2017). False killer whales are not listed as endangered or threatened under the ESA (with the exception of the endangered Main Hawaiian Islands insular DPS which does not occur in the survey area), and the Hawaii pelagic stock is not designated as depleted or strategic under the MMPA.

#### *Pygmy Killer Whale*

The pygmy killer whale has a worldwide distribution in tropical and subtropical waters (Donahue and Perryman 2009), generally not ranging south of 35° S. (Jefferson *et al.* 2008). In warmer water, it is usually seen close to the coast (Wade and Gerrodette 1993), but it is also found in deep waters. In Hawaiian waters, the pygmy killer whale is found in nearshore waters but rarely offshore (Carretta *et al.* 2015). During small-boat surveys around the Hawaiian Islands in 2000–2012, sightings were made in water up to 3,000 m deep (Baird *et al.* 2013).

Though a small resident population occurs in the main Hawaiian Islands, pygmy killer whales are relatively rare in Hawaiian waters (McSweeney *et al.* 2009). Satellite telemetry data from four tagged pygmy killer whales suggest the resident group remains within 20 km of shore (Baird *et al.* 2011) so would be unlikely in the proposed survey area. Movements have been documented between Hawaii Island and Oahu and between Oahu and Lanai (Baird *et al.* 2011a). Pygmy killer whales are not listed under the ESA, and the Hawaii stock is not listed as is not considered a depleted or strategic stock under the MMPA.

#### *Short-Finned Pilot Whale*

Short-finned pilot whales are found in all oceans, primarily in tropical and warm-temperate waters (Carretta *et al.*, 2016). The species prefers deeper

waters, ranging from 324 m to 4,400 m, with most sightings between 500 m and 3,000 m (Baird 2016). This stock forms stable social groups, with average group size of 18 individuals but may form large aggregations of close to 200 individuals (Baird 2016). Other research suggests a larger average group size of 40.9 individuals (Bradford *et al.*, 2017), but most of these sightings were farther offshore in pelagic waters.

Short-finned pilot whales are commonly observed around the main Hawaiian Islands and are also present around the Northwestern Hawaiian Islands (Shallenberger 1981, Baird *et al.* 2013). Photo-identification and telemetry studies suggest there may be inshore and pelagic populations of short finned pilot whales in Hawaiian waters. Resighting and social network analyses of individuals photographed off Hawaii Island suggest the occurrence of one large and several smaller social clusters that use those waters, with some individuals within the smaller social clusters commonly resighted off Hawaii Island (Mahaffy 2012). Short-finned pilot whales are not listed as endangered or threatened under the ESA, and the Hawaii stock is not considered a depleted or strategic stock under the MMPA.

#### *Melon-Headed Whale*

Melon-headed whales are found in tropical and warm-temperate waters throughout the world (Carretta *et al.*, 2016). The distribution of reported sightings suggests that the oceanic habitat of this species is primarily equatorial waters (Perryman *et al.* 1994). The species forms large groups, with average group size of almost 250 individuals, with the largest group documented at close to 800 individuals (Baird 2016).

There are two demographically-independent populations in Hawaiian waters, the Hawaiian Islands stock and the Kohala resident stock (Carretta *et al.*, 2016). The Kohala resident stock have a small range restricted to the shallow waters around Hawaii Island, whereas the Hawaiian Islands stock are found throughout the islands and offshore in pelagic areas (Carretta *et al.*, 2016). As such, only the Hawaiian Islands stock may be affected by the proposed activities. This stock prefers waters deeper than 1,000 m (Baird 2016). Satellite telemetry data revealed distant pelagic movements, associated with feeding, nearly to the edge of the Hawaiian Islands EEZ; the most distal telemetry locations were near the proposed survey area at ~22.3° N., 154.0° W. (Oleson *et al.* 2013). Melon-headed whales are not listed as

endangered or threatened under the ESA and the Hawaiian Islands stock is not considered a depleted or strategic stock under the MMPA.

#### *Bottlenose Dolphin*

Bottlenose dolphins are widely distributed throughout the world in tropical and warm-temperate waters (Perrin *et al.* 2009). Generally, there are two distinct bottlenose dolphin ecotypes: One mainly found in coastal waters and one mainly found in oceanic waters (Duffield *et al.* 1983; Hoelzel *et al.* 1998; Walker *et al.* 1999). As well as inhabiting different areas, these ecotypes differ in their diving abilities (Klatsky 2004) and prey types (Mead and Potter 1995).

There are four resident insular stocks of bottlenose dolphins around the Main Hawaiian Islands and one pelagic stock (Carretta *et al.*, 2016). Photo-identification studies have suggested that the 1,000-m isobath serves as the boundary between resident insular stocks of the Main Hawaiian Islands and the Hawaii pelagic stock (Martien *et al.* 2012). Only the pelagic stock may be affected by the proposed activity. Bottlenose dolphins are not listed as endangered or threatened under the ESA, and the Hawaii pelagic stock is not considered a depleted or strategic stock under the MMPA.

#### *Pantropical Spotted Dolphin*

Pantropical spotted dolphins are primarily found in tropical and subtropical waters worldwide (Perrin *et al.* 2009). There are two forms of pantropical spotted dolphin: Coastal and offshore. Pantropical spotted dolphins prefer deeper waters between 1,500 m and 3,000 m and forms large groups with average group size of 60 individuals, with the largest group estimated at 400 individuals (Baird 2016).

Pantropical spotted dolphins are common and abundant throughout the Hawaiian archipelago (Baird *et al.* 2013). It is expected that it would be one of the most abundant cetaceans in the proposed survey area. There are four resident coastal stocks in Hawaii in addition to the Hawaii pelagic stock. Due to their ranges, only the pelagic stock is likely to be encountered in the project area (Carretta *et al.*, 2016). Pantropical spotted dolphins are not listed as endangered or threatened under the ESA, and the Hawaii pelagic stock is not considered a depleted or strategic stock under the MMPA.

#### *Striped Dolphin*

Striped dolphins are found in tropical to warm-temperate waters throughout

the world (Carretta *et al.*, 2016). This is a deep water species, preferring depths greater than 3,500 m (Baird 2016). Striped dolphins occur primarily in pelagic waters, but have been observed approaching shore where there is deep water close to the coast (Jefferson *et al.* 2008). This species forms large groups, with an average group size of 28 individuals, and a maximum group size of 100 individuals (Baird 2016).

The striped dolphin is expected to be one of the most abundant cetaceans in the proposed survey area. It has been sighted near the proposed survey area during summer-fall shipboard surveys of the Hawaii Islands EEZ (Carretta *et al.* 2017). Striped dolphins are not listed as endangered or threatened under the ESA, and the Hawaii stock of striped dolphins is not considered a depleted or strategic stock under the MMPA.

#### *Spinner Dolphin*

Spinner dolphins are found in tropical and warm-temperate waters worldwide (Carretta *et al.*, 2016). They are pantropical in distribution, including oceanic tropical and subtropical waters between 40° N. and 40° S. (Jefferson *et al.*, 2008). Generally considered a pelagic species (Perrin 2009b), spinner dolphins can also be found in coastal waters and around oceanic islands (Rice 1998). There are six separate stocks managed within the Hawaiian Islands EEZ (Carretta *et al.* 2017); only individuals of the Hawaii pelagic stock are expected to overlap with the proposed survey area. Spinner dolphins have been sighted near the proposed survey area during summer-fall surveys of the Hawaiian Islands EEZ (Carretta *et al.* 2017). The spinner dolphin is not listed as endangered or threatened under the ESA, and the Hawaii pelagic stock is not considered a depleted or strategic stock under the MMPA.

#### *Rough-Toothed Dolphin*

Rough-toothed dolphins are found in tropical and warm-temperate waters (Carretta *et al.*, 2016). While there is evidence for two island-associated stocks and one pelagic stock in Hawaii, there is only one stock designated for Hawaii (Carretta *et al.*, 2016). Most sightings of this species off Kauai are in water depths of less than 1,000 m; however, it is the most often sighted species in depths greater than 3,000 m (Baird 2016). This species forms stable associations as part of larger groups, with average group sizes of 11 animals and maximum group sizes, observed off Kauai, of 140 individuals (Baird 2016).

The rough-toothed dolphin is expected to be one of the most abundant

cetaceans in the proposed survey area (Barlow *et al.* 2004; Barlow 2006; Bradford *et al.* 2013). During summer-fall surveys of the Hawaiian Islands EEZ in 2002 and 2010, rough-toothed dolphins were observed throughout the EEZ and near the proposed survey area. The rough-toothed dolphin is not listed as endangered or threatened under the ESA, and the Hawaii stock is not considered a depleted or strategic stock under the MMPA.

#### *Fraser's Dolphin*

Fraser's dolphin are found in tropical waters (Carretta *et al.*, 2011). This is a deep water species occurring offshore of the Hawaiian islands, with sightings occurring in water depths between 1,515 m and 4,600 m (Baird 2016). The species forms large groups with average group sizes between 75 and 110 individuals (Baird 2016). Fraser's dolphin is one of the most abundant cetaceans in the Hawaiian Islands EEZ (Barlow 2006; Bradford *et al.* 2013). Fraser's dolphin is not listed as endangered or threatened under the ESA, and the Hawaii stock is not considered a depleted or strategic stock under the MMPA.

#### *Risso's Dolphin*

Risso's dolphins are found in tropical to warm-temperate waters (Carretta *et al.*, 2016). The species occurs from coastal to deep water but is most often found in depths greater than 3,000 m with the highest sighting rate in depths greater than 4,500 m (Baird 2016). It occurs between 60° N. and 60° S. where surface water temperatures are at least 10°C (Kruse *et al.* 1999). The species forms small groups with an average group size of 4 individuals, and a maximum group size of 25 individuals off the coast of Hawaii (Baird 2016). Risso's dolphins are not listed as endangered or threatened under the ESA, and the Hawaii stock is not considered a depleted or strategic stock under the MMPA.

#### *Longman's Beaked Whale*

The Longman's beaked whale, also known as Indo-Pacific beaked whale, is considered one of the least known cetacean species (Carretta *et al.*, 2016). Longman's beaked whales are found in tropical waters from the eastern Pacific westward through the Indian Ocean to the eastern coast of Africa (Carretta *et al.*, 2016). The species occurs is most often sighted in waters with temperatures  $\geq 26^\circ\text{C}$  and depth  $>2,000$  m, and sightings have also been reported along the continental slope (Anderson *et al.* 2006; Pitman 2009). Group sizes range from 18 to 110

individuals (Baird 2016). The Longman's beaked whale is not listed as endangered or threatened under the ESA, and the Hawaii stock is not considered a depleted or strategic stock under the MMPA.

#### *Cuvier's Beaked Whale*

Cuvier's beaked whale is the most widespread of the beaked whales occurring in almost all temperate, subtropical, and tropical waters and even some sub-polar and polar waters (MacLeod *et al.* 2006). It is found in deep water over and near the continental slope (Jefferson *et al.* 2008). In the eastern tropical Pacific, the mean water depth for sighted Cuvier's beaked whales was ~3.4 km (Ferguson *et al.* 2006). During small-boat surveys around the Hawaiian Islands in 2000–2012, sightings were made in water depths of 500–4000 m (Baird *et al.* 2013). Summer/fall shipboard surveys of the waters within the U.S. EEZ of the Hawaiian Islands resulted in 4 sightings in 2002 and 22 in 2010, including markedly higher sighting rates during nearshore surveys in the Northwestern Hawaiian Islands. (Barlow 2006, Bradford *et al.* 2013). Resighting and movement data of individual Cuvier's beaked whales suggest the existence of insular and offshore populations of this species in Hawaiian waters. A 21-yr study off Hawaii Island suggests long-term site fidelity and year-round occurrence (McSweeney *et al.* 2007). The Cuvier's beaked whale is not listed as endangered or threatened under the ESA, and the Hawaii stock is not considered a depleted or strategic stock under the MMPA.

#### *Blainville's Beaked Whale*

Blainville's beaked whale is found in tropical and warm temperate waters of all oceans; it has the widest distribution throughout the world of all mesoplodont species and appears to be common (Pitman 2009b). Recent analysis of Blainville's beaked whale resightings and movements near the main Hawaiian Islands suggest the existence of insular and pelagic populations of this species in Hawaiian waters (McSweeney *et al.* 2007, Schorr *et al.* 2009, Baird *et al.* 2013). Photo-identification of individual Blainville's beaked whales from Hawaii Island since 1986 reveal repeated use of this area by individuals for over 17 years (Baird *et al.* 2011) and 75% of individuals seen off Hawaii Island link by association into a single social network (Baird *et al.* 2013). Those individuals seen farthest from shore and in deep water ( $\leq 2100$ m) have not been resighted, suggesting they may be part of an offshore, pelagic

population (Baird *et al.* 2011). The Hawaii stock of Blainville's beaked whales includes animals found both within the Hawaiian Islands EEZ and in adjacent high seas waters. The Blainville's beaked whale is not listed as endangered or threatened under the ESA, and the Hawaii stock is not considered a depleted or strategic stock under the MMPA.

#### **Potential Effects of Specified Activities on Marine Mammals and Their Habitat**

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The "Estimated Take by Incidental Harassment" section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The "Negligible Impact Analysis and Determination" section considers the content of this section, the "Estimated Take by Incidental Harassment" section, and the "Proposed Mitigation" section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

#### *Description of Active Acoustic Sound Sources*

This section contains a brief technical background on sound, the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the "loudness" of a sound and is typically described using the relative unit of the decibel (dB). A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal ( $\mu$ Pa)) and is a

logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1  $\mu$ Pa) while the received level is the SPL at the listener's position (referenced to 1  $\mu$ Pa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urlick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1  $\mu$ Pa<sup>2</sup>-s) represents the total energy contained within a pulse and considers both intensity and duration of exposure. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-p) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk-pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.*, 2007).

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for pulses produced by the airgun arrays considered here. 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.*, wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.*, vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including the following (Richardson *et al.*, 1995):

- **Wind and waves:** The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf sound becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.

- **Precipitation:** Sound from rain and hail impacting the water surface can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.

- **Biological:** Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.

- **Anthropogenic:** Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly. Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.*, a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise “ambient” or “background” sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate

through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from a given activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.*, Ward, 1997 in Southall *et al.*, 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.*, airguns, 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, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) 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.

Airgun arrays produce pulsed signals with energy in a frequency range from about 10–2,000 Hz, with most energy radiated at frequencies below 200 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.*, omnidirectional), but airgun arrays do possess some directionality due to different phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

As described above, a SeaBeam 3012 MBES would also be operated from the *Kairei* continuously throughout the survey. Due to the lower source level of the MBES relative to the *Kairei's* airgun array (241 dB re 1  $\mu$ Pa · m for the MBES versus 259 dB re 1  $\mu$ Pa · m (rms) for the airgun array), the sounds from the MBES are expected to be effectively subsumed by the sounds from the airgun array. In addition, given the movement and speed of the vessel, the intermittent and narrow downward-directed nature of the sounds emitted by the MBES would result in no more than one or two brief ping exposures of any individual marine mammal, if any exposure were to occur. For these reasons, any marine mammal that was exposed to sounds from the MBES would already have been exposed to sounds from the airgun array, which are expected to propagate further in the water. As such, the MBES is not expected to result in the take of any marine mammal that has not already been taken by the sounds from the airgun array, and therefore we do not consider noise from the MBES further in this analysis.

#### Acoustic Effects

Here, we first provide background information on marine mammal hearing before discussing the potential effects of the use of active acoustic sources on marine mammals.

**Marine Mammal Hearing**—Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, 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 directly measured or estimated hearing ranges on the basis of available behavioral response 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. Pinniped functional hearing is not discussed here, as no pinnipeds are expected to be affected by the specified activity. 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):

- *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.

TABLE 3—MARINE FUNCTIONAL MAMMAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGES

Hearing group	Generalized hearing range*
Low frequency (LF) cetaceans (baleen whales).	7 Hz to 35 kHz.

TABLE 3—MARINE FUNCTIONAL MAMMAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGES—Continued

Hearing group	Generalized hearing range*
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales).	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, Kogia, river dolphins, cephalorhynchid, <i>Lagenorhynchus cruciger</i> and <i>L. australis</i> ).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals).	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals).	60 Hz to 39 kHz.

\* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.*, 2007) and PW pinniped (approximation).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Twenty four marine mammal species (all cetaceans) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, six are classified as low-frequency cetaceans (*i.e.*, all mysticete species), 16 are classified as mid-frequency cetaceans (*i.e.*, all delphinid and ziphiid species and the sperm whale), and two are classified as high-frequency cetaceans (*i.e.*, *Kogia* spp.).

*Potential Effects of Underwater Sound*—Please refer to the information given previously (“Description of Active Acoustic Sources”) regarding sound, characteristics of sound types, and metrics used in this document. Note that, in the following discussion, we refer in many cases to a recent review article concerning studies of noise-induced hearing loss conducted from 1996–2015 (*i.e.*, Finneran, 2015). For study-specific citations, please see that work. 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; Götz *et al.*, 2009). 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. We first describe specific manifestations of acoustic effects before providing discussion specific to the use of airgun arrays.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.*, when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects certain non-auditory physical or physiological effects only briefly as we do not expect that use of airgun arrays are reasonably likely to result in such effects (see below for further discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.*, 1973). 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; Tal *et al.*, 2015). The survey activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

1. **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 (Finneran, 2015). 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, and there is no PTS data for cetaceans but such relationships 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 airgun pulses as received close to the source) are at least 6 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). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

For mid-frequency cetaceans in particular, potential protective mechanisms may help limit onset of TTS or prevent onset of PTS. Such mechanisms include dampening of hearing, auditory adaptation, or behavioral amelioration (e.g., Nachtigall and Supin, 2013; Miller *et al.*, 2012; Finneran *et al.*, 2015; Popov *et al.*, 2016).

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. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

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.

Finneran *et al.* (2015) measured hearing thresholds in three captive bottlenose dolphins before and after exposure to ten pulses produced by a seismic airgun in order to study TTS induced after exposure to multiple pulses. Exposures began at relatively low levels and gradually increased over a period of several months, with the highest exposures at peak SPLs from 196 to 210 dB and cumulative (unweighted) SELs from 193–195 dB. No substantial TTS was observed. In addition, behavioral reactions were observed that indicated that animals can learn behaviors that effectively mitigate noise exposures (although exposure

patterns must be learned, which is less likely in wild animals than for the captive animals considered in this study). The authors note that the failure to induce more significant auditory effects likely due to the intermittent nature of exposure, the relatively low peak pressure produced by the acoustic source, and the low-frequency energy in airgun pulses as compared with the frequency range of best sensitivity for dolphins and other mid-frequency cetaceans.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale, harbor porpoise, and Yangtze finless porpoise) exposed to a limited number of sound sources (i.e., mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). In general, harbor porpoises have a lower TTS onset than other measured cetacean species (Finneran, 2015). 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.

Critical questions remain regarding the rate of TTS growth and recovery after exposure to intermittent noise and the effects of single and multiple pulses. Data at present are also insufficient to construct generalized models for recovery and determine the time necessary to treat subsequent exposures as independent events. More information is needed on the relationship between auditory evoked potential and behavioral measures of TTS for various stimuli. 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), Finneran (2015), and NMFS (2016).

2. **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). 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). However, many delphinids approach acoustic source vessels with no apparent discomfort or obvious behavioral change (*e.g.*, Barkaszi *et al.*, 2012).

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, 2005). 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; 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.

Visual tracking, passive acoustic monitoring, and movement recording tags were used to quantify sperm whale behavior prior to, during, and following exposure to airgun arrays at received levels in the range 140–160 dB at distances of 7–13 km, following a phase-in of sound intensity and full array exposures at 1–13 km (Madsen *et al.*, 2006; Miller *et al.*, 2009). Sperm whales did not exhibit horizontal avoidance behavior at the surface. However, foraging behavior may have been

affected. The sperm whales exhibited 19 percent less vocal (buzz) rate during full exposure relative to post exposure, and the whale that was approached most closely had an extended resting period and did not resume foraging until the airguns had ceased firing. The remaining whales continued to execute foraging dives throughout exposure; however, swimming movements during foraging dives were 6 percent lower during exposure than control periods (Miller *et al.*, 2009). These data raise concerns that seismic surveys may impact foraging behavior in sperm whales, although more data are required to understand whether the differences were due to exposure or natural variation in sperm whale behavior (Miller *et al.*, 2009).

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, 2005, 2006; Gailey *et al.*, 2007; Gailey *et al.*, 2016).

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.*, 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.*, 1994).

Cerchio *et al.* (2014) used passive acoustic monitoring to document the presence of singing humpback whales

off the coast of northern Angola and to opportunistically test for the effect of seismic survey activity on the number of singing whales. Two recording units were deployed between March and December 2008 in the offshore environment; numbers of singers were counted every hour. Generalized Additive Mixed Models were used to assess the effect of survey day (seasonality), hour (diel variation), moon phase, and received levels of noise (measured from a single pulse during each ten minute sampled period) on singer number. The number of singers significantly decreased with increasing received level of noise, suggesting that humpback whale breeding activity was disrupted to some extent by the survey activity.

Castellote *et al.* (2012) reported acoustic and behavioral changes by fin whales in response to shipping and airgun noise. Acoustic features of fin whale song notes recorded in the Mediterranean Sea and northeast Atlantic Ocean were compared for areas with different shipping noise levels and traffic intensities and during a seismic airgun survey. During the first 72 h of the survey, a steady decrease in song received levels and bearings to singers indicated that whales moved away from the acoustic source and out of the study area. This displacement persisted for a time period well beyond the 10-day duration of seismic airgun activity, providing evidence that fin whales may avoid an area for an extended period in the presence of increased noise. The authors hypothesize that fin whale acoustic communication is modified to compensate for increased background noise and that a sensitization process may play a role in the observed temporary displacement.

Seismic pulses at average received levels of 131 dB re 1  $\mu\text{Pa}^2\text{-s}$  caused blue whales to increase call production (Di Iorio and Clark, 2010). In contrast, McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of 10 km from the acoustic source vessel (estimated received level 143 dB pk-pk). Blackwell *et al.* (2013) found that bowhead whale call rates dropped significantly at onset of airgun use at sites with a median distance of 41–45 km from the survey. Blackwell *et al.* (2015) expanded this analysis to show that whales actually increased calling rates as soon as airgun signals were detectable before ultimately decreasing calling rates at higher received levels (*i.e.*, 10-minute  $\text{SEL}_{\text{cum}}$  of ~127 dB). Overall, these results suggest that bowhead whales may adjust their vocal

output in an effort to compensate for noise before ceasing vocalization effort and ultimately deflecting from the acoustic source (Blackwell *et al.*, 2013, 2015). These studies demonstrate that even low levels of noise received far from the source can induce changes in vocalization and/or behavior for mysticetes.

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). Humpback whales showed avoidance behavior in the presence of an active seismic array during observational studies and controlled exposure experiments in western Australia (McCauley *et al.*, 2000). 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.*, 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.

Stone (2015) reported data from at-sea observations during 1,196 seismic surveys from 1994 to 2010. When large arrays of airguns (considered to be 500  $\text{in}^3$  or more) were firing, lateral displacement, more localized avoidance, or other changes in behavior were evident for most odontocetes. However, significant responses to large arrays were found only for the minke whale and fin whale. Behavioral responses observed included changes in swimming or surfacing behavior, with indications that cetaceans remained near the water surface at these times. Cetaceans were recorded as feeding less often when large arrays were active. Behavioral observations of gray whales during a seismic survey monitored whale movements and respirations pre-, during and post-seismic survey

(Gailey *et al.*, 2016). Behavioral state and water depth were the best 'natural' predictors of whale movements and respiration and, after considering natural variation, none of the response variables were significantly associated with seismic survey or vessel sounds.

3. *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 sufficiently 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).

4. *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; Erbe *et al.*, 2016). 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 TTS) 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.*, 2007; 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.

#### *Ship Strike*

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. Wounds resulting from ship strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a

vessel's propeller. Superficial strikes may not kill or result in the death of the animal. These interactions are typically associated with large whales (e.g., fin whales), which are occasionally found draped across the bulbous bow of large commercial ships upon arrival in port. Although smaller cetaceans are more maneuverable in relation to large vessels than are large whales, they may also be susceptible to strike. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.*, 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.*, 2010; Gende *et al.*, 2011).

Pace and Silber (2005) also found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 kn, and exceeded 90 percent at 17 kn. Higher speeds during collisions result in greater force of impact, but higher speeds also appear to increase the chance of severe injuries or death through increased likelihood of collision by pulling whales toward the vessel (Clyne, 1999; Knowlton *et al.*, 1995). In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 8.6 and 15 kn. The chances of a lethal injury decline from approximately 80 percent at 15 kn to approximately 20 percent at 8.6 kn. At speeds below 11.8 kn, the chances of lethal injury drop below 50 percent, while the probability asymptotically increases toward one hundred percent above 15 kn.

The *Kairei* travels at a speed of ~8.3 km/hour while towing seismic survey gear (LGL 2017). At this speed, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are discountable. At average transit speed, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again discountable. Ship strikes, as analyzed in the studies cited above, generally involve commercial shipping, which is much more common in both space and time than is geophysical survey activity. Jensen and Silber (2004)

summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (e.g., commercial shipping). Commercial fishing vessels were responsible for three percent of recorded collisions, while no such incidents were reported for geophysical survey vessels during that time period.

It is possible for ship strikes to occur while traveling at slow speeds. For example, a hydrographic survey vessel traveling at low speed (5.5 kn) while conducting mapping surveys off the central California coast struck and killed a blue whale in 2009. The State of California determined that the whale had suddenly and unexpectedly surfaced beneath the hull, with the result that the propeller severed the whale's vertebrae, and that this was an unavoidable event. This strike represents the only such incident in approximately 540,000 hours of similar coastal mapping activity ( $p = 1.9 \times 10^{-6}$ ; 95% CI =  $0 - 5.5 \times 10^{-6}$ ; NMFS, 2013b). In addition, a research vessel reported a fatal strike in 2011 of a dolphin in the Atlantic, demonstrating that it is possible for strikes involving smaller cetaceans to occur. In that case, the incident report indicated that an animal apparently was struck by the vessel's propeller as it was intentionally swimming near the vessel. While indicative of the type of unusual events that cannot be ruled out, neither of these instances represents a circumstance that would be considered reasonably foreseeable or that would be considered preventable.

Although the likelihood of the vessel striking a marine mammal is low, we require a robust ship strike avoidance protocol (see "Proposed Mitigation"), which we believe eliminates any foreseeable risk of ship strike. We anticipate that vessel collisions involving a seismic data acquisition vessel towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the required mitigation measures, the relatively slow speed of the vessel towing gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), the presence of marine mammal observers, and the short duration of the survey (5.5 days), we believe that the possibility of ship strike is discountable and, further, that were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from ship strike is anticipated, and this potential effect of the specified activity will not

be discussed further in the following analysis.

*Stranding*—When a living or dead marine mammal swims or floats onto shore and becomes "beached" or incapable of returning to sea, the event is a "stranding" (Geraci *et al.*, 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is that "(A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance."

Marine mammals strand for a variety of reasons, such as infectious agents, biotoxins, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.*, 1976; Eaton, 1979; Odell *et al.*, 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chrousos, 2000; Creel, 2005; DeVries *et al.*, 2003; Fair and Becker, 2000; Foley *et al.*, 2001; Moberg, 2000; Relyea, 2005a; 2005b; Romero, 2004; Sih *et al.*, 2004).

Use of military tactical sonar has been implicated in a majority of investigated stranding events, although one stranding event was associated with the use of seismic airguns. This event occurred in the Gulf of California, coincident with seismic reflection profiling by the R/V *Maurice Ewing* operated by Columbia University's Lamont-Doherty Earth Observatory and involved two Cuvier's beaked whales (Hildebrand, 2004). The vessel had been firing an array of 20 airguns with a total

volume of 8,500 in<sup>3</sup> (Hildebrand, 2004; Taylor *et al.*, 2004). Most known stranding events have involved beaked whales, though a small number have involved deep-diving delphinids or sperm whales (*e.g.*, Mazzariol *et al.*, 2010; Southall *et al.*, 2013). In general, long duration (~1 second) and high-intensity sounds ( $\leq 235$  dB SPL) have been implicated in stranding events (Hildebrand, 2004). With regard to beaked whales, mid-frequency sound is typically implicated (when causation can be determined) (Hildebrand, 2004). Although seismic airguns create predominantly low-frequency energy, the signal does include a mid-frequency component. We have considered the potential for the proposed survey to result in marine mammal stranding and have concluded that, based on the best available information, stranding is not expected to occur.

**Other Potential Impacts**—Here, we briefly address the potential risks due to entanglement and contaminant spills. We are not aware of any records of marine mammal entanglement in towed arrays such as those considered here. The discharge of trash and debris is prohibited (33 CFR 151.51–77) unless it is passed through a machine that breaks up solids such that they can pass through a 25-mm mesh screen. All other trash and debris must be returned to shore for proper disposal with municipal and solid waste. Some personal items may be accidentally lost overboard. However, U.S. Coast Guard and Environmental Protection Act regulations require operators to become proactive in avoiding accidental loss of solid waste items by developing waste management plans, posting informational placards, manifesting trash sent to shore, and using special precautions such as covering outside trash bins to prevent accidental loss of solid waste. There are no meaningful entanglement risks posed by the described activity, and entanglement risks are not discussed further in this document.

Marine mammals could be affected by accidentally spilled diesel fuel from a vessel associated with proposed survey activities. Quantities of diesel fuel on the sea surface may affect marine mammals through various pathways: surface contact of the fuel with skin and other mucous membranes, inhalation of concentrated petroleum vapors, or ingestion of the fuel (direct ingestion or by the ingestion of oiled prey) (*e.g.*, Geraci and St. Aubin, 1980, 1985, 1990). However, the likelihood of a fuel spill during any particular geophysical survey is considered to be remote, and the potential for impacts to marine

mammals would depend greatly on the size and location of a spill and meteorological conditions at the time of the spill. Spilled fuel would rapidly spread to a layer of varying thickness and break up into narrow bands or windrows parallel to the wind direction. The rate at which the fuel spreads would be determined by the prevailing conditions such as temperature, water currents, tidal streams, and wind speeds. Lighter, volatile components of the fuel would evaporate to the atmosphere almost completely in a few days. Evaporation rate may increase as the fuel spreads because of the increased surface area of the slick. Rougher seas, high wind speeds, and high temperatures also tend to increase the rate of evaporation and the proportion of fuel lost by this process (Scholz *et al.*, 1999). We do not anticipate potentially meaningful effects to marine mammals as a result of any contaminant spill resulting from the proposed survey activities, and contaminant spills are not discussed further in this document.

#### *Anticipated Effects on Marine Mammal Habitat*

**Effects to Prey**—Marine mammal prey varies by species, season, and location and, for some, is not well documented. Fish react to sounds which 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 pulsed sound on fish, although several are based on studies in support of 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 survey activities at the project area would be temporary avoidance of the area. The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated.

Information on seismic airgun impacts to zooplankton, which represent an important prey type for mysticetes, is limited. However, McCauley *et al.* (2017) reported that experimental exposure to a pulse from

a 150 inch<sup>3</sup> airgun decreased zooplankton abundance when compared with controls, as measured by sonar and net tows, and caused a two- to threefold increase in dead adult and larval zooplankton. Although no adult krill were present, the study found that all larval krill were killed after air gun passage. Impacts were observed out to the maximum 1.2 km range sampled.

In general, impacts to marine mammal prey are expected to be limited due to the relatively small temporal and spatial overlap between the proposed survey and any areas used by marine mammal prey species. The proposed survey would occur over a relatively short time period (5.5 days) and would occur over a very small area relative to the area available as marine mammal habitat in the central Pacific Ocean. We do not have any information to suggest the proposed survey area represents a significant feeding area for any marine mammal, and we believe any impacts to marine mammals due to adverse effects to their prey would be insignificant due to the limited spatial and temporal impact of the proposed survey.

However, adverse impacts may occur to a few species of fish and to zooplankton.

**Acoustic Habitat**—Acoustic habitat is the soundscape—which encompasses all of the sound present in a particular location and time, as a whole—when considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (communication during feeding, mating, and other social activities), other animals (finding prey or avoiding predators), and the physical environment (finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (*e.g.*, produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic, or may be intentionally introduced to the marine environment for data acquisition purposes (as in the use of airgun arrays). Anthropogenic noise varies widely in its frequency content, duration, and loudness and these characteristics greatly influence the potential habitat-mediated effects to marine mammals (please see also the previous discussion on masking under “Acoustic Effects”), which may range from local effects for

brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). For more detail on these concepts see, *e.g.*, Barber *et al.*, 2010; Pijanowski *et al.*, 2011; Francis and Barber, 2013; Lillis *et al.*, 2014.

Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber, 2013). Although the signals emitted by seismic airgun arrays are generally low frequency, they would also likely be of short duration and transient in any given area due to the nature of these surveys. As described previously, exploratory surveys such as these cover a large area but would be transient rather than focused in a given location over time and therefore would not be considered chronic in any given location.

In summary, activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat or populations of fish species or on the quality of acoustic habitat. 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 provides an estimate of the number of incidental takes proposed for authorization through 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 type of take expected to result from these activities. 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).

Authorized takes would primarily be by Level B harassment, as use of the seismic airguns have the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for mysticetes and high frequency cetaceans (*i.e.*, kogiidae spp.), due to larger predicted auditory injury zones for those functional hearing groups. Auditory injury is unlikely to occur for mid-frequency species given very small modeled zones of injury for those species. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) and the number of days of activities. Below, we describe these components in more detail and present the exposure estimate and associated numbers of take proposed for authorization.

#### Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

*Level B Harassment for non-explosive sources*— Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.*, frequency, predictability, duty cycle), the environment (*e.g.*, bathymetry), and the receiving animals (hearing, motivation, experience, demography,

behavioral context) and can be difficult to predict (Southall *et al.*, 2007, Ellison *et al.*, 2011). Based on the best available science and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider to fall under Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1  $\mu$ Pa (rms) for continuous (*e.g.*, vibratory pile-driving, drilling) and above 160 dB re 1  $\mu$ Pa (rms) for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources. UH's proposed activity includes the use of impulsive seismic sources. Therefore, the 160 dB re 1  $\mu$ Pa (rms) criteria is applicable for analysis of level B harassment.

*Level A harassment for non-explosive sources*— NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The Technical Guidance identifies the received levels, or thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity for all underwater anthropogenic sound sources, reflects the best available science, and better predicts the potential for auditory injury than does NMFS' historical criteria.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: <http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm>. As described above, UH's proposed activity includes the use of intermittent and impulsive seismic sources.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT IN MARINE MAMMALS

Hearing group	PTS onset thresholds	
	Impulsive*	Non-impulsive
Low-Frequency (LF) Cetaceans .....	$L_{pk,flat}$ : 219 dB ..... $L_{E,LF,24h}$ : 183 dB	$L_{E,LF,24h}$ : 199 dB
Mid-Frequency (MF) Cetaceans .....	$L_{pk,flat}$ : 230 dB ..... $L_{E,MF,24h}$ : 185 dB	$L_{E,MF,24h}$ : 198 dB
High-Frequency (HF) Cetaceans .....	$L_{pk,flat}$ : 202 dB ..... $L_{E, HF,24h}$ : 155 dB	$L_{E,HF,24h}$ : 173 dB

**Note:** \* 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  $\mu$ Pa, and cumulative sound exposure level (LE) has a reference value of 1  $\mu$ Pa<sup>2</sup>s. 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.

*Ensonified Area*

Here, we describe operational and environmental parameters of the activity that will feed into estimating the area ensonified above the acoustic thresholds.

The proposed survey would entail use of a 32-airgun array with a total discharge of 7,800 in<sup>3</sup> at a tow depth of 10 m. The distance to the predicted isopleth corresponding to the threshold for Level B harassment (160 dB re 1  $\mu$ Pa) was calculated based on results of modeling performed by Lamont-Doherty Earth Observatory (LDEO) of Columbia University. Received sound levels were predicted by LDEO’s model (Diebold *et al.* 2010) as a function of distance from the full 32-airgun array as well as for a single 100 in<sup>3</sup> airgun, which would be used during power-downs. The LDEO modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer unbounded by a seafloor). LDEO’s modeling methodology is described in greater detail in the IHA application (LGL 2017) and we refer to the reader to that document rather than repeating it here. The estimated distances to the Level B harassment isopleth for the *Kairei*’s full airgun array and for the single 100-in<sup>3</sup> airgun are shown in Table 5.

TABLE 5—PREDICTED RADIAL DISTANCES FROM R/V KAIREI SEISMIC SOURCE TO ISOPLETH CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Source and volume (in <sup>3</sup> )	Predicted distance to threshold (160 dB re 1 $\mu$ Pa) (m)
1 airgun, 100 .....	722
4 strings, 32 airguns, 7,800.	9,289

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups (Table 3), were calculated based on modeling performed by LDEO using the Nucleus software program and the NMFS User Spreadsheet, described below. The updated acoustic thresholds for impulsive sounds (such as airguns) contained in the Technical Guidance (NMFS 2016) were presented as dual metric acoustic thresholds using both SEL<sub>cum</sub> and peak sound pressure metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.*, metric resulting in the largest isopleth). The SEL<sub>cum</sub> metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL<sub>cum</sub> thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth

that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The values for SEL<sub>cum</sub> and peak SPL for the *Kairei* airgun array were derived from calculating the modified farfield signature (Table 6). The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance below the array (*e.g.*, 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array’s geometrical center. However, when the source is an array of multiple airguns separated in space, the source level from the theoretical farfield signature is not necessarily the best measurement of the source level that is physically achieved at the source (Tolstoy *et al.* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively, as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the large array effect near the source and is calculated as a point source, the modified farfield signature is a more appropriate measure of the sound source level for distributed

sound sources, such as airgun arrays. UH used the acoustic modeling developed by LDEO (same as used for Level B takes) with a small grid step of 1 m in both the inline and depth

directions (for example, see Figure 5 in the IHA application). The propagation modeling takes into account all airgun interactions at short distances from the source, including interactions between

subarrays which are modeled using the NUCLEUS software to estimate the notional signature and MATLAB software to calculate the pressure signal at each mesh point of a grid.

TABLE 6—MODELED SOURCE LEVELS FOR R/V KAIREI 7,800 IN<sup>3</sup> AIRGUN ARRAY AND 100 IN<sup>3</sup> AIRGUN BASED ON MODIFIED FARFIELD SIGNATURE

Functional hearing group	7,800 in <sup>3</sup> airgun array (Peak SPL <sub>flat</sub> ) (db)	7,800 in <sup>3</sup> airgun array (SEL <sub>cum</sub> ) (db)	100 in <sup>3</sup> airgun (Peak SPL <sub>flat</sub> ) (db)	100 in <sup>3</sup> airgun (SEL <sub>cum</sub> ) (db)
Low frequency cetaceans (L <sub>pk,flat</sub> : 219 dB; L <sub>E,LF,24h</sub> : 183 dB)	256.36	235.01	229.46	208.41
Mid frequency cetaceans (L <sub>pk,flat</sub> : 230 dB; L <sub>E,MF,24h</sub> : 185 dB)	245.59	235.12	229.47	208.44
High frequency cetaceans (L <sub>pk,flat</sub> : 202 dB; L <sub>E,HF,24h</sub> : 155 dB)	256.26	235.16	229.59	209.01

In order to more realistically incorporate the Technical Guidance’s weighting functions over the seismic array’s full acoustic band, unweighted spectrum data for the Kairei’s airgun array (modeled in 1 Hz bands) was used to make adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. These adjusted/weighted spectrum levels were then converted to pressures (micropascals) in order to integrate them over the entire broadband spectrum, resulting in broadband weighted source levels by

hearing group that could be directly incorporated within the User Spreadsheet (*i.e.*, to override the Spreadsheet’s more simple weighting factor adjustment). Using the User Spreadsheet’s “safe distance” methodology for mobile sources (described by Sivle *et al.*, 2014) with the hearing group-specific weighted source levels, and inputs assuming spherical spreading propagation, a source velocity of 2.315 meters/second, and shot interval of 21.59 seconds (LGL 2017), potential radial distances to auditory injury zones were then calculated for SEL<sub>cum</sub> thresholds. To estimate Peak

SPL thresholds, modeling was run for a single shot and then a high pass filter was applied for each hearing group. A high pass filter is a type of band pass filter, which pass frequencies within a defined range without reducing amplitude and attenuate frequencies outside that defined range (Yost 2007). Inputs to the User Spreadsheet are shown in Table 6; outputs from the User Spreadsheet in the form of estimated distances to Level A harassment isopleths are shown in Table 7. The User Spreadsheet used by UH is shown in Table 3 of the IHA application.

TABLE 7—MODELED RADIAL DISTANCES FROM R/V KAIREI 7800 IN<sup>3</sup> AIRGUN ARRAY AND 100 IN<sup>3</sup> AIRGUN TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Functional hearing group	7,800 in <sup>3</sup> airgun array (peak SPL <sub>flat</sub> ) (m)	7,800 in <sup>3</sup> airgun array (SEL <sub>cum</sub> ) (m)	100 in <sup>3</sup> airgun (Peak SPL <sub>flat</sub> ) (m)	100 in <sup>3</sup> airgun (SEL <sub>cum</sub> ) (m)
Low frequency cetaceans (L <sub>pk,flat</sub> : 219 dB; L <sub>E,LF,24h</sub> : 183 dB)	61.5	752.8	3.2	4.48
Mid frequency cetaceans (L <sub>pk,flat</sub> : 230 dB; L <sub>E,MF,24h</sub> : 185 dB)	0.0	0.0	0.0	n/a
High frequency cetaceans (L <sub>pk,flat</sub> : 202 dB; L <sub>E,HF,24h</sub> : 155 dB)	14.5	1.7	3.7	n/a

Note that because of some of the assumptions included in the methods used, isopleths produced may be overestimates to some degree, which will ultimately result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate. For mobile sources, such as the proposed seismic survey, the User

Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

*Marine Mammal Occurrence*

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

The best available scientific information was considered in conducting marine mammal exposure estimates (the basis for estimating take). For most cetacean species, densities

calculated by Bradford *et al.* (2017) from summer–fall vessel-based surveys that are part of the Hawaiian Island Cetacean Ecosystem Assessment Survey (HICEAS) were used. The surveys were conducted by NMFS’ Southwest Fisheries Science Center (SWFSC) and Pacific Islands Fisheries Science Center (PIFSC) in 2010 using two NOAA research vessels, one during August 13–December 1 and the other during September 2–October 29. The densities were estimated using a multiple-covariate line-transect approach (Buckland *et al.* 2001; Marques and

Buckland 2004). Density estimates for pygmy and dwarf sperm whales and spinner dolphins, which were not calculated from the 2010 surveys, were derived from the “Outer EEZ stratum” of the vessel-based HICEAS survey conducted in summer–fall 2002 by SWFSC (Barlow 2006) using line-transect methodology (Buckland *et al.* 2001). The density estimate for the false killer whale was based on the pelagic stock density calculated by Bradford *et al.* (2015) using line-transect methodology (Buckland *et al.* 2001).

All densities were corrected for trackline detection probability bias ( $f(0)$ ) and availability ( $g(0)$ ) bias by the authors. Bradford *et al.* (2017) used  $g(0)$  values estimated by Barlow (2015), whose analysis indicated that  $g(0)$  had previously been overestimated, particularly for high sea states. Barlow (2006) used earlier estimates of  $g(0)$ , so densities used here for pygmy and dwarf sperm whales and spinner dolphins likely are underestimates. The density for the “Sei or Bryde’s whale” category identified by Bradford *et al.* (2017) was allocated between sei and Bryde’s whales according to their proportionate densities. Density

estimates for humpback and minke whales were not available.

There is some uncertainty related to the estimated density data and the assumptions used in their calculations, as with all density data estimates. However, the approach used is based on the best available data.

#### Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level B harassment or Level A harassment, radial distances to predicted isopleths corresponding to the Level A harassment and Level B harassment thresholds are calculated, as described above. We then use those distances to calculate the area(s) around the airgun array predicted to be ensonified to sound levels that exceed the Level A and Level B harassment thresholds. The total ensonified area for the survey is then calculated, based on the areas predicted to be ensonified around the array and the trackline distance. The marine mammals predicted to occur

within these respective areas, based on estimated densities, are expected to be incidentally taken by the proposed survey.

To summarize, the estimated density of each marine mammal species within an area (animals/km<sup>2</sup>) is multiplied by the daily ensonified areas (km<sup>2</sup>) that correspond to the Level A and Level B harassment thresholds for the species. The product (rounded) is the number of instances of take for each species within one day. The number of instances of take for each species within one day is then multiplied by the number of survey days (plus 25 percent contingency, as described below). The result is an estimate of the number of instances that marine mammals are predicted to be exposed to airgun sounds above the Level B harassment threshold and the Level A harassment threshold over the duration of the proposed survey. Estimated takes for all marine mammal species are shown in Table 8.

The proposed survey would occur both within the U.S. EEZ and outside the U.S. EEZ. We propose to authorize incidental take that is expected to occur as a result of the proposed survey both within and outside the U.S. EEZ.

TABLE 8—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION

Species	Estimated and proposed Level A takes	Estimated Level B takes	Proposed Level B takes	Total proposed Level A and Level B takes	Total Proposed Level A and Level B takes as a percentage of population
Humpback whale <sup>1</sup> .....	0	0	2	2	<0.1
Minke whale <sup>1</sup> .....	0	0	1	1	n/a
Bryde’s whale .....	2	25	25	27	3.4
Sei whale .....	0	6	6	6	3.4
Fin whale .....	0	2	2	2	3.4
Blue whale <sup>1</sup> .....	0	1	3	3	3.7
Sperm whale .....	0	51	51	51	1.5
Cuvier’s beaked whale .....	0	8	8	8	<0.1
Longman’s beaked whale .....	0	85	85	85	1.9
Blainville’s beaked whale .....	0	76	76	76	3.3
Rough-toothed dolphin .....	0	812	812	812	12.9
Bottlenose dolphin .....	0	246	246	246	4.1
Pantropical spotted dolphin .....	0	639	639	639	4.0
Spinner dolphin <sup>1</sup> .....	0	23	32	32	0.9
Striped dolphin .....	0	685	685	685	3.3
Fraser’s dolphin .....	0	577	577	577	3.4
Risso’s dolphin .....	0	130	130	130	1.8
Melon-headed whale .....	0	97	97	97	1.7
Pygmy killer whale .....	0	119	119	119	3.5
False killer whale .....	0	16	16	16	1.0
Killer whale <sup>1</sup> .....	0	2	5	5	4.9
Short-finned pilot whale .....	0	218	218	218	1.8
Pygmy sperm whale .....	0	87	87	87	1.2
Dwarf sperm whale .....	0	214	214	214	1.2

<sup>1</sup> The proposed number of authorized takes (Level B harassment only) for these species has been increased from the calculated take to mean group size. Sources for mean group sizes are as follows: blue whale (Bradford *et al.* 2017); minke whale (Jackson *et al.* 2008); humpback whale (Mobley *et al.* 2001); spinner dolphin (Barlow 2006); killer whale (Bradford *et al.* 2017).

*Species With Take Estimates Less Than Mean Group Size:* Using the approach described above to estimate take, the take estimates for the blue whale, killer whale, and spinner dolphin (Table 8) were less than the average group sizes estimated for these species. However, information on the social structures and life histories of these species indicates it is common for them to be encountered in groups. As the results of take calculations support the likelihood that UH's survey would be expected to encounter and to incidentally take these species, and we believe it is likely that these species may be encountered in groups, it is reasonable to conservatively assume that one group of each of these species will be taken during the proposed survey. We therefore propose to authorize the take of the average (mean) group size for the blue whale, killer whale, and spinner dolphin to account for the possibility that UH's survey encounters a group of any of these species (Table 8).

*Species With No Available Density Data:* No density data were available for humpback and minke whales. Both species would typically be found further north than the proposed survey area during the time of year that the proposed survey is planned to occur, based on sightings data around the Hawaiian Islands (Carretta *et al.* 2017). However, based on input from subject matter experts, we believe it is reasonable to assume that both species may be encountered by UH during the proposed survey. Humpback whales have typically not been observed in the project area in the fall (Carretta *et al.* 2017). However, there are increasing anecdotal reports of confirmed sightings of humpback whales from early September through October in areas near the planned project area (pers. comm. E. Lyman, NOAA Office of National Marine Sanctuaries, to J. Carduner, NMFS, June 20, 2017). Like humpback whales, sightings data does not indicate that minke whales would typically be expected to be present in the project area in the fall (Carretta *et al.* 2017). However, detections of minke whales are common in passive acoustic recordings from various locations around the main Hawaiian Islands, including during the fall (pers. comm. E. Oleson, NOAA PIFSC, to J. Carduner, NMFS, June 20, 2017). Additionally, as minke whales in the North Pacific do not have a visible blow, they can be easily missed by visual observers, suggesting a lack of sightings is likely related to misidentification or low detection capability in poor sighting

conditions (Rankin *et al.* 2007). Though no density data are available, we believe it is reasonable to conservatively assume that UH's proposed survey may encounter and incidentally take minke and humpback whales. We therefore propose to authorize the take of the average (mean) group size (weighted by effort and rounded up) for the humpback and minke whale (Table 8).

It should be noted that the proposed take numbers shown in Table 8 are believed to be conservative for several reasons. First, in the calculations of estimated take, 25% has been added in the form of operational survey days (equivalent to adding 25% to the proposed line km to be surveyed) to account for the possibility of additional seismic operations associated with airgun testing, and repeat coverage of any areas where initial data quality is sub-standard. Additionally, marine mammals would be expected to move away from a sound source that represents an aversive stimulus. However, the extent to which marine mammals would move away from the sound source is difficult to quantify and is therefore not accounted for in take estimates shown in Table 8.

#### 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 (latter not applicable for this action). 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 consider 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. This considers

the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned), 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.

UH has reviewed mitigation measures employed during seismic research surveys authorized by NMFS under previous incidental harassment authorizations, as well as recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), Weir and Dolman (2007), Nowacek *et al.* (2013), Wright (2014), and Wright and Cosentino (2015), and has incorporated a suite of proposed mitigation measures into their project description based on the above sources.

To reduce the potential for disturbance from acoustic stimuli associated with the activities, UH has proposed to implement the following mitigation measures for marine mammals:

- (1) Vessel-based visual mitigation monitoring;
- (2) Vessel-based passive acoustic monitoring;
- (3) Establishment of an exclusion zone;
- (4) Power down procedures;
- (5) Shutdown procedures;
- (6) Ramp-up procedures; and
- (7) Ship strike avoidance measures.

#### Vessel-Based Visual Mitigation Monitoring

PSO observations would take place during all daytime airgun operations and nighttime start ups (if applicable) of the airguns. Airgun operations would be suspended when marine mammals are observed within, or about to enter, designated Exclusion Zones (as described below). PSOs would also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the planned start of airgun operations. Observations would also be made during daytime periods when the *Kairei* is underway without seismic operations, such as during transits, to allow for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods.

During seismic operations, four visual PSOs would be based aboard the *Kairei*. PSOs would be appointed by JAMSTEC with NMFS approval. During the majority of seismic operations, two PSOs would monitor for marine mammals around the seismic vessel. Use of two simultaneous observers would increase the effectiveness of detecting marine mammals around the source vessel. However, during meal times, only one PSO may be on duty. PSO(s) would be on duty in shifts of duration no longer than 4 hours. Other crew would also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). Before the start of the seismic survey, the crew would be given additional instruction in detecting marine mammals and implementing mitigation requirements. The *Kairei* is a suitable platform for marine mammal observations. When stationed on the observation platform, the PSO would have a good view around the entire vessel. During daytime, the PSO(s) would scan the area around the vessel systematically with reticle binoculars (e.g., 7×50 Fujinon), Big-eye binoculars (25×150), and with the naked eye.

The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes would be provided to NMFS for approval. At least two PSOs must have a minimum of 90 days at-sea experience working as PSOs during a deep penetration seismic survey, with no more than eighteen months elapsed since the conclusion of the at-sea experience. One “experienced” visual PSO would be designated as the lead for the entire protected species observation team. The lead would coordinate duty schedules and roles for the PSO team and serve as primary point of contact for the vessel operator. The lead PSO would devise the duty schedule such that “experienced” PSOs are on duty with those PSOs with appropriate training but who have not yet gained relevant experience, to the maximum extent practicable.

The PSOs must have successfully completed relevant training, including completion of all required coursework and passing a written and/or oral examination developed for the training program, and must have successfully attained a bachelor’s degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and

at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate training, including (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

In summary, a typical daytime cruise would have scheduled two observers (visual) on duty from the observation platform, and an acoustic observer on the passive acoustic monitoring system.

#### *Vessel-Based Passive Acoustic Mitigation Monitoring*

Passive acoustic monitoring (PAM) would take place to complement the visual monitoring program. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustic monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring would serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals vocalize, but it can be effective either by day or by night and does not depend on good visibility. It would be monitored in real time so that visual observers can be alerted when marine mammals are detected acoustically.

The PAM system consists of hardware (i.e., hydrophones) and software. The “wet end” of the system consists of a towed hydrophone array that is connected to the vessel by a tow cable. A deck cable would connect the tow cable to the electronics unit on board where the acoustic station, signal conditioning, and processing system would be located. The acoustic signals received by the hydrophones are amplified, digitized, and then processed by the software.

One acoustic PSO (in addition to the four visual PSOs) would be on board. The towed hydrophones would be monitored 24 hours per day (either by the acoustic PSO or by a visual PSO trained in the PAM system if the acoustic PSO is on break) while at the seismic survey area during airgun operations, and during most periods when the *Kairei* is underway while the airguns are not operating. However,

PAM may not be possible if damage occurs to the array or back-up systems during operations. One PSO would monitor the acoustic detection system at any one time, in shifts no longer than six hours, by listening to the signals via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans.

When a vocalization is detected, while visual observations are in progress, the acoustic PSO would contact the visual PSOs immediately, to alert them to the presence of marine mammals (if they have not already been detected visually), in order to facilitate a power down or shut down, if required. The information regarding the marine mammal acoustic detection would be entered into a database.

#### *Exclusion Zone and Buffer Zone*

An exclusion zone is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, e.g., auditory injury, disruption of critical behaviors. The PSOs would establish a minimum exclusion zone with a 500 m radius for the full array. The 500 m EZ would be based on radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within, enters, or appears on a course to enter this zone, the acoustic source would be powered down (see Power Down Procedures below). In addition to the 500 m EZ for the full array, a 100 m exclusion zone would be established for the single 100 in<sup>3</sup> airgun. With certain exceptions (described below), if a marine mammal appears within, enters, or appears on a course to enter this zone the acoustic source would be shut down entirely (see Shutdown Procedures below).

Potential radial distances to auditory injury zones were calculated on the basis of maximum peak pressure using values provided by the applicant (Table 7). The 500 m radial distance of the standard EZ is intended to be precautionary in the sense that it would be expected to contain sound exceeding peak pressure injury criteria for all cetacean hearing groups, while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Although significantly greater distances may be observed from an elevated platform under good conditions, we believe that 500 m is likely regularly attainable for

PSOs using the naked eye during typical conditions.

An appropriate EZ based on cumulative sound exposure level ( $SEL_{cum}$ ) criteria would be dependent on the animal's applied hearing range and how that overlaps with the frequencies produced by the sound source of interest (*i.e.*, via marine mammal auditory weighting functions) (NMFS, 2016), and may be larger in some cases than the zones calculated on the basis of the peak pressure thresholds (and larger than 500 m) depending on the species in question and the characteristics of the specific airgun array. In particular, the EZ radii would be larger for low-frequency cetaceans, because their most susceptible hearing range overlaps the low frequencies produced by airguns, but the zones would remain very small for mid-frequency cetaceans (*i.e.*, including the "small delphinoids" described below), whose range of best hearing largely does not overlap with frequencies produced by airguns.

Consideration of exclusion zone distances is inherently an essentially instantaneous proposition—a rule or set of rules that requires mitigation action upon detection of an animal. This indicates that consideration of peak pressure thresholds is most relevant, as compared with cumulative sound exposure level thresholds, as the latter requires that an animal accumulate some level of sound energy exposure over some period of time (*e.g.*, 24 hours). A PSO aboard a mobile source will typically have no ability to monitor an animal's position relative to the acoustic source over relevant time periods for purposes of understanding whether auditory injury is likely to occur on the basis of cumulative sound exposure and, therefore, whether action should be taken to avoid such potential. Therefore, definition of an exclusion zone based on  $SEL_{cum}$  thresholds is of questionable relevance given relative motion of the source and receiver (*i.e.*, the animal). Cumulative SEL thresholds are likely more relevant for purposes of modeling the potential for auditory injury than they are for informing real-time mitigation. We recognize the importance of the accumulation of sound energy to an understanding of the potential for auditory injury and that it is likely that, at least for low-frequency cetaceans, some potential auditory injury is likely impossible to mitigate and should be considered for authorization.

In summary, our intent in prescribing a standard exclusion zone distance is to (1) encompass zones for most species within which auditory injury could

occur on the basis of instantaneous exposure; (2) provide additional protection from the potential for more severe behavioral reactions (*e.g.*, panic, antipredator response) for marine mammals at relatively close range to the acoustic source; (3) provide consistency for PSOs, who need to monitor and implement the exclusion zone; and (4) to define a distance within which detection probabilities are reasonably high for most species under typical conditions.

Our use of 500 m as the EZ is a reasonable combination of factors. This zone would contain all potential auditory injury for all cetaceans (high-frequency, mid-frequency and low-frequency functional hearing groups) as assessed against peak pressure thresholds (NMFS, 2016) (Table 7), would contain all potential auditory injury for high-frequency and mid-frequency cetaceans as assessed against  $SEL_{cum}$  thresholds (NMFS, 2016) (Table 7), and has been proven to be practicable through past implementation in seismic surveys conducted for the oil and gas industry in the Gulf of Mexico (as regulated by BOEM pursuant to the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331–1356)). In summary, a practicable criterion such as this has the advantage of simplicity while still providing in most cases a zone larger than relevant auditory injury zones, given realistic movement of source and receiver.

The PSOs would also establish and monitor a 1,000-m buffer zone. During use of the acoustic source, occurrence of marine mammals within the buffer zone (but outside the exclusion zone) would be communicated to the operator to prepare for the potential power down or shutdown of the acoustic source. The buffer zone is discussed further under Ramp Up Procedures below.

#### Power Down Procedures

A power down involves decreasing the number of airguns in use such that the radius of the mitigation zone is decreased to the extent that marine mammals are no longer in, or about to enter, the 500 m EZ. During a power down, one 100-in<sup>3</sup> airgun would be operated. The continued operation of one 100-in<sup>3</sup> airgun is intended to alert marine mammals to the presence of the seismic vessel in the area, and to allow them to leave the area of the seismic vessel if they choose. In contrast, a shutdown occurs when all airgun activity is suspended (shutdown procedures are discussed below). If a marine mammal is detected outside the 500 m EZ but appears likely to enter the

500 m EZ, the airguns would be powered down before the animal is within the 500 m EZ. Likewise, if a mammal is already within the 500 m EZ when first detected, the airguns would be powered down immediately. During a power down of the airgun array, the 100-in<sup>3</sup> airgun would be operated.

Following a power down, airgun activity would not resume until the marine mammal has cleared the 500 m EZ. The animal would be considered to have cleared the 500 m EZ if the following conditions have been met:

- It is visually observed to have departed the 500 m EZ, or
- it has not been seen within the 500 m EZ for 15 min in the case of small odontocetes, or
- it has not been seen within the 500 m EZ for 30 min in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales.

This power down requirement would be in place for all marine mammals, with the exception of small delphinoids under certain circumstances. As defined here, the small delphinoid group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.*, bow riding). This exception to the power down requirement would apply solely to specific genera of small dolphins—*Steno*, *Tursiops*, *Stenella* and *Lagenodelphis*—and would only apply if the animals were traveling, including approaching the vessel. If, for example, an animal or group of animals is stationary for some reason (*e.g.*, feeding) and the source vessel approaches the animals, the power down requirement applies. An animal with sufficient incentive to remain in an area rather than avoid an otherwise aversive stimulus could either incur auditory injury or disruption of important behavior. If there is uncertainty regarding identification (*i.e.*, whether the observed animal(s) belongs to the group described above) or whether the animals are traveling, the power down would be implemented.

We propose this small delphinoid exception because power-down/shutdown requirements for small delphinoids under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small delphinoids are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine mammals likely to intentionally approach the vessel. As described

below, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (e.g., delphinids), as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (i.e., permanent threshold shift). Please see "Potential Effects of the Specified Activity on Marine Mammals" above for further discussion of sound metrics and thresholds and marine mammal hearing.

A large body of anecdotal evidence indicates that small delphinoids commonly approach vessels and/or towed arrays during active sound production for purposes of bow riding, with no apparent effect observed in those delphinoids (e.g., Barkaszi *et al.*, 2012). The potential for increased shutdowns resulting from such a measure would require the *Kairei* to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area. Although other mid-frequency hearing specialists (e.g., large delphinoids) are no more likely to incur auditory injury than are small delphinoids, they are much less likely to approach vessels. Therefore, retaining a power-down/shutdown requirement for large delphinoids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a power-down/shutdown requirement for large delphinoids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the source vessel.

At any distance, power down of the acoustic source would also be required upon observation of a large whale (i.e., sperm whale or any baleen whale) with a calf, or upon observation of an aggregation of large whales of any species (i.e., sperm whale or any baleen whale) that does not appear to be traveling (e.g., feeding, socializing, etc.). These would be the only two potential situations that would require power down of the array for marine mammals observed beyond the 500 m exclusion zone.

#### Shut Down Procedures

The single 100-in<sup>3</sup> operating airgun would be shut down if a marine mammal is seen within or approaching

the 100 m EZ for the single 100-in<sup>3</sup> airgun. Shutdown would be implemented if (1) an animal enters the 100 m EZ of the single 100-in<sup>3</sup> airgun after a power down has been initiated, or (2) an animal is initially seen within the 100 m EZ of the single 100-in<sup>3</sup> airgun when more than one airgun (typically the full array) is operating. Airgun activity would not resume until the marine mammal has cleared the 500 m EZ. Criteria for judging that the animal has cleared the EZ would be as described above.

The shutdown requirement, like the power down requirement, would be waived for dolphins of the following genera: *Steno*, *Tursiops*, *Stenella* and *Lagenodelphis*. The shutdown waiver only applies if the animals are traveling, including approaching the vessel. If animals are stationary and the source vessel approaches the animals, the shutdown requirement would apply. If there is uncertainty regarding identification (i.e., whether the observed animal(s) belongs to the group described above) or whether the animals are traveling, the shutdown would be implemented.

#### Ramp-Up Procedures

Ramp-up of an acoustic source is intended to provide a gradual increase in sound levels following a power down or shutdown, enabling animals to move away from the source if the signal is sufficiently aversive prior to its reaching full intensity. The ramp-up procedure involves a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved. Ramp-up would be required after the array is powered down or shut down for any reason.

Ramp-up would begin by activating a single airgun of the smallest volume in the array and would continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. This approach to ramp-up (increments of array elements) is proposed because it is relatively simple to implement for the operator and is intended to ensure a perceptible increase in sound output per increment while employing increments that produce similar degrees of increase at each step.

If airguns have been powered down or shut down due to PSO detection of a marine mammal within or approaching the 500 m EZ, ramp-up would not be initiated until all marine mammals have cleared the EZ, during the day or night. Visual and acoustic PSOs would be required to monitor during ramp-up. If

a marine mammal were detected by visual PSOs within or approaching the 500 m EZ during ramp-up, a power down (or shut down if appropriate) would be implemented as though the full array were operational. Criteria for clearing the EZ would be as described above.

Thirty minutes of pre-clearance observation are required prior to ramp-up for any power down or shutdown of longer than 30 minutes (i.e., if the array were shut down during transit from one line to another). This 30 minute pre-clearance period may occur during any vessel activity (i.e., transit). If a marine mammal were observed within or approaching the 500 m EZ during this pre-clearance period, ramp-up would not be initiated until all marine mammals cleared the EZ. Criteria for clearing the EZ would be as described above. If the airgun array has been shut down for reasons other than mitigation (e.g., mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual and acoustic observation and no visual detections of any marine mammal have occurred within the buffer zone and no acoustic detections have occurred.

Ramp-up would be planned to occur during periods of good visibility when possible. However, ramp-up would be allowed at night and during poor visibility if the 500 m EZ and 1,000 m buffer zone have been monitored by visual PSOs for 30 minutes prior to ramp-up and if acoustic monitoring has occurred for 30 minutes prior to ramp-up with no acoustic detections during that period.

The operator would be required to notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed. The operator must provide information to PSOs documenting that appropriate procedures were followed. Following deactivation of the array for reasons other than mitigation, the operator would be required to communicate the near-term operational plan to the lead PSO with justification for any planned nighttime ramp-up.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular

attention to rookeries, mating grounds, and areas of similar significance.

### Proposed Monitoring and Reporting

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

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

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

UH submitted a marine mammal monitoring and reporting plan in section XIII of their IHA application. Monitoring that is designed specifically to facilitate mitigation measures, such as monitoring of the EZ to inform potential

power downs or shutdowns of the airgun array, are described above and are not repeated here.

UH's monitoring and reporting plan includes the following measures:

#### *Vessel-Based Visual Monitoring*

As described above, PSO observations would take place during daytime airgun operations and nighttime start ups (if applicable) of the airguns. During seismic operations, four visual PSOs would be based aboard the *Kairei*. PSOs would be appointed by JAMSTEC with NMFS approval. During the majority of seismic operations, two PSOs would monitor for marine mammals around the seismic vessel. Use of two simultaneous observers would increase the effectiveness of detecting animals around the source vessel. However, during meal times, only one PSO may be on duty. PSOs would be on duty in shifts of duration no longer than 4 hours. Other crew would also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). During daytime, PSOs would scan the area around the vessel systematically with reticle binoculars (*e.g.*, 7×50 Fujinon), Big-eye binoculars (25×150), and with the naked eye.

PSOs would record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data would be used to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They would also provide information needed to order a power down or shut down of the airguns when a marine mammal or sea turtle is within or near the EZ.

When a sighting is made, the following information about the sighting would be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.*, none, avoidance, approach, paralleling, etc.), and behavioral pace.
2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

All observations and power downs or shutdowns would be recorded in a standardized format. Data would be entered into an electronic database. The accuracy of the data entry would be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the

database. These procedures would allow initial summaries of data to be prepared during and shortly after the field program and would facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving. The time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare would also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

Results from the vessel-based observations would provide:

1. The basis for real-time mitigation (airgun power down or shut down).
2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.
3. Data on the occurrence, distribution, and activities of marine mammals and turtles in the area where the seismic study is conducted.
4. Information to compare the distance and distribution of marine mammals and turtles relative to the source vessel at times with and without seismic activity.
5. Data on the behavior and movement patterns of marine mammals and turtles seen at times with and without seismic activity.

#### *Vessel-Based Passive Acoustic Monitoring*

PAM would take place to complement the visual monitoring program as described above. Please see the Proposed Mitigation section above for a description of the PAM system and the acoustic PSO's duties. The acoustic PSO would record data collected via the PAM system, including the following: An acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (*e.g.*, unidentified dolphin, sperm whale), types and nature of sounds heard (*e.g.*, clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. Acoustic detections would also be recorded for further analysis.

#### *Reporting*

A report would be submitted to NMFS within 90 days after the end of the cruise. The report would describe the operations that were conducted and sightings of marine mammals near the operations. The report would provide full documentation of methods, results,

and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that occurred above the harassment threshold based on PSO observations.

### Negligible Impact Analysis and Determination

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

To avoid repetition, our analysis applies to all the species listed in Table 2, given that NMFS expects the anticipated effects of the proposed seismic survey to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis.

NMFS does not anticipate that serious injury or mortality would occur as a result of UH’s proposed seismic survey, even in the absence of proposed mitigation. Thus the proposed authorization does not authorize any mortality. As discussed in the *Potential Effects* section, non-auditory physical effects, stranding, and vessel strike are not expected to occur.

We propose to authorize a limited number of instances of Level A harassment of one marine mammal species (Table 8). However, we believe that any PTS incurred in marine mammals as a result of the proposed activity would be in the form of only a small degree of PTS and not total deafness that would not be likely to affect the fitness of any individuals, because of the constant movement of both the *Kairei* and of the marine mammals in the project area, as well as the fact that the vessel is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time (*i.e.*, since the duration of exposure to loud sounds will be relatively short). Also, as described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the *Kairei*’s approach due to the vessel’s relatively low speed when conducting seismic surveys. We expect that the majority of takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.*, Southall *et al.*, 2007).

Potential impacts to marine mammal habitat were discussed previously in this document (see *Potential Effects of the Specified Activity on Marine Mammals and their Habitat*). Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. Feeding behavior is not likely to be significantly impacted, as marine mammals appear to be less likely to exhibit behavioral reactions or avoidance responses while engaged in feeding activities (Richardson *et al.*, 1995). Prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the

temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, and the lack of important or unique marine mammal habitat, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. In addition, there are no mating or calving areas known to be biologically important to marine mammals within the proposed project area.

The activity is expected to impact a very small percentage of all marine mammal stocks that would be affected by UH’s proposed survey (less than 2 percent for all marine mammal stocks). Additionally, the acoustic “footprint” of the proposed survey would be very small relative to the ranges of all marine mammals that would potentially be affected. Sound levels would increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the proposed survey area. The seismic array would be active 24 hours per day throughout the duration of the proposed survey. However, the very brief overall duration of the proposed survey (5.5 days) would further limit potential impacts that may occur as a result of the proposed activity.

The proposed mitigation measures are expected to reduce the number and/or severity of takes by allowing for detection of marine mammals in the vicinity of the vessel by visual and acoustic observers, and by minimizing the severity of any potential exposures via power downs and/or shutdowns of the airgun array. Based on previous monitoring reports for substantially similar activities that have been previously authorized by NMFS, we expect that the proposed mitigation will be effective in preventing at least some extent of potential PTS in marine mammals that may otherwise occur in the absence of the proposed mitigation.

Of the marine mammal species under our jurisdiction that are likely to occur in the project area, the following species are listed as endangered under the ESA: Blue, fin, sei, and sperm whales. There are currently insufficient data to determine population trends for blue, fin, sei, and sperm whales (Carretta *et al.*, 2016); however, we are proposing to authorize very small numbers of takes for these species (Table 8), relative to their population sizes, therefore we do not expect population-level impacts to any of these species. The other marine mammal species that may be taken by harassment during UH’s seismic survey

are not listed as threatened or endangered under the ESA. There is no designated critical habitat for any ESA-listed marine mammals within the project area; and of the non-listed marine mammals for which we propose to authorize take, none are considered "depleted" or "strategic" by NMFS under the MMPA.

NMFS concludes that exposures to marine mammal species and stocks due to UH's proposed seismic survey would result in only short-term (temporary and short in duration) effects to individuals exposed. Animals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the proposed take estimates to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- The anticipated impacts of the proposed activity on marine mammals would primarily be temporary behavioral changes due to avoidance of the area around the survey vessel. The relatively short duration of the proposed survey (5.5 days) would further limit the potential impacts of any temporary behavioral changes that would occur;
- PTS is only anticipated to occur for one species and the number of instances of PTS that may occur are expected to be very small in number (Table 8). Instances of PTS that are incurred in marine mammals would be of a low level, due to constant movement of the vessel and of the marine mammals in the area, and the nature of the survey design (not concentrated in areas of high marine mammal concentration);
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the proposed survey to avoid exposure to sounds from the activity;
- The proposed project area does not contain areas of significance for mating or calving;
- The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the proposed survey would be temporary and spatially limited;
- The proposed mitigation measures, including visual and acoustic monitoring, power-downs, and

shutdowns, are expected to minimize potential impacts to marine mammals.

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

#### Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers; so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities. Table 8 provides numbers of take by Level A harassment and Level B harassment proposed for authorization. These are the numbers we use for purposes of the small numbers analysis.

The numbers of marine mammals that we propose for authorization to be taken, for all species and stocks, would be considered small relative to the relevant stocks or populations (approximately 13 percent for rough-toothed dolphin, and less than five percent for all other species and stocks). For the blue whale, killer whale, humpback whale, minke whale and spinner dolphin we propose to authorize take resulting from a single exposure of one group of each species or stock, as appropriate (using best available information on mean group size for these species or stocks). We believe that a single incident of take of one group of any of these species represents take of small numbers for that species.

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

#### Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has 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)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the ESA Interagency Cooperation Division, whenever we propose to authorize take for endangered or threatened species.

The NMFS Permits and Conservation Division is proposing to authorize the incidental take of four species of marine mammals which are listed under the ESA: the sei, fin, blue and sperm whale. We have requested initiation of Section 7 consultation with the Interagency Cooperation Division for the issuance of this IHA. NMFS will conclude the ESA section 7 consultation 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 UH for conducting a seismic survey in the central Pacific Ocean in September, 2017, 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 incidental harassment authorization (IHA) is valid for a period of one year from the date of issuance.

2. This IHA is valid only for marine geophysical survey activity, as specified in the University of Hawaii's (UH) IHA application and using an array aboard the R/V *Kairei* with characteristics specified in the application, in the Central Pacific Ocean.

3. General Conditions

(a) A copy of this IHA must be in the possession of UH, the vessel operator and other relevant personnel, the lead

protected species observer (PSO), and any other relevant designees of UH operating under the authority of this IHA.

(b) The species authorized for taking are listed in Table 8. The taking, by Level A and Level B harassment only, is limited to the species and numbers listed in Table 8. Any taking exceeding the authorized amounts listed in Table 8 is prohibited and may result in the modification, suspension, or revocation of this IHA.

(c) The taking by serious injury or death of any species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(d) During use of the airgun(s), if marine mammal species other than those listed in Table 8 are detected by PSOs, the acoustic source must be shut down to avoid unauthorized take.

(e) UH shall ensure that the vessel operator and other relevant vessel personnel are briefed on all responsibilities, communication procedures, marine mammal monitoring protocol, operational procedures, and IHA requirements prior to the start of survey activity, and when relevant new personnel join the survey operations.

#### 4. Mitigation Requirements

The holder of this Authorization is required to implement the following mitigation measures:

(a) UH must use five dedicated, trained, NMFS-approved Protected Species Observers (PSOs), including four visual PSOs and one acoustic PSO. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval.

(b) At least two PSOs must have a minimum of 90 days at-sea experience working as PSOs during a deep penetration seismic survey, with no more than eighteen months elapsed since the conclusion of the at-sea experience. At least one of these must have relevant experience as a visual PSO and at least one must have relevant experience as an acoustic PSO. One "experienced" visual PSO shall be designated as the lead for the entire protected species observation team. The lead shall coordinate duty schedules and roles for the PSO team and serve as primary point of contact for the vessel operator. The lead PSO shall devise the duty schedule such that "experienced" PSOs are on duty with those PSOs with appropriate training but who have not

yet gained relevant experience, to the maximum extent practicable.

#### (c) Visual Observation

(i) During survey operations (e.g., any day on which use of the acoustic source is planned to occur; whenever the acoustic source is in the water, whether activated or not), two PSOs must be on duty and conducting visual observations at all times during daylight hours (i.e., from 30 minutes prior to sunrise through 30 minutes following sunset) with the limited exception of meal times during which one PSO may be on duty.

(ii) Visual monitoring must begin not less than 30 minutes prior to ramp-up, including for nighttime ramp-ups of the airgun array, and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset.

(iii) Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

(iv) Visual PSOs shall communicate all observations to the acoustic PSO, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

(v) Visual PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours observation per 24 hour period.

(vi) During good conditions (e.g., daylight hours; Beaufort sea state 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

(d) Acoustic Observation—The *R/V Kairei* must use a towed passive acoustic monitoring (PAM) system, which must be monitored beginning at least 30 minutes prior to ramp-up and at all times during use of the acoustic source.

(i) One acoustic PSO (in addition to the four visual PSOs) must be on board to operate and oversee PAM operations. Either the acoustic PSO or a visual PSO with training in the PAM system must monitor the PAM system at all times while airguns are operating, and when possible during periods when the airguns are not operating, in shifts lasting no longer than six hours.

(ii) Acoustic PSOs shall communicate all detections to visual PSOs, when visual PSOs are on duty, including any

determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

(iii) Survey activity may continue for brief periods of time if the PAM system malfunctions or is damaged. Activity may continue for 30 minutes without PAM while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional two hours without acoustic monitoring under the following conditions:

(A) Daylight hours and sea state is less than or equal to Beaufort sea state 4;

(B) No marine mammals (excluding small delphinids) detected solely by PAM in the exclusion zone in the previous two hours;

(C) NMFS is notified via email as soon as practicable with the time and location in which operations began without an active PAM system; and

(D) Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of four hours in any 24 hour period.

(e) Exclusion Zone and buffer zone—PSOs shall establish and monitor a 500 m exclusion zone (EZ) and 1,000 m buffer zone. The zones shall be based upon radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source, occurrence of marine mammals outside the EZ but within 1,000 m from any element of the airgun array shall be communicated to the operator to prepare for potential further mitigation measures as described below. During use of the acoustic source, occurrence of marine mammals within the EZ, or on a course to enter the EZ, shall trigger further mitigation measures as described below.

(i) Ramp-up—A ramp-up procedure, involving a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of the acoustic source. Ramp-up shall begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration.

(ii) If the airgun array has been powered down or shut down due to a marine mammal detection, ramp-up shall not occur until all marine mammals have cleared the EZ. A marine mammal is considered to have cleared the EZ if:

(A) It has been visually observed to have left the EZ

(B) It has not been observed within the EZ, for 15 minutes (in the case of small odontocetes) or for 30 minutes (in the case of mysticetes and large odontocetes including sperm, pygmy sperm, dwarf sperm, and beaked whales).

(iii) Thirty minutes of pre-clearance observation of the 500 m EZ and 1,000 m buffer zone are required prior to ramp-up for any power down or shutdown of longer than 30 minutes. This pre-clearance period may occur during any vessel activity. If any marine mammal (including delphinids) is observed within or approaching the 500 m EZ during the 30 minute pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the buffer zone or until an additional time period has elapsed with no further sightings (*i.e.*, 15 minutes for small odontocetes and 30 minutes for all other species).

(iv) During ramp-up, PSOs shall monitor the 500 m EZ and 1,000 m buffer zone. Ramp-up may not be initiated if any marine mammal (including delphinids) is observed within or approaching the 500 m EZ. If a marine mammal is observed within or approaching the 500 m EZ during ramp-up, a power down or shutdown shall be implemented as though the full array were operational. Ramp-up may not begin again until the animal(s) has been observed exiting the 500 m EZ or until an additional time period has elapsed with no further sightings (*i.e.*, 15 minutes for small odontocetes and 30 minutes for all other species).

(v) If the airgun array has been shut down for reasons other than mitigation (*e.g.*, mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual and acoustic observation and no visual detections of any marine mammal have occurred within the buffer zone and no acoustic detections have occurred.

(vi) Ramp-up shall only occur at night and at times of poor visibility where operational planning cannot reasonably avoid such circumstances. Ramp-up may occur at night and during poor visibility if the 500 m EZ and 1,000 m buffer zone have been continually monitored by visual PSOs for 30 minutes prior to ramp-up with no marine mammal detections and if acoustic monitoring has occurred for 30 minutes prior to ramp-up with no acoustic detections during that period.

(vii) The vessel operator must notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead

PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

(f) Power Down Requirements—UH shall power-down the airgun array if a PSO detects a marine mammal within, approaching, or entering the 500 m EZ. A power down involves a decrease in the number of operational airguns. During a power down, one 100-in<sup>3</sup> airgun shall be continuously operated.

(i) Any PSO on duty has the authority to call for power down of the airgun array (visual PSOs on duty should be in agreement on the need for power down before requiring such action). When there is certainty regarding the need for mitigation action on the basis of either visual or acoustic detection alone, the relevant PSO(s) must call for such action immediately.

(ii) When both visual and acoustic PSOs are on duty, all detections must be immediately communicated to the remainder of the on-duty PSO team for potential verification of visual observations by the acoustic PSO or of acoustic detections by visual PSOs and initiation of dialogue as necessary.

(iii) The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the airgun array to ensure that power down commands are conveyed swiftly while allowing PSOs to maintain watch.

(iv) When power down is called for by a PSO, the power down must occur and any dispute resolved only following power down.

(v) The power down requirement is waived for dolphins of the following genera: *Steno*, *Tursiops*, *Stenella* and *Lagenodelphis*. The power down waiver only applies if animals are traveling, including approaching the vessel. If animals are stationary and the vessel approaches the animals, the power down requirement applies. If there is uncertainty regarding identification (*i.e.*, whether the observed animal(s) belongs to the group described above) or whether the animals are traveling, power down must be implemented.

(vi) Upon implementation of a power down, the source may be reactivated under the conditions described at 4(e)(vi). Where there is no relevant zone (*e.g.*, shutdown due to observation of a calf), a 30-minute clearance period must be observed following the last observation of the animal(s).

(vii) Power down of the acoustic source is required upon observation of a whale (*i.e.*, sperm whale or any baleen

whale) with calf at any distance, with “calf” defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult.

(viii) Power down of the acoustic source is required upon observation of an aggregation (*i.e.*, six or more animals) of large whales of any species (*i.e.*, sperm whale or any baleen whale) that does not appear to be traveling (*e.g.*, feeding, socializing, etc.).

(ix) When only the acoustic PSO is on duty and a detection is made, if there is uncertainty regarding species identification or distance to the vocalizing animal(s), the airgun array must be powered down as a precaution.

(g) Shutdown requirements—An exclusion zone of 100 m for the single 100-in<sup>3</sup> airgun shall be established and monitored by PSOs. If a marine mammal is observed within, entering, or approaching the 100 m exclusion zone for the single 100-in<sup>3</sup> airgun, whether during implementation of a power down or during operation of the full airgun array, all airguns including the 100-in<sup>3</sup> airgun shall be shut down.

(i) Upon implementation of a shutdown, the source may be reactivated under the conditions described at 4(e).

(ii) Measures described for power downs under 4(f)(i–v) shall also apply in the case of a shutdown.

(h) Vessel Strike Avoidance—Vessel operator and crew must maintain a vigilant watch for all marine mammals and slow down or stop the vessel or alter course, as appropriate, to avoid striking any marine mammal. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel according to the parameters stated below. Visual observers monitoring the vessel strike avoidance zone can be either third-party observers or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena.

(i) The vessel must maintain a minimum separation distance of 100 m from large whales. The following avoidance measures must be taken if a large whale is within 100 m of the vessel:

(A) The vessel must reduce speed and shift the engine to neutral, and must not engage the engines until the whale has moved outside of the vessel’s path and the minimum separation distance has been established.

(B) If the vessel is stationary, the vessel must not engage engines until the whale(s) has moved out of the vessel’s path and beyond 100 m.

(ii) The vessel must maintain a minimum separation distance of 50 m from all other marine mammals, with an exception made for animals described in 4(g)(v) that approach the vessel. If an animal is encountered during transit, the vessel shall attempt to remain parallel to the animal's course, avoiding excessive speed or abrupt changes in course.

(iii) Vessel speeds must be reduced to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near the vessel.

(i) Miscellaneous Protocols

(i) The airgun array must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source shall be avoided. Notified operational capacity (not including redundant backup airguns) must not be exceeded during the survey, except where unavoidable for source testing and calibration purposes. All occasions where activated source volume exceeds notified operational capacity must be noticed to the PSO(s) on duty and fully documented. The lead PSO must be granted access to relevant instrumentation documenting acoustic source power and/or operational volume.

(ii) Testing of the acoustic source involving all elements requires normal mitigation protocols (e.g., ramp-up). Testing limited to individual source elements or strings does not require ramp-up but does require pre-clearance.

5. Monitoring Requirements

The holder of this Authorization is required to conduct marine mammal monitoring during survey activity. Monitoring shall be conducted in accordance with the following requirements:

(a) The operator must provide bigeye binoculars (e.g., 25×150; 2.7 view angle; individual ocular focus; height control) of appropriate quality (i.e., Fujinon or equivalent) solely for PSO use. These shall be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel. The operator must also provide a night-vision device suited for the marine environment for use during nighttime ramp-up pre-clearance, at the discretion of the PSOs. At minimum, the device should feature automatic brightness and gain control, bright light protection, infrared illumination, and optics suited for low-light situations.

(b) PSOs must also be equipped with reticle binoculars (e.g., 7×50) of appropriate quality (i.e., Fujinon or equivalent), GPS, digital single-lens

reflex camera of appropriate quality (i.e., Canon or equivalent), compass, and any other tools necessary to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals.

(c) PSO Qualifications

(i) PSOs must have successfully completed relevant training, including completion of all required coursework and passing a written and/or oral examination developed for the training program.

(ii) PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver must include written justification. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

(d) Data Collection—PSOs must use standardized data forms, whether hard copy or electronic. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source to resume survey. If required mitigation was not implemented, PSOs should submit a description of the circumstances. We require that, at a minimum, the following information be reported:

(i) PSO names and affiliations  
(ii) Dates of departures and returns to port with port name

(iii) Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort

(iv) Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts

(v) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change

(vi) Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon

(vii) Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (e.g., vessel traffic, equipment malfunctions)

(viii) Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (i.e., pre-ramp-up survey, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.)

(ix) If a marine mammal is sighted, the following information should be recorded:

(A) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform)

(B) PSO who sighted the animal

(C) Time of sighting

(D) Vessel location at time of sighting

(E) Water depth

(F) Direction of vessel's travel (compass direction)

(G) Direction of animal's travel relative to the vessel

(H) Pace of the animal

(I) Estimated distance to the animal and its heading relative to vessel at initial sighting

(J) Identification of the animal (e.g., genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species

(K) Estimated number of animals (high/low/best)

(L) Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.)

(M) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics)

(N) Detailed behavior observations (e.g., number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior)

(O) Animal's closest point of approach (CPA) and/or closest distance from the center point of the acoustic source;

(P) Platform activity at time of sighting (e.g., deploying, recovering,

testing, shooting, data acquisition, other)

(Q) Description of any actions implemented in response to the sighting (e.g., delays, shutdown, ramp-up, speed or course alteration, etc.); time and location of the action should also be recorded

(x) If a marine mammal is detected while using the PAM system, the following information should be recorded:

(A) An acoustic encounter identification number, and whether the detection was linked with a visual sighting

(B) Time when first and last heard

(C) Types and nature of sounds heard (e.g., clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal, etc.)

(D) Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), and any other notable information.

#### 6. Reporting

(a) UH shall submit a draft comprehensive report on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals near the activities, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). Geospatial data regarding locations where the acoustic source was used must be provided as an ESRI shapefile with all necessary files and appropriate metadata. In addition to the report, all raw observational data shall be made available to NMFS. The report must summarize the data collected as required under condition 5(d) of this

IHA. The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly to NMFS a statement concerning implementation and effectiveness of the required mitigation and monitoring. A final report must be submitted within 30 days following resolution of any comments from NMFS on the draft report.

(b) Reporting injured or dead marine mammals:

(i) In the event that the specified activity clearly causes the take of a marine mammal in a manner not prohibited by this IHA (if issued), such as serious injury or mortality, UH shall immediately cease the specified activities and immediately report the incident to NMFS. The report must include the following information:

(A) Time, date, and location (latitude/longitude) of the incident;

(B) Vessel's speed during and leading up to the incident;

(C) Description of the incident;

(D) Status of all sound source use in the 24 hours preceding the incident;

(E) Water depth;

(F) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(G) Description of all marine mammal observations in the 24 hours preceding the incident;

(H) Species identification or description of the animal(s) involved;

(I) Fate of the animal(s); and

(J) Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with UH to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. UH may not resume their activities until notified by NMFS.

(ii) In the event that UH 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), UH shall immediately report the incident to NMFS. The report must include the same information identified in condition 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with UH to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that UH 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 specified activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), UH shall report the incident to NMFS within 24 hours of the discovery. UH shall provide photographs or video footage or other documentation of the 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 the proposed seismic survey by UH. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: July 19, 2017.

**Catherine Marzin,**

*Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2017-15455 Filed 7-21-17; 8:45 am]

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