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NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 601

National Environmental Policy Act Regulations; Correction

AGENCY: National Capital Planning Commission.

ACTION: Final rule; correction.

SUMMARY: The National Capital Planning Commission (NCPC or Commission) is correcting a final rule that appeared in the **Federal Register** on September 29, 2017. The document issued New National Environmental Policy Act Regulations.

DATES: Effective October 30, 2017.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel and Chief FOIA Officer, 202–482–7223, *anne.schuyler@ncpc.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–20614 appearing on page 45421 in the **Federal Register** on Friday, September 29, 2017, the following corrections are made:

PART 601—AUTHORITY [CORRECTED]

■ 1. On page 45424, in the third column, below the table of contents for part 601, the authority citation is corrected to read: ''Authority: 42 U.S.C. 4371; 40 CFR 1507.3.''

Dated: October 16, 2017.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2017–22696 Filed 10–18–17; 8:45 am]

BILLING CODE 7520–01–P

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 603

Privacy Act Regulations; Correction

AGENCY: National Capital Planning Commission.

ACTION: Final rule; correction.

SUMMARY: The National Capital Planning Commission (NCPC or Commission) is correcting a final rule that appeared in the **Federal Register** on September 20, 2017. The document issued New Privacy Act Regulations.

DATES: Effective October 20, 2017.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel and Chief FOIA Officer, 202–482–7223, *anne.schuyler@ncpc.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–19996 appearing on page 44044 in the **Federal Register** on Wednesday, September 20, 2017, the following corrections are made:

§ 603.3 [Corrected]

■ 1. On page 44048, in the second column, the first of the two paragraphs designated (c)(1)(vii) is correctly redesignated as paragraph (c)(1)(vi).

Dated: October 5, 2017.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2017–22697 Filed 10–18–17; 8:45 am]

BILLING CODE 7520–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31159; Amdt. No. 3769]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 19, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 19, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal

Regulations, part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPs. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this 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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on October 6, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 9 November 2017

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College Park, MD, College Park, RNAV (GPS) RWY 15, Orig-D, CANCELED
College Park, MD, College Park, RNAV (GPS)-A, Orig
College Park, MD, College Park, RNAV (GPS)-B, Orig
Detroit, MI, Coleman A Young Muni, RNAV (GPS) RWY 15, Orig-B
Detroit, MI, Coleman A Young Muni, RNAV (GPS) RWY 33, Orig-C
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White Plains, NY, Westchester County, ILS OR LOC RWY 34, Amdt 5B
White Plains, NY, Westchester County, RNAV (GPS) Y RWY 16, Amdt 1B
White Plains, NY, Westchester County, RNAV (GPS) Y RWY 34, Amdt 3C
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Butler, PA, Pittsburgh/Butler Rgnl, Takeoff Minimums and Obstacle DP, Amdt 4
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Carlisle, PA, Carlisle, RNAV (GPS)-B, Orig
Carlisle, PA, Carlisle, RNAV (GPS)-C, Orig-A, CANCELED
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Eau Claire, WI, Chippewa Valley Rgnl, ILS OR LOC RWY 22, Amdt 9
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[FR Doc. 2017–22501 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31157; Amdt. No. 3767]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 19, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 19, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC, 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPs. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and

Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this 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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

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

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 9 November 2017

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Boise, ID, Boise Air Terminal/Gowen Fld, Boise, NDB RWY 10R, Amdt 28B
Boise, ID, Boise Air Terminal/Gowen Fld, Boise, RNAV (GPS) Y RWY 10L, Amdt 3A
Boise, ID, Boise Air Terminal/Gowen Fld, Boise, RNAV (GPS) Y RWY 10R, Amdt 2A
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Boise, ID, Boise Air Terminal/Gowen Fld, Boise, RNAV (RNP) X RWY 28R, Orig-A
Boise, ID, Boise Air Terminal/Gowen Fld, Boise, RNAV (RNP) Z RWY 10L, Amdt 1A
Boise, ID, Boise Air Terminal/Gowen Fld, Boise, RNAV (RNP) Z RWY 10R, Amdt 1A
Boise, ID, Boise Air Terminal/Gowen Fld, Boise, RNAV (RNP) Z RWY 28L, Amdt 1A
Boise, ID, Boise Air Terminal/Gowen Fld, Boise, RNAV (RNP) Z RWY 28R, Amdt 1A
Burley, ID, Burley Muni, VOR–A, Amdt 5A
Chicago/Waukegan, IL, Waukegan National, ILS OR LOC RWY 23, Amdt 5A
Chicago/Waukegan, IL, Waukegan National, RNAV (GPS) RWY 5, Orig-A
Chicago/Waukegan, IL, Waukegan National, RNAV (GPS) RWY 23, Orig-A
Chicago/Waukegan, IL, Waukegan National, Takeoff Minimums and Obstacle DP, Amdt 1A
Indianapolis, IN, Indy South Greenwood, RNAV (GPS) RWY 19, Amdt 1B
Indianapolis, IN, Indy South Greenwood, VOR–A, Amdt 5B
Madison, IN, Madison Muni, RNAV (GPS) Y RWY 3, Orig
Madison, IN, Madison Muni, RNAV (GPS) Z RWY 3, Amdt 2
Great Bend, KS, Great Bend Muni, ILS OR LOC RWY 35, Orig-C
Great Bend, KS, Great Bend Muni, NDB RWY 35, Amdt 3A
Great Bend, KS, Great Bend Muni, RNAV (GPS) RWY 17, Orig-B
Hutchinson, KS, Hutchinson Rgnl, ILS OR LOC RWY 13, Amdt 17
Hutchinson, KS, Hutchinson Rgnl, LOC BC RWY 31, Amdt 15
Hutchinson, KS, Hutchinson Rgnl, NDB RWY 13, Amdt 16
Hutchinson, KS, Hutchinson Rgnl, RNAV (GPS) RWY 4, Amdt 1
Hutchinson, KS, Hutchinson Rgnl, RNAV (GPS) RWY 13, Amdt 1
Hutchinson, KS, Hutchinson Rgnl, RNAV (GPS) RWY 17, Orig
Hutchinson, KS, Hutchinson Rgnl, RNAV (GPS) RWY 22, Amdt 1
Hutchinson, KS, Hutchinson Rgnl, RNAV (GPS) RWY 31, Amdt 2
Hutchinson, KS, Hutchinson Rgnl, RNAV (GPS) RWY 35, Orig
Hutchinson, KS, Hutchinson Rgnl, Takeoff Minimums and Obstacle DP, Amdt 6
Hutchinson, KS, Hutchinson Rgnl, VOR RWY 4, Amdt 20
Hutchinson, KS, Hutchinson Rgnl, VOR RWY 22, Amdt 7
Kingman, KS, Kingman Airport—Clyde Cessna Field, VOR/DME RWY 18, Amdt 2, CANCELED
Lyons, KS, Lyons-Rice County Muni, VOR–A, Amdt 4A
Mc Pherson, KS, Mc Pherson, VOR RWY 36, Amdt 6B
Pratt, KS, Pratt Rgnl, NDB RWY 17, Amdt 5A
Salina, KS, Salina Rgnl, ILS OR LOC RWY35, Amdt 19B
Wellington, KS, Wellington Muni, VOR RWY 17, Amdt 2B
Russellville, KY, Russellville-Logan County, RNAV (GPS) RWY 7, Amdt 1

Russellville, KY, Russellville-Logan County, RNAV (GPS) RWY 25, Amdt 1
Russellville, KY, Russellville-Logan County, Takeoff Minimums and Obstacle DP, Amdt 4
Lafayette, LA, Lafayette Rgnl/Paul Fournet Field, ILS OR LOC RWY 4R, Amdt 2D
Lafayette, LA, Lafayette Rgnl/Paul Fournet Field, RNAV (GPS) RWY 4R, Amdt 1C
Worcester, MA, Worcester Rgnl, ILS OR LOC RWY 11, ILS RWY 11 (CAT II), ILS RWY 11 (CAT III), Amdt 25
Cambridge, MD, Cambridge-Dorchester Rgnl, RNAV (GPS)-A, Orig
Jackson, MI, Jackson County-Reynolds Field, ILS OR LOC RWY 24, Amdt 14A, CANCELED
Jackson, MI, Jackson County-Reynolds Field, ILS OR LOC RWY 25, Orig
Jackson, MI, Jackson County-Reynolds Field, RNAV (GPS) RWY 6, Orig, CANCELED
Jackson, MI, Jackson County-Reynolds Field, RNAV (GPS) RWY 7, Orig
Jackson, MI, Jackson County-Reynolds Field, RNAV (GPS) RWY 14, Amdt 1B
Jackson, MI, Jackson County-Reynolds Field, RNAV (GPS) RWY 24, Orig, CANCELED
Jackson, MI, Jackson County-Reynolds Field, RNAV (GPS) RWY 25, Orig
Jackson, MI, Jackson County-Reynolds Field, RNAV (GPS) RWY 32, Orig-D
Jackson, MI, Jackson County-Reynolds Field, VOR RWY 6, Amdt 20, CANCELED
Jackson, MI, Jackson County-Reynolds Field, VOR RWY 14, Amdt 20, CANCELED
Jackson, MI, Jackson County-Reynolds Field, VOR RWY 32, Amdt 18, CANCELED
Cook, MN, Cook Muni, RNAV (GPS) RWY 13, Orig-B
Cook, MN, Cook Muni, RNAV (GPS) RWY 31, Amdt 1B
Kansas City, MO, Kansas City Intl, ILS OR LOC RWY 1L, Amdt 15B
Kansas City, MO, Kansas City Intl, ILS OR LOC RWY 19L, Amdt 2B
Kansas City, MO, Kansas City Intl, RNAV (GPS) Y RWY 1L, Amdt 2B
Kansas City, MO, Kansas City Intl, RNAV (GPS) Y RWY 19L, Amdt 2B
Kansas City, MO, Kansas City Intl, RNAV (RNP) Z RWY 1L, Amdt 1C
Meridian, MS, Key Field, RADAR 1, Orig, CANCELED
Laurel, MT, Laurel Muni, VOR RWY 22, Amdt 2A
Wolf Point, MT, L M Clayton, NDB RWY 29, Amdt 4A, CANCELED
Asheville, NC, Asheville Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Jamestown, ND, Jamestown Rgnl, ILS OR LOC RWY 31, Amdt 8
Jamestown, ND, Jamestown Rgnl, LOC BC RWY 13, Amdt 8
Jamestown, ND, Jamestown Rgnl, RNAV (GPS) RWY 4, Orig-B
Jamestown, ND, Jamestown Rgnl, RNAV (GPS) RWY 13, Orig-A
Jamestown, ND, Jamestown Rgnl, RNAV (GPS) RWY 22, Amdt 1
Jamestown, ND, Jamestown Rgnl, RNAV (GPS) RWY 31, Amdt 1
Jamestown, ND, Jamestown Rgnl, VOR RWY 13, Amdt 8A
Jamestown, ND, Jamestown Rgnl, VOR RWY 31, Amdt 9A
Williston, ND, Sloulin Fld Intl, ILS OR LOC RWY 29, Amdt 4A
Norfolk, NE., Norfolk Rgnl/Karl Stefan Memorial Fld, ILS OR LOC RWY 1, Amdt 6
Taos, NM, Taos Rgnl, RNAV (GPS) RWY 13, Orig
Taos, NM, Taos Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2
Endicott, NY, Tri-Cities, RNAV (GPS) RWY 3, Orig-B
Endicott, NY, Tri-Cities, RNAV (GPS) RWY 21, Orig-B
Westhampton Beach, NY, Francis S Gabreski, ILS OR LOC RWY 24, Amdt 11
Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 6L, ILS RWY 6L (CAT II), ILS RWY 6L (CAT III), Amdt 2G
Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 6R, ILS RWY 6R (SA CAT II), Amdt 21D
Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 24L, ILS RWY 24L (SA CAT II), Amdt 22D
Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 24R, ILS RWY 24R (SA CAT I), ILS RWY 24R (CAT II), ILS RWY 24R (CAT III), Amdt 5D
Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 28, Amdt 24D
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 6L, Amdt 1E
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 6R, Amdt 2E
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 10, Amdt 3B
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 24L, Amdt 3E
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 24R, Amdt 3E
Cleveland, OH, Cleveland-Hopkins Intl, RNAV (GPS) RWY 28, Amdt 2B
Newark, OH, Newark-Heath, RNAV (GPS) RWY 9, Amdt 1
Newark, OH, Newark-Heath, RNAV (GPS) RWY 27, Amdt 2
Oklahoma City, OK, Will Rogers World, ILS OR LOC RWY 17L, Amdt 3C
Oklahoma City, OK, Will Rogers World, ILS OR LOC RWY 35L, Amdt 2C
Oklahoma City, OK, Will Rogers World, ILS OR LOC RWY 35R, ILS RWY 35R (SA CAT I), ILS RWY 35R (CAT II), Amdt 10C
Oklahoma City, OK, Will Rogers World, RNAV (GPS) RWY 13, Amdt 3C
Oklahoma City, OK, Will Rogers World, RNAV (GPS) RWY 31, Amdt 1C
Oklahoma City, OK, Will Rogers World, RNAV (GPS) Y RWY 17L, Amdt 3C
Oklahoma City, OK, Will Rogers World, RNAV (GPS) Y RWY 17R, Amdt 4C
Oklahoma City, OK, Will Rogers World, RNAV (GPS) Y RWY 35L, Amdt 4B
Oklahoma City, OK, Will Rogers World, RNAV (GPS) Y RWY 35R, Amdt 3C
Oklahoma City, OK, Will Rogers World, RNAV (RNP) Z RWY 17L, Amdt 3C
Oklahoma City, OK, Will Rogers World, RNAV (RNP) Z RWY 35L, Amdt 1C
Oklahoma City, OK, Will Rogers World, RNAV (RNP) Z RWY 35R, Amdt 2C
Pendleton, OR, Eastern Oregon Rgnl at Pendleton, RNAV (GPS) RWY 25, Orig-A
Altoona, PA, Altoona-Blair County, ILS OR LOC RWY 21, Amdt 8C
Altoona, PA, Altoona-Blair County, Takeoff Minimums and Obstacle DP, Amdt 5
Altoona, PA, Altoona-Blair County, VOR–A, Amdt 5B, CANCELED
Bedford, PA, Bedford County, VOR–A, Amdt 1B
Providence, RI, Theodore Francis Green State, ILS OR LOC RWY 5, ILS RWY 5 (CAT II), ILS RWY 5 (CAT III), Amdt 20
Providence, RI, Theodore Francis Green State, ILS OR LOC RWY 23, ILS RWY 23 (SA CAT I), ILS RWY 23 (SA CAT II), Amdt 8
Providence, RI, Theodore Francis Green State, RNAV (GPS) RWY 5, Amdt 1
Providence, RI, Theodore Francis Green State, Takeoff Minimums and Obstacle DP, Amdt 13
Providence, RI, Theodore Francis Green State, VOR RWY 5, Amdt 15
Providence, RI, Theodore Francis Green State, VOR Y RWY 34, Amdt 5
Providence, RI, Theodore Francis Green State, VOR Z RWY 34, Amdt 6
Brookings, SD, Brookings Rgnl, ILS OR LOC RWY 12, Orig-B
Spearfish, SD, Black Hills-Clyde Ice Field, NDB–A, Amdt 1A, CANCELED
Bristol/Johnson/Kingsport, TN, Tri-Cities, TRICITIES THREE, Graphic DP
Chattanooga, TN, Lovell Field, RADAR–1, Amdt 9, CANCELED
Jackson, TN, Mc Kellar-Sipes Rgnl, VOR RWY 2, Orig
Eastland, TX, Eastland Muni, RNAV (GPS) RWY 17, Orig-C
Eastland, TX, Eastland Muni, RNAV (GPS) RWY 35, Amdt 2B
Tyler, TX, Tyler Pounds Rgnl, RNAV (GPS) RWY 31, Amdt 2B
Vernal, UT, Vernal Rgnl, RNAV (GPS) Y RWY 35, Orig
Vernal, UT, Vernal Rgnl, RNAV (GPS) Z RWY 35, Orig
Vernal, UT, Vernal Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2
Vernal, UT, Vernal Rgnl, VOR RWY 35, Orig
Norfolk, VA, Norfolk Intl, ILS OR LOC RWY 23, Amdt 8
Norfolk, VA, Norfolk Intl, RNAV (GPS) RWY 14, Amdt 1
Norfolk, VA, Norfolk Intl, VOR RWY 14, Amdt 3
Wenatchee, WA, Pangborn Memorial, VOR–A, Amdt 9B
Wenatchee, WA, Pangborn Memorial, VOR–B, Orig-B
Lake Geneva, WI, Grand Geneva Resort, Takeoff Minimums and Obstacle DP, Amdt 1A
Charleston, WV, Yeager, RNAV (GPS) Y RWY 23, Amdt 1B
Summersville, WV, Summersville, RNAV (GPS) RWY 4, Orig-A, CANCELED
Summersville, WV, Summersville, RNAV (GPS)-A, Orig

[FR Doc. 2017–22497 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31158; Amdt. No. 3768]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 19, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 19, 2017.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this 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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

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

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
9–Nov–17	ND	Gwinner	Gwinner-Roger Melroe Field ...	7/2653	9/11/17	RNAV (GPS) RWY 16, Amdt 4.
9–Nov–17	IN	Indianapolis	Indy South Greenwood	7/3540	9/11/17	RNAV (GPS) RWY 1, Amdt 2.
9–Nov–17	GA	Louisville	Louisville Muni	7/4416	9/18/17	RNAV (GPS) RWY 13, Orig.

[FR Doc. 2017–22499 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31160; Amdt. No. 3770]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 19, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 19, 2017.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes

contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this 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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on October 6, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
9–Nov–17	OH	Cleveland	Cleveland-Hopkins Intl	7/2523	10/3/17	RNAV (GPS) RWY 24L, Amdt 3C.
9–Nov–17	WI	New Lisbon	Mauston-New Lisbon Union	7/5065	10/2/17	RNAV (GPS) RWY 14, Orig-A.
9–Nov–17	WI	New Lisbon	Mauston-New Lisbon Union	7/5066	10/2/17	RNAV (GPS) RWY 32, Orig-B.
7–Dec–17	AZ	Page	Page Muni	7/0314	9/27/17	VOR–B, Orig.
7–Dec–17	CA	Los Angeles	Los Angeles Intl	7/0657	10/2/17	ILS OR LOC RWY 7R, Amdt 8.
7–Dec–17	TX	Houston	George Bush Intercontinental/ Houston.	7/0733	10/3/17	RNAV (GPS) RWY 33R, Amdt 2A.
7–Dec–17	MA	Beverly	Beverly Rgnl	7/0961	10/2/17	RNAV (GPS) RWY 34, Orig-D.
7–Dec–17	MA	Beverly	Beverly Rgnl	7/0963	10/2/17	VOR RWY 16, Amdt 5C.
7–Dec–17	MA	Beverly	Beverly Rgnl	7/0974	10/2/17	RNAV (GPS) RWY 9, Orig.
7–Dec–17	MA	Beverly	Beverly Rgnl	7/0981	10/2/17	RNAV (GPS) RWY 27, Amdt 1.
7–Dec–17	MA	Beverly	Beverly Rgnl	7/1076	10/2/17	LOC RWY 16, Amdt 7C.
7–Dec–17	TN	Nashville	Nashville Intl	7/1618	9/27/17	RNAV (RNP) Z RWY 31, Amdt 1.
7–Dec–17	AR	Blytheville	Blytheville Muni	7/1636	9/27/17	RNAV (GPS) RWY 36, Orig.
7–Dec–17	MO	Potosi	Washington County	7/1773	9/27/17	RNAV (GPS) RWY 2, Amdt 2A.
7–Dec–17	MN	Glenwood	Glenwood Muni	7/1898	9/27/17	VOR RWY 33, Amdt 2B.
7–Dec–17	NC	Lexington	Davidson County	7/1938	9/27/17	ILS OR LOC/DME RWY 6, Amdt 1B.
7–Dec–17	MI	Lakeview	Lakeview-Griffith Field	7/2119	9/27/17	RNAV (GPS) RWY 10, Orig-A.
7–Dec–17	TX	Bowie	Bowie Muni	7/2144	9/27/17	RNAV (GPS) RWY 35, Amdt 1.
7–Dec–17	TX	Bowie	Bowie Muni	7/2145	9/27/17	RNAV (GPS) RWY 17, Orig.
7–Dec–17	TX	Bowie	Bowie Muni	7/2146	9/27/17	NDB RWY 17, Amdt 4.
7–Dec–17	AZ	Tucson	Tucson Intl	7/2148	9/26/17	RNAV (GPS) Z RWY 11L, AMDT 1A.
7–Dec–17	NC	Greensboro	Piedmont Triad Intl	7/2229	9/26/17	RNAV (GPS) RWY 23L, Amdt 2B.
7–Dec–17	IL	Moline	Quad City Intl	7/2247	9/26/17.	RNAV (GPS) RWY 27, Amdt 1B.
7–Dec–17	CO	Denver	Denver Intl	7/2261	9/26/17	RNAV (GPS) Y RWY 8, AMDT 1B.
7–Dec–17	CO	Denver	Denver Intl	7/2264	9/26/17	RNAV (GPS) Y RWY 17L, Amdt 1A.
7–Dec–17	CO	Denver	Denver Intl	7/2265	9/26/17	RNAV (GPS) Y RWY 25, Amdt 1A.
7–Dec–17	TN	Nashville	Nashville Intl	7/2615	9/27/17	RVAV (GPS) Y RWY 2C, Amdt 2.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
7–Dec–17	IL	Savanna	Tri-Township	7/2648	9/26/17	VOR/DME–A, Orig-A.
7–Dec–17	MN	Duluth	Duluth Intl	7/2934	10/2/17	VOR OR TACAN RWY 3, Amdt 21A.
7–Dec–17	SC	Charleston	Charleston Afb/Intl	7/2965	9/27/17	ILS OR LOC/DME RWY 33, Amdt 8B.
7–Dec–17	TX	Houston	George Bush Intercontinental/ Houston.	7/3347	10/3/17	GLS RWY 27, Amdt 1A.
7–Dec–17	CO	Colorado Springs	City Of Colorado Springs Muni	7/3350	10/2/17	RNAV (GPS) Y RWY 17L, Amdt 3A.
7–Dec–17	UT	Salt Lake City	Salt Lake City Intl	7/3383	10/2/17	RNAV (GPS) RWY 17, Amdt 2A.
7–Dec–17	UT	Salt Lake City	Salt Lake City Intl	7/3385	10/2/17	RNAV (GPS) RWY 34L, Amdt 1B.
7–Dec–17	UT	Salt Lake City	Salt Lake City Intl	7/3386	10/2/17	RNAV (GPS) RWY 34R, Amdt 1B.
7–Dec–17	NJ	Morristown	Morristown Muni	7/3405	9/28/17	ILS OR LOC RWY 23, Amdt 11.
7–Dec–17	LA	Alexandria	Alexandria Intl	7/3426	9/27/17	ILS OR LOC/DME RWY 14, Amdt 1.
7–Dec–17	NJ	Morristown	Morristown Muni	7/3428	9/28/17	RNAV (GPS) Z RWY 23, Amdt 1.
7–Dec–17	CA	Oakland	Metropolitan Oakland Intl	7/3448	10/3/17	RNAV (GPS) Y RWY 28R, Amdt 3.
7–Dec–17	ME	Augusta	Augusta State	7/3522	9/27/17	RNAV (GPS) RWY 8, Amdt 1.
7–Dec–17	IA	Dubuque	Dubuque Rgnl	7/3686	9/26/17	RNAV (GPS) RWY 36, Orig.
7–Dec–17	CA	Bakersfield	Meadows Field	7/3688	9/28/17	RNAV (GPS) RWY 30R, Amdt 2.
7–Dec–17	MA	Nantucket	Nantucket Memorial	7/3691	10/2/17	RNAV (GPS) RWY 24, Amdt 1A.
7–Dec–17	NY	Elmira/Corning	Elmira/Corning Rgnl	7/3702	9/28/17	RNAV (GPS) RWY 24, Amdt 2A.
7–Dec–17	MI	Lansing	Capital Region Intl	7/3730	9/27/17	RNAV (GPS) RWY 10R, Orig.
7–Dec–17	MI	Lansing	Capital Region Intl	7/3731	9/27/17	RNAV (GPS) RWY 28L, Amdt 1.
7–Dec–17	MI	Pontiac	Oakland County Intl	7/3734	9/28/17	RNAV (GPS) RWY 9R, Orig.
7–Dec–17	MI	Battle Creek	W K Kellogg	7/3737	9/28/17	RNAV (GPS) RWY 23R, Amdt 1A.
7–Dec–17	ID	Pocatello	Pocatello Rgnl	7/3738	9/28/17	RNAV (GPS) RWY 21, Amdt 1A.
7–Dec–17	GA	Savannah	Savannah/Hilton Head Intl	7/3740	9/28/17	RNAV (GPS) RWY 10, Amdt 2.
7–Dec–17	KY	Covington	Cincinnati/Northern Kentucky Intl.	7/3786	9/26/17	ILS OR LOC RWY 27, Amdt 17B.
7–Dec–17	KY	Covington	Cincinnati/Northern Kentucky Intl.	7/3787	9/26/17	RNAV (GPS) Y RWY 36R, Amdt 1B.
7–Dec–17	CA	Oakland	Metropolitan Oakland Intl	7/3795	9/27/17	RNAV (GPS) Y RWY 30, Amdt 5C.
7–Dec–17	MI	Grand Rapids	Gerald R Ford Intl	7/3819	9/27/17	ILS OR LOC RWY 26L, Amdt 21B.
7–Dec–17	MI	Grand Rapids	Gerald R Ford Intl	7/3820	9/27/17	ILS OR LOC RWY 35, Amdt 2.
7–Dec–17	MI	Grand Rapids	Gerald R Ford Intl	7/3821	9/27/17	ILS OR LOC RWY 8R, Amdt 6B.
7–Dec–17	MI	Grand Rapids	Gerald R Ford Intl	7/3826	9/27/17	RNAV (GPS) RWY 8R, Amdt 1A.
7–Dec–-17	MI	Grand Rapids	Gerald R Ford Intl	7/3828	9/27/17	RNAV (GPS) RWY 26L, Amdt 1A.
7–Dec–17	MI	Grand Rapids	Gerald R Ford Intl	7/3829	9/27/17	RNAV (GPS) RWY 35, Amdt 1A.
7–Dec–17	WA	Port Angeles	William R Fairchild Intl	7/3831	9/27/17	RNAV (GPS) RWY 26, Amdt 1.
7–Dec–17	TX	Kerrville	Kerrville Muni/Louis Schreiner Field.	7/3940	9/27/17	RNAV (GPS) RWY 12, Amdt 1.
7–Dec–17	WA	Bellingham	Bellingham Intl	7/3997	10/2/17	RNAV (GPS) Y RWY 16, Amdt 3A.
7–Dec–17	WA	Pasco	Tri-Cities	7/4045	9/27/17	RNAV (GPS) Y RWY 21R, Amdt 2A.
7–Dec–17	MA	New Bedford	New Bedford Rgnl	7/4060	9/26/17	RNAV (GPS) RWY 5, Amdt 1B.
7–Dec–17	MA	Vineyard Haven	Martha's Vineyard	7/4130	10/3/17	RNAV (GPS) RWY 24, Amdt 2D.
7–Dec–17	TX	Waco	Waco Rgnl	7/4483	9/27/17	RNAV (GPS) RWY 19, Orig-B.
7–Dec–17	WA	Walla Walla	Walla Walla Rgnl	7/4570	9/27/17	RNAV (GPS) RWY 20, Amdt 1.
7–Dec–17	OH	Mansfield	Mansfield Lahm Rgnl	7/4611	9/26/17	RNAV (GPS) RWY 32, Orig-D.
7–Dec–17	KY	Danville	Stuart Powell Field	7/4658	10/2/17	RNAV (GPS) RWY 12, Orig.
7–Dec–17	KY	Danville	Stuart Powell Field	7/4662	10/2/17	RNAV (GPS) RWY 30, Orig.
7–Dec–17	KY	Danville	Stuart Powell Field	7/4668	10/2/17	NDB–A, Amdt 8.
7–Dec–17	ME	Brunswick	Brunswick Executive	7/4801	10/2/17	RNAV (GPS) RWY 19L, Amdt 1A.
7–Dec–17	NY	New York	Long Island Mac Arthur	7/4917	9/26/17	RNAV (GPS) RWY 24, Amdt 3.
7–Dec–17	SC	Greer	Greenville Spartanburg Intl	7/4939	10/2/17	RNAV (GPS) RWY 4, Amdt 2A.
7–Dec–17	IA	Mason City	Mason City Muni	7/6166	9/26/17	ILS OR LOC RWY 36, Amdt 6F.
7–Dec–17	TN	Jasper	Marion County-Brown Field	7/6472	9/26/17	RNAV (GPS) RWY 4, Orig-A.
7–Dec–17	IN	New Castle	New Castle-Henry Co Muni	7/6600	9/26/17	RNAV (GPS) RWY 27, Orig-A.
7–Dec–17	SC	Anderson	Anderson Rgnl	7/6804	9/26/17	RNAV (GPS) RWY 35, Amdt 1A.
7–Dec–17	LA	Monroe	Monroe Rgnl	7/6853	9/28/17	RNAV (GPS) RWY 22, Amdt 1A.
7–Dec–17	SC	Anderson	Anderson Rgnl	7/7101	9/26/17	RNAV (GPS) RWY 23, Amdt 1.
7–Dec–17	SC	Anderson	Anderson Rgnl	7/7105	9/26/17	RNAV (GPS) RWY 5, Amdt 1A.
7–Dec–17	SC	Anderson	Anderson Rgnl	7/7106	9/26/17	ILS OR LOC RWY 5, Amdt 1A.
7–Dec–17	SC	Anderson	Anderson Rgnl	7/7107	9/26/17	VOR RWY 5, Amdt 10.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
7–Dec–17	SC	Anderson	Anderson Rgnl	7/7115	9/26/17	RNAV (GPS) RWY 17, Amdt 1A.
7–Dec–17	FL	Tampa	Tampa Intl	7/7377	9/26/17	RNAV (GPS) RWY 1L, Amdt 2B.
7–Dec–17	OK	Elk City	Elk City Rgnl Business	7/7415	9/26/17	Takeoff Minimums and Obstacle DP, Amdt 1.
7–Dec–17	IN	Connersville	Mettel Field	7/7481	10/3/17	VOR–A, Amdt 1A.
7–Dec–17	AZ	Tucson	Tucson Intl	7/7560	9/26/17	RNAV (RNP) Y RWY 29R, Orig-D.
7–Dec–17	AZ	Tucson	Tucson Intl	7/7573	9/26/17	RNAV (GPS) RWY 21, Orig-A.
7–Dec–17	IL	Chicago	Chicago O'Hare Intl	7/7608	9/28/17	RNAV (GPS) RWY 15, Amdt 2E.
7–Dec–17	NY	Schenectady	Schenectady County	7/7666	9/26/17	RNAV (GPS) RWY 28, Orig-D.
7–Dec–17	TX	Houston	George Bush Intercontinental/ Houston.	7/7831	10/3/17	GLS RWY 8L, Amdt 1A.
7–Dec–17	TX	Houston	George Bush Intercontinental/ Houston.	7/7833	10/3/17	GLS RWY 8R, Amdt 1A.
7–Dec–17	TX	Houston	George Bush Intercontinental/ Houston.	7/7834	10/3/17	GLS RWY 9, Amdt 1A.
7–Dec–17	TX	Houston	George Bush Intercontinental/ Houston.	7/7837	10/3/17	GLS RWY 26L, Amdt 1A.
7–Dec–17	TX	Houston	George Bush Intercontinental/ Houston.	7/7838	10/3/17	GLS RWY 26R, Amdt 1A.
7–Dec–17	FL	Titusville	Space Coast Rgnl	7/7946	10/2/17	RNAV (GPS) RWY 9, Amdt 1A.
7–Dec–17	PA	Coatesville	Chester County G O Carlson	7/7990	9/26/17	ILS OR LOC RWY 29, Amdt 7.
7–Dec–17	PA	Coatesville	Chester County G O Carlson	7/7996	9/26/17	RNAV (GPS) RWY 29, Orig.
7–Dec–17	PA	Coatesville	Chester County G O Carlson	7/7997	9/26/17	RNAV (GPS) RWY 11, Orig.
7–Dec–17	MA	Provincetown	Provincetown Muni	7/8468	9/27/17	RNAV (GPS) RWY 25, Orig-B.
7–Dec–17	MA	Provincetown	Provincetown Muni	7/8469	9/27/17	NDB RWY 25, Amdt 2B.
7–Dec–17	KS	Manhattan	Manhattan Rgnl	7/8555	9/26/17	RNAV (GPS) RWY 21, Amdt 1.
7–Dec–17	KS	Manhattan	Manhattan Rgnl	7/8586	9/26/17	VOR/DME–F, Amdt 1.
7–Dec–17	KS	Manhattan	Manhattan Rgnl	7/8589	9/26/17	RNAV (GPS) RWY 3, Amdt 1.
7–Dec–17	KS	Manhattan	Manhattan Rgnl	7/8593	9/26/17	ILS OR LOC/DME RWY 3, AMDT 7A.
7–Dec–17	MS	Madison	Bruce Campbell Field	7/8620	9/26/17	RNAV (GPS) RWY 17, Amdt 1B.
7–Dec– 17	MS	Madison	Bruce Campbell Field	7/8624	9/26/17	RNAV (GPS) RWY 35, Orig-B.
7–Dec–17	CA	Susanville	Susanville Muni	7/9026	9/27/17	RNAV (GPS) RWY 29, Amdt 1A.
7–Dec–17	LA	Slidell	Slidell	7/9663	10/2/17	RNAV (GPS) RWY 36, Orig-C.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9825]

RIN 1545–BJ08

Treatment of Transactions in Which Federal Financial Assistance Is Provided

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 597 of the Internal Revenue Code (Code). These final regulations amend existing regulations that address the federal income tax treatment of transactions in which federal financial assistance (FFA) is provided to banks and domestic building and loan associations, and they clarify the federal income tax consequences of those transactions to banks, domestic building and loan associations, and related parties. These regulations affect banks, domestic building and loan associations, and related parties.

DATES:

Effective Date: These regulations are effective on October 19, 2017.

Applicability date: These regulations apply on or after October 19, 2017, except with respect to FFA provided pursuant to an agreement entered into before such date. In the latter case, §§ 1.597–1 through 1.597–7 as contained in 26 CFR part 1, revised April 1, 2017, will continue to apply unless the taxpayer elects pursuant to § 1.597–7(c) of these regulations to apply §§ 1.597–1 through 1.597–6 of these regulations on a retroactive basis. The election to apply §§ 1.597–1 through 1.597–6 of these regulations on a retroactive basis cannot be made if the period for assessment and collection of federal income tax has expired under the rules of section 6501 for any taxable year in which §§ 1.597–1 through 1.597–6 would affect the determination of the electing entity's or group's income, deductions, gain, loss, basis, or other items.

FOR FURTHER INFORMATION CONTACT: Russell G. Jones, (202) 317–5357, or Ken Cohen, (202) 317–5367 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB control number 1545–1300. The collections of information in these final regulations are in §§ 1.597–2(c)(4), 1.597–4(g)(5), 1.597–6(c), and 1.597–7(c)(3). The collections of information in these regulations are necessary for the proper performance of the function of the IRS by providing relevant information concerning the deferred FFA account and the amount of income tax potentially not subject to collection. The collections also inform the IRS and certain financial institutions that certain elections in these regulations have been made.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

Background

On May 20, 2015, the Treasury Department and the IRS published a notice of proposed rulemaking (REG–140991–09) in the **Federal Register** (80 FR 28872), proposing to modify and clarify the existing regulations under §§ 1.597–1 through 1.597–7 concerning the treatment of certain transactions in which FFA is provided to banks and domestic building and loan associations (Institutions) and related parties. For purposes of section 597 and the regulations promulgated under that section, FFA generally includes any money or property provided by an ''Agency'' (such as the Federal Deposit Insurance Corporation) to an Institution or to a direct or indirect owner of stock in an Institution. Among other changes, the proposed regulations provided guidance regarding the determination of the fair market value of assets covered by a Loss Guarantee, the ownership of assets subject to a Loss Guarantee, and the transfer of property to an Agency by an Institution's non-consolidated affiliate. (The ''Explanation of Provisions'' in the notice of proposed rulemaking contained a detailed description of the proposed changes to the existing regulations.) The notice of proposed rulemaking also requested comments from the public and provided instructions for requesting a public hearing.

The Treasury Department and the IRS received no comments on the proposed regulations, and no public hearing was requested or held. This Treasury decision thus adopts the proposed regulations with only non-substantive, clarifying changes. For example, the final regulations clarify that, with respect to any election provided under the final regulations that is available for a consolidated group to make, the agent for the group, within the meaning of § 1.1502–77, must make the election.

Like the proposed regulations, these final regulations amend and restate all of §§ 1.597–2 through 1.597–7 in order to make the reading of the regulations more user-friendly. However, unlike the proposed regulations, rather than restating all of § 1.597–1, these final regulations expressly list the changes to the definitions in § 1.597–1. This change to the proposed regulations is merely for the sake of clarity and no substantive change is intended. These final regulations make no changes to § 1.597–8.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13653. Therefore, a regulatory impact assessment is not required. It is hereby certified that the collection of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations apply only to transactions involving banks or domestic building and loan associations, which tend to be larger businesses. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is Russell G. Jones of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** In § 1.597–1, paragraph (b) is amended by:

■ a. Adding the definitions ''Agency Receivership'' and ''Average Reimbursement Rate'' in alphabetical order.

■ b. Revising the definitions of ''Consolidated Subsidiary'' and ''Continuing Equity''.

■ c. Adding the definitions ''Covered Asset'' and ''Expected Value'' in alphabetical order.

■ d. Revising the definition of ''Loss Guarantee''.

■ e. Adding the definitions ''Loss Share Agreement'' and ''Third-Party Price'' in alphabetical order.

The additions and revisions read as follows:

§ 1.597–1 Definitions.

* * * * *

(b) * * *

Agency Receivership. An Institution or entity is under *Agency Receivership* if an Agency is acting as receiver for such Institution or entity.

Average Reimbursement Rate. The term *Average Reimbursement Rate* means the percentage of losses (as determined under the terms of the Loss Share Agreement) that would be reimbursed by an Agency or a Controlled Entity if every asset subject to a Loss Share Agreement were disposed of for the Third-Party Price. The Average Reimbursement Rate is determined at the time of the Taxable Transfer and is not adjusted for any changes in Third-Party Price over the life of any asset subject to the Loss Share Agreement or the prior disposition of any asset subject to the Loss Share Agreement.

* * * * *

Consolidated Subsidiary. The term *Consolidated Subsidiary* means a corporation that both:

(i) Is a member of the same consolidated group as an Institution; and

(ii) Would be a member of the affiliated group that would be determined under section 1504(a) if the Institution were the common parent thereof.

Continuing Equity. An Institution has *Continuing Equity* for any taxable year if, on the last day of the taxable year, the Institution is not a Bridge Bank, in Agency Receivership, or treated as a New Entity.

* * * * *

Covered Asset. The term *Covered Asset* means an asset subject to a Loss Guarantee. The fair market value of a Covered Asset equals the asset's Expected Value.

Expected Value. The term *Expected Value* means the sum of the Third-Party Price for a Covered Asset and the amount that an Agency or a Controlled Entity would pay under the Loss Guarantee if the asset actually were sold for the Third-Party Price. For purposes of the preceding sentence, if an asset is subject to a Loss Share Agreement, the amount that an Agency or a Controlled Entity would pay under a Loss Guarantee with respect to the asset is

determined by multiplying the amount of loss that would be realized under the terms of the Loss Share Agreement if the asset were disposed of at the Third-Party Price by the Average Reimbursement Rate.

* * * * *

Loss Guarantee. The term *Loss Guarantee* means an agreement pursuant to which an Agency or a Controlled Entity guarantees or agrees to pay an Institution a specified amount upon the disposition or charge-off (in whole or in part) of specific assets, an agreement pursuant to which an Institution has a right to put assets to an Agency or a Controlled Entity at a specified price, a Loss Share Agreement, or a similar arrangement.

Loss Share Agreement. The term *Loss Share Agreement* means an agreement pursuant to which an Agency or a Controlled Entity agrees to reimburse the guaranteed party a percentage of losses realized.

* * * * *

Third-Party Price. The term *Third-Party Price* means the amount that a third party would pay for an asset absent the existence of a Loss Guarantee.

■ **Par. 3.** Section 1.597–2 is revised to read as follows:

§ 1.597–2 Taxation of FFA.

(a) *Inclusion in income*—(1) *In general.* Except as otherwise provided in the regulations under section 597, all FFA is includible as ordinary income to the recipient at the time the FFA is received or accrued in accordance with the recipient's method of accounting. The amount of FFA received or accrued is the amount of any money, the fair market value of any property (other than an Agency Obligation), and the issue price of any Agency Obligation (determined under § 1.597–3(c)(2)). An Institution (and not the nominal recipient) is treated as receiving directly any FFA that an Agency provides in a taxable year to a direct or indirect shareholder of the Institution, to the extent the money or property is transferred to the Institution pursuant to an agreement with an Agency.

(2) *Cross references.* See paragraph (c) of this section for rules regarding the timing of inclusion of certain FFA. See paragraph (d) of this section for additional rules regarding the treatment of FFA received in connection with transfers of money or property to an Agency or a Controlled Entity, or paid pursuant to a Loss Guarantee. See § 1.597–5(c)(1) for additional rules regarding the inclusion of Net Worth Assistance in the income of an Institution.

(b) *Basis of property that is FFA.* If FFA consists of property, the Institution's basis in the property equals the fair market value of the property (other than an Agency Obligation) or the issue price of the Agency Obligation (as determined under § 1.597–3(c)(2)).

(c) *Timing of inclusion of certain FFA*—(1) *Scope.* This paragraph (c) limits the amount of FFA an Institution must include in income currently under certain circumstances and provides rules for the deferred inclusion in income of amounts in excess of those limits. This paragraph (c) does not apply to a New Entity or an Acquiring.

(2) *Amount currently included in income by an Institution without Continuing Equity.* The amount of FFA an Institution without Continuing Equity must include in income in a taxable year under paragraph (a)(1) of this section is limited to the sum of—

(i) The excess at the beginning of the taxable year of the Institution's liabilities over the adjusted bases of the Institution's assets; and

(ii) The amount by which the excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Internal Revenue Code (Code) (other than net operating and capital loss carryovers) over its gross income (determined without regard to FFA) is greater than the excess at the beginning of the taxable year of the adjusted bases of the Institution's assets over the Institution's liabilities.

(3) *Amount currently included in income by an Institution with Continuing Equity.* The amount of FFA an Institution with Continuing Equity must include in income in a taxable year under paragraph (a)(1) of this section is limited to the sum of—

(i) The excess at the beginning of the taxable year of the Institution's liabilities over the adjusted bases of the Institution's assets;

(ii) The greater of—

(A) The excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) over its gross income (determined without regard to FFA); or

(B) The excess for the taxable year of the deductions allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) of the consolidated group of which the Institution is a member on the last day of the Institution's taxable year over the group's gross income (determined without regard to FFA); and

(iii) The excess of the amount of any net operating loss carryover of the Institution (or in the case of a carryover from a consolidated return year of the Institution's current consolidated group, the net operating loss carryover of the group) to the taxable year over the amount described in paragraph (c)(3)(i) of this section.

(4) *Deferred FFA*—(i) *Maintenance of account.* An Institution must establish a deferred FFA account commencing in the first taxable year in which it receives FFA that is not currently included in income under paragraph (c)(2) or (3) of this section, and must maintain that account in accordance with the requirements of this paragraph (c)(4). The Institution must add the amount of any FFA that is not currently included in income under paragraph (c)(2) or (3) of this section to its deferred FFA account. The Institution must decrease the balance of its deferred FFA account by the amount of deferred FFA included in income under paragraphs (c)(4)(ii), (iv), and (v) of this section. (See also paragraphs (d)(4) and (d)(5)(i)(B) of this section for other adjustments that decrease the deferred FFA account.) If, under paragraph (c)(3) of this section, FFA is not currently included in income in a taxable year, the Institution thereafter must maintain its deferred FFA account on a FIFO (first in, first out) basis (for example, for purposes of the first sentence of paragraph (c)(4)(iv) of this section).

(ii) *Deferred FFA recapture.* In any taxable year in which an Institution has a balance in its deferred FFA account, it must include in income an amount equal to the lesser of the amount described in paragraph (c)(4)(iii) of this section or the balance in its deferred FFA account.

(iii) *Annual recapture amount*—(A) *Institutions without Continuing Equity*—(*1*) *In general.* In the case of an Institution without Continuing Equity, the amount described in this paragraph (c)(4)(iii) is the amount by which—

(*i*) The excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) over its gross income (taking into account FFA included in income under paragraph (c)(2) of this section) is greater than

(*ii*) The Institution's remaining equity as of the beginning of the taxable year.

(*2*) *Remaining equity.* The Institution's remaining equity is—

(*i*) The amount at the beginning of the taxable year in which the deferred FFA account was established equal to the adjusted bases of the Institution's assets minus the Institution's liabilities (which amount may be positive or negative); plus

(*ii*) The Institution's taxable income (computed without regard to any carryover from any other year) in any subsequent taxable year or years; minus

(*iii*) The excess in any subsequent taxable year or years of the Institution's deductions allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) over its gross income.

(B) *Institutions with Continuing Equity.* In the case of an Institution with Continuing Equity, the amount described in this paragraph (c)(4)(iii) is the amount by which the Institution's deductions allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) exceed its gross income (taking into account FFA included in income under paragraph (c)(3) of this section).

(iv) *Additional deferred FFA recapture by an Institution with Continuing Equity.* To the extent that, as of the end of a taxable year, the cumulative amount of FFA deferred under paragraph (c)(3) of this section that an Institution with Continuing Equity has recaptured under this paragraph (c)(4) is less than the cumulative amount of FFA deferred under paragraph (c)(3) of this section that the Institution would have recaptured if that FFA had been included in income ratably over the six taxable years immediately following the taxable year of deferral, the Institution must include that difference in income for the taxable year. An Institution with Continuing Equity must include in income the balance of its deferred FFA account in the taxable year in which it liquidates, ceases to do business, transfers (other than to a Bridge Bank) substantially all of its assets and liabilities, or is deemed to transfer all of its assets under § 1.597–5(b).

(v) *Optional accelerated recapture of deferred FFA.* An Institution that has a deferred FFA account may include in income the balance of its deferred FFA account on its timely filed (including extensions) original federal income tax return for any taxable year that it is not under Agency Control. The balance of its deferred FFA account is income on the last day of that year.

(5) *Exceptions to limitations on use of losses.* In computing an Institution's taxable income or alternative minimum taxable income for a taxable year, sections 56(d)(1), 382, and 383 and §§ 1.1502–15, 1.1502–21, and 1.1502–22 (or §§ 1.1502–15A, 1.1502–21A, and 1.1502–22A, as appropriate) do not limit the use of the attributes of the Institution to the extent, if any, that the inclusion of FFA (including recaptured FFA) in income results in taxable income or alternative minimum taxable income (determined without regard to this paragraph (c)(5)) for the taxable year. This paragraph (c)(5) does not apply to any limitation under section 382 or 383 or § 1.1502–15, § 1.1502–21, or § 1.1502–22 (or § 1.1502–15A, § 1.1502–21A, or § 1.1502–22A, as appropriate) that arose in connection with or prior to a corporation becoming a Consolidated Subsidiary of the Institution.

(6) *Operating rules*—(i) *Bad debt reserves.* For purposes of paragraphs (c)(2), (3), and (4) of this section, the adjusted bases of an Institution's assets are reduced by the amount of the Institution's reserves for bad debts under section 585 or 593, other than supplemental reserves under section 593.

(ii) *Aggregation of Consolidated Subsidiaries.* For purposes of this paragraph (c), an Institution is treated as a single entity that includes the income, expenses, assets, liabilities, and attributes of its Consolidated Subsidiaries, with appropriate adjustments to prevent duplication.

(iii) *Alternative minimum tax.* To compute the alternative minimum taxable income attributable to FFA of an Institution for any taxable year under section 55, the rules of this section, and related rules, are applied by using alternative minimum tax basis, deductions, and all other items required to be taken into account. All other alternative minimum tax provisions continue to apply.

(7) *Earnings and profits.* FFA that is not currently included in income under this paragraph (c) is included in earnings and profits for all purposes of the Code to the extent and at the time it is included in income under this paragraph (c).

(d) *Transfers of money or property to an Agency, and Covered Assets*—(1) *Transfers of property to an Agency.* Except as provided in paragraph (d)(4)(iii) of this section, the transfer of property to an Agency or a Controlled Entity is a taxable sale or exchange in which the Institution is treated as realizing an amount equal to the property's fair market value.

(2) *FFA with respect to Covered Assets other than on transfer to an Agency*—(i) FFA provided pursuant to a Loss Guarantee with respect to a Covered Asset is included in the amount realized with respect to the Covered Asset.

(ii) If an Agency makes a payment to an Institution pursuant to a Loss Guarantee with respect to a Covered Asset owned by an entity other than the Institution, the payment will be treated as made directly to the owner of the Covered Asset and included in the amount realized with respect to the Covered Asset when the Covered Asset is sold or charged off. The payment will be treated as further transferred through chains of ownership to the extent necessary to reflect the actual receipt of such payment. Any such transfer, if a deemed distribution, will not be a preferential dividend for purposes of sections 561, 562, 852, or 857.

(iii) For the purposes of this paragraph (d)(2), references to an amount realized include amounts obtained in whole or partial satisfaction of loans, amounts obtained by virtue of charging off or marking to market a Covered Asset, and other amounts similarly related to property, whether or not disposed of.

(3) *Treatment of FFA received in exchange for property.* FFA included in the amount realized for property under this paragraph (d) is not includible in income under paragraph (a)(1) of this section. The amount realized is treated in the same manner as if realized from a person other than an Agency or a Controlled Entity. For example, gain attributable to FFA received with respect to a capital asset retains its character as capital gain. Similarly, FFA received with respect to property that has been charged off for federal income tax purposes is treated as a recovery to the extent of the amount previously charged off. Any FFA provided in excess of the amount realized under this paragraph (d) is includible in income under paragraph (a)(1) of this section.

(4) *Adjustment to FFA*—(i) *In general.* If an Institution pays or transfers money or property to an Agency or a Controlled Entity, the amount of money and the fair market value of the property is an adjustment to its FFA to the extent the amount paid and transferred exceeds the amount of money and the fair market value of any property that an Agency or a Controlled Entity provides in exchange.

(ii) *Deposit insurance.* This paragraph (d)(4) does not apply to amounts paid to an Agency with respect to deposit insurance.

(iii) *Treatment of an interest held by an Agency or a Controlled Entity*—(A) *In general.* For purposes of this paragraph (d), an interest described in § 1.597–3(b) is not treated as property when transferred by the issuer to an Agency or a Controlled Entity nor when acquired from an Agency or a Controlled Entity by the issuer.

(B) *Dispositions to persons other than issuer.* On the date an Agency or a Controlled Entity transfers an interest described in § 1.597–3(b) to a holder other than the issuer, an Agency, or a

Controlled Entity, the issuer is treated for purposes of this paragraph (d)(4) as having transferred to an Agency an amount of money equal to the sum of the amount of money and the fair market value of property that was paid by the new holder as consideration for the interest.

(iv) *Affiliated groups.* For purposes of this paragraph (d), an Institution is treated as having made any transfer to an Agency or a Controlled Entity that was made by any other member of its affiliated group. The affiliated group must make appropriate basis adjustments or other adjustments to the extent the member transferring money or other property is not the member that received FFA.

(5) *Manner of making adjustments to FFA*—(i) *Reduction of FFA and deferred FFA.* An Institution adjusts its FFA under paragraph (d)(4) of this section by reducing in the following order and in an aggregate amount not greater than the adjustment—

(A) The amount of any FFA that is otherwise includible in income for the taxable year (before application of paragraph (c) of this section); and

(B) The balance (but not below zero) in the deferred FFA account, if any, maintained under paragraph (c)(4) of this section.

(ii) *Deduction of excess amounts.* If the amount of the adjustment exceeds the sum of the amounts described in paragraph (d)(5)(i) of this section, the Institution may deduct the excess to the extent the deduction does not exceed the amount of FFA included in income for prior taxable years reduced by the amount of deductions allowable under this paragraph (d)(5)(ii) in prior taxable years.

(iii) *Additional adjustments.* Any adjustment to FFA in excess of the sum of the amounts described in paragraphs (d)(5)(i) and (ii) of this section is treated—

(A) By an Institution other than a New Entity or an Acquiring, as a deduction of the amount in excess of FFA received that is required to be transferred to an Agency under section 11(g) of the Federal Deposit Insurance Act (12 U.S.C. 1821(g)); or

(B) By a New Entity or an Acquiring, as an adjustment to the purchase price paid in the Taxable Transfer (see § 1.338–7).

(e) *Examples.* The following examples illustrate the provisions of this section:

Example 1. Timing of inclusion of FFA in income. (i) Institution M, a calendar-year taxpayer without Continuing Equity because it is in Agency Receivership, is not a member of a consolidated group and has not been acquired in a Taxable Transfer. On January 1, 2018, M has assets with a total adjusted basis of $100 million and total liabilities of $120 million. M's deductions do not exceed its gross income (determined without regard to FFA) for 2018. The Agency provides $30 million of FFA to M in 2018. The amount of this FFA that M must include in income in 2018 is limited by paragraph (c)(2) of this section to $20 million, the amount by which M's liabilities ($120 million) exceed the total adjusted basis of its assets ($100 million) at the beginning of the taxable year. Pursuant to paragraph (c)(4)(i) of this section, M must establish a deferred FFA account for the remaining $10 million.

(ii) If the Agency instead lends M the $30 million, M's indebtedness to the Agency is disregarded and the results are the same as in paragraph (i) of this *Example 1* under section 597(c), paragraph (b) of § 1.597–1, and paragraph (b) of § 1.597–3.

Example 2. Transfer of property to an Agency. (i) Institution M, a calendar-year taxpayer without Continuing Equity because it is in Agency Receivership, is not a member of a consolidated group and has not been acquired in a Taxable Transfer. At the beginning of 2018, M's remaining equity is $0 and M has a deferred FFA account of $10 million. The Agency does not provide any FFA to M in 2018. During the year, M transfers property not subject to a Loss Guarantee to the Agency and does not receive any consideration. The property has an adjusted basis of $5 million and a fair market value of $1 million at the time of the transfer. M has no other taxable income or loss in 2018.

(ii) Under paragraph (d)(1) of this section, M is treated as selling the property for $1 million, its fair market value, thus recognizing a $4 million loss ($5 million − $1 million). In addition, because M did not receive any consideration from the Agency, under paragraph (d)(4) of this section M has an adjustment to FFA of $1 million, the amount by which the fair market value of the transferred property ($1 million) exceeds the consideration M received from the Agency ($0). Because no FFA is provided to M in 2018, this adjustment reduces the balance of M's deferred FFA account to $9 million ($10 million − $1 million) under paragraph (d)(5)(i)(B) of this section. Because M's $4 million loss causes M's deductions to exceed its gross income by $4 million in 2018 and M has no remaining equity, under paragraph (c)(4)(iii)(A) of this section M must include $4 million of deferred FFA in income and must decrease the remaining $9 million balance of its deferred FFA account by the same amount, leaving a balance of $5 million.

Example 3. Loss Guarantee. Institution Q, a calendar-year taxpayer, holds a Covered Asset (Asset Z). Q's adjusted basis in Asset Z is $10,000. Q sells Asset Z to an unrelated third party for $4,000. Pursuant to the Loss Guarantee, an Agency pays Q $6,000 ($10,000 − $4,000). Q's amount realized from the sale of Asset Z is $10,000 ($4,000 from the third party and $6,000 from the Agency) under paragraph (d)(2) of this section. Q realizes no gain or loss on the sale ($10,000 − $10,000 = $0), and therefore includes none of the $6,000 of FFA it receives pursuant to the Loss Guarantee in income under paragraph (d)(3) of this section.

■ **Par. 4.** Section 1.597–3 is revised to read as follows:

§ 1.597–3 Other rules.

(a) *Ownership of assets.* For all federal income tax purposes, an Agency is not treated as the owner of assets subject to a Loss Guarantee, yield maintenance agreement, or cost to carry or cost of funds reimbursement agreement, regardless of whether it otherwise would be treated as the owner under general federal income tax principles.

(b) *Debt and equity interests received by an Agency.* Debt instruments, stock, warrants, or other rights to acquire stock of an Institution (or any of its affiliates) that an Agency or a Controlled Entity receives in connection with a transaction in which FFA is provided are not treated as debt, stock, or other equity interests of or in the issuer for any purpose of the Internal Revenue Code while held by an Agency or a Controlled Entity. On the date an Agency or a Controlled Entity transfers an interest described in this paragraph (b) to a holder other than an Agency or a Controlled Entity, the interest is treated as having been newly issued by the issuer to the holder with an issue price equal to the sum of the amount of money and the fair market value of property paid by the new holder in exchange for the interest.

(c) *Agency Obligations*—(1) *In general.* Except as otherwise provided in this paragraph (c), the original issue discount rules of sections 1271 *et seq.* apply to Agency Obligations.

(2) *Issue price of Agency Obligations provided as Net Worth Assistance.* The issue price of an Agency Obligation that is provided as Net Worth Assistance and that bears interest at either a single fixed rate or a qualified floating rate (and provides for no contingent payments) is the lesser of the sum of the present values of all payments due under the obligation, discounted at a rate equal to the applicable Federal rate (within the meaning of section 1274(d)(1) and (3)) in effect for the date of issuance, or the stated principal amount of the obligation. The issue price of an Agency Obligation that bears a qualified floating rate of interest (within the meaning of § 1.1275–5(b)) is determined by treating the obligation as bearing a fixed rate of interest equal to the rate in effect on the date of issuance under the obligation.

(3) *Adjustments to principal amount.* Except as provided in § 1.597–5(d)(2)(iv), this paragraph (c)(3) applies if an Agency modifies or exchanges an Agency Obligation provided as Net

Worth Assistance (or a successor obligation). The issue price of the modified or new Agency Obligation is determined under paragraphs (c)(1) and (2) of this section. If the issue price is greater than the adjusted issue price of the existing Agency Obligation, the difference is treated as FFA. If the issue price is less than the adjusted issue price of the existing Agency Obligation, the difference is treated as an adjustment to FFA under § 1.597–2(d)(4).

(d) *Successors.* To the extent necessary to effectuate the purposes of the regulations under section 597, an entity's treatment under the regulations applies to its successor. A successor includes a transferee in a transaction to which section 381(a) applies or a Bridge Bank to which another Bridge Bank transfers deposit liabilities.

(e) [Reserved]

(f) *Losses and deductions with respect to Covered Assets.* Prior to the disposition of a Covered Asset, the asset cannot be charged off, marked to a market value, depreciated, amortized, or otherwise treated in a manner that supposes an actual or possible diminution of value below the asset's fair market value. See § 1.597–1(b).

(g) *Anti-abuse rule.* The regulations under section 597 must be applied in a manner consistent with the purposes of section 597. Accordingly, if, in structuring or engaging in any transaction, a principal purpose is to achieve a federal income tax result that is inconsistent with the purposes of section 597 and the regulations thereunder, the Commissioner can make appropriate adjustments to income, deductions, and other items that would be consistent with those purposes.

■ **Par. 5.** Section 1.597–4 is revised to read as follows:

§ 1.597–4 Bridge Banks and Agency Control.

(a) *Scope.* This section provides rules that apply to a Bridge Bank or other Institution under Agency Control and to transactions in which an Institution transfers deposit liabilities (whether or not the Institution also transfers assets) to a Bridge Bank.

(b) *Status as taxpayer.* A Bridge Bank or other Institution under Agency Control is a corporation within the meaning of section 7701(a)(3) for all purposes of the Internal Revenue Code (Code) and is subject to all Code provisions that generally apply to corporations, including those relating to methods of accounting and to requirements for filing returns, even if an Agency owns stock of the Institution.

(c) *No section 382 ownership change.* The imposition of Agency Control, the cancellation of Institution stock by an Agency, a transaction in which an Institution transfers deposit liabilities to a Bridge Bank, and an election under paragraph (g) of this section are disregarded in determining whether an ownership change has occurred within the meaning of section 382(g).

(d) *Transfers to Bridge Banks*—(1) *In general.* Except as otherwise provided in paragraph (g) of this section, the rules of this paragraph (d) apply to transfers to Bridge Banks. In general, a Bridge Bank and its associated Residual Entity are together treated as the successor entity to the transferring Institution. If an Institution transfers deposit liabilities to a Bridge Bank (whether or not it also transfers assets), the Institution recognizes no gain or loss on the transfer and the Bridge Bank succeeds to the transferring Institution's basis in any transferred assets. The associated Residual Entity retains its basis in any assets it continues to hold. Immediately after the transfer, the Bridge Bank succeeds to and takes into account the transferring Institution's items described in section 381(c) (subject to the conditions and limitations specified in section 381(c)), taxpayer identification number (TIN), deferred FFA account, and account receivable for future FFA as described in paragraph (g)(4)(ii) of this section. The Bridge Bank also succeeds to and continues the transferring Institution's taxable year.

(2) *Transfers to a Bridge Bank from multiple Institutions.* If two or more Institutions transfer deposit liabilities to the same Bridge Bank, the rules in paragraph (d)(1) of this section are modified to the extent provided in this paragraph (d)(2). The Bridge Bank succeeds to the TIN and continues the taxable year of the Institution that transfers the largest amount of deposits. The taxable years of the other transferring Institutions close at the time of the transfer. If all the transferor Institutions are members of the same consolidated group, the Bridge Bank's carryback of losses to the Institution that transfers the largest amount of deposits is not limited by section 381(b)(3). The limitations of section 381(b)(3) do apply to the Bridge Bank's carrybacks of losses to all other transferor Institutions. If the transferor Institutions are not all members of the same consolidated group, the limitations of section 381(b)(3) apply with respect to all transferor Institutions. See paragraph (g)(6)(ii) of this section for additional rules that apply if two or more Institutions that are not members of the same consolidated group transfer deposit liabilities to the same Bridge Bank.

(e) *Treatment of Bridge Bank and Residual Entity as a single entity.* A Bridge Bank and its associated Residual Entity or Entities are treated as a single entity for federal income tax purposes and must file a single combined federal income tax return. The Bridge Bank is responsible for filing all federal income tax returns and statements for this single entity and is the agent of each associated Residual Entity to the same extent as if the Bridge Bank were the agent for a consolidated group, within the meaning of § 1.1502–77, including the Residual Entity. The term Institution includes a Residual Entity that files a combined return with its associated Bridge Bank.

(f) *Rules applicable to members of consolidated groups*—(1) *Status as members.* Unless an election is made under paragraph (g) of this section, Agency Control of an Institution does not terminate the Institution's membership in a consolidated group. Stock of a subsidiary that is canceled by an Agency is treated as held by the members of the consolidated group that held the stock prior to its cancellation. If an Institution is a member of a consolidated group immediately before it transfers deposit liabilities to a Bridge Bank, the Bridge Bank succeeds to the Institution's status as the common parent or, unless an election is made under paragraph (g) of this section, as a subsidiary of the group. If a Bridge Bank succeeds to an Institution's status as a subsidiary, its stock is treated as held by the shareholders of the transferring Institution, and the stock basis or excess loss account of the Institution carries over to the Bridge Bank. A Bridge Bank is treated as owning stock owned by its associated Residual Entities, including for purposes of determining membership in an affiliated group.

(2) *Coordination with consolidated return regulations.* The provisions of the regulations under section 597 take precedence over conflicting provisions in the regulations under section 1502.

(g) *Elective disaffiliation*—(1) *In general.* A consolidated group of which an Institution is a subsidiary may elect irrevocably not to include the Institution in its affiliated group if the Institution is placed in Agency Receivership (whether or not assets or deposit liabilities of the Institution are transferred to a Bridge Bank). See paragraph (g)(6) of this section for circumstances under which a consolidated group is deemed to make this election.

(2) *Consequences of election.* If the election under this paragraph (g) is made with respect to an Institution, the following consequences occur immediately before the subsidiary Institution to which the election applies is placed in Agency Receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately before the consolidated group is deemed to make the election) and in the following order—

(i) All adjustments of the Institution and its Consolidated Subsidiaries under section 481 are accelerated;

(ii) Deferred intercompany gains and losses and intercompany items with respect to the Institution and its Consolidated Subsidiaries are taken into account and the Institution and its Consolidated Subsidiaries take into account any other items required under the regulations under section 1502 for members that become nonmembers within the meaning of § 1.1502–32(d)(4);

(iii) The taxable year of the Institution and its Consolidated Subsidiaries closes and the Institution includes the amount described in paragraph (g)(3) of this section in income as ordinary income as its last item for that taxable year;

(iv) The members of the consolidated group owning the common stock of the Institution include in income any excess loss account with respect to the Institution's stock under § 1.1502–19 and any other items required under the regulations under section 1502 for members that own stock of corporations that become nonmembers within the meaning of § 1.1502–32(d)(4); and

(v) If the Institution's liabilities exceed the aggregate fair market value of its assets on the date the Institution is placed in Agency Receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, on the date the consolidated group is deemed to make the election), the members of the consolidated group treat their stock in the Institution as worthless. (See §§ 1.337(d)–2, 1.1502–35(f), and 1.1502–36 for rules applicable when a member of a consolidated group is entitled to a worthless stock deduction with respect to stock of another member of the group.) In all other cases, the consolidated group will be treated as owning stock of a nonmember corporation until such stock is disposed of or becomes worthless under rules otherwise applicable.

(3) *Toll charge.* The amount described in this paragraph (g)(3) is the excess of the Institution's liabilities over the adjusted bases of its assets immediately before the Institution is placed in Agency Receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately before the consolidated group is deemed to make the election). In computing this amount, the adjusted bases of an Institution's assets are reduced by the amount of the Institution's reserves for bad debts under section 585 or 593, other than supplemental reserves under section 593. For purposes of this paragraph (g)(3), an Institution is treated as a single entity that includes the assets and liabilities of its Consolidated Subsidiaries, with appropriate adjustments to prevent duplication. The amount described in this paragraph (g)(3) for alternative minimum tax purposes is determined using alternative minimum tax basis, deductions, and all other items required to be taken into account. In computing the increase in the group's taxable income or alternative minimum taxable income, sections 56(d)(1), 382, and 383 and §§ 1.1502–15, 1.1502–21, and 1.1502–22 (or §§ 1.1502–15A, 1.1502–21A, and 1.1502–22A, as appropriate) do not limit the use of the attributes of the Institution and its Consolidated Subsidiaries to the extent, if any, that the inclusion of the amount described in this paragraph (g)(3) in income would result in the group having taxable income or alternative minimum taxable income (determined without regard to this sentence) for the taxable year. The preceding sentence does not apply to any limitation under section 382 or 383 or § 1.1502–15, § 1.1502–21, or § 1.1502–22 (or § 1.1502–15A, § 1.1502–21A, or § 1.1502–22A, as appropriate) that arose in connection with or prior to a corporation becoming a Consolidated Subsidiary of the Institution.

(4) *Treatment of Institutions after disaffiliation*—(i) *In general.* If the election under this paragraph (g) is made with respect to an Institution, immediately after the Institution is placed in Agency Receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately after the consolidated group is deemed to make the election), the Institution and each of its Consolidated Subsidiaries are treated for federal income tax purposes as new corporations that are not members of the electing group's affiliated group. Each new corporation retains the TIN of the corresponding disaffiliated corporation and is treated as having received the assets and liabilities of the corresponding disaffiliated corporation in a transaction to which section 351 applies (and in which no gain was recognized under section 357(c) or otherwise). Thus, the new corporation has no net operating or capital loss carryforwards. An election under this paragraph (g) does not terminate the single entity treatment of a Bridge Bank and its Residual Entities provided in paragraph (e) of this section.

(ii) *FFA.* A new Institution is treated as having a non-interest bearing, nontransferable account receivable for future FFA with a basis equal to the amount described in paragraph (g)(3) of this section. If a disaffiliated Institution has a deferred FFA account at the time of its disaffiliation, the corresponding new Institution succeeds to and takes into account that deferred FFA account.

(iii) *Filing of consolidated returns.* If a disaffiliated Institution has Consolidated Subsidiaries at the time of its disaffiliation, the corresponding new Institution is required to file a consolidated federal income tax return with the subsidiaries in accordance with the regulations under section 1502.

(iv) *Status as Institution.* If an Institution is disaffiliated under this paragraph (g), the resulting new corporation is treated as an Institution for purposes of the regulations under section 597 regardless of whether it is a bank or domestic building and loan association within the meaning of section 597.

(v) *Loss carrybacks.* To the extent a carryback of losses would result in a refund being paid to a fiduciary under section 6402(k), an Institution or Consolidated Subsidiary with respect to which an election under this paragraph (g) (other than under paragraph (g)(6)(ii) of this section) applies is allowed to carry back losses as if the Institution or Consolidated Subsidiary had continued to be a member of the consolidated group that made the election.

(5) *Affirmative election*—(i) *Original Institution*—(A) *Manner of making election.* Except as otherwise provided in paragraph (g)(6) of this section, a consolidated group makes the election provided by this paragraph (g) by sending a written statement by certified mail to the affected Institution on or before 120 days after its placement in Agency Receivership. The statement must contain the following legend at the top of the page: ''THIS IS AN ELECTION UNDER § 1.597–4(g) TO EXCLUDE THE INSTITUTION AND CONSOLIDATED SUBSIDIARIES REFERENCED IN THIS STATEMENT FROM THE AFFILIATED GROUP,'' and must include the names and TINs of the common parent and of the Institution and Consolidated Subsidiaries to which the election applies, and the date on which the Institution was placed in Agency Receivership. The consolidated group must send a similar statement to all subsidiary Institutions placed in Agency

Receivership during the consistency period described in paragraph (g)(5)(ii) of this section. (Failure to satisfy the requirement in the preceding sentence, however, does not invalidate the election with respect to any subsidiary Institution placed in Agency Receivership during the consistency period described in paragraph (g)(5)(ii) of this section.) The consolidated group must retain a copy of the statement sent to any affected or subsidiary Institution (and the accompanying certified mail receipt) as proof that it mailed the statement to the affected Institution, and the consolidated group must make the statement and receipt available for inspection by the Commissioner upon request. The consolidated group must include an election statement as part of its first federal income tax return filed after the due date under this paragraph (g)(5) for such statement. A statement must be attached to this return indicating that the individual who signed the election was authorized to do so on behalf of the consolidated group. The agent for the group, within the meaning of § 1.1502–77, takes all actions required under this paragraph (g)(5)(i)(A) to make the election provided under this paragraph (g)(5) for the consolidated group. An Agency cannot make the election provided under this paragraph (g)(5) under the authority of section 6402(k) or otherwise.

(B) *Consistency limitation on affirmative elections.* A consolidated group may make an affirmative election under this paragraph (g)(5) with respect to a subsidiary Institution placed in Agency Receivership only if the group made, or is deemed to have made, the election under this paragraph (g) with respect to every subsidiary Institution of the group placed in Agency Receivership within five years preceding the date the subject Institution was placed in Agency Receivership.

(ii) *Effect on Institutions placed in receivership simultaneously or subsequently.* An election under this paragraph (g), other than under paragraph (g)(6)(ii) of this section, applies to the Institution with respect to which the election is made or deemed made (the original Institution) and each subsidiary Institution of the group placed in Agency Receivership or deconsolidated in contemplation of Agency Control or the receipt of FFA simultaneously with the original Institution or within five years thereafter.

(6) *Deemed election*—(i) *Deconsolidations in contemplation.* If one or more members of a consolidated group deconsolidate (within the meaning of § 1.1502–19(c)(1)(ii)(B)) a subsidiary Institution in contemplation of Agency Control or the receipt of FFA, the consolidated group is deemed to make the election described in this paragraph (g) with respect to the Institution on the date the deconsolidation occurs. A subsidiary Institution is conclusively presumed to have been deconsolidated in contemplation of Agency Control or the receipt of FFA if either event occurs within six months after the deconsolidation.

(ii) *Transfers to a Bridge Bank from multiple groups.* On the day an Institution's transfer of deposit liabilities to a Bridge Bank results in the Bridge Bank holding deposit liabilities from both a subsidiary Institution and an Institution not included in the subsidiary Institution's consolidated group, each consolidated group of which a transferring Institution or the Bridge Bank is a subsidiary is deemed to make the election described in this paragraph (g) with respect to its subsidiary Institution. If deposit liabilities of another Institution that is a subsidiary member of any consolidated group subsequently are transferred to the Bridge Bank, the consolidated group of which the Institution is a subsidiary is deemed to make the election described in this paragraph (g) with respect to that Institution at the time of the subsequent transfer.

(h) *Examples.* The following examples illustrate the provisions of this section:

Facts. Corporation X, the common parent of a consolidated group, owns all the stock (with a basis of $4 million) of Institution M, an insolvent Institution with no Consolidated Subsidiaries. At the close of business on April 30, 2018, M has $4 million of deposit liabilities, $1 million of other liabilities, and assets with an adjusted basis of $4 million and a fair market value of $3 million.

Example 1. Effect of receivership on consolidation. On May 1, 2018, M is placed in Agency Receivership and the Agency begins liquidating M. X does not make an election under paragraph (g) of this section. M remains a member of the X consolidated group after May 1, 2018 under paragraph (f)(1) of this section.

Example 2. Effect of Bridge Bank on consolidation—(i) *Additional facts.* On May 1, 2018, M is placed in Agency Receivership and the Agency causes M to transfer all of its assets and deposit liabilities to Bridge Bank MB.

(ii) *Consequences without an election to disaffiliate.* M recognizes no gain or loss from the transfer and MB succeeds to M's basis in the transferred assets, M's items described in section 381(c) (subject to the conditions and limitations specified in section 381(c)), and TIN under paragraph (d)(1) of this section. (If M had a deferred FFA account, MB would also succeed to that account under paragraph (d)(1) of this section.) MB continues M's taxable year and succeeds to M's status as a member of the X consolidated group after May 1, 2018 under paragraphs (d)(1) and (f) of this section. MB and M are treated as a single entity for federal income tax purposes under paragraph (e) of this section.

(iii) *Consequences with an election to disaffiliate.* If, on July 1, 2018, X makes an election under paragraph (g) of this section with respect to M, the following consequences are treated as occurring immediately before M was placed in Agency Receivership. M must include $1 million ($5 million of liabilities − $4 million of adjusted basis) in income as of May 1, 2018 under paragraph (g)(2) and (3) of this section. M is then treated as a new corporation that is not a member of the X consolidated group and that has assets (including a $1 million account receivable for future FFA) with a basis of $5 million and $5 million of liabilities received from disaffiliated corporation M in a section 351 transaction. New corporation M retains the TIN of disaffiliated corporation M under paragraph (g)(4) of this section. Immediately after the disaffiliation, new corporation M is treated as transferring its assets and deposit liabilities to Bridge Bank MB. New corporation M recognizes no gain or loss from the transfer and MB succeeds to M's TIN and taxable year under paragraph (d)(1) of this section. Bridge Bank MB is treated as a single entity that includes M and has $5 million of liabilities, an account receivable for future FFA with a basis of $1 million, and other assets with a basis of $4 million under paragraph (d)(1) of this section.

■ **Par. 6.** Section 1.597–5 is revised to read as follows:

§ 1.597–5 Taxable Transfers.

(a) *Taxable Transfers*—(1) *Defined.* The term *Taxable Transfer* means—

(i) A transaction in which an entity transfers to a transferee other than a Bridge Bank—

(A) Any deposit liability (whether or not the Institution also transfers assets), if FFA is provided in connection with the transaction; or

(B) Any asset for which an Agency or a Controlled Entity has any financial obligation (for example, pursuant to a Loss Guarantee or Agency Obligation); or

(ii) A deemed transfer of assets described in paragraph (b) of this section.

(2) *Scope.* This section provides rules governing Taxable Transfers. Rules applicable to both actual and deemed asset acquisitions are provided in paragraphs (c) and (d) of this section. Special rules applicable only to deemed asset acquisitions are provided in paragraph (e) of this section.

(b) *Deemed asset acquisitions upon stock purchase*—(1) *In general.* In a deemed transfer of assets under this

paragraph (b), an Institution (including a Bridge Bank or a Residual Entity) or a Consolidated Subsidiary of the Institution (the Old Entity) is treated as selling all of its assets in a single transaction and is treated as a new corporation (the New Entity) that purchases all of the Old Entity's assets at the close of the day immediately preceding the occurrence of an event described in paragraph (b)(2) of this section. However, such an event results in a deemed transfer of assets under this paragraph (b) only if it occurs—

(i) In connection with a transaction in which FFA is provided;

(ii) While the Institution is a Bridge Bank;

(iii) While the Institution has a positive balance in a deferred FFA account (see § 1.597–2(c)(4)(v) regarding the optional accelerated recapture of deferred FFA); or

(iv) With respect to a Consolidated Subsidiary, while the Institution of which it is a Consolidated Subsidiary is under Agency Control.

(2) *Events.* A deemed transfer of assets under this paragraph (b) results if the Institution or Consolidated Subsidiary—

(i) Becomes a non-member (within the meaning of § 1.1502–32(d)(4)) of its consolidated group, other than pursuant to an election under § 1.597–4(g);

(ii) Becomes a member of an affiliated group of which it was not previously a member, other than pursuant to an election under § 1.597–4(g); or

(iii) Issues stock such that the stock that was outstanding before the imposition of Agency Control or the occurrence of any transaction in connection with the provision of FFA represents 50 percent or less of the vote or value of its outstanding stock (disregarding stock described in section 1504(a)(4) and stock owned by an Agency or a Controlled Entity).

(3) *Bridge Banks and Residual Entities.* If a Bridge Bank is treated as selling all of its assets to a New Entity under this paragraph (b), each associated Residual Entity is treated as simultaneously selling its assets to a New Entity in a Taxable Transfer described in this paragraph (b).

(c) *Treatment of transferor*—(1) *FFA in connection with a Taxable Transfer.* A transferor in a Taxable Transfer is treated as having directly received immediately before a Taxable Transfer any Net Worth Assistance that an Agency provides to the New Entity or the Acquiring in connection with the transfer. (See § 1.597–2(a) and (c) for rules regarding the inclusion of FFA in income and § 1.597–2(a)(1) for related rules regarding FFA provided to shareholders.) The Net Worth Assistance is treated as an asset of the transferor that is sold to the New Entity or the Acquiring in the Taxable Transfer.

(2) *Amount realized in a Taxable Transfer.* In a Taxable Transfer described in paragraph (a)(1)(i) of this section, the amount realized is determined under section 1001(b) by reference to the consideration paid for the assets. In a Taxable Transfer described in paragraph (a)(1)(ii) of this section, the amount realized is the sum of the grossed-up basis of the stock acquired in connection with the Taxable Transfer (excluding stock acquired from the Old or New Entity), plus the amount of liabilities assumed or taken subject to in the deemed transfer, plus other relevant items. The grossed-up basis of the acquired stock equals the acquirers' basis in the acquired stock divided by the percentage of the Old Entity's stock (by value) attributable to the acquired stock.

(3) *Allocation of amount realized*—(i) *In general.* The amount realized under paragraph (c)(2) of this section is allocated among the assets transferred in the Taxable Transfer in the same manner as amounts are allocated among assets under § 1.338–6(b) and (c)(1) and (2).

(ii) *Modifications to general rule.* This paragraph (c)(3)(ii) modifies certain of the allocation rules of paragraph (c)(3)(i) of this section. Agency Obligations and Covered Assets in the hands of the New Entity or the Acquiring are treated as Class II assets. Stock of a Consolidated Subsidiary is treated as a Class II asset to the extent the fair market value of the Consolidated Subsidiary's Class I and Class II assets (see § 1.597–1(b)) exceeds the amount of its liabilities. The fair market value of an Agency Obligation is deemed to equal its adjusted issue price immediately before the Taxable Transfer.

(d) *Treatment of a New Entity and an Acquiring*—(1) *Purchase price.* The purchase price for assets acquired in a Taxable Transfer described in paragraph (a)(1)(i) of this section is the cost of the assets acquired. See § 1.1060–1(c)(1). All assets transferred in related transactions pursuant to an option included in an agreement between the transferor and the Acquiring in the Taxable Transfer are included in the group of assets among which the consideration paid is allocated for purposes of determining the New Entity's or the Acquiring's basis in each of the assets. The purchase price for assets acquired in a Taxable Transfer described in paragraph (a)(1)(ii) of this section is the sum of the grossed-up basis of the stock acquired in connection with the Taxable Transfer (excluding stock acquired from the Old or New Entity), plus the amount of liabilities assumed or taken subject to in the deemed transfer, plus other relevant items. The grossed-up basis of the acquired stock equals the acquirers' basis in the acquired stock divided by the percentage of the Old Entity's stock (by value) attributable to the acquired stock. FFA provided in connection with a Taxable Transfer is not included in the New Entity's or the Acquiring's purchase price for the acquired assets. Any Net Worth Assistance so provided is treated as an asset of the transferor sold to the New Entity or the Acquiring in the Taxable Transfer.

(2) *Allocation of basis*—(i) *In general.* Except as otherwise provided in this paragraph (d)(2), the purchase price determined under paragraph (d)(1) of this section is allocated among the assets transferred in the Taxable Transfer in the same manner as amounts are allocated among assets under § 1.338–6(b) and (c)(1) and (2).

(ii) *Modifications to general rule.* The allocation rules contained in paragraph (c)(3)(ii) of this section apply to the allocation of basis among assets acquired in a Taxable Transfer. No basis is allocable to an Agency's agreement to provide Loss Guarantees, yield maintenance payments, cost to carry or cost of funds reimbursement payments, or expense reimbursement or indemnity payments. A New Entity's basis in assets it receives from its shareholders is determined under general federal income tax principles and is not governed by this paragraph (d).

(iii) *Allowance and recapture of additional basis in certain cases.* The basis of Class I and Class II assets equals their fair market value. See § 1.597–1(b). If the fair market value of the Class I and Class II assets exceeds the purchase price for the acquired assets, the excess is included ratably as ordinary income by the New Entity or the Acquiring over a period of six taxable years beginning in the year of the Taxable Transfer. The New Entity or the Acquiring must include as ordinary income the entire amount remaining to be recaptured under the preceding sentence in the taxable year in which an event occurs that would accelerate inclusion of an adjustment under section 481.

(iv) *Certain post-transfer adjustments*—(A) *Agency Obligations.* If an adjustment to the principal amount of an Agency Obligation or cash payment to reflect a more accurate determination of the condition of the Institution at the time of the Taxable Transfer is made before the earlier of the date the New Entity or the Acquiring files its first post-transfer federal income

tax return or the due date of that return (including extensions), the New Entity or the Acquiring must adjust its basis in its acquired assets to reflect the adjustment. In making adjustments to the New Entity's or the Acquiring's basis in its acquired assets, paragraph (c)(3)(ii) of this section is applied by treating an adjustment to the principal amount of an Agency Obligation pursuant to the first sentence of this paragraph (d)(2)(iv)(A) as occurring immediately before the Taxable Transfer. (See § 1.597–3(c)(3) for rules regarding other adjustments to the principal amount of an Agency Obligation.)

(B) *Covered Assets.* If, immediately after a Taxable Transfer, an asset is not subject to a Loss Guarantee but the New Entity or the Acquiring has the right to designate specific assets that will be subject to the Loss Guarantee, the New Entity or the Acquiring must treat any asset so designated as having been subject to the Loss Guarantee at the time of the Taxable Transfer. The New Entity or the Acquiring must adjust its basis in the Covered Assets and in its other acquired assets to reflect the designation in the manner provided by paragraph (d)(2) of this section. The New Entity or the Acquiring must make appropriate adjustments in subsequent taxable years if the designation is made after the New Entity or the Acquiring files its first post-transfer federal income tax return or the due date of that return (including extensions) has passed.

(e) *Special rules applicable to Taxable Transfers that are deemed asset acquisitions*—(1) *Taxpayer Identification Numbers.* Except as provided in paragraph (e)(3) of this section, the New Entity succeeds to the TIN of the Old Entity in a deemed sale under paragraph (b) of this section.

(2) *Consolidated Subsidiaries*—(i) *In general.* A Consolidated Subsidiary that is treated as selling its assets in a Taxable Transfer under paragraph (b) of this section is treated as engaging immediately thereafter in a complete liquidation to which section 332 applies. The consolidated group of which the Consolidated Subsidiary is a member does not take into account gain or loss on the sale, exchange, or cancellation of stock of the Consolidated Subsidiary in connection with the Taxable Transfer.

(ii) *Certain minority shareholders.* Shareholders of the Consolidated Subsidiary that are not members of the consolidated group that includes the Institution do not recognize gain or loss with respect to shares of Consolidated Subsidiary stock retained by the shareholder. The shareholder's basis for that stock is not affected by the Taxable Transfer.

(3) *Bridge Banks and Residual Entities*—(i) *In general.* A Bridge Bank or Residual Entity's sale of assets to a New Entity under paragraph (b) of this section is treated as made by a single entity under § 1.597–4(e). The New Entity deemed to acquire the assets of a Residual Entity under paragraph (b) of this section is not treated as a single entity with the Bridge Bank (or with the New Entity acquiring the Bridge Bank's assets) and must obtain a new TIN.

(ii) *Treatment of consolidated groups.* At the time of a Taxable Transfer described in paragraph (a)(1)(ii) of this section, treatment of a Bridge Bank as a subsidiary member of a consolidated group under § 1.597–4(f)(1) ceases. However, the New Entity that is deemed to acquire the assets of a Residual Entity is a member of the selling consolidated group after the deemed sale. The group's basis or excess loss account in the stock of the New Entity that is deemed to acquire the assets of the Residual Entity is the group's basis or excess loss account in the stock of the Bridge Bank immediately before the deemed sale, as adjusted for the results of the sale.

(4) *Certain returns.* If an Old Entity without Continuing Equity is not a subsidiary of a consolidated group at the time of the Taxable Transfer, the controlling Agency must file all federal income tax returns for the Old Entity for periods ending on or prior to the date of the deemed sale described in paragraph (b) of this section that are not filed as of that date.

(5) *Basis limited to fair market value.* If all of the stock of the corporation is not acquired on the date of the Taxable Transfer, the Commissioner may make appropriate adjustments under paragraphs (c) and (d) of this section to the extent using a grossed-up basis of the stock of a corporation results in an aggregate amount realized for, or basis in, the assets other than the aggregate fair market value of the assets.

(f) *Examples.* The following examples illustrate the provisions of this section. For purposes of these examples, an Institution's loans are treated as if they were a single asset. However, in applying these regulations, the fair market value of each loan (including, for purposes of a Covered Asset, the Third-Party Price and the Expected Value) must be determined separately.

Example 1. Branch sale resulting in Taxable Transfer. (i) Institution M is a calendar-year taxpayer in Agency Receivership. M is not a member of a consolidated group. On January 1, 2018, M has $200 million of liabilities (including deposit liabilities) and assets with an adjusted basis of $100 million. M has no income or loss for 2018 and, except as otherwise described in this paragraph (i), M receives no FFA. On September 30, 2018, the Agency causes M to transfer six branches (with assets having an adjusted basis of $1 million) together with $120 million of deposit liabilities to N. In connection with the transfer, the Agency provides $121 million in cash to N.

(ii) The transaction is a Taxable Transfer in which M receives $121 million of Net Worth Assistance under paragraph (a)(1) of this section. (M is treated as directly receiving the $121 million of Net Worth Assistance immediately before the Taxable Transfer under paragraph (c)(1) of this section.) M transfers branches having a basis of $1 million and is treated as transferring $121 million in cash (the Net Worth Assistance) to N in exchange for N's assumption of $120 million of liabilities. Thus, M realizes a loss of $2 million on the transfer. The amount of the FFA M must include in its income in 2018 is limited by paragraph (c) of § 1.597–2 to $102 million, which is the sum of the $100 million excess of M's liabilities ($200 million) over the total adjusted basis of its assets ($100 million) at the beginning of 2018 and the $2 million excess for the taxable year (which results from the Taxable Transfer) of M's deductions (other than carryovers) over its gross income other than FFA. M must establish a deferred FFA account for the remaining $19 million of FFA under paragraph (c)(4) of § 1.597–2.

(iii) N, as the Acquiring, must allocate its $120 million purchase price for the assets acquired from M among those assets. Cash is a Class I asset. The branch assets are in Classes III and IV. N's adjusted basis in the cash is its amount, that is, $121 million under paragraph (d)(2) of this section. Because this amount exceeds N's purchase price for all of the acquired assets by $1 million, N allocates no basis to the other acquired assets and, under paragraph (d)(2) of this section, must recapture the $1 million excess at an annual rate of $166,667 in the six consecutive taxable years beginning with 2018 (subject to acceleration for certain events).

Example 2. Stock issuance by Bridge Bank causing Taxable Transfer. (i) On April 1, 2018, Institution P is placed in Agency Receivership and the Agency causes P to transfer assets and liabilities to Bridge Bank PB. On August 31, 2018, the assets of PB consist of $20 million in cash, loans outstanding with an adjusted basis of $50 million and a Third-Party Price of $40 million, and other non-financial assets (primarily branch assets and equipment) with an adjusted basis of $5 million. PB has deposit liabilities of $95 million and other liabilities of $5 million. P, the Residual Entity, holds real estate with an adjusted basis of $10 million and claims in litigation having a zero basis. P retains no deposit liabilities and has no other liabilities (except its liability to the Agency for having caused its deposit liabilities to be satisfied).

(ii) On September 1, 2018, the Agency causes PB to issue 100 percent of its common stock for $2 million cash to X. On the same day, the Agency issues a $25 million note to

PB. The note bears a fixed rate of interest in excess of the applicable Federal rate in effect for September 1, 2018. The Agency provides Loss Guarantees guaranteeing PB a value of $50 million for PB's loans outstanding.

(iii) The stock issuance is a Taxable Transfer in which PB is treated as selling all of its assets to a new corporation, New PB, under paragraph (b)(1) of this section. PB is treated as directly receiving $25 million of Net Worth Assistance (the issue price of the Agency Obligation) immediately before the Taxable Transfer under paragraph (c)(2) of § 1.597–3 and paragraph (c)(1) of this section. The amount of FFA PB must include in income is determined under paragraphs (a) and (c) of § 1.597–2. PB in turn is deemed to transfer the note (with a basis of $25 million) to New PB in the Taxable Transfer, together with $20 million of cash, all its loans outstanding (with a basis of $50 million) and its other non-financial assets (with a basis of $5 million). The amount realized by PB from the sale is $100 million (the amount of PB's liabilities deemed to be assumed by New PB). This amount realized equals PB's basis in its assets; thus, PB realizes no gain or loss on the transfer to New PB.

(iv) Residual Entity P also is treated as selling all its assets (consisting of real estate and claims in litigation) for $0 (the amount of consideration received by P) to a new corporation (New P) in a Taxable Transfer under paragraph (b)(3) of this section. (P's only liability is to the Agency and a liability to the Agency is not treated as a debt under paragraph (b) of § 1.597–3.) P's basis in its assets is $10 million; thus, P realizes a $10 million loss on the transfer to New P. The combined return filed by PB and P for 2018 will reflect a total loss on the Taxable Transfer of $10 million ($0 for PB and $10 million for P) under paragraph (e)(3) of this section. That return also will reflect FFA income from the Net Worth Assistance, determined under paragraphs (a) and (c) of § 1.597–2.

(v) New PB is treated as having acquired the assets it acquired from PB for $100 million, the amount of liabilities assumed. In allocating basis among these assets, New PB treats the Agency note and the loans outstanding (which are Covered Assets) as Class II assets. For the purpose of allocating basis, the fair market value of the Agency note is deemed to equal its adjusted issue price immediately before the transfer ($25 million), and the fair market value of the loans is their Expected Value, $50 million (the sum of the $40 million Third-Party Price and the $10 million that the Agency would pay if PB sold the loans for $40 million) under paragraph (b) of § 1.597–1. Alternatively, if the Third-Party Price for the loans were $60 million, then the fair market value of the loans would be $60 million, and there would be no payment from the Agency.

(vi) New P is treated as having acquired its assets for no consideration. Thus, its basis in its assets immediately after the transfer is zero. New PB and New P are not treated as a single entity under paragraph (e)(3) of this section.

Example 3. Taxable Transfer of previously disaffiliated Institution. (i) Corporation X, the common parent of a consolidated group, owns all the stock of Institution M, an insolvent Institution with no Consolidated Subsidiaries. On April 30, 2018, M has $4 million of deposit liabilities, $1 million of other liabilities, and assets with an adjusted basis of $4 million. On May 1, 2018, M is placed in Agency Receivership. X elects under paragraph (g) of § 1.597–4 to disaffiliate M. Accordingly, as of May 1, 2018, new corporation M is not a member of the X consolidated group. On May 1, 2018, the Agency causes M to transfer all of its assets and liabilities to Bridge Bank MB. Under paragraphs (e) and (g)(4) of § 1.597–4, MB and M are thereafter treated as a single entity which has $5 million of liabilities, an account receivable for future FFA with a basis of $1 million, and other assets with a basis of $4 million.

(ii) During May 2018, MB earns $25,000 of interest income and accrues $20,000 of interest expense on depositor accounts and there is no net change in deposits other than the additional $20,000 of interest expense accrued on depositor accounts. MB pays $5,000 of wage expenses and has no other items of income or expense.

(iii) On June 1, 2018, the Agency causes MB to issue 100 percent of its stock to Corporation Y. In connection with the stock issuance, the Agency provides an Agency Obligation for $2 million and no other FFA.

(iv) The stock issuance results in a Taxable Transfer under paragraph (b) of this section. MB is treated as receiving the Agency Obligation immediately prior to the Taxable Transfer under paragraph (c)(1) of this section. MB has $1 million of basis in its account receivable for FFA. This receivable is treated as satisfied, offsetting $1 million of the $2 million of FFA provided by the Agency in connection with the Taxable Transfer. The status of the remaining $1 million of FFA as includible income is determined as of the end of the taxable year under paragraph (c) of § 1.597–2. However, under paragraph (b) of § 1.597–2, MB obtains a $2 million basis in the Agency Obligation received as FFA.

(v) Under paragraph (c)(2) of this section, in the Taxable Transfer, Old Entity MB is treated as selling, to New Entity MB, all of Old Entity MB's assets, having a basis of $6,020,000 (the original $4 million of asset basis as of April 30, 2018, plus $20,000 net cash from May 2018 activities, plus the $2 million Agency Obligation received as FFA), for $5,020,000, the amount of Old Entity MB's liabilities assumed by New Entity MB pursuant to the Taxable Transfer. Therefore, Old Entity MB recognizes, in the aggregate, a loss of $1 million from the Taxable Transfer.

(vi) Because this $1 million loss causes Old Entity MB's deductions to exceed its gross income (determined without regard to FFA) by $1 million, Old Entity MB must include in its income the $1 million of FFA not offset by the FFA receivable under paragraph (c) of § 1.597–2. (As of May 1, 2018, Old Entity MB's liabilities ($5 million) did not exceed MB's $5 million adjusted basis of its assets. For the taxable year, MB's deductions of $1,025,000 ($1 million loss from the Taxable Transfer, $20,000 interest expense and $5,000 of wage expense) exceeded its gross income (disregarding FFA) of $25,000 (interest income) by $1 million. Thus, under paragraph (c) of § 1.597–2, MB includes in income the entire $1 million of FFA not offset by the FFA receivable.)

(vii) Therefore, Old Entity MB's taxable income for the taxable year ending on the date of the Taxable Transfer is $0.

(viii) Residual Entity M is also deemed to engage in a deemed sale of its assets to New Entity M under paragraph (b)(3) of this section, but there are no federal income tax consequences as M has no assets or liabilities at the time of the deemed sale.

(ix) Under paragraph (d)(1) of this section, New Entity MB is treated as purchasing Old Entity MB's assets for $5,020,000, the amount of New Entity MB's liabilities. Of this, $2 million is allocated to the $2 million Agency Obligation, and $3,020,000 is allocated to the other assets New Entity MB is treated as purchasing in the Taxable Transfer.

Example 4. Loss Guarantee. On January 1, 2018, Institution N acquires assets and assumes liabilities of another Institution in a Taxable Transfer. In exchange for assuming $1,100,000 of the transferring Institution's liabilities, N acquires Net Worth Assistance of $200,000, loans with an unpaid principal balance of $1 million, and two foreclosed properties each having a book value of $100,000 in the hands of the transferring Institution. In connection with the Taxable Transfer, an Agency guarantees N a price of $800,000 on the disposition or charge-off of the loans and a price of $80,000 on the disposition or charge-off of each of the foreclosed properties. This arrangement constitutes a Loss Guarantee. The Third-Party Price is $500,000 for the loans and $50,000 for each of the foreclosed properties. For basis allocation purposes, the loans and foreclosed properties are Class II assets because they are Covered Assets, and N must allocate basis to such assets equal to their fair market value under paragraphs (c)(3)(ii) and (d)(2)(ii) and (iii) of this section. The fair market value of the loans is their Expected Value, $800,000 (the sum of the $500,000 Third-Party Price and the $300,000 that the Agency would pay if N sold the loans for $500,000)). The fair market value of each foreclosed property is its Expected Value, $80,000 (the sum of the $50,000 Third-Party Price and the $30,000 that the Agency would pay if N sold the foreclosed property for $50,000)) under paragraph (b) of § 1.597–1. Accordingly, N's basis in the loans and in each of the foreclosed properties is $800,000 and $80,000, respectively. Because N's aggregate basis in the cash, loans, and foreclosed properties ($1,160,000) exceeds N's purchase price ($1,100,000) by $60,000, N must include $60,000 in income ratably over six years under paragraph (d)(2)(iii) of this section.

Example 5. Loss Share Agreement. (i) The facts are the same as in *Example 4* of this paragraph (f) except that, in connection with the Taxable Transfer, the Agency agrees to reimburse Institution N in an amount equal to zero percent of any loss realized (based on the $1 million unpaid principal balance of the loans and the $100,000 book value of each of the foreclosed properties) on the disposition or charge-off of the Covered

Assets up to $200,000; 50 percent of any loss realized between $200,000 and $700,000; and 95 percent of any additional loss realized. This arrangement constitutes a Loss Guarantee that is a Loss Share Agreement. Thus, the Covered Assets are Class II assets, and N allocates basis to such assets equal to their fair market value under paragraphs (c)(3)(ii) and (d)(2)(ii) and (iii) of this section. Because the Third-Party Price for all of the Covered Assets is $600,000 ($500,000 for the loans and $50,000 for each of the foreclosed properties), the Average Reimbursement Rate is 33.33% ((($200,000 × 0%) + ($400,000 × 50%) + ($0 × 95%))/$600,000). The Expected Value of the loans is $666,667 ($500,000 Third-Party Price + $166,667 (the amount of the loss if the loans were disposed of for the Third-Party Price × 33.33%)), and the Expected Value of each foreclosed property is $66,667 ($50,000 Third-Party Price + $16,667 (the amount of the loss if the foreclosed property were sold for the Third-Party Price × 33.33%)) under paragraph (b) of § 1.597–1. For purposes of allocating basis, the fair market value of the loans is $666,667 (their Expected Value), and the fair market value of each foreclosed property is $66,667 (its Expected Value) under paragraph (b) of § 1.597–1.

(ii) At the end of 2018, the Third-Party Price for the loans drops to $400,000, and the Third-Party Price for each of the foreclosed properties remains at $50,000, The fair market value of the loans at the end of Year 2 is their Expected Value, $600,000 ($400,000 Third-Party Price + $200,000 (the amount of the loss if the loans were disposed of for the Third-Party Price × 33.33% (the Average Reimbursement Rate does not change)). Thus, if the loans otherwise may be charged off, marked to a market value, depreciated, or amortized, then the loans may be marked down to $600,000. The fair market value of each of the foreclosed properties remains at $66,667 ($50,000 Third-Party Price + $16,667 (the amount of the loss if the foreclosed property were sold for the Third-Party Price × 33.33%)). Therefore, the foreclosed properties may not be charged off or depreciated in 2018.

■ **Par. 7.** Section 1.597–6 is revised to read as follows:

§ 1.597–6 Limitation on collection of federal income tax.

(a) *Limitation on collection where federal income tax is borne by an Agency.* If an Institution without Continuing Equity (or any of its Consolidated Subsidiaries) is liable for federal income tax that is attributable to the inclusion in income of FFA or gain from a Taxable Transfer, the federal income tax will not be collected if it would be borne by an Agency. The final determination of whether the federal income tax would be borne by an Agency is within the sole discretion of the Commissioner. In determining whether federal income tax would be borne by an Agency, the Commissioner will disregard indemnity, tax-sharing, or similar obligations of an Agency, an Institution, or its Consolidated Subsidiaries. Collection of the several federal income tax liability under § 1.1502–6 from members of an Institution's consolidated group other than the Institution or its Consolidated Subsidiaries is not affected by this section. Federal income tax will continue to be subject to collection except as specifically limited in this section. This section does not apply to taxes other than federal income taxes.

(b) *Amount of federal income tax attributable to FFA or gain on a Taxable Transfer.* For purposes of paragraph (a) of this section, the amount of federal income tax in a taxable year attributable to the inclusion of FFA or gain from a Taxable Transfer in the income of an Institution (or a Consolidated Subsidiary) is the excess of the actual federal income tax liability of the Institution (or the consolidated group in which the Institution is a member) over the federal income tax liability of the Institution (or the consolidated group in which the Institution is a member) determined without regard to FFA or gain or loss on the Taxable Transfer.

(c) *Reporting of uncollected federal income tax.* A taxpayer must specify on a statement included with its Form 1120 (U.S. Corporate Income Tax Return) the amount of federal income tax for the taxable year that is potentially not subject to collection under this section. If an Institution is a subsidiary member of a consolidated group, the amount specified as not subject to collection is zero.

(d) *Assessments of federal income tax to offset refunds.* Federal income tax that is not collected under this section will be assessed and, thus, used to offset any claim for refund made by or on behalf of the Institution, the Consolidated Subsidiary, or any other corporation with several liability for the federal income tax.

(e) *Collection of federal income taxes from an Acquiring or a New Entity*—(1) *Acquiring.* No federal income tax liability (including the several liability for federal income taxes under § 1.1502–6) of a transferor in a Taxable Transfer will be collected from an Acquiring.

(2) *New Entity.* Federal income tax liability (including the several liability for federal income taxes under § 1.1502–6) of a transferor in a Taxable Transfer will be collected from a New Entity only if stock that was outstanding in the Old Entity remains outstanding as stock in the New Entity or is reacquired or exchanged for consideration.

(f) *Effect on section 7507.* This section supersedes the application of section 7507, and the regulations thereunder, for the assessment and collection of federal income tax attributable to FFA.

■ **Par. 8.** Section 1.597–7 is revised to read as follows:

§ 1.597–7 Effective/applicability dates.

(a) *FIRREA effective date.* Section 597, as amended by section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101–73, 103 Stat 183 (1989)) (FIRREA) is generally effective for any FFA received or accrued by an Institution on or after May 10, 1989, and for any transaction in connection with which such FFA is provided, unless the FFA is provided in connection with an acquisition occurring prior to May 10, 1989. See § 1.597–8 for rules regarding FFA received or accrued on or after May 10, 1989, that relates to an acquisition that occurred before May 10, 1989.

(b) *Applicability date of §§ 1.597–1 through 1.597–6.* Sections 1.597–1 through 1.597–6 apply on or after October 19, 2017, except with respect to FFA provided pursuant to a written agreement that is binding before October 19, 2017, and that continues to be binding at all times after such date, in which case §§ 1.597–1 through 1.597–6 as contained in 26 CFR part 1, revised April 1, 2017, will continue to apply unless the taxpayer elects to apply §§ 1.597–1 through 1.597–6 on a retroactive basis pursuant to paragraph (c) of this section.

(c) *Elective application to prior years and transactions*—(1) *In general.* Except as limited in this paragraph (c), an election is available to apply §§ 1.597–1 through 1.597–6 to taxable years beginning prior to October 19, 2017. A consolidated group may elect to apply §§ 1.597–1 through 1.597–6 for all members of the group in all taxable years to which section 597, as amended by FIRREA, applies. The agent for the group, within the meaning of § 1.1502–77, makes the election provided by this paragraph (c) for the consolidated group. An entity that is not a member of a consolidated group may elect to apply §§ 1.597–1 through 1.597–6 to all taxable years to which section 597, as amended by FIRREA, applies for which it is not a member of a consolidated group. The election provided by this paragraph (c) is irrevocable.

(2) *Election unavailable if statute of limitations closed.* The election provided by this paragraph (c) cannot be made if the period for assessment and collection of federal income tax has expired under the rules of section 6501 for any taxable year in which §§ 1.597–1 through 1.597–6 would affect the determination of the electing entity's or

group's income, deductions, gain, loss, basis, or other items.

(3) *Manner of making election.* An Institution or consolidated group makes the election provided by this paragraph (c) by including a written statement as a part of the taxpayer's or consolidated group's first annual federal income tax return filed on or after October 19, 2017. The statement must contain the following legend at the top of the page: ''THIS IS AN ELECTION UNDER § 1.597–7(c),'' and must contain the name, address, and taxpayer identification number of the taxpayer or agent for the group making the election. The statement must include a declaration that ''TAXPAYER AGREES TO EXTEND THE STATUTE OF LIMITATIONS ON ASSESSMENT FOR THREE YEARS FROM THE DATE OF THE FILING OF THIS ELECTION UNDER § 1.597–7(c), IF THE LIMITATIONS PERIOD WOULD EXPIRE EARLIER WITHOUT SUCH EXTENSION, FOR ANY ITEMS AFFECTED IN ANY TAXABLE YEAR BY THE FILING OF THIS ELECTION,'' and a declaration that either ''AMENDED RETURNS WILL BE FILED FOR ALL TAXABLE YEARS AFFECTED BY THE FILING OF THIS ELECTION WITHIN 180 DAYS OF MAKING THIS STATEMENT, UNLESS SUCH REQUIREMENT IS WAIVED IN WRITING BY THE INTERNAL REVENUE SERVICE'' or ''ALL RETURNS PREVIOUSLY FILED ARE CONSISTENT WITH THE PROVISIONS OF §§ 1.597–1 THROUGH 1.597–6.'' An election with respect to a consolidated group must be made by the agent for the group, not an Agency, and applies to all members of the group.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: August 22, 2017.

David J. Kautter,

Assistant Secretary for Tax Policy.

[FR Doc. 2017–21129 Filed 10–18–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8a

RIN 2900–AP49

Veterans' Mortgage Life Insurance—Coverage Amendment

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) regulations governing the Veterans' Mortgage Life Insurance (VMLI) program in order to provide VMLI-eligible individuals the option to lower their premiums by purchasing less than the minimum coverage amount required under current VA regulations. The final rule also amends current VA regulations to reflect that the statutory maximum amount of coverage available under the VMLI program was previously increased to $200,000, to define the term ''eligible individual,'' and to clarify that eligibility for VMLI coverage has been extended to include servicemembers as well as veterans.

DATES: Effective October 19, 2017.

FOR FURTHER INFORMATION CONTACT: Jeanne King, Department of Veterans Affairs Regional Office and Insurance Center (310/290B), 5000 Wissahickon Avenue, P.O. Box 8079, Philadelphia, PA 19101, (215) 842–2000, ext. 4839 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Veterans' Mortgage Life Insurance (VMLI) program was established in 1971, to provide mortgage protection insurance to service-disabled veterans who receive Specially Adapted Housing Grants from VA. Section 2106(g) of title 38 of the United States Code mandates that the amount of VMLI in force shall be the amount necessary to pay the covered mortgage indebtedness in full, except as limited by section 2106(b) or ''regulations prescribed by the Secretary under this section.'' Section 2106(b) currently limits the amount of VMLI available to $200,000. VA has prescribed a regulation to reduce the amount of VMLI coverage required. Until VA exercised this regulatory authority, program participants were required to carry an amount of insurance equal to the lesser of $200,000 or the unpaid principal of their mortgage. This requirement caused some eligible individuals to forego any VMLI protection. Therefore, VA amended its regulations to permit program participants to carry VMLI in an amount less than both the $200,000 statutory maximum and the amount necessary to pay the covered mortgage indebtedness in full.

The comment period for the proposed rule ended on December 19, 2016, and VA received one comment. The commenter recommended that VA mandate a minimum amount of coverage that insureds should be required to purchase, in order to decrease the likelihood that the balance of the mortgage still owed after death would be burdensome for the insured's survivors. VA believes that it is preferable for veterans to participate in the VMLI program to the extent they can financially, rather than potentially foregoing coverage entirely because they cannot afford the mandatory-minimum amount required by VA. If an eligible individual opts out of the program because the cost to carry a mandated minimum amount of coverage was too costly, his or her survivors could ultimately be forced to assume an even greater indebtedness than if the individual carried some VMLI coverage. Therefore, the final rule is being adopted as is without any changes, and provides that VMLI insureds may select a level of coverage that is most appropriate in addressing their own unique financial circumstances.

The final rule amends the regulations to reflect that the maximum coverage amount is currently $200,000. It also provides a definition for the term ''eligible individual'' and clarifies that both servicemembers and veterans are entitled to apply for coverage under the program. Additionally, the final rule provides for one technical change to 38 CFR 8a.2(b)(8).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule would have no such effect on State, local, and tribal governments or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12886 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires

review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule would directly affect only individuals and would not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

List of Subjects in 38 CFR Part 8a

Life insurance, Mortgage insurance, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on August 24, 2017, for publication.

Dated: October 16, 2017.

Michael Shores,

Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR part 8a as set forth below:

PART 8a—VETERANS MORTGAGE LIFE INSURANCE

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

Authority: 38 U.S.C. 501, and 2101 through 2106, unless otherwise noted.

■ 2. Amend § 8a.1 as follows:

■ a. In paragraph (a), remove ''veteran'' each place it appears and add in its place ''individual'';

■ b. In paragraph (b), remove ''veterans'' the second time it appears and add in its place ''individuals'';

■ c. Revise paragraph (c);

■ d. In paragraph (d) and paragraph (e) introductory text, remove ''veteran'' and add in its place ''individual'';

■ e. Add paragraph (f); and

■ f. Add an authority citation to the end of the section.

The revision and additions read as follows:

§ 8a.1 Definitions.

* * * * *

(c) The term *initial amount of insurance* means the amount of insurance selected by the insured, which may be less than the statutory maximum of $200,000 and less than the amount necessary to pay the mortgage indebtedness in full.

* * * * *

(f) The term *eligible individual* means a person who has been determined by the Secretary to be eligible for benefits pursuant to 38 U.S.C. chapter 21.

(Authority: 38 U.S.C. 501, 2101, 2101A, 2106)

■ 3. Amend § 8a.2 as follows:

■ a. In paragraph (a), remove ''veteran'' each place it appears and add in its place ''individual''; add ''an initial amount of insurance'' between ''authorized'' and ''up''; and remove ''$90,000'' and add in its place ''$200,000''.

■ b. Revise paragraph (b)(1);

■ c. In paragraphs (b)(2) through (6), remove ''veteran'' each place it appears and add in its place ''individual'';

■ d. In paragraph (b)(7), remove ''veterans'' each place it appears and add in its place ''individuals'';

■ e. In paragraph (b)(8), remove ''veterans'' and add in its place ''individuals''; remove ''(date of final publication)'' and add in its place ''December 24, 1987''; and remove ''veteran'' and add in its place ''individual''.

■ f. In paragraph (c), remove ''veteran'' and add in its place ''individual''; and

■ g. Revise the authority citation at the end of section.

The revision reads as follows:

§ 8a.2 Maximum amount of insurance.

* * * * *

(b) * * *

(1) $200,000.

* * * * *

(Authority: 38 U.S.C. 501, 2101, 2101A, 2106)

■ 4. Amend § 8a.3 as follows:

■ a. In paragraphs (a) and (b), remove ''veteran'' each place it appears and add in its place ''individual'';

■ b. In paragraph (c), remove ''a veteran'' and add in its place ''an individual'', and remove ''the veteran'' each place it appears and add in its place ''the individual'';

■ c. In paragraphs (d) and (e), remove ''veteran'' each place it appears and add in its place ''individual''; and

■ d. Add an authority citation to the end of the section.

The addition reads as follows:

§ 8a.3 Effective date.

* * * * *

(Authority: 38 U.S.C. 501, 2101, 2101A, 2106)

■ 5. Amend § 8a.4 as follows:

■ a. In paragraph (b), remove ''$90,000'' each place it appears and add in its place ''$200,000''; remove ''available to'' each place it appears and add in its place ''selected by''; and remove ''veteran'' each place it appears and add in its place ''individual'';

■ b. In paragraph (c), remove ''$90,000'' and add in its place ''$200,000''; remove ''available to'' and add in its place ''selected by''; remove ''eligible veteran'' each place it appears and add in its place ''eligible individual''; and remove ''a veteran'' and add in its place ''an individual''; and

■ c. Revise the authority citation at the end of section.

The revision reads as follows:

§ 8a.4 Coverage.

* * * * *

(Authority: 38 U.S.C. 501, 2101, 2101A, 2106)

[FR Doc. 2017–22667 Filed 10–18–17; 8:45 am]

BILLING CODE 8320–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2010–21 and CP2010–36]

Update to Product Lists

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is updating the product lists. This action reflects a publication policy adopted by Commission order. The referenced policy assumes periodic updates. The updates are identified in the body of this document. The product lists, which are re-published in its entirety, include these updates.

DATES: *Effective date:* October 19, 2017.

For applicability dates, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6800.

SUPPLEMENTARY INFORMATION:

Applicability Dates

July 13, 2017, Priority Mail & First-Class Package Service Contract 47 (MC2017–154 and CP2017–218); July 17, 2017, Parcel Select Contract 22 (MC2017–155 and CP2017–219); July 19, 2017, Priority Mail Contract 332 (MC2017–156 and CP2017–220); July 20, 2017, Priority Mail Contract 333 (MC2017–157 and CP2017–221); July 20, 2017, Transferring First-Class Mail Parcels to the Competitive Product List (MC2015–7); July 24, 2017, Priority Mail Contract 334 (MC2017–158 and CP2017–222); July 31, 2017, Priority Mail Express, Priority Mail & First-Class Package Service Contract 20 (MC2017–159 and CP2017–223); August 7, 2017, Priority Mail Contract 335 (MC2017–161 and CP2017–226); August 7, 2017, Priority Mail & First Class Package Service Contract 48 (MC2017–160 and CP2017–225); August 8, 2017, Priority Mail Contract 337 (MC2017–163 and CP2017–228); August 8, 2017, Priority Mail & First-Class Package Service Contract 49 (MC2017–164 and CP2017–229); August 14, 2017, Priority Mail Contract 338 (MC2017–166 and CP2017–246); August 14, 2017, Priority Mail & First-Class Package Service Contract 50 (MC2017–165 and CP2017–245); August 15, 2017, Priority Mail Contract 336 (MC2017–162 and CP2017–227); August 17, 2017, Priority Mail Contract 339 (MC2017–167 and CP2017–260); August 17, 2017, Priority Mail Express, Priority Mail & First-Class Package Service Contract 21 (MC2017–168 and CP2017–261); August 18, 2017, Priority Mail Contract 340 (MC2017–169 and CP2017–262); August 29, 2017, Priority Mail Contract 341 (MC2017–171 and CP2017–272); August 29, 2017, First-Class Package Service Contract 78 (MC2017–172 and CP2017–273); August 29, 2017, Priority Mail & Frist-Class Package Service Contract 51 (MC2017–173 and CP2017–274); August 30, 2017, Priority Mail Express, Priority Mail & First-Class Package Service Contract 22 (MC2017–177 and CP2017–278); August 30, 2017, Priority Mail & First-Class Package Service Contract 52 (MC2017–174 and CP2017–275); August 30, 2017, Priority Mail & First-Class Package Service Contract 53 (MC2017–175 and CP2017–276); August 30, 2017, Priority Mail Contract 342 (MC2017–176 and CP2017–277); August 31, 2017, Priority Mail Contract 343 (MC2017–178 and CP2017–279); August 31, 2017, Priority Mail Contract 344 (MC2017–179 and CP2017–280); September 8, 2017, Priority Mail Contract 345 (MC2017–180 and CP2017–281); September 8, 2017, Priority Mail Contract 346 (MC2017–181 and CP2017–282); September 8, 2017, Priority Mail Contract 347 (MC2017–182 and CP2017–283); September 19, 2017, Priority Mail Contract 348 (MC2017–184 and CP2017–285); September 19, 2017, Priority Mail Contract 349 (MC2017–185 and CP2017–286); September 19, 2017, Priority Mail Contract 350 (MC2017–186 and CP2017–287); September 19, 2017, Priority Mail Contract 351 (MC2017–187 and CP2017–288); September 19, 2017, Priority Mail Contract 352 (MC2017–188 and CP2017–289); September 20, 2017, Priority Mail & First-Class Package Service Contract 54 (MC2017–192 and CP2017–293); September 20, 2017, First-Class Package Service Contract 79 (MC2017–193 and CP2017–294); September 20, 2017, Priority Mail Contract 353 (MC2017–189 and CP2017–290); September 20, 2017, Priority Mail Express Contract 50 (MC2017–190 and CP2017–291); September 20, 2017, Priority Mail Express & Priority Mail Contract 50 (MC2017–191 and CP2017–292); September 21, 2017, First-Class Package Service Contract 80 (MC2017–194 and CP2017–295); September 21, 2017, Priority Mail & First-Class Package Service Contract 55 (MC2017–195 and CP2017–296); September 21, 2017, Priority Mail Contract 354 (MC2017–196 and CP2017–297); September 21, 2017, Priority Mail Contract 355 (MC2017–197 and CP2017–298); September 21, 2017, Priority Mail & First-Class Package Service Contract 56 (MC2017–198 and CP2017–299); September 22, 2017, Priority Mail Contract 356 (MC2017–199 and CP2017–302); September 22, 2017, Priority Mail Contract 357 (MC2017–200 and CP2017–303); September 22, 2017, Priority Mail & First-Class Package Service Contract 57 (MC2017–201 and CP2017–304); September 22, 2017, Priority Mail Express & Priority Mail Contract 51 (MC2017–202 and CP2017–305); September 26, 2017, First-Class Package Service Contract 81 (MC2017–203 and CP2017–310); September 27, 2017, Global Expedited Package Services 8 (MC2017–183 and CP2017–284).

This document identifies updates to the market dominant and the competitive product lists, which appear as 39 CFR Appendix A to Subpart A of Part 3020—Market Dominant Product List and 39 CFR Appendix B to Subpart A of Part 3020—Competitive Product List, respectively. Publication of the updated product lists in the **Federal Register** is addressed in the Postal Accountability and Enhancement Act (PAEA) of 2006.

Authorization. The Commission process for periodic publication of updates was established in Docket Nos. MC2010–21 and CP2010–36, Order No. 445, April 22, 2010, at 8.

Changes. The product lists are being updated by publishing replacements in their entirety of 39 CFR Appendix A to Subpart A of Part 3020—Market Dominant Product List and 39 CFR Appendix B to Subpart A of Part 3020—Competitive Product List. The following products are being added, removed, or moved within the product lists:

Market Dominant Product List

1. Transferring First-Class Mail Parcels to the Competitive Product List (MC2015–7) (Order No. 4009), moved July 20, 2017.

Competitive Product List

1. Priority Mail & First-Class Package Service Contract 47 (MC2017–154 and CP2017–218) (Order No. 3998), added July 13, 2017.
2. Parcel Select Contract 22 (MC2017–155 and CP2017–219) (Order No. 4004), added July 17, 2017.
3. Priority Mail Contract 332 (MC2017–156 and CP2017–220) (Order No. 4007), added July 19, 2017.
4. Priority Mail Contract 333 (MC2017–157 and CP2017–221) (Order No. 4008), added July 20, 2017.
5. Transferring First-Class Mail Parcels to the Competitive Product List (MC2015–7) (Order No. 4009), moved July 20, 2017.

6. Priority Mail Contract 334 (MC2017–158 and CP2017–222) (Order No. 4012), added July 24, 2017.
7. Priority Mail Express, Priority Mail & First-Class Package Service Contract 20 (MC2017–159 and CP2017–223) (Order No. 4022), added July 31, 2017.
8. Priority Mail Contract 335 (MC2017–161 and CP2017–226) (Order No. 4028), added August 7, 2017.
9. Priority Mail & First-Class Package Service Contract 48 (MC2017–160 and CP2017–225) (Order No. 4029), added August 7, 2017.
10. Priority Mail Contract 337 (MC2017–163 and CP2017–228) (Order No. 4030), added August 8, 2017.
11. Priority Mail & First-Class Package Service Contract 49 (MC2017–164 and CP2017–229) (Order No. 4031), added August 8, 2017.
12. Priority Mail Contract 338 (MC2017–166 and CP2017–246) (Order No. 4037), added August 14, 2017.
13. Priority Mail & First-Class Package Service Contract 50 (MC2017–165 and CP2017–245) (Order No. 4038), added August 14, 2017.
14. Priority Mail Contract 336 (MC2017–162 and CP2017–227) (Order No. 4040), added August 15, 2017.
15. Priority Mail Contract 339 (MC2017–167 and CP2017–260) (Order No. 4050), added August 17, 2017.
16. Priority Mail Express, Priority Mail & First-Class Package Service Contract 21 (MC2017–168 and CP2017–261) (Order No. 4052), added August 17, 2017.
17. Priority Mail Contract 340 (MC2017–169 and CP2017–262) (Order No. 4054), added August 18, 2017.
18. Priority Mail Contract 341 (MC2017–171 and CP2017–272) (Order No. 4077), added August 29, 2017.
19. First-Class Package Service Contract 78 (MC2017–172 and CP2017–273) (Order No. 4078), added August 29, 2017.
20. Priority Mail & First-Class Package Service Contract 51 (MC2017–173 and CP2017–274) (Order No. 4079), added August 29, 2017.
21. Priority Mail Express, Priority Mail & First-Class Package Service Contract 22 (MC2017–177 and CP2017–278) (Order No. 4082), added August 30, 2017.
22. Priority Mail & First-Class Package Service Contract 52 (MC2017–174 and CP2017–275) (Order No. 4083), added August 30, 2017.
23. Priority Mail & First-Class Package Service Contract 53 (MC2017–175 and CP2017–276) (Order No. 4084), added August 30, 2017.
24. Priority Mail Contract 342 (MC2017–176 and CP2017–277) (Order No. 4085), added August 30, 2017.
25. Priority Mail Contract 343 (MC2017–178 and CP2017–279) (Order No. 4086), added August 31, 2017.
26. Priority Mail Contract 344 (MC2017–179 and CP2017–280) (Order No. 4087), added August 31, 2017.
27. Priority Mail Contract 345 (MC2017–180 and CP2017–281) (Order No. 4092), added September 8, 2017.
28. Priority Mail Contract 346 (MC2017–181 and CP2017–282) (Order No. 4093), added September 8, 2017.
29. Priority Mail Contract 347 (MC2017–182 and CP2017–283) (Order No. 4094), added September 8, 2017.
30. Priority Mail Contract 348 (MC2017–184 and CP2017–285) (Order No. 4098), added September 19, 2017.
31. Priority Mail Contract 349 (MC2017–185 and CP2017–286) (Order No. 4099), added September 19, 2017.
32. Priority Mail Contract 350 (MC2017–186 and CP2017–287) (Order No. 4100), added September 19, 2017.
33. Priority Mail Contract 351 (MC2017–187 and CP2017–288) (Order No. 4101), added September 19, 2017.
34. Priority Mail Contract 352 (MC2017–188 and CP2017–289) (Order No. 4102), added September 19, 2017.
35. Priority Mail & First-Class Package Service Contract 54 (MC2017–192 and CP2017–293) (Order No. 4103), added September 20, 2017.
36. First-Class Package Service Contract 79 (MC2017–193 and CP2017–294) (Order No. 4104), added September 20, 2017.
37. Priority Mail Contract 353 (MC2017–189 and CP2017–290) (Order No. 4105), added September 20, 2017.
38. Priority Mail Express Contract 50 (MC2017–190 and CP2017–291) (Order No. 4106), added September 20, 2017.
39. Priority Mail Express & Priority Mail Contract 50 (MC2017–191 and CP2017–292) (Order No. 4107), added September 20, 2017.
40. First-Class Package Service Contract 80 (MC2017–194 and CP2017–295) (Order No. 4110), added September 21, 2017.
41. Priority Mail & First-Class Package Service Contract 55 (MC2017–195 and CP2017–296) (Order No. 4111), added September 21, 2017.
42. Priority Mail Contract 354 (MC2017–196 and CP2017–297) (Order No. 4112), added September 21, 2017.
43. Priority Mail Contract 355 (MC2017–197 and CP2017–298) (Order No. 4113), added September 21, 2017.
44. Priority Mail & First-Class Package Service Contract 56 (MC2017–198 and CP2017–299) (Order No. 4114), added September 21, 2017.
45. Priority Mail Contract 356 (MC2017–199 and CP2017–302) (Order No. 4118), added September 22, 2017.
46. Priority Mail Contract 357 (MC2017–200 and CP2017–303) (Order No. 4119), added September 22, 2017.
47. Priority Mail & First-Class Package Service Contract 57 (MC2017–201 and CP2017–304) (Order No. 4120), added September 22, 2017.
48. Priority Mail Express & Priority Mail Contract 51 (MC2017–202 and CP2017–305) (Order No. 4121), added September 22, 2017.
49. First-Class Package Service Contract 81 (MC2017–203 and CP2017–310) (Order No. 4124), added September 26, 2017.
50. Global Expedited Package Services 8 (MC2017–183 and CP2017–284) (Order No. 4129), added September 27, 2017.

The following negotiated service agreements have expired, or have been terminated early, and are being deleted from the Competitive Product List:

1. Priority Mail Contract 81 (MC2014–24 and CP2014–47) (Order No. 2071).
2. Priority Mail Contract 88 (MC2014–37 and CP2014–63) (Order No. 2139).
3. Priority Mail Contract 90 (MC2014–40 and CP2014–73) (Order No. 2172).
4. Priority Mail Contract 152 (MC2016–13 and CP2016–15) (Order No. 2803).
5. First-Class Package Service Contract 36 (MC2014–32 and CP2014–57) (Order No. 2128).

Updated product list. The referenced changes to the product lists are incorporated into 39 CFR Appendix A to Subpart A of Part 3020—Market Dominant Product List and 39 CFR Appendix B to Subpart A of Part 3020—Competitive Product List.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure, Postal Service.

For the reasons discussed in the preamble, the Postal Regulatory Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise appendix A of subpart A to read as follows:

Appendix A to Subpart A of Part 3020—Market Dominant Product List

(An asterisk (*) indicates an organizational class or group, not a Postal Service product.)

Part A—Market Dominant Products

1000 Market Dominant Product List

First-Class Mail *

Single-Piece Letters/Postcards
Presorted Letters/Postcards
Flats
Outbound Single-Piece First-Class Mail International
Inbound Letter Post
USPS Marketing Mail (Commercial and Nonprofit) *
High Density and Saturation Letters
High Density and Saturation Flats/Parcels
Carrier Route
Letters
Flats
Parcels
Every Door Direct Mail—Retail
Periodicals *
In-County Periodicals
Outside County Periodicals
Package Services *
Alaska Bypass Service
Bound Printed Matter Flats
Bound Printed Matter Parcels
Media Mail/Library Mail
Special Services *
Ancillary Services
International Ancillary Services
Address Management Services
Caller Service
Credit Card Authentication
International Reply Coupon Service
International Business Reply Mail Service
Money Orders
Post Office Box Service
Customized Postage
Stamp Fulfillment Services
Negotiated Service Agreements *
Domestic *
PHI Acquisitions, Inc. Negotiated Service Agreement
International *
Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1
Inbound Market Dominant Exprés Service Agreement 1
Inbound Market Dominant Registered Service Agreement 1
Inbound Market Dominant PRIME Tracked Service Agreement
Nonpostal Services *
Alliances with the Private Sector to Defray Cost of Key Postal Functions
Philatelic Sales
Market Test *

■ 3. Revise appendix B of subpart A to read as follows:

Appendix B to Subpart A of Part 3020—Competitive Product List

(An asterisk (*) indicates an organizational class or group, not a Postal Service product.)

Part B—Competitive Products

2000 Competitive Product List

Domestic Products *
Priority Mail Express
Priority Mail
Parcel Select
Parcel Return Service
First-Class Package Service
USPS Retail Ground
International Products *
Outbound International Expedited Services
Inbound Parcel Post (at UPU rates)
Outbound Priority Mail International
International Priority Airmail (IPA)
International Surface Air List (ISAL)
International Direct Sacks—M-Bags
Outbound Single-Piece First-Class Package International Service
Negotiated Service Agreements *
Domestic *
Priority Mail Express Contract 16
Priority Mail Express Contract 19
Priority Mail Express Contract 20
Priority Mail Express Contract 21
Priority Mail Express Contract 23
Priority Mail Express Contract 26
Priority Mail Express Contract 27
Priority Mail Express Contract 28
Priority Mail Express Contract 29
Priority Mail Express Contract 30
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Priority Mail Express Contract 44
Priority Mail Express Contract 45
Priority Mail Express Contract 46
Priority Mail Express Contract 47
Priority Mail Express Contract 48
Priority Mail Express Contract 49
Priority Mail Express Contract 50
Parcel Return Service Contract 5
Parcel Return Service Contract 6
Parcel Return Service Contract 7
Parcel Return Service Contract 8
Parcel Return Service Contract 9
Parcel Return Service Contract 10
Priority Mail Contract 77
Priority Mail Contract 78
Priority Mail Contract 80
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GEPS 5
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GEPS 7
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Global Bulk Economy (GBE) Contracts
Global Plus Contracts
Global Plus 1C
Global Plus 1D
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Global Reseller Expedited Package Services 1
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Global Expedited Package Services (GEPS)—Non-Published Rates 6
Global Expedited Package Services (GEPS)—Non-Published Rates 7
Global Expedited Package Services (GEPS)—Non-Published Rates 8
Global Expedited Package Services (GEPS)—Non-Published Rates 9
Global Expedited Package Services (GEPS)—Non-Published Rates 10
Global Expedited Package Services (GEPS)—Non-Published Rates 11

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Priority Mail International Regional Rate Boxes—Non-Published Rates
Outbound Competitive International Merchandise Return Service Agreement with Royal Mail Group, Ltd.
Priority Mail International Regional Rate Boxes Contracts Priority Mail International Regional Rate Boxes Contracts 1
Competitive International Merchandise Return Service Agreements with Foreign Postal Operators
Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 1
Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 2
Alternative Delivery Provider (ADP) Contracts ADP 1
Inbound International *
International Business Reply Service (IBRS) Competitive Contracts
International Business Reply Service Competitive Contract 1
International Business Reply Service Competitive Contract 3
Inbound Direct Entry Contracts with Customers
Inbound Direct Entry Contracts with Foreign Postal Administrations
Inbound Direct Entry Contracts with Foreign Postal Administrations
Inbound Direct Entry Contracts with Foreign Postal Administrations 1
Inbound EMS
Inbound EMS 2
Inbound Air Parcel Post (at non-UPU rates)
Royal Mail Group Inbound Air Parcel Post Agreement
Inbound Competitive Multi-Service Agreements with Foreign Postal Operators
Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1
Special Services *
Address Enhancement Services
Greeting Cards, Gift Cards, and Stationery
International Ancillary Services
International Money Transfer Service—Outbound
International Money Transfer Service—Inbound
Premium Forwarding Service
Shipping and Mailing Supplies
Post Office Box Service
Competitive Ancillary Services
Nonpostal Services *
Advertising
Licensing of Intellectual Property other than Officially Licensed Retail Products (OLRP)
Mail Service Promotion
Officially Licensed Retail Products (OLRP)
Passport Photo Service
Photocopying Service
Rental, Leasing, Licensing or other Non-Sale Disposition of Tangible Property
Training Facilities and Related Services
USPS Electronic Postmark (EPM) Program
Market Tests *
Customized Delivery
Global eCommerce Marketplace (GeM)

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–22645 Filed 10–18–17; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2017–0166; FRL–9964–42]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 29 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to consent orders issued by EPA pursuant to section 5(e) of TSCA. This action requires persons who intend to manufacture (defined by statute to include import) or process any of these 29 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

DATES: This rule is effective on December 18, 2017. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on November 2, 2017.

Written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs must be received on or before November 20, 2017 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**). If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before November 20, 2017, EPA will withdraw the relevant sections of this direct final rule before its effective date.

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0166, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth @epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification

rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, pursuant to 40 CFR 721.20, any persons who export or intend to export a chemical substance that is the subject of this rule on or after November 20, 2017 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

II. Background

A. What action is the Agency taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** issue of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

B. What is the Agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B)(i) (15 U.S.C. 2604(a)(1)(B)(i)) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. TSCA prohibits such manufacturing or processing from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination (15 U.S.C. 2604(a)(1)(B)(ii)). As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. Pursuant to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A) (15 U.S.C. 2604(a)(1)(A)). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1) (15 U.S.C. 2604(b) and 2604(d)(1)), the exemptions authorized by TSCA sections 5(h)(1), 5(h)(2), 5(h)(3), and 5(h)(5) (15 U.S.C. 2604(h)(1), 2604(h)(2), 2604(h)(3), and 2604(h)(5)), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) (15 U.S.C. 2604(g)) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 37 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 29 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the consent order under TSCA section 5(e) (15 U.S.C. 2604(e)).
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VIII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of this rule specifies the activities designated as

significant new uses. Certain new uses, including production volume limits (*i.e.,* limits on manufacture volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

This rule includes 29 PMN substances that are subject to ''risk-based'' consent orders under TSCA section 5(e)(1)(A)(ii)(I) (15 U.S.C. 2604(e)(1)(A)(ii)(I)) where EPA determined that activities associated with the PMN substances may present unreasonable risk to human health or the environment. Those consent orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The SNURs are promulgated pursuant to § 721.160, and are based on and consistent with the provisions in the underlying consent orders. The SNURs designate as a ''significant new use'' the absence of the protective measures required in the corresponding consent orders.

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) consent order usually requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) consent orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose requests under § 721.30 to use the NCELs approach for SNURs are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) consent order for the same chemical substance.

PMN Number: P–15–310

Chemical name: 1,2,4-Benzenetricarboxylic acid, mixed decyl and octyl triesters.

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: January 31, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a lubricant in special chain oils for conveyor belts. Based on submitted test data, EPA predicts blood and adrenal gland effects to unprotected workers from repeated dermal exposures. EPA also predicts endocrine disruption based on Structure Activity Relationship (SAR) analysis on analogous phthalates. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

1. Use of personal protective equipment to prevent dermal exposure.

2. Not use, formulate, or distribute for use other than as stated in the PMN.

3. No manufacture beyond an annual production volume of 150,000 kg.

Recommended testing: EPA has determined that the results of certain human health toxicity testing would help characterize the PMN substance. The submitter has agreed not to exceed the confidential production limit without performing an Extended One-Generation Reproductive Toxicity Study (OECD Test Guideline 443).

CFR citation: 40 CFR 721.10996.

PMN Numbers: P–15–487, P–15–488, P–15–489, P–15–490, and P–15–491

Chemical names: Multi-walled carbon nanotubes (generic).

CAS numbers: Not available.

Effective date of TSCA section 5(e) consent order: February 17, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substances will be used as additives for electro-static discharge (ESD) in electronic devices, electronics, and materials; additives for weight reduction in materials; additives to improve mechanical properties or electrical conductivities; heat-generating elements in heating devices and materials; additives for heat transfer and thermal emissions in electronic devices and materials; semi-conductor, conductive, or resistive elements in electronic circuitry and devices; additives to improve conductivity in electronic circuitry, energy storage systems, and devices; electron emitters for lighting and x-ray sources; additive for electromagnetic interface shielding in electronic devices; additives for electrodes in electronic materials and electronic devices; catalyst support in chemical manufacturing; coating additives to improve corrosion resistance or conductive properties; additives for fibers in structural and electrical applications; additives for fibers in fabrics and textiles; filter additives to remove nanoscale materials; semi-conducting compounding additives far high-voltage cable; and additives for super-hydrophobicity. A submitted 90-day inhalation toxicity study for P–15–487 demonstrated no effects at 1 mg/m^3, which was the highest dose tested. Based on SAR analysis on analogous carbon nanotubes (CNT), EPA predicts pulmonary toxicity and oncogenicity to unprotected workers from repeated inhalation exposures. No ecotoxicity studies on CNT are available in which a broad range of production methods, sources, purification, functionalization, etc. were investigated. EPA expects that some fraction of the PMN substances, if released into the environment, will eventually become suspended in water. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Use of personal protective equipment to prevent dermal exposure and a NIOSH-certified respirator with N–100, P–100, or R–100 cartridges with an assigned protection factor (APF) of at least 50 (where there is a potential for inhalation exposure).

2. Use of the PMN substances only for the uses specified in the consent order.

3. No use in application methods that generate a dust, mist, or aerosol unless such application method occurs in an enclosed process.

4. No use of the PMN substances resulting in releases to surface waters and disposal of the PMN substances only by landfill or incineration.

Recommended testing: EPA has determined that a subchronic 90-day inhalation toxicity study (OPPTS 870.3465 or OECD 413), a two-year inhalation bioassay (OPPTS 870.4200), a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400), a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300), and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize possible health and environmental

effects of the substances. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.10997.

PMN Number: P–16–165

Chemical name: Propanoic acid, iron (2+) salt (2:1).

CAS number: 1952336–63–8.

Effective date of TSCA section 5(e) consent order: February 15, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a component in a metal organic product that will be used in paint and ink driers, unsaturated polyester resins promoters, lube/grease additives, fuel additives, polymerization catalysts, and specialty petrochemical catalysts at less than 1 percent. Based on submitted test data, EPA predicts liver and developmental toxicity to unprotected workers from repeated inhalation exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

1. Use of a NIOSH-certified respirator with an APF of at least 10 (where there is a potential for inhalation exposures).

2. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the Safety Data Sheet (SDS).

3. No manufacture beyond an annual production volume of 150,000 kg.

4. Not process or use the PMN substance for non-industrial applications.

5. Not process or use the PMN substance in formulations where the concentration is greater than 1%.

Recommended testing: EPA has determined that the results of certain human health toxicity testing would help characterize the PMN substance. The submitter has agreed not to exceed the confidential production limit without performing the prenatal development toxicity study (OECD 414). In addition, EPA has determined that the results of a combined chronic toxicity and carcinogenicity toxicity test (OPPTS 870.4300) would help characterize the health effects of the PMN substance. The Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.10998.

PMN Numbers: P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259

Chemical names: 1-Butanaminium, N,N,N-tributyl-, carbonic acid (1:1) (P–16–255), 1-Butanaminium, N,N,N-tributyl-, methyl carbonate (1:1) (P–16–256), 1-Butanaminium, N,N,N-tributyl-, ethyl carbonate (1:1) (P–16–257), 1-Butanaminium, N,N,N-tributyl-, propyl carbonate (1:1) (P–16–258), 1-Butanaminium, N,N,N-tributyl-, and 1-methylethyl carbonate (1:1) (P–16–259)

CAS numbers: 17351–62–1(P–16–255), 56294–05–2(P–16–256), 478796–04–2(P–16–257), 1338579–13–7(P–16–258), and 1803407–49–9(P–16–259)

Effective date of TSCA section 5(e) consent order: March 7, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substances will be used as blocked catalysts for paints and coatings. Based on submitted test data, EPA predicts strong irritation to the skin, eyes, and mucous membranes as well as acute toxicity and corrosivity-related neurotoxicity from repeated dermal and inhalation exposures. Further, based on test data on the PMN substances, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 34 parts per billion (ppb) of the PMN substances in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Use of personal protective equipment to prevent dermal exposures.

2. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in a safety data sheet (SDS).

3. Use of the PMN substances only for the use specified in the consent order.

4. Use of the PMN substances at a concentration no greater than 1.5% by weight in the final product.

Recommended testing: EPA has determined that the results of certain environmental toxicity testing would help characterize the PMN substances. The submitter has agreed not to exceed the confidential production limit without performing a daphnid chronic toxicity test (OCSPP 850.1300).

CFR citations: 40 CFR 721.10999 (P–16–255), 40 CFR 721.11000 (P–16–256), 40 CFR 721.11001 (P–16–257), 40 CFR 721.11002 (P–16–258), and 40 CFR 721.11003 (P–16–259).

PMN Number: P–16–284

Chemical name: Anilino substituted bis-triazinyl derivative of 4,4′-diaminostilbene-2,2′-disulfonic acid, mixed amine sodium salt (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: May 12, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as an optical brightener for textiles, paper, and paperboard. Based on submitted test data, EPA predicts adrenal gland effects to unprotected workers from repeated dermal and inhalation exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

(1) Import only of the PMN substance as a solution.

(2) Use only as an optical brightener for textiles, paper and paperboard.

(3) No use of the PMN substance in application methods that generate a dust, mist, or aerosol unless such application method occurs in an enclosed process.

(4) Non industrial use only where the PMN substance is not sold for ''consumer use'' or for ''commercial uses'' (as the term is defined in § 721.3) when the ''saleable goods or service'' could introduce PMN material into a ''consumer'' setting (as that term is defined in § 721.3).

Recommended testing: EPA has determined that the results of physical/chemistry testing would help characterize the PMN substance. The submitter has agreed not to manufacture beyond a certain time period without measuring the particle size distribution to characterize the particle size distribution of fractions less than 10 microns of the dry particle PMN substance. In addition, EPA has determined that the results of a 90-day subchronic inhalation toxicity study (OPPTS 870.3465 or OECD 413) would help characterize the health effects of the PMN substance. The Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11004.

PMN Numbers: P–16–309 and P–16–310

Chemical names: 12-Hydroxystearic acid, reaction products with alkylene diamine and alkanoic acid (generic).

CAS numbers: Not available.

Effective date of TSCA section 5(e) consent order: February 17, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substances will be used as rheological or thixotropic agents used in the production of solvent based industrial coatings, high solid aromatic paints, adhesives, sealants, and other types of paints and topcoats. Based on submitted test data, EPA predicts blood and hematology effects. Further, based on SAR analysis of test data on analogous amides, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb of the PMN substances in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

(1) No domestic manufacture of the PMN substances.

(2) No manufacture beyond the annual production volume specified in the consent order.

(3) Use of the PMN substances only for the use specified in the consent order.

(4) Compliance with the release to water provisions.

Recommended testing: EPA has determined that the results of certain human health and environmental toxicity testing would help characterize the PMN substances. The submitter has agreed not to exceed the confidential production limit without performing a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400), a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300), and an algal toxicity test (OCSPP Test Guideline 850.1300). In addition, EPA has determined that the results of a repeated dose dermal toxicity test (OPPTS Test Guideline 870.3200) would help characterize the human health effects of the PMN substances. The Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11005.

PMN Number: P–16–315

Chemical name: Alkyldiene, polymer, hydroxy terminated alkoxysilylalkylcarbamate (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: January 17, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as an additive to improve the compatibility of the dispersibility of inorganic fillers in industrial rubber formulation. Based on physical/chemical properties, EPA predicts irritation and lung effects to unprotected workers from repeated inhalation and dermal exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

(1) No domestic manufacture of the PMN substance.

(2) Use of the PMN substance only for the use specified in the consent order.

Recommended testing: EPA has determined that a 90-day subchronic inhalation test in rodents (OCSPP Harmonized Test Guideline 870.3465); would help characterize possible health effects of the substance. Although the Order does not require this test, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11006.

PMN Number: P–16–323

Chemical name: Alkylaldehyde, reaction products with substituted carbomonocycle-substituted heteromonocycle-alkylene glycol bis[[[[substituted(oxoneoalkyl)oxy]alkyl] amino]alkyl] ether polymer and alkyl substituted alkanediamine, acetate salts (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: November 22, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a coating resin. Based on test data on formaldehyde and analogous cationic polymers, EPA predicts sensitization, carcinogenicity, and lung effects to unprotected workers from repeated dermal exposures. Further, based on SAR analysis of test data on analogous cationic polymers, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 32 ppb of the PMN substance in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

(1) No manufacture of the PMN such that residual formaldehyde is more than 0.1 weight percent of the PMN substance.

(2) Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

(3) Use of the PMN substance only for the use specified in the consent order.

(4) No application method that generates a dust, mist, or aerosol.

Recommended testing: EPA has determined that a 28-day subacute inhalation toxicity study (OECD 412), a fish acute toxicity test mitigated by humic acid (OCSPP Test Guideline 850.1085), an aquatic invertebrate, acute toxicity test, freshwater daphnids (OCSPP Test Guideline 850.1075), and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize possible health and environmental effects of the substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11007.

PMN Numbers: P–16–330 and P–16–331

Chemical names: Hydroxy functional triglyceride polymer with glycerol mono-ester and 1,1′-methylenebis[4-isocyanatobenzene] (P–16–330) and Hydroxy functional triglyceride polymer with glycerol mono-ester and 1,1′-methylenebis[isocyanatobenzene] (P–16–331) (generic)

CAS numbers: Not available

Effective date of TSCA section 5(e) consent order: February 14, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substances will be used as industrial adhesives. Based on submitted test data, EPA predicts dermal sensitization, respiratory sensitization, and lung effects to unprotected workers from repeated inhalation and dermal exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substances may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

(1) Manufacture of the PMN substances to contain no more than 0.1% residual isocyanate by weight.

(2) No sale of the PMN substances for ''consumer use'' or for ''commercial uses'' (as the term is defined in § 721.3) when the ''saleable goods or service'' could introduce PMNs material into a

''consumer'' setting (as that term is defined in § 721.3).

(3) Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

Recommended testing: EPA has determined that a skin sensitization study (OPPTS 870.2600) and a 90-day inhalation study (OPPTS 870.3465) would help characterize possible health effects of the substances. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citations: 40 CFR 721.11008 (P–16–330) and 40 CFR 721.11009 (P–16–331).

PMN Number: P–16–360

Chemical name: Poly(oxy-1,2-ethanediyl),.alpha.-(1-oxodocosyl)-.omega.-[(1-oxodocosyl)oxy]-.

CAS number: 36493–27–3.

Effective date of TSCA section 5(e) consent order: December 12, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a fuel additive. Based on physical/chemical properties, EPA estimates the PMN substance would have low environmental hazard due to its poor water solubility. However, if the number of repeating ethylene oxide units in the polymer is large (*i.e.*, greater than 10), the polymer would become a dispersible surfactant. Based on SAR analysis of test data on an analogous nonionic polymer, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 350 ppb of the PMN substance in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to the environment. To protect against these risks, the consent order requires manufacture such that no more than 33% of the PMN substance contains 10 or more repeating ethylene oxide units.

Recommended testing: EPA has determined that an acute invertebrate toxicity test, freshwater daphnids (OCSPP Test Guideline 850.1010), a fish acute toxicity test, freshwater and marine (OCSPP Test Guideline 850.1075), a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400), a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300), and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize possible environmental effects of the substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11010.

PMN Number: P–16–361

Chemical name: Pulp, cellulose, reaction products with lignin.

CAS number: 1671062–70–6.

Effective date of TSCA section 5(e) consent order: December 12, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as plastic reinforcement. Based on SAR analysis on structurally similar respirable poorly soluble particulates, EPA predicts pulmonary toxicity to unprotected workers from repeated inhalational exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

(1) Distribution of the PMN substance only in a liquid or gel formulation, unless the solid particle form has a particle size distribution where less than 0.5% of the particles are less than 10 microns.

(2) No use in application methods that generate a dust, mist, or aerosol unless such application method occurs in an enclosed process.

Recommended testing: EPA has determined that the results of physical/chemical characteristics would help characterize the PMN substance. The submitter has agreed not to manufacture beyond a certain time period without measuring the particle size distribution to characterize the particle size distribution of fractions less than 10 microns of the dry particle PMN substance.

CFR citation: 40 CFR 721.11011.

PMN Numbers: P–16–365 and P–16–367

Chemical names: Alkyl carbonate, polymer with, substituted alkanes and substituted heteromonocycle, substituted alkyl acrylate-blocked (generic) (P–16–365) and substituted heteromonocycle, polymer with substituted alkane and ethoxylated alkane, substituted heteromonocycle substituted alkyl ester-blocked (generic) (P–16–367).

CAS numbers: Not available.

Effective date of TSCA section 5(e) consent order: January 3, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substances will be used as a UV curable coating resin for industrial use. Based on SAR analysis on structurally similar diisocyanates and acrylates, EPA predicts eye and skin irritation, dermal sensitization, respiratory sensitization, lung effects, mutagenicity, cancer, developmental, liver, and kidney toxicity to unprotected workers from repeated inhalation and dermal exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substances may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

(1) Use of personal protective equipment involving impervious gloves (where there is a potential for dermal exposure).

(2) Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

(3) No manufacture, process, or use of the substances as consumer products.

(4) Manufacture of the PMN substances to contain no more than 0.1 residual isocyanate by weight.

Recommended testing: EPA has determined that the results of a local lymph node assay (OPPTS 870.2600), a 90-day inhalation toxicity test with 60-day holding period (OPPTS 870.3465), and a two-year oral bioassay (OPPTS 870.4200) would help characterize possible health effects of the substances. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citations: 40 CFR 721.11012 (P–16–365) and 40 CFR 721.11013 (P–16–367).

PMN Number: P–16–369

Chemical name: Substituted heteromonocycle, telomer with substituted carbomonocycles, substituted alkyl ester (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: January 23, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a UV curable coating resin for industrial use. Based on SAR analysis on structurally similar acrylates and other chemicals, EPA predicts eye and skin irritation, dermal sensitization, respiratory sensitization, lung effects, mutagenicity, cancer, developmental toxicity, liver, and

kidney toxicity to unprotected workers from repeated inhalation and dermal exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

(1) Use of personal protective equipment involving impervious gloves and protective clothing (where there is a potential for dermal exposure) and a NIOSH-certified respirator with an APF of at least 50 (where there is a potential for inhalation exposure).

(2) No manufacture, process, or use of the substance for use in a consumer product.

(3) Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

(4) Manufacture of the PMN substance to contain no more than 0.1 residual by weight of chemicals described in the 5(e) consent order.

Recommended testing: EPA has determined that the results of certain human health toxicity testing would help characterize the PMN substance. The submitter has agreed not to exceed the confidential production limit without performing a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465 or OECD Test Guideline 413). In addition, EPA has determined that the results of a skin sensitization (OPPTS 870.2600), a local lymph node assay (OECD 429), and two-year bioassay (oral) (OPPTS 870.4200) would help characterize possible health effects of the substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11014.

PMN Number: P–16–387

Chemical name: Aliphatic polycarboxylic acid, polymer with alicyclic polyhydric alcohol and polyoxyalkylene (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: February 7, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as an additive for a polymer. Based on physical/chemical properties of the PMN substance, EPA predicts lung effects to unprotected workers from repeated exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

(1) Manufacture of the PMN substance such that the minimum average molecular weight is 18,000 daltons.

(2) No processing or use in any manner or method that generates a dust, mist, or aerosol.

(3) Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test with 30-day holding period (OPPTS 870.3465), a combined repeated dose toxicity study with the reproduction/developmental toxicity screening test (OECD 422) an acute fish toxicity test (OCSPP 850.1075), an acute daphnia toxicity test (OCSPP 850.1300), and an algal toxicity test (OCSPP 850.4500) would help characterize possible health and environmental effects of the substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11015.

PMN Number: P–16–398

Chemical name: Di-ammonium di-carboxylate (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: November 14, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a corrosion inhibitor. Based on test data on analogous anionic surfactants, EPA predicts eye and mucous membrane irritation and skin sensitization to unprotected workers from repeated dermal exposures. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

1. Use of personal protective equipment including impervious gloves and protective clothing to prevent dermal exposure.

2. Use of the PMN substance only for the use specified in the consent order.

3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

Recommended testing: EPA has determined that the results of certain human health toxicity testing would help characterize the effects of the PMN substance. The submitter has agreed not to exceed the confidential production limit without performing three skin sensitization studies (OECD 442B), (OECD 442C), and (OECD 442D).

CFR citation: 40 CFR 721.11016.

PMN Number: P–16–455

Chemical name: Sodium tungsten oxide.

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: November 2, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a component of infrared absorption material. Based on SAR analysis on structurally similar respirable poorly soluble particulates, EPA predicts pulmonary toxicity and carcinogenicity to unprotected workers from repeated inhalation exposures. Further, based on test data on analogous tungsten oxide, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Use of personal protective equipment to prevent dermal exposure.

2. Use of a NIOSH-certified respirator with an APF of at least 1000 or compliance with a NCEL of 0.3 ppm as an 8-hour time-weighted average to prevent inhalation exposure.

3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

4. Use of the PMN substance only for the use specified in the consent order.

5. No use in application methods that generate a dust, mist, or aerosol unless such application method occurs in an enclosed process.

6. No use of the PMN substance resulting in releases to surface waters and disposal of the PMN substance only by landfill or incineration.

Recommended testing: EPA has determined that the results of certain human health toxicity testing would help characterize the PMN substance. The submitter has agreed not to exceed the confidential production limit without performing a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465 or OECD Test Guideline 413)

and a two- year inhalation bioassay test (OPPTS 870.4200).

CFR citation: 40 CFR 721.11017.

PMN Number: P–16–503

Chemical name: Fatty acids, tall-oil, polymers with alkanoic acid, substituted carbomonocycle, alkyl peroxide-initiated (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: January 11, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a site-limited polymer intermediate for production of a deck stain coating resin additive. Based on physical/chemical properties, EPA predicts low health hazard for the PMN substance when it is manufactured as described in the PMN. However, if the chemical substance is manufactured with a lower molecular weight and a higher proportion of the acid component (*i.e.,* greater than 20%), the PMN substance could cause developmental effects in unprotected workers from repeated dermal and inhalation exposures. Further, based on physical/chemical properties, EPA predicts low hazard for the PMN substance when it is manufactured as described in the PMN due to low water solubility. However, if the chemical substance is manufactured with a higher proportion of the acid component (*i.e.,* greater than 20%), there is potential for aquatic toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Manufacture of the PMN substance to have an average molecular weight no less than 1500 daltons.
2. Manufacture of the PMN substance to have no more than 24% by weight of the acid component.
3. Use of the PMN substance only as intermediate.

Recommended testing: EPA has determined that a combined repeated dose toxicity study with the reproduction/developmental toxicity screening test (OECD 422), water solubility test, log Kow tests, a compositional/component analysis (certificate of analysis), a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400), a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300), fish acute toxicity mitigated by humic acid (OCSPP Test Guideline 850.1085), an aquatic invertebrate, acute toxicity test, freshwater daphnids (OCSPP Test Guideline 850.1075), and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the physical-chemical properties and possible health and environmental effects of the substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11018.

PMN Number: P–16–591

Chemical name: Alkyl bisphenol (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: January 9, 2017.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a component of printing ink. Based on test data on bisphenol analogs, EPA predicts irritation to eyes, skin, lung, and mucous membranes; developmental, reproductive, liver and kidney toxicities; dermal sensitization; photosensitization; effects to the adrenals and other toxic effects associated with an endocrine disruption mode of action to unprotected workers from repeated dermal and inhalation exposures. Further, based on SAR analysis of test data on analogous phenols, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb of the PMN substance in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Use of personal protective equipment including impervious gloves and protective clothing to prevent dermal exposure and a NIOSH-certified respirator with an APF of at least 10 to prevent inhalation exposure.
2. Use of the PMN substance only for the use specified in the consent order.
3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.
4. No use of the PMN substance resulting in releases to surface waters.

Recommended testing: EPA has determined that the results of certain human health and environmental toxicity testing would help characterize the PMN substance. The submitter has agreed not to exceed the confidential production limit without performing the reproduction/developmental toxicity screening test (OECD 422). In addition, EPA has determined that the results of a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400) and a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11019.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for all 29 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent orders. These SNURs are promulgated pursuant to § 721.160 (see Unit VI.).

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

- EPA will receive notice of any person's intent to manufacture or process a TSCA Chemical Substance Inventory (TSCA Inventory) listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA will be able to either determine that the prospective manufacture or processing is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the

described significant new use of the chemical substance occurs.

- EPA will ensure that all manufacturers and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in § 721.160(c)(3). In accordance with § 721.160(c)(3)(ii) the effective date of this rule is December 18, 2017 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before November 20, 2017.

If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before November 20, 2017, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30-day period for public comment.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse or critical comments, or notice of intent to submit adverse or critical comments, must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) consent orders have been issued for these chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) consent orders from undertaking activities which would be designated as significant new uses. The identities of 19 of the 29 chemical substances subject to this rule have been claimed as confidential and EPA has received no post-PMN *bona fide* submissions (per §§ 720.25 and 721.11). Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Therefore, EPA designates July 10, 2017 (the date of public release/web posting of this rule) as the cutoff date for determining whether the new use is ongoing. This designation varies slightly from EPA's past practice of designating the date of **Federal Register** publication as the date for making this determination. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the direct final rule. In developing this rule, EPA has recognized that, given EPA's practice of now posting rules on its Web site a week or more in advance of **Federal Register** publication, this objective could be thwarted even before that publication. Thus, EPA has slightly modified its approach in this rulemaking and plans to follow this modified approach in future significant new use rulemakings.

Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified as of that date would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions, expires. If such a person met the conditions of advance compliance under § 721.45(h), the person would be considered exempt from the requirements of the SNUR. Consult the **Federal Register** document of April 24, 1990 for a more detailed discussion of the cutoff date for ongoing uses.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: TSCA section 5(b)(1) requires development of test data where the chemical substance subject to the SNUR is also subject to a rule, order or consent agreement under TSCA section 4 (15 U.S.C. 2603).

In the absence of a rule order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists required or recommended testing for all of the listed SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.*

In the TSCA section 5(e) consent orders for the chemical substances regulated under this rule, EPA has established production volume limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of tests specified in the order that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Under recent TSCA section 5(e) consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier TSCA section 5(e) consent orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the TSCA section 5(e) consent orders are included in Unit IV. The SNURs contain the same production volume limits as the TSCA section 5(e) consent orders. Exceeding these production limits is defined as a significant new use. Persons who intend

to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

The recommended tests specified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at § 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 720.40 and 721.25. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2017–0166.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This action establishes SNURs for several new chemical substances that were the subject of PMNs, or TSCA section 5(e) consent orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (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 that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 605(b)), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this action.

This action is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit XI. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1502, 1503, 1504, or 1505 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 7, 2017.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.10996	2070–0012
721.10997	2070–0012
721.10998	2070–0012
721.10999	2070–0012
721.11000	2070–0012
721.11001	2070–0012
721.11002	2070–0012
721.11003	2070–0012
721.11004	2070–0012
721.11005	2070–0012
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721.11012	2070–0012
721.11013	2070–0012
721.11014	2070–0012
721.11015	2070–0012
721.11016	2070–0012
721.11017	2070–0012
721.11018	2070–0012
721.11019	2070–0012
* * * * *	

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PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.10996 to subpart E to read as follows:

§ 721.10996 1,2,4-Benzenetricarboxylic acid, mixed decyl and octyl triesters.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,2,4-benzenetricarboxylic acid, mixed decyl and octyl triesters (PMN P–15–310) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (b) (concentration set at 1.0 percent).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (2,440,000 kilograms), (s) (150,000 kilograms). It is a significant new use to use the PMN substance other than as a lubricant in chain oils for conveyor belts.

(iii) *Hazard communication program.* A significant new use of the substance is any manner or method of manufacture or processing associated with any use of the substance without providing risk notification as follows:

(A) If as a result of the test data required under the TSCA section 5(e) consent order for the substance, the employer becomes aware that the substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If the substance is not being manufactured, processed, or used in the employer's workplace, the employer must add the new information to a MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive the PMN substance from the employer, or who have received the PMN substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(iii)(A) of this section, are provided an MSDS containing the information required under paragraph (a)(2)(iii)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (f) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 5. Add § 721.10997 to subpart E to read as follows:

§ 721.10997 Multiwalled carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as multiwalled carbon nanotubes (PMN P–15–487/488/489/490/491) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply when the PMN substances have been incorporated into a polymer matrix that has been reacted (cured) or embedded in a permanent solid polymer form that is not intended to undergo further processing except mechanical processing.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (ii), (a)(3), (4), and (6) (particulate), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an APF of at least 50 meet the requirements of § 721.63(a)(4):

(A) A NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N–100, P–100, or R–100 cartridges.

(B) Any NIOSH-certified powered air-purifying respirator equipped with a tight-fitting full facepiece and equipped with HEPA filters.

(C) Any NIOSH-certified negative pressure (demand) supplied-air respirator equipped with a full facepiece.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (additives for electro-static discharge in electronic devices, electronics, and materials; additives for weight reduction in materials; additives to improve mechanical properties or electrical conductivities; heat-generating elements in heating devices and materials; additives for heat transfer and thermal emissions in electronic devices and materials; semi-conductor, conductive, or resistive elements in electronic circuity and devices; additives to improve conductivity in electronic circuitry, energy storage systems, and devices; electron emitters for lighting and x-ray sources; additive for electromagnetic interface shielding in electronic devices; additives for electrodes in electronic materials and electronic devices; catalyst support in chemical manufacturing; coating additives to improve corrosion resistance of conductive properties; additives for fibers in structural and electrical applications; additives for fibers in fabrics and textiles; filter additives to remove nanoscale materials; semi-conducting compounding additives for high-voltage cable; and additives for super-hydrophobicity). A significant new use is any use involving an application method that generates a dust, mist or aerosol.

(iii) *Disposal.* Requirements as specified in § 721.85(a)(1) and (2), (b)(1) and (2), and (c)(1) and (2).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) through (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 6. Add § 721.10998 to subpart E to read as follows:

§ 721.10998 Propanoic acid, iron (2+) salt (2:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as propanoic acid, iron (2+) salt (2:1) (CAS #1952336–63–8) (PMN P–16–165) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) and (5) (particulate) and (b) (concentration set at 1.0 percent).

When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an APF of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified respirator with an N–100, P–100, or R–100 cartridge.

(B) NIOSH-certified power air purifying respirator with a hood or helmet and with appropriate gas/vapor (acid gas, organic vapor, or substance specific) cartridges in combination with HEPA filters.

(C) NIOSH-certified continuous flow supplied-air respirator equipped with a loose fitting facepiece, hood, or helmet.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(iv) and (ix), (g)(2)(ii), (iii), and (iv), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l), (p) (270,000 kilograms), (s) (5,000 kilograms). It is a significant new use to use the substance in formulations where the concentration is greater than 1 percent.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 7. Add § 721.10999 to subpart E to read as follows:

§ 721.10999 1-Butanaminium, N,N,N-tributyl-, carbonic acid (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-butanaminium, N,N,N-tributyl-, carbonic acid (1:1) (PMN P–16–255; CAS No. 17351–62–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (b) (concentration set at 1.0 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(i) and (ii), (g)(2)(i), (ii), (iii), and (v), (g)(3)(i) and (ii), and (g)(5) and Notice to users: Minimize release to water. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (64,000 kilograms aggregate of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259). It is a significant new use to manufacture, process, or use the substance other than as a blocked catalyst for paints and coatings. It is a significant new use to spray apply the PMN substance where the concentration of any combination of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259 in the final paint/coating formulation exceeds 1.5% by weight.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 8. Add § 721.11000 to subpart E to read as follows:

§ 721.11000 1-Butanaminium, N,N,N-tributyl-, methyl carbonate (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-Butanaminium, N,N,N-tributyl-, methyl carbonate (1:1) (PMN P–16–256; CAS No. 56294–05–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (b) (concentration set at 1.0 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(i) and (ii), (g)(2)(i), (ii), (iii), and (v), (g)(3)(i) and (ii), and (g)(5) and Notice to users: Minimize release to water. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (64,000 kilograms aggregate of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259). It is a significant new use to manufacture, process, or use the substance other than as a blocked catalyst for paints and coatings. It is a significant new use to spray apply the PMN substance where the concentration of any combination of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259 in the final paint/coating formulation exceeds 1.5% by weight.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 9. Add § 721.11001 to subpart E to read as follows:

§ 721.11001 1-Butanaminium, N,N,N-tributyl-, ethyl carbonate (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-butanaminium, N,N,N-tributyl-, ethyl carbonate (1:1) (PMN P–16–257; CAS No. 478796–04–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (b) (concentration set at 1.0 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(i) and (ii), (g)(2)(i), (ii), (iii), and (v), (g)(3)(i) and (ii), and (g)(5) and Notice to users: Minimize release to water. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p)(64,000 kilograms aggregate of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259). It is a significant new use to

manufacture, process, or use the substance other than as a blocked catalyst for paints and coatings. It is a significant new use to spray apply the PMN substance where the concentration of any combination of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259 in the final paint/coating formulation exceeds 1.5% by weight.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 10. Add § 721.11002 to subpart E to read as follows:

§ 721.11002 1-Butanaminium, N,N,N-tributyl-, propyl carbonate (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-butanaminium, N,N,N-tributyl-, propyl carbonate (1:1) (PMN P–16–258: CAS No. 1338579–13–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (b) (concentration set at 1.0 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(i) and (ii), (g)(2)(i), (ii), (iii), and (v), (g)(3)(i) and (ii), and (g)(5) and Notice to users: Minimize release to water. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (64,000 kilograms aggregate of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259). It is a significant new use to manufacture, process, or use the substance other than as a blocked catalyst for paints and coatings. It is a significant new use to spray apply the PMN substance where the concentration of any combination of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259 in the final paint/coating formulation exceeds 1.5% by weight.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. Add § 721.11003 to subpart E to read as follows:

§ 721.11003 1-Butanaminium, N,N,N-tributyl-, and 1-methylethyl carbonate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-butanaminium, N,N,N-tributyl-, and 1-methylethyl carbonate (PMN P–16–259; CAS No. 1803407–49–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (b) (concentration set at 1.0 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(i) and (ii), (g)(2)(i), (ii), (iii), and (v), (g)(3)(i) and (ii), (g)(4) (Notice to users: Minimize release to water), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (64,000 kilograms aggregate of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259). It is a significant new use to manufacture, process, or use the substance other than as a blocked catalyst for paints and coatings. It is a significant new use to spray apply the PMN substance where the concentration of any combination of P–16–255, P–16–256, P–16–257, P–16–258, and P–16–259 in the final paint/coating formulation exceeds 1.5% by weight.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 12. Add § 721.11004 to subpart E to read as follows:

§ 721.11004 Anilino substituted bis-triazinyl derivative of 4,4′-diaminostilbene-2,2′-disulfonic acid, mixed amine sodium salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as anilino substituted bis-triazinyl derivative of 4,4′-diaminostilbene-2,2′-disulfonic acid, mixed amine sodium salt (PMN P–16–284) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import or use the substance other than in a solution. It is a significant new use to use the substance other than as an optical brightener for textiles, paper, and paperboard. It is a significant new use to use the substance for non-industrial use or sell the substance for ''consumer use'' or for ''commercial uses'' (as the term is defined at § 721.3) when the ''saleable goods or service'' could introduce the substance into a ''consumer'' setting (as that term is defined in § 721.3). It is a significant new use to use the substance for an application method that generates a dust, mist, or aerosol unless the application method occurs in an enclosed process.

(ii) [Reserved].

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 13. Add § 721.11005 to subpart E to read as follows:

§ 721.11005 12-Hydroxystearic acid, reaction products with alkylene diamine and alkanoic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as 12-Hydroxystearic acid, reaction products with alkylene diamine and alkanoic acid (PMNs P–16–309 and P–16–310) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (q), and (t). It is a significant new use to use the PMN substance other than as a rheological or thixotropic agent used in the production of solvent based industrial coatings, high solid aromatic paints, adhesives, sealants, and other types of paints and topcoats.

(ii) *Releases to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 14. Add § 721.11006 to subpart E to read as follows:

§ 721.11006 Alkyldiene, polymer, hydroxy terminated alkoxysilylalkylcarbamate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyldiene, polymer, hydroxy terminated alkoxysilylalkylcarbamate (PMN P–16–315) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to process the substance in a manner that results in inhalation exposure. It is a significant new use to use the PMN substance other than as an additive to improve the compatibility and dispersibility of inorganic filler in industrial rubber formulations.

(ii) [Reserved].

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 15. Add § 721.11007 to subpart E to read as follows:

§ 721.11007 Alkylaldehyde, reaction products with substituted carbomonocycle-substituted heteromonocycle-alkylene glycol bis[[[[substituted(oxoneoalkyl)oxy]alkyl] amino]alkyl] ether polymer and alkyl substituted alkanediamine, acetate salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkylaldehyde, reaction products with substituted carbomonocycle-substituted heteromonocycle-alkylene glycol bis[[[[substituted(oxoneoalkyl)oxy]alkyl] amino]alkyl] ether polymer and alkyl substituted alkanediamine, acetate salts (generic) (PMN P–16–323) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1 percent), (f), (g)(1) (respiratory tract irritation), (g)(1)(i) and (vii), (g)(2)(i), (ii), and (iii), (g)(3)(i) and (ii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). It is a significant new use to manufacture the PMN substance to contain a residual of formaldehyde greater than 0.1 weight percent. It is a significant new use to manufacture the substance in a manner that results in inhalation exposure.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (f), (g), and (h) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 16. Add § 721.11008 to subpart E to read as follows:

§ 721.11008 Hydroxy functional triglyceride polymer with glycerol mono-ester and 1,1′-methylenebis[4-isocyanatobenzene] (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as hydroxy functional triglyceride polymer with glycerol mono-ester and 1,1′-methylenebis[4-isocyanatobenzene] (PMN P–16–330) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iii), and (iv), (a)(3), and (b) (concentration set at 0.1 percent)

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(i) and (ii), (g)(2)(i), (ii), (iii), and (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to manufacture the PMN substance to contain a residual of isocyanate greater than 0.1 weight percent. It is a significant new use to sell the substance for ''consumer use'' or for ''commercial uses'' (as the term is defined at § 721.3) when the ''saleable goods or service'' could introduce the substance into a ''consumer'' setting (as that term is defined in § 721.3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 17. Add § 721.11009 to subpart E to read as follows:

§ 721.11009 Hydroxy functional triglyceride polymer with glycerol mono-ester and 1,1′-methylenebis[isocyanatobenzene] (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as hydroxy functional triglyceride polymer with glycerol

mono-ester and 1,1′-methylenebis[isocyanatobenzene] (PMN P–16–331) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iii), and (iv), (a)(3), and (b) (concentration set at 0.1 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(i) and (ii), (g)(2)(i), (ii), (iii), and (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to manufacture the PMN substance to contain a residual of isocyanate greater than 0.1 weight percent. It is a significant new use to sell the substance for ''consumer use'' or for ''commercial uses'' (as the term is defined at § 721.3) when the ''saleable goods or service'' could introduce the substance into a ''consumer'' setting (as that term is defined in § 721.3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 18. Add § 721.11010 to subpart E to read as follows:

§ 721.11010 Poly(oxy-1,2-ethanediyl),.alpha.-(1-oxodocosyl)-.omega.-[(1-oxodocosyl)oxy]-

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as poly(oxy-1,2-ethanediyl),.alpha.-(1-oxodocosyl)-.omega.-[(1-oxodocosyl)oxy]- (PMN P–16–360; CAS No. 36493–27–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to manufacture the PMN substance such that more than 33% contains 10 or more repeating ethylene oxide units.

(ii) [Reserved].

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 19. Add § 721.11011 to subpart E to read as follows:

§ 721.11011 Pulp, cellulose, reaction products with lignin.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as pulp, cellulose, reaction products with lignin (PMN P–16–361; CAS No. 167062–70–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1). It is a significant new use to manufacture, process, or use the PMN substance other than in a liquid or gel formulation, unless the solid particle form has a particle size distribution where less than 0.5% of the particles are less than 10 microns. It is a significant new use to manufacture the solid particle form more than six months without measuring the particle size distribution to characterize the particle size distribution of fractions less than 10 microns of the dry particle PMN substance and sending the results of the measurement to EPA.

(ii) [Reserved].

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 20. Add § 721.11012 to subpart E to read as follows:

§ 721.11012 Alkyl carbonate, polymer with, substituted alkanes and substituted heteromonocycle, substituted alkyl acrylate-blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyl carbonate, polymer with, substituted alkanes and substituted heteromonocycle, substituted alkyl acrylate-blocked (generic) (PMN P–16–365) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (b) (concentration set at 0.1 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1 percent), (f), (g)(1) (lung effects), (g)(1) (sensitization), (g)(1)(vii), (g)(2)(i), (ii), (iii), and (v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to manufacture the substance to contain a residual of isocyanate greater than 0.1 weight percent. It is a significant new use to sell the substance for ''consumer use'' or for ''commercial uses'' (as the term is defined at § 721.3) when the ''saleable goods or service'' could introduce the substance into a ''consumer'' setting (as that term is defined in § 721.3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 21. Add § 721.11013 to subpart E to read as follows:

§ 721.11013 Substituted heteromonocycle, polymer with substituted alkane and ethoxylated alkane, substituted heteromonocycle substituted alkyl ester-blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted heteromonocycle, polymer with substituted alkane and ethoxylated alkane, substituted heteromonocycle

substituted alkyl ester-blocked (PMN P–16–367) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (b) (concentration set at 0.1 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1 percent), (f), (g)(1) (lung effects), (g)(1) (sensitization), (g)(1)(vii), (g)(2)(i), (ii), (iii), and (v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to manufacture the substance to contain a residual of isocyanate greater than 0.1 weight percent. It is a significant new use to sell the substance for ''consumer use'' or for ''commercial uses'' (as the term is defined at § 721.3) when the ''saleable goods or service'' could introduce the substance into a ''consumer'' setting (as that term is defined in § 721.3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 22. Add § 721.11014 to subpart E to read as follows:

§ 721.11014 Substituted heteromonocycle, telomer with substituted carbomonocycles, substituted alkyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted heteromonocycle, telomer with substituted carbomonocycles, substituted alkyl ester (PMN P–16–369) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3), and (4), (a)(6) (particulate), (a)(6)(v) and (vi), and (b) (concentration set at 0.1 percent). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an APF of at least 50 meet the requirements of § 721.63(a)(4):

(A) Any NIOSH-certified air-purifying full facepiece respirator equipped with N100 (if oil aerosols absent), R–100, or P–100 filter(s).

(B) Any NIOSH-certified powered air-purifying respirator equipped with a tight-fitting full facepiece and equipped with HEPA filters.

(C) Any NIOSH-certified negative pressure (demand) supplied-air respirator equipped with a full facepiece.

(D) Any NIOSH-certified continuous flow supplied-air respirator equipped with a tight-fitting full facepiece (half or full facepiece).

(E) Any NIOSH-certified negative pressure (demand) self-contained breathing apparatus (SCBA) equipped with a hood or helmet or a full facepiece.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1 percent), (f), (g)(1) (lung effects), (g)(1) (sensitization), (g)(1)(vii), (g)(2)(i), (ii), (iii), and (v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). It is a significant new use to manufacture the substance to contain residuals greater than 0.1 weight percent of chemicals described in the 5(e) consent order. It is a significant new use to sell the substance for ''consumer use'' or for ''commercial uses'' (as the term is defined at § 721.3) when the ''saleable goods or service'' could introduce the substance into a ''consumer'' setting (as that term is defined in § 721.3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 23. Add § 721.11015 to subpart E to read as follows:

§ 721.11015 Aliphatic polycarboxylic acid, polymer with alicyclic polyhydric alcohol and polyoxyalkylene (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aliphatic polycarboxylic acid, polymer with alicyclic polyhydric alcohol and polyoxyalkylene (PMN P–16–387) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(2)(ii), (g)(3)(i) and (ii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1) and (2). It is a significant new use to manufacture the substance with a molecular weight less than 18,000 daltons.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (f) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 24. Add § 721.11016 to subpart E to read as follows:

§ 721.11016 Di-ammonium di-carboxylate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as di-ammonium di-carboxylate (PMN P–16–398) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iii), and (iv), (a)(3), and (b) (concentration set at 1.0 percent).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1) (skin sensitization), (g)(1)(i), (g)(2)(i) and (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and

OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 25. Add § 721.11017 to subpart E to read as follows:

§ 721.11017 Sodium tungsten oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as sodium tungsten oxide (PMN P–16–455) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance that have been incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3), (4), and (6) (particulate). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an APF of at least 1000 meet the requirements of § 721.63(a)(4):

(A) Any NIOSH-certified powered air purifying full facepiece respirator equipped with appropriate gas/vapor (acid gas, organic vapor, or substance specific) cartridges.

(B) Any NIOSH-certified continuous flow supplied-air respirator equipped with a full facepiece.

(C) Any NIOSH-certified pressure-demand or other positive pressure mode supplied-air respirator equipped with a full facepiece.

(D) Any NIOSH-certified continuous flow supplied-air respirator equipped with a full facepiece.

(E) Any NIOSH-certified pressure-demand or other positive pressure mode supplied-air respirator equipped with a full facepiece.

(*1*) As an alternative to the respiratory requirements listed here, a manufacturer or processor may choose to follow the New Chemical Exposure Limit (NCEL) provisions listed in the TSCA section 5(e) consent order for this substance. The NCEL is 0.3 mg/m^3 as an 8-hour time weighted average verified by actual monitoring data.

(*2*) [Reserved].

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1 percent), (f), (g)(1) (lung effects), (g)(1)(vii), (g)(2)(ii), (iii), and (iv), (g)(3)(ii), (g)(4)(i) and (iii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). It is a significant new use to use the PMN substance other than as a component of infrared absorption material. It is a significant new use for any application method that generates a dust, mist, or aerosol, unless such application method occurs in an enclosed process.

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1) and (2), (b)(1) and (2), and (c)(1) and (2).

(v) *Releases to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 26. Add § 721.11018 to subpart E to read as follows:

§ 721.11018 Fatty acids, tall-oil, polymers with alkanoic acid, substituted carbomonocycle, alkyl peroxide-initiated (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acids, tall-oil, polymers with alkanoic acid, substituted carbomonocycle, alkyl peroxide-initiated (PMN P–16–503) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance that have been completely reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g). It is a significant new use to manufacture the substance to have an average molecular weight less than 1500 daltons. It is a significant new use to manufacture the substance to have more than 24% by weight of the acid component identified in the 5(e) consent order.

(ii) [Reserved].

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 27. Add § 721.11019 to subpart E to read as follows:

§ 721.11019 Alkyl bisphenol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyl bisphenol (PMN P–16–591) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), and (iv), (a)(3) and (4), (a)(6)(v) and (vi), (a)(6) (particulate), and (b) (concentration set at 1.0 percent). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an APF of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified respirator with an N–100, P–100, or R–100 cartridge.

(B) NIOSH-certified power air purifying respirator with a hood or helmet and with appropriate gas/vapor (acid gas, organic vapor, or substance specific) cartridges in combination with HEPA filters.

(C) NIOSH-certified continuous flow supplied-air respirator equipped with a loose fitting facepiece, hood, or helmet.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1 percent), (f), (g)(1) (dermal sensitization), (g)(1) (endocrine disruption), (g)(1) (reproductive effects), (g)(1)(i), (ii), (iv), and (ix), (g)(2)(i), (ii), (iii), (iv), and (v), (g)(3)(i) and (ii), (g)(4)(iii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). It is a significant new use to use the PMN substance in thermal paper printing

(iv) *Releases to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

Editorial note: This document was received for publication by the Office of the Federal Register on October 10, 2017.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191 and 192

[Docket No. PHMSA–2016–0016; Amdt. Nos. 191–24; 192–122]

RIN 2137–AF22

Pipeline Safety: Safety of Underground Natural Gas Storage Facilities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Interim final rule; reopening comment period.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) is announcing an additional opportunity for the public to comment on an interim final rule (IFR) titled: ''Pipeline Safety: Underground Natural Gas Storage Facilities.'' PHMSA is reopening the comment period in response to a petition for reconsideration filed jointly by the American Gas Association, American Petroleum Institute, and the American Public Gas Association. By reopening the comment period, PHMSA is providing all interested parties with the opportunity to comment on the IFR and the merits and claims of the petition. PHMSA will consider all public comments and address the petition for reconsideration in the final rule.

DATES: The comment period for the interim final rule published on December 19, 2016 (81 FR 91860), is reopened. Comments must be received by November 20, 2017.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2016–0016 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Hand Delivery: U.S. DOT Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard.

Note: Comments are posted without changes or edits to *http://www.regulations.gov,* including any personal information provided. There is a privacy statement published on *http://www.regulations.gov.*

Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Byron Coy, Senior Technical Advisor, Pipeline Safety Policy and Programs, by telephone at 609–771–7810 or by email at *byron.coy@dot.gov.*

SUPPLEMENTARY INFORMATION: In December 2016, PHMSA issued an interim final rule (IFR) titled: ''Pipeline Safety: Underground Natural Gas Storage Facilities'' (81 FR 91860). In the IFR, PHMSA established minimum federal safety standards for intrastate and interstate underground natural gas storage facilities under its regulatory authority at 49 U.S.C. 60101 and 60102 and as directed by section 12 of the ''Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016.'' On January 18, 2017, the American Gas Association, the American Petroleum Institute, the American Public Gas Association, and the Interstate Natural Gas Association of America (INGAA) jointly submitted a petition seeking reconsideration of certain provisions of the IFR. (INGAA has since withdrawn from the petition.)

Recognizing that the IFR set certain deadlines by which the operators of underground natural gas storage facilities must act but that would occur before PHMSA could adopt a final rule, PHMSA published a notice on June 20, 2017, in the **Federal Register** (82 FR 28224), announcing that (1) the agency would not issue enforcement citations to operators for non-compliance with certain provisions of the IFR for a period of one year after publication of the final rule, and (2) it intended to address the issues raised by the petitioners in the final rule. For these reasons, PHMSA is now providing the public with an additional opportunity to comment on the IFR and an opportunity to comment on the issues raised in the petition. PHMSA is therefore reopening the comment period for this IFR until November 20, 2017. All documents and comments related to this matter are available for review at *http://www.regulations.gov* in docket number PHMSA–2016–0016.

Issued in Washington, DC, on October 11, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017–22553 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 160808696–7010–02]

RIN 0648–BH20

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

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

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

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

DATES: This final rule is effective October 19, 2017.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, phone: 206–526–4491, fax: 206–526–6736, or email: *karen.palmigiano@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

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

Background

The PCGFMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS.

The final rule to implement the 2017–2018 harvest specifications and management measures for most species of the Pacific coast groundfish fishery was published on February 7, 2017 (82 FR 9634).

The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommended three changes to current groundfish management measures at its September 11–18, 2017 meeting. The changes the Council recommended include: (1) Increasing the sablefish trip limits in the limited entry fixed gear (LEFG) and open access (OA) sablefish daily trip limit (DTL) fisheries north of 36° North latitude (N. lat.), (2) adding a reference to the current lingcod size limits in the trip limit table for the trawl fishery, and (3) implementing depth restrictions in the California recreational fishery.

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

To increase harvest opportunities for LEFG and OA sablefish DTL fisheries north of 36° N. lat., the Council recommended increases to sablefish trip limits for all remaining periods in 2017. Trip limits for LEFG and OA sablefish DTL fisheries have been designated at 50 CFR 660.60(c)(1)(i) and in Section 6.2.1 of the PCGFMP as routine management measures.

Sablefish are distributed coastwide with harvest specifications split north and south of 36° N. lat. Trip limit increases, for species such as sablefish, are intended to increase attainment of the non-trawl harvest guideline (HG).

To assist the Council in evaluating the increases to sablefish trip limits, the Groundfish Management Team (GMT) made model-based landings projections for the LEFG and OA sablefish DTL fisheries north of 36° N. lat. for the remainder of this year. These projections were based on the most recent information available. The model predicts harvest of 76 percent (194 mt) of the LEFG harvest guideline (HG) (258 mt) and harvest of 77 percent (326 mt) of the OA sablefish DTL fishery HG (425 mt) under the current limits through the end of the year. With the recommended increase in sablefish trip limits, the projected harvest is 80 percent (206.9 mt) of the LEFG HG (258 mt) and 88 percent (374 mt) of the OA sablefish DTL fishery HG (425 mt) through the end of the year. This increase in trip limits does not change projected impacts to co-occurring overfished species from those anticipated in the 2017–18 harvest specifications and management measures, as the projected impacts to those species assume that the entire sablefish ACL is harvested. Finally, projections for the LEFG sablefish fisheries south of 36° N. lat. are similar to levels anticipated in the 2017–18 harvest specifications and management measures, and no requests were made by industry for changes; therefore, no inseason actions were considered. Therefore, the Council recommended and NMFS is implementing, by modifying Tables 2 (North and South) to part 660, subpart E, trip limit changes for the LEFG sablefish DTL fisheries north of 36° N. lat. The trip limits for sablefish in the LEFG fishery north of 36° N. lat. increase from ''1,100 lb (499 kg) per week, not to exceed 3,300 lb (1,497 kg) per two months'' to ''1,500 lb (680 kg) per week, not to exceed 4,500 lb (2,041 kg) per two months'' beginning in period 5 through the end of the year.

The Council also recommended and NMFS is implementing, by modifying Tables 3 (North and South) to part 660, subpart F, trip limits for sablefish in the OA sablefish DTL fishery north of 36° N. lat., an increase from ''300 lb (136 kg) per day, or one landing per week of up to 1,000 lb (454 kg), not to exceed 2,000 lb (907 kg) per two months'' to ''300 lb (136 kg) per day, or one landing per week of up to 1,300 lb (590 kg), not to exceed 2,600 lb (1,179 kg) per two months'' beginning in period 5 through the end of the year.

Clarification on Lingcod Size Limits for the Shorebased Individual Fishing Quota (IFQ) Program

At the September Council meeting, members of the Enforcement Consultants (EC) noted confusion with regards to size limits for lingcod, an IFQ species, caught with trawl gear in the Shorebased IFQ Program north and south of 42° N. lat. Currently, lingcod size limits apply, per regulations at § 660.60(h)(5)(ii)(B)(*2*). However, members of the EC and the public have commented that it can be difficult to find the regulations, and that they could be misinterpreted. Therefore, the Council recommended that NMFS include a reference to the current lingcod size limits (22 inches for north of 42° N. lat. and 24 inches for south of 42° N. lat.) in Tables 1 (North and South), part 660, subpart D. However, Tables 1 (North and South) do not provide any information regarding IFQ species (*e.g.* size limits, landing limits, vessel limits, etc.). These tables describe rockfish conservation areas for vessels using groundfish trawl gear and incidental landing allowances for non-IFQ species (for vessels registered to a limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest IFQ species). NMFS thought it might cause confusion to intermingle IFQ species size limits in the tables that describe non-IFQ species

trip limits and trawl rockfish conservation area boundaries. However, consistent with the intent to clarify the applicable size limits for lingcod harvested in the Shorebased IFQ Program, NMFS is clarifying regulations at § 660.60(h)(5)(ii)(B)(*2*).

Size limits are designated as routine management measures at § 660.60(c)(1)(i) and in Section 6.2.1 of the PCGFMP. Based on the reasons stated above, instead of including a reference to lingcod size limits in Tables 1 (North and South), NMFS is making clarifying edits to existing regulations at § 660.60(h)(5)(ii)(B), which is the section of the regulations describing weight conversions and size limits for the Shorebased IFQ Program. The change to the regulations includes a clear reference to the lingcod size limits for north and south of 42° N. lat. for the Shorebased IFQ Program for both the whole fish and fish with the head removed.

California Recreational Fishery Management Measures

In June 2016, the Council recommended Oregon and California recreational groundfish regulations for 2017 and 2018. At that time, management measures were anticipated to keep recreational catch within HGs and targets. However, recently, recreational fisheries in both Oregon and California have experienced higher than expected mortality for certain species. These species include black rockfish and cabezon in Oregon only, as well as yelloweye rockfish in both Oregon and California. The higher mortality has likely been the result of more favorable weather conditions experienced over the past few months, as well as increased fishing for groundfish due to a decline in salmon harvest opportunities due to the status of salmon stocks. Because of these factors, effort and impacts have been higher than originally projected, and will approach and/or exceed relevant state HGs. The state of Oregon has recently taken action through their state processes to address the higher than anticipated harvest in their recreational fisheries. California, however, relies on modifications to the federal regulations to address their higher than anticipated harvest. Inseason changes to depth restrictions for the California recreational fishery are designated at § 660.60(c)(3)(i) and in Section 6.2.1 of the PCGFMP as routine management measures.

At the September Council meeting, the GMT was informed that California was experiencing higher than projected recreational harvest of yelloweye rockfish. The California Department of Fish and Wildlife (CDFW) stated in their report (September 2017 Council Meeting, Agenda Item E.10.a, Supplemental CDFW Report 1) that information through September 10, 2017 suggested that, without intervention to reduce encounters, the California recreational harvest of yelloweye rockfish would exceed the state's HG by 15 percent, or almost 0.6 mt over their 3.9 mt HG. Based on this new information, the GMT conducted model-based runs for two alternative season structures that included depth-based area closures for October-December. The model determined that by restricting the depths at which fishing may occur, CDFW could reduce the projected impacts to yelloweye rockfish by 0.3–0.4 mt.

Therefore, the Council recommended and NMFS is implementing, through modifications to regulations at § 660.360(c)(3)(i)(A)(*1*) through (*4*), more restrictive depth closures for 4 of the 5 California recreational fishery management areas. The Council did not recommend a change for the Southern Management Area (south of 34°27′ N. lat.) at this time, which is already restricted to waters deeper than the 60 fm depth contour.

Under the current regulations, recreational fishing is restricted by depth in the Northern and Mendocino Management Areas during May through October 31; with all depths open for November and December. With the implementation of this rule, recreational fishing in this management area will be restricted from mid-October through the end of the year to shoreward of the 20 fm depth contour. Additionally, recreational fishing is currently restricted to shoreward of the 40 fm depth contour in the San Francisco Management Area and the 50 fm depth contour in the Central Management Area. Through this rule, recreational fishing will be further restricted between October 16 and December 31 in these areas. Beginning October 16 in the San Francisco Management Area, recreational fishing will be prohibited seaward of the 30 fm depth contour and the 40 fm depth contour in the Central Management Area.

More restrictive depth restrictions are intended to allow some recreational fishing to continue to occur while reducing catch of overfished yelloweye rockfish and keeping projected total catch through the end of the year below the ACL. According to the most recent data, even taking into account the overages in Oregon and California, there is an approximately 1.3 mt residual amount of yelloweye rockfish from the off-the-top deductions that were made through the biennial specifications process, including 0.4 mt that was not allocated at the beginning of the biennium, 0.9 mt from research which is projected to go unused, and 0.3 mt from incidental open access that is projected to go unused. Therefore, even if California takes an additional 0.6 mt over their 3.9 mt allocation, there is an extremely low risk of exceeding the ACL.

Classification

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

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

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

NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective October 19, 2017. The adjustments to management measures in this document affect commercial fisheries in Washington, Oregon and California and recreational fisheries in California. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established through a notice and comment rulemaking for 2017–18.

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

LEFG and OAFG DTL Sablefish Fisheries North of 36° N. Lat.

At its September 2017 Council meeting, the Council recommended an increase to LEFG and OA sablefish north of 36° N. lat. trip limits be implemented as quickly as possible to allow harvest of sablefish to approach but not exceed the 2017 ACL. There was not sufficient time after that meeting to undergo proposed and final rulemaking before this action needs to be in effect. Affording the time necessary for prior

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

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

Clarification on Lingcod Size Limits for the Shorebased IFQ Program

At its September Council meeting, the Council recommended NMFS include a reference to the lingcod size limits for north and south of 42° N. lat. in the trip limit tables for the limited entry trawl fishery, Tables 1 (North and South). After additional consideration, NMFS is clarifying existing regulations instead of adding a reference to the trip limit tables for the reasons mentioned in the above section. There was not sufficient time after the Council meeting to undergo proposed and final rulemaking before this action needs to be in effect. Affording the time necessary for prior notice and opportunity for public comment would not be in the public interest for fishermen or the public. Fisherman knowing and abiding by the correct size limits in regulation protects small and juvenile fish and prevents unintended impacts to the stock. This action, if implemented quickly, is anticipated to make the lingcod size limits clearer for fishermen and the NOAA Office of Law Enforcement as well as state enforcement agencies, which will help them to abide by all federal size limits for lingcod, and is consistent with the best scientific information available.

California Recreational Fishery Management Measures

At its September Council meeting, the Council recommended changes to the depth restrictions for recreational fishery management areas off of California be implemented as soon as possible to prevent further exceedance of the state HG for yelloweye rockfish (3.9 mt) while still providing recreational fishing opportunity to that sector. There was not sufficient time after that meeting to undergo proposed and final rulemaking before this action needs to be in effect. Affording the time necessary for prior notice and opportunity for public comment would prevent NMFS and California from managing the California recreational sector using the best available science to address exceedance of the State's yelloweye rockfish HG, keep catch through the end of the year within the rebuilding ACL, while allowing harvest opportunites as intended by the Council and in accordance with the PCGFMP and applicable law. These depth-based restrictions will move vessels to shallower waters where they are less likely to encounter yelloweye rockfish, while also providing the recreational fishing opportunity that benefits local communities.

It is in the public interest in California to allow the recreational fishery to remain open for the remainder of the year. Recreational fishing in California contributes revenue to the coastal communities of that state, and closing the fishery for the remainder of the year would cause adverse economic impacts to those communities. This action, if implemented quickly, is anticipated to provide recreational fishing opportunity for the duration of the year, keep the yelloweye rockfish harvest within the federal ACL, and is consistent with the best scientific information available.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: October 16, 2017.

Alan D. Risenhoover,

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

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

PART 660—FISHERIES OFF WEST COAST STATES

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

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

■ 2. In § 660.60, paragraphs (h)(5)(ii)(B) introductory text, (h)(5)(ii)(B)(*2*) introductory text, and (h)(5)(ii)(B)(*2*)(*i*) and (*ii*) are revised to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(h) * * *

(5) * * *

(ii) * * *

(B) *Shorebased IFQ Program.* For vessels landing sorted catch, the weight conversions for purposes of applying QP and size limits are provided in paragraphs (h)(5)(ii)(B)(*2*)(*i*) through (*iii*) of this section.

* * * * *

(*2*) *Lingcod.* The following conversions and size limits apply:

(*i*) The minimum size limit for lingcod North of 42° N. lat. is 22 inches (56 cm) total length for whole fish, which corresponds to 18 inches (46 cm) with the head removed.

(*ii*) The minimum size limit for lingcod South of 42° N. lat. is 24 inches (61 cm) total length for whole fish, which corresponds to 19.5 inches (49.5 cm) with the head removed.

* * * * *

■ 3. Table 2 (North) and Table 2 (South) to part 660, subpart E are revised to read as follows:

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Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

10132017

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
5	**Pacific ocean perch**	1,800 lb/ 2 months					
6	**Sablefish**	1,125 lb/week, not to exceed 3,375 lb/ 2 months	1,100 lb/week, not to exceed 3,300 lb/ 2 months			1,500 lbs/week, not to exceed 4,500 lbs/2 months	
7	**Longspine thornyhead**	10,000 lb/ 2 months					
8	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
9 10 11 12 13 14	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
15	**Whiting**	10,000 lb/ trip					
16	**Minor Shelf Rockfish[2/], Shortbelly, & Widow rockfish**	200 lb/ month					
17	**Yellowtail rockfish**	1,000 lb/ month					
18	**Canary rockfish**	300 lb/ 2 months					
19	**Yelloweye rockfish**	CLOSED					
20	**Minor Nearshore Rockfish & Black rockfish**						
21	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[4/]					
22	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish	7,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish				
23	**Lingcod[5/]**	200 lb/2 months		1,200 lb/ 2 months	1,400 lb/ bimonthly	700 lb/ month	400 lb/ month
24	**Pacific cod**	1,000 lb/ 2 months					
25	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
26	**Longnose skate**	Unlimited					
27	**Other Fish[6/]& Cabezon in Oregon and California**	Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish and splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 10132017

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 34°27' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.	75 fm line[1/] - 150 fm line[1/] (also applies around islands)					

See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).

State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.

3	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 1,375 lb may be blackgill rockfish			40,000 lb/ 2 months, of which no more than 1,600 lb may be blackgill rockfish		
4	**Splitnose rockfish**	40,000 lb/ 2 months					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	1,125 lb/week, not to exceed 3,375 lb/ 2 months	1,100 lb/week, not to exceed 3,300 lb/ 2 months			1,500 lbs/week, not to exceed 4,500 lbs/2 months	
7	South of 36°00' N. lat.	2,000 lb/ week					
8	**Longspine thornyhead**	10,000 lb/ 2 months					
9	**Shortspine thornyhead**						
10	40°10' N. lat. - 34°27' N. lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12 13 14 15 16 17	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
18	**Whiting**	10,000 lb/ trip					
19	**Minor Shelf Rockfish[2/], Shortbelly rockfish, Widow rockfish (including Chilipepper between 40°10' - 34°27' N. lat.)**						
20	40°10' N. lat. - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb may be any species other than chilipepper.					
21	South of 34°27' N. lat.	4,000 lb/ 2 months	CLOSED	4,000 lb/ 2 months			
22	**Chilipepper**						
23	40°10' N. lat. - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly and widow rockfish limits - - See above					
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the non-trawl RCA					
25	**Canary rockfish**	300 lb/ 2 months					
26	**Yelloweye rockfish**	CLOSED					
27	**Cowcod**	CLOSED					
28	**Bronzespotted rockfish**	CLOSED					
29	**Bocaccio**						
30	40°10' N. lat. - 34°27' N. lat.	1,000 lb/ 2 months					
31	South of 34°27' N. lat.	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
32	**Minor Nearshore Rockfish & Black rockfish**						
33	Shallow nearshore	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
34	Deeper nearshore	1,000 lb/ 2 months	CLOSED	1,000 lb/ 2 months			
35	**California Scorpionfish**	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
36	**Lingcod[4/]**	200 lb/ 2 months	CLOSED	800 lb/ 2 months	1,200 lb/ bimonthly	600 lb/ month	300 lb/ month
37	**Pacific cod**	1,000 lb/ 2 months					
38	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
39	**Longnose skate**	Unlimited					
40	**Other Fish[5/] & Cabezon**	Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.
2/ POP is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.
3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.
5/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 4. Table 3 (North) and Table 3 (South) to part 660, subpart F are revised to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table — 10/04/2017

TABLE 3 (North)

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
5	**Pacific ocean perch**	100 lb/ month					
6	**Sablefish**	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months	300 lb/day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months		300 lb/day, or 1 landing per week of up to 1,300 lbs, not to exceed 2,600 lbs/2 months	
7	**Shortpine thornyheads and longspine thornyheads**	CLOSED					
8	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
9							
10		South of 42° N. lat., when fishing for "Other Flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
11							
12							
13							
14	**Whiting**	300 lb/ month					
15	**Minor Shelf Rockfish[2/], Shortbelly rockfish, & Widow rockfish**	200 lb/ month					
16	**Yellowtail rockfish**	500 lb/ month					
17	**Canary rockfish**	150 lb/ 2 months					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor Nearshore Rockfish & Black rockfish**						
20	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish					
21	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish	7,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish				
22	**Lingcod[5/]**	100 lb/ month		600 lb/ month	700 lb/ month	700 lb/ month	200 lb/ month
23	**Pacific cod**	1,000 lb/ 2 months					
24	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
25	**Longnose skate**	Unlimited					
26	**Other Fish[6/] & Cabezon in Oregon and California**	Unlimited					
27	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*						
28	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 15 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. This limit only applies during times when lingcod retention is allowed, and is not "CLOSED." This limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					

Table 3 (North). Continued

29	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*		
30	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.	

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table — 10/04/2017

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N. lat. - 34°27' N. lat.		40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.		75 fm line[1/] - 150 fm line[1/](also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**		10,000 lb/ 2 months, of which no more than 475 lb may be blackgill rockfish			10,000 lb/ 2 months, of which no more than 550 lb may be blackgill rockfish		
4	**Splitnose rockfish**		200 lb/ month					
5	**Sablefish**							
6		40°10' N. lat. - 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months	300 lb/day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months		300 lb/day, or 1 landing per week of up to 1,300 lbs, not to exceed 2,600 lbs/2 months	
7		South of 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months					
8	**Shortpine thornyheads and longspine thornyheads**							
9		40°10' N. lat. - 34°27' N. lat.	CLOSED					
10		South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11 12 13 14 15 16	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**		3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
17	**Whiting**		300 lb/ month					
18	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish and Chilipepper**							
19		40°10' N. lat. - 34°27' N. lat.	400 lb/ 2 months	CLOSED	400 lb/ 2 months			
20		South of 34°27' N. lat.	1,500 lb/ 2 months		1,500 lb/ 2 months			
21	**Canary rockfish**		150 lb/ 2 months					
22	**Yelloweye rockfish**		CLOSED					
23	**Cowcod**		CLOSED					
24	**Bronzespotted rockfish**		CLOSED					
25	**Bocaccio**		500 lb/ 2 months	CLOSED	500 lb/ 2 months			
26	**Minor Nearshore Rockfish & Black rockfish**							
27	Shallow nearshore		1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
28	Deeper nearshore		1,000 lb/ 2 months	CLOSED	1,000 lb/ 2 months			
29	California scorpionfish		1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
30	**Lingcod[4/]**		100 lb/ month	CLOSED	400 lb/ month	600 lb/ month	400 lb/ month	150 lb/ month
31	**Pacific cod**		1,000 lb/ 2 months					
32	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
33	**Longnose skate**		Unlimited					
34	**Other Fish[5/] & Cabezon**		Unlimited					

TABLE 3 (South)

Table 3 (South). Continued

TABLE 3 (South) cont'd

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
35	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**							
36	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**							
37		*40°10' N. lat. - 38°00' N. lat.*	*100 fm line[1/] - 200 fm line[1/]*	*100 fm line[1/] - 150 fm line[1/]*				*100 fm line[1/] - 200 fm line[1/]*
38		*38°00' N. lat. - 34°27' N. lat.*	*100 fm line[1/] - 150 fm line[1/]*					
37		*South of 34°27' N. lat.*	*100 fm line[1/] - 150 fm line[1/] along the mainland coast; shoreline - 150 fm line[1/] around islands*					
39			Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).				
40	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*							
41		South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary rockfish, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other fish" are defined at § 660.11 and includes kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 5. In § 660.360, paragraphs (c)(3)(i)(A)(*1*) through (*4*) are revised to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(A) * * *

(*1*) Between 42° N. lat. (California/Oregon border) and 40°10′ N. lat. (Northern Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through October 15 (shoreward of 30 fm is open); is prohibited seaward of the 20 fm (37 m) depth contour along the mainland coast and along islands and offshore seamounts from October 16 through December 31 (shoreward of 20 fm is open); and is closed entirely from January 1 through April 30. Coordinates for the boundary line approximating the 20 (37 m) and 30 fm (55 m) depth contours are listed in § 660.71.

(*2*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (Mendocino Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 20 fm (37 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through December 31 (shoreward of 20 fm is open), and is closed entirely from January 1 through April 30. Coordinates for the boundary line approximating the 20 fm depth contour are listed in § 660.71.

(*3*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (San Francisco Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from April 15 through October 15; is prohibited seaward of the boundary line approximating the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from October 16 through December 31, and is closed entirely from January 1 through April 14. Closures around Cordell Banks (see paragraph (c)(3)(i)(C) of this section) also apply in this area. Coordinates for the boundary line approximating the 30 (55 m) and 40 fm (73 m) depth contours are listed in § 660.71.

(*4*) Between 37°11′ N. lat. and 34°27′ N. lat. (Central Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 50 fm (91 m) depth contour along the mainland coast and along islands and offshore seamounts

from April 1 through October 15; is prohibited seaward of a boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from October 16 through December 31and is closed entirely from January 1 through March 31 (*i.e.,* prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are specified at § 660.71 and the 50 fm (91 m) depth contour are specified in § 660.72.

* * * * *

[FR Doc. 2017–22695 Filed 10–18–17; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 160920866–7167–02]

RIN 0648–XF761

Fisheries of the Exclusive Economic Zone off Alaska; Shortraker Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of shortraker rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2017 total allowable catch of shortraker rockfish in the Western Regulatory Area of the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 16, 2017, through 2400 hours, A.l.t., December 31, 2017.

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

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

The 2017 total allowable catch (TAC) of shortraker rockfish in the Western Regulatory Area of the GOA is 38 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2017 TAC of shortraker rockfish in the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that shortraker rockfish in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of shortraker rockfish in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 10, 2017.

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

This action is required by §§ 679.20 and 679.21 and is exempt from review under Executive Order 12866.

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

Dated: October 16, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–22704 Filed 10–16–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 201
Thursday, October 19, 2017

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0907; Product Identifier 2017–NM–069–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601 Variant), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. This proposed AD was prompted by reports of fractured rudder pedal tubes on the pilot-side rudder bar assembly. This proposed AD would require repetitive inspections of the rudder pedal tubes for cracking and corrective actions if necessary. Replacement of both pilot-side rudder bar assemblies is terminating action for the inspections. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 4, 2017.

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

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

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0907; 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 NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0907; Product Identifier 2017–NM–069–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2017–09, dated February 22, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601 Variant), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. The MCAI states:

> There have been two in-service reports of fractured rudder pedal tubes installed on the pilot-side rudder bar assembly on CL–600–2B19 aeroplanes. Laboratory examination of the fractured rudder pedal tubes found that in both cases, the fatigue cracks initiated at the aft taper pin holes where the connecting rod fitting is attached. Fatigue testing of the rudder pedal tubes confirmed that the fatigue cracking is due to loads induced during parking brake application. Therefore, only the rudder pedal tubes on the pilot's side are vulnerable to fatigue cracking as the parking brake is primarily applied by the pilot.
>
> Loss of pilot rudder pedal input during flight would result in reduced yaw controllability of the aeroplane. Loss of pilot rudder pedal input during takeoff or landing may lead to a runway excursion.
>
> This [Canadian] AD mandates initial and repetitive [detailed visual or eddy current] inspections [for cracking] of both pilot-side rudder pedal tubes, part number (P/N) 600–90204–3 until the terminating action in Part III of this [Canadian] AD is accomplished [*i.e.,* replacement of both pilot-side rudder bar assemblies].

Corrective actions include replacement of both pilot-side rudder bar assemblies and repair. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0907.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued the following service information. The service information describes procedures for repetitive inspections of the rudder pedal tubes for cracking, replacement of both pilot-side rudder bar assemblies, and repair. These documents are distinct since they apply to different airplane models.

- Service Bulletin 600–0770, Revision 01, including Appendix A, dated March 31, 2016.
- Service Bulletin 601–0643, Revision 01, including Appendix A, dated March 31, 2016.
- Service Bulletin 604–27–037, dated March 31, 2016, including Appendix A, Revision 01, dated March 31, 2016.
- Service Bulletin 605–27–002, dated June 30, 2016, including Appendix A, Revision 01, dated March 31, 2016.
- Service Bulletin 605–27–008, dated March 31, 2016, including Appendix A, Revision 01, dated March 31, 2016.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Costs of Compliance

We estimate that this proposed AD affects 141 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	10 work-hours × $85 per hour = $850 per inspection cycle.	$0	$850 per inspection cycle	$119,850 per inspection cycle.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	2 work-hours × $85 per hour = $170	$8,564	$8,734	$1,231,494

We have received no definitive data that would enable us to provide cost estimates for any on-condition repairs specified in this proposed AD. We have no way of determining the number of aircraft that might need this repair.

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.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2017–0907; Product Identifier 2017–NM–069–AD.

(a) Comments Due Date

We must receive comments by December 4, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Bombardier, Inc., airplanes identified in paragraphs (c)(1) through (c)(3) of this AD, certificated in any category.

(1) Model CL–600–1A11 (CL–600) airplanes, serial numbers (S/Ns) 1004 through 1085 inclusive.

(2) Model CL–600–2A12 (CL–601 Variant) airplanes, S/Ns 3001 through 3066 inclusive.

(3) Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, S/

Ns 5001 through 5194 inclusive, S/Ns 5301 through 5665 inclusive, S/Ns 5701 through 5988 inclusive, and S/Ns 6050 through 6099 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by reports of fractured rudder pedal tubes on the pilot-side rudder bar assembly. We are issuing this AD to detect and correct cracking of the pilot-side rudder pedal tubes. Loss of pilot rudder pedal input during flight could result in reduced yaw controllability of the airplane. Loss of pilot rudder pedal input during takeoff or landing could lead to a runway excursion.

(f) Compliance

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

(g) Repetitive Inspections and Part Marking

At the applicable time specified in figure 1 to paragraph (g) of this AD, do a detailed or eddy current inspection of both pilot-side rudder pedal tubes for cracking, in accordance with Part A of the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1) through (g)(6) of this AD. If no cracking is found, before further flight, mark the part in accordance with Part A of the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1) through (g)(6) of this AD. Repeat the detailed or eddy current inspection thereafter at intervals not to exceed 600 flight cycles if a detailed inspection was performed, or 1,000 flight cycles if an eddy current inspection was performed. Repeat the inspection until the terminating action specified in paragraph (i) of this AD is accomplished.

(1) For Model CL–600–1A11 (CL–600) airplanes, S/Ns 1004 through 1085 inclusive: Bombardier, Inc., Service Bulletin 600–0770, Revision 01, including Appendix A, dated March 31, 2016.

(2) For Model CL–600–2A12 (CL–601 Variant) airplanes, S/Ns 3001 through 3066 inclusive: Bombardier, Inc., Service Bulletin 601–0643, Revision 01, including Appendix A, dated March 31, 2016.

(3) Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, S/Ns 5001 through 5194 inclusive: Bombardier, Inc., Service Bulletin 601–0643, Revision 01, including Appendix A, dated March 31, 2016.

(4) Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, S/Ns 5301 through 5665 inclusive: Bombardier, Inc., Service Bulletin 604–27–037, dated March 31, 2016, including Appendix A, Revision 01, dated March 31, 2016.

(5) Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, S/Ns 5701 through 5988 inclusive: Bombardier, Inc., Service Bulletin 605–27–008, dated March 31, 2016, including Appendix A, Revision 01, dated March 31, 2016.

(6) Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, S/Ns 6050 through 6099 inclusive: Bombardier, Inc., Service Bulletin 605–27–002, dated June 30, 2016, including Appendix A, Revision 01, dated March 31, 2016.

FIGURE 1 TO PARAGRAPH (g) OF THIS AD—COMPLIANCE TIMES

Airplanes	Compliance time
Airplanes with fewer than 8,250 total flight cycles as of the effective date of this AD.	Prior to the accumulation of 9,000 total flight cycles.
Airplanes with 8,250 total flight cycles or more but fewer than 16,625 total flight cycles as of the effective date of this AD.	Within 24 months or 750 flight cycles, whichever occurs first, after the effective date of this AD.
Airplanes with 16,625 total flight cycles or more as of the effective date of this AD.	Within 12 months or 375 flight cycles, whichever occurs first, after the effective date of this AD.

(h) Corrective Actions

(1) If any cracking is found around the aft tapered holes during any inspection required by paragraph (g) of this AD, before further flight, replace both pilot-side rudder bar assemblies, in accordance with Part B of the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1) through (g)(6) of this AD.

(2) If any other damage (*e.g.,* corrosion) is found, during any inspection required by paragraph (g) of this AD, before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

(i) Optional Terminating Action

Replacement of both pilot-side rudder bar assemblies in accordance with Part B of the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1) through (g)(6) of this AD terminates the inspections required by paragraph (g) of this AD.

(j) Replacement—No Terminating Action

Replacement of both pilot-side rudder bar assemblies using Part B of the Accomplishment Instructions of Bombardier Service Bulletin 600–0770, dated August 31, 2015; or Bombardier Service Bulletin 601–0643, dated August 31, 2015; is not terminating action for the inspections required by paragraph (g) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(l) Special Flight Permits

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed if any cracking is found during any inspection required by paragraph (g) of this AD.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2017–09, dated February 22, 2017, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0907.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW.,

Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on October 11, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–22557 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9435; Product Identifier 2016–NM–108–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposal to supersede Airworthiness Directive (AD) 2012–22–15, which applies to all Fokker Services B.V. Model F28 Mark 0070 and Mark 0100 airplanes. This action revises the notice of proposed rulemaking (NPRM) by proposing to require incorporating new airworthiness limitations into the maintenance or inspection program, as applicable. We are proposing this AD to address the unsafe condition on these products. Since these actions would impose an additional burden over those in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: The comment period for the NPRM published in the **Federal Register** on December 16, 2016 (81 FR 91068), is reopened.

We must receive comments on this SNPRM by December 4, 2017.

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

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

For service information identified in this SNPRM, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9435; 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 SNPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–9435; Product Identifier 2016–NM–108–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this SNPRM. We will consider all comments received by the closing date and may amend this SNPRM based on those comments.

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

Discussion

We issued AD 2012–22–15, Amendment 39–17252 (77 FR 68063, November 15, 2012) (''AD 2012–22–15''). AD 2012–22–15 requires actions intended to address an unsafe condition on all Fokker Services B.V. Model F28 Mark 0070 and Mark 0100 airplanes.

We issued an NPRM to amend 14 CFR part 39 by adding an AD that would supersede AD 2012–22–15. The NPRM published in the **Federal Register** on December 16, 2016 (81 FR 91068). The NPRM was prompted by new and more restrictive airworthiness limitations. The NPRM proposed to revise the maintenance or inspection program, as applicable, to incorporate the new and more restrictive airworthiness limitations.

Actions Since the NPRM Was Issued

Since we issued the NPRM, additional airworthiness limitations have been issued and we have determined it is necessary to require revising the maintenance or inspection program, as applicable, to incorporate the new airworthiness limitations.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0095, dated May 30, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F28 Mark 0070 and Mark 0100 airplanes. The MCAI states:

> Fokker Services Engineering Report SE–623 contains the Airworthiness Limitation Items (ALIs) and Safe Life Items (SLIs). This report is Part 2 of the Airworthiness Limitations Section (ALS Part 2) of the Instructions for Continued Airworthiness, referred to in Section 06, Appendix 1, of the Fokker 70/100 Maintenance Review Board document.
>
> The complete ALS consists of:
>
> Part 1—Report SE–473, Certification Maintenance Requirements (CMRs)—ref. EASA AD 2015–0027 [which corresponds to FAA AD 2016–11–22, Amendment 39–18549 (81 FR 36438, June 7, 2016)],
>
> Part 2—Report SE–623, ALIs and SLIs—ref. EASA AD 2016–0125 [which corresponds to certain requirements in FAA AD 2012–22–15], and
>
> Part 3—Report SE–672, Fuel ALIs and CDCCLs—ref. EASA AD 2015–0032 [which corresponds to FAA AD 2016–11–15, Amendment 39–18542 (81 FR 36447, June 7, 2016)].
>
> The instructions contained in those reports have been identified as mandatory actions for continued airworthiness. Failure to accomplish these actions could result in an unsafe condition.
>
> EASA previously issued AD 2016–0125, requiring the actions described in ALS Part 2, Report SE–623 at issue 15 and 16.

Since that [EASA] AD was issued, Fokker Services published issue 17 of Report SE–623, containing new and/or more restrictive maintenance tasks.

For the reasons described above, this [EASA] AD retains the requirements of AD 2016–0125, which is superseded, and requires implementation of the maintenance actions as specified in ALS Part 2 of the Instructions for Continued Airworthiness, Fokker Services Engineering Report SE–623 at issue 17 (hereafter referred to as 'ALS Part 2' in this [EASA] AD).

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–2016–9435.

Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, dated April 26, 2017. The service information describes new and more restrictive airworthiness limitations. 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.

Comments

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

FAA's Determination and Requirements of This SNPRM

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Certain changes described above expand the scope of the NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Costs of Compliance

We estimate that this SNPRM affects 15 airplanes of U.S. registry.

The actions required by AD 2012–22–15, and retained in this proposed AD, take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2012–22–15 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the new basic requirements of this SNPRM. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this SNPRM on U.S. operators to be $1,275, or $85 per product.

The new requirements of this SNPRM add no additional economic burden.

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.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–22–15, Amendment 39–17252 (77 FR 68063, November 15, 2012), and adding the following new AD:

Fokker Services B.V.: Docket No. FAA–2016–9435; Product Identifier 2016–NM–108–AD.

(a) Comments Due Date

We must receive comments by December 4, 2017.

(b) Affected ADs

(1) This AD replaces AD 2012–22–15, Amendment 39–17252 (77 FR 68063, November 15, 2012) (''AD 2012–22–15'').

(2) This AD affects AD 2012–12–07, Amendment 39–17087 (77 FR 37788, June 25, 2012) (''AD 2012–12–07'').

(3) This AD affects AD 2008–06–20 R1, Amendment 39–16089 (74 FR 61018, November 23, 2009) (''AD 2008–06–20 R1''), which replaced AD 2008–06–20, Amendment 39–15432 (73 FR 14661, March 19, 2008), retaining its requirements.

(c) Applicability

This AD applies to Fokker Services B.V. Model F28 Mark 0070 and Mark 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a revision of an airworthiness limitations items (ALIs) document, which introduces new and more restrictive maintenance requirements and

airworthiness limitations. We are issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Maintenance Program Revision, With Revised Compliance Language

This paragraph restates the requirements of paragraph (i) of AD 2012–22–15, with revised compliance language. Within 3 months after December 20, 2012 (the effective date of AD 2012–22–15), revise the maintenance program to incorporate the airworthiness limitations specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011. For all tasks and retirement lives identified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, the initial compliance times start from the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD, and the repetitive inspections must be accomplished thereafter at the applicable interval specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011. Doing the revision required by paragraph (k) of this AD terminates the requirements of this paragraph.

(1) Within 3 months after December 20, 2012 (the effective date of AD 2012–22–15).

(2) At the time specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011.

(h) Retained Corrective Actions, With Specific Delegation Approval Language

This paragraph restates the requirements of paragraph (j) of AD 2012–22–15, with specific delegation approval language. If any discrepancy, as defined in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, is found during accomplishment of any task specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011: Within the applicable compliance time specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, accomplish the applicable corrective actions in accordance with Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, except as required by paragraphs (h)(1) and (h)(2) of this AD.

(1) If no compliance time is identified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, accomplish the applicable corrective actions before further flight.

(2) If any discrepancy is found and there is no corrective action specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011: Before further flight, contact the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Fokker Services' EASA Design Organization Approval (DOA); for approved corrective actions, and accomplish those actions before further flight.

(i) Retained ''No Alternative Actions or Intervals,'' With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2012–22–15, with a new exception. Except as required by paragraph (k) of this AD, after accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m)(1) of this AD.

(j) Retained Method of Compliance With 2008–06–20 R1, With Revised Compliance Language

This paragraph restates the terminating action specified in paragraph (m) of AD 2012–22–15, with revised compliance language. Accomplishing the actions specified in paragraph (g) of this AD terminates the requirements of paragraphs (f)(1) through (f)(5) of AD 2008–06–20 R1.

(k) New Requirement of This AD: Maintenance or Inspection Program Revision

Within 30 days of the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the airworthiness limitations specified in Fokker Services B.V. Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, dated April 26, 2017. Accomplishing the revision required by this paragraph terminates the requirements of paragraph (g) of this AD. Accomplishing the revision required by this paragraph also terminates the requirements of paragraph (g) of AD 2012–12–07.

(1) The initial compliance times for the tasks specified in Fokker Services B.V. Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, dated April 26, 2017, are at the later of the applicable compliance times specified in Fokker Services B.V. Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, dated April 26, 2017, or within 30 days after the effective date of this AD, whichever is later.

(2) If any discrepancy is found, before further flight, repair using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or Fokker B.V. Service's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(l) No Alternative Actions or Intervals

After the maintenance or inspection program, as applicable, has been revised as required by paragraph (k) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (m)(1) of this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, 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 Section, send it to the attention of the person identified in paragraph (n)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive AD 2017–0095, dated May 30, 2017, 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–2016–9435.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

(3) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 22, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–20930 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 170601529–7529–01]

RIN 0648–BG90

2018 Annual Determination To Implement the Sea Turtle Observer Requirement

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

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes a proposed Annual Determination (AD) for 2018, pursuant to its authority under the Endangered Species Act (ESA). Through the AD, NMFS identifies U.S. fisheries operating in the Atlantic Ocean, Gulf of Mexico, and Pacific Ocean that will be required to take fisheries observers upon NMFS' request. The purpose of observing identified fisheries is to learn more about sea turtle interactions in a given fishery, evaluate measures to prevent or reduce sea turtle takes and to implement the prohibition against sea turtle takes. Fisheries identified on the 2018 AD (see Table 1) will be eligible to carry observers as of January 1, 2018, and will remain on the AD for a five-year period until December 31, 2022.

DATES: Comments must be received by November 20, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0058, by either of the following methods:

Federal e-Rulemaking portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0058,* Click the ''Comment Now!'' icon, complete the required fields, enter or attach your comments.

Mail: Submit written comments to Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: Sea Turtle Annual Determination, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Alexis Gutierrez, Office of Protected Resources, 301–427–8402; Ellen Keane, Greater Atlantic Region, 978–282–8476; Dennis Klemm, Southeast Region, 727–824–5312; Dan Lawson, West Coast Region, 562–980–3209; Irene Kelly, Pacific Islands Region, 808–725–5141. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Availability of Published Materials

Information regarding the Marine Mammal Protection Act (MMPA) List of Fisheries (LOF) may be obtained at *http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html* or from any NMFS Regional Office at the addresses listed below:

- NMFS, Greater Atlantic Region, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930;
- NMFS, Southeast Region, Protected Resources Division, 263 13th Avenue South, St. Petersburg, FL 33701;
- NMFS, West Coast Region, Protected Resources Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802;
- NMFS, Pacific Islands Region, Protected Resources Division, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Purpose of the Sea Turtle Observer Requirement

Under the ESA, 16 U.S.C. 1531 *et seq.,* NMFS has the responsibility to implement programs to conserve marine life listed as endangered or threatened. All sea turtles found in U.S. waters are listed as either endangered or threatened under the ESA. Kemp's ridley (*Lepidochelys kempii*), loggerhead (*Caretta caretta;* North Pacific distinct population segment), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles are listed as endangered. Loggerhead (*Caretta caretta;* Northwest Atlantic distinct population segment), green (*Chelonia mydas;* North Atlantic, South Atlantic, and East Pacific distinct population segments), and olive ridley (*Lepidochelys olivacea*) sea turtles are listed as threatened, except for breeding colony populations of olive ridleys on the Pacific coast of Mexico, which are listed as endangered. Due to the inability to distinguish between populations of olive ridley turtles away from the nesting beach, NMFS considers these turtles endangered wherever they occur in U.S. waters. While some sea turtle populations have shown signs of recovery, many populations continue to decline.

Incidental take, or bycatch, in fishing gear is the primary anthropogenic source of sea turtle injury and mortality in U.S. waters. Section 9 of the ESA prohibits the take (including harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting or attempting to engage in any such conduct), including incidental take, of endangered sea turtles. Pursuant to section 4(d) of the ESA, NMFS has issued regulations extending the prohibition of take, with exceptions, to threatened sea turtles (50 CFR 223.205 and 223.206). Section 11 of the ESA provides for civil and criminal penalties for anyone who violates the Act or a regulation issued to implement the Act. NMFS may grant exceptions to the take prohibitions with an incidental take statement or an incidental take permit issued pursuant to ESA section 7 or 10, respectively. To do so, NMFS must determine the activity that will result in incidental take is not likely to jeopardize the continued existence of the affected listed species. For some Federal fisheries and most state fisheries, NMFS has not granted an exception for incidental takes of sea turtles primarily because we lack information about fishery-sea turtle interactions.

The most effective way for NMFS to learn more about sea turtle-fishery interactions in order to implement the take prohibitions and prevent or minimize take is to place observers aboard fishing vessels. In 2007, NMFS issued a regulation (50 CFR 222.402) establishing procedures to annually identify, pursuant to specified criteria and after notice and opportunity for comment, those fisheries in which the agency intends to place observers (72 FR 43176; August 3, 2007). These regulations specify that NMFS may place observers on U.S. fishing vessels, commercial or recreational, operating in U.S. territorial waters, the U.S. exclusive economic zone (EEZ), or on the high seas, or on vessels that are otherwise subject to the jurisdiction of the United States. Failure to comply with the requirements under this rule

may result in civil or criminal penalties under the ESA.

NMFS will pay the direct costs for vessels to carry observers. These include observer salary and insurance costs. NMFS may also evaluate other potential direct costs, should they arise. Once selected, a fishery will be required to carry observers, if requested, for a period of five years without further action by NMFS. This will enable NMFS to develop an appropriate sampling protocol to investigate whether, how, when, where, and under what conditions incidental takes are occurring; to evaluate whether existing measures are minimizing or preventing takes; and to implement ESA take prohibitions and conserve turtles.

Sea Turtle Distribution

Atlantic Ocean and Gulf of Mexico

Sea turtle species found in waters of the Atlantic Ocean and Gulf of Mexico include green, hawksbill, Kemp's ridley, leatherback, and loggerhead turtles. The waters off the U.S. east coast and Gulf of Mexico provide important foraging, breeding, and migrating habitat for these species. Further, the southeastern United States, from North Carolina through the Florida Gulf coast, is a major sea turtle nesting area for loggerhead, leatherback, and green turtles, and, to a much lesser extent, Kemp's ridley and hawksbill turtles.

Four sea turtle species occur seasonally in New England and Mid-Atlantic continental shelf waters north of Cape Hatteras, North Carolina: Green, Kemp's ridley, leatherback, and loggerhead. The occurrence of these species in these waters is largely temperature dependent. In general, some turtles move up the coast from southern wintering areas as water temperatures warm in the spring. The trend reverses in the fall as water temperatures decrease. By December, turtles that migrated northward return to southern waters for the winter. Hard-shelled species are most commonly found south of Cape Cod, Massachusetts. Leatherbacks regularly occur as far north in U.S. waters as the Gulf of Maine in the summer and fall.

Green turtles inhabit inshore and nearshore waters from Texas to Massachusetts, the U.S. Virgin Islands, and Puerto Rico. While foraging and developmental habitats also occur in the wider Caribbean, important feeding areas in Florida include the Indian River Lagoon, the Florida Keys, Florida Bay, Homosassa, Crystal River, Cedar Key, and St. Joseph Bay. The bays and sounds of North Carolina and Texas also provide important foraging habitat for green turtles.

In the Atlantic, hawksbills are most common in Puerto Rico and its associated islands and in the U.S. Virgin Islands. In the continental United States, the species is primarily recorded from south Texas and south Florida and infrequently from the remaining Gulf States and north of Florida. Kemp's ridleys occur throughout waters of the Gulf of Mexico and U.S. Atlantic coast from Florida to New England. The major nesting area for Kemp's ridleys is in Tamaulipas, Mexico, with limited nesting extending to the Texas coast.

Loggerheads occur throughout the Atlantic and Gulf of Mexico, ranging from inshore shallow water habitats to deeper oceanic waters. The largest nesting assemblage of loggerheads in the world is in the southeastern United States from Florida to North Carolina.

Adult leatherbacks are capable of tolerating a wide range of water temperatures and have been sighted along the entire continental coast of the United States as far north as the Gulf of Maine and south to Puerto Rico, the U.S. Virgin Islands, and into the Gulf of Mexico. The southeast coast of Florida represents a significant nesting area for leatherbacks in the western North Atlantic.

U.S. Pacific Ocean

Leatherback sea turtles are consistently present off the U.S. west coast, usually north of Point Conception, California. They migrate to central and northern California from their natal beaches in the Western Pacific to feed on jellyfish during summer and fall. Leatherback turtles usually appear in Monterey Bay and California coastal waters during August and September and move offshore in October and November. Other observed areas of summer leatherback concentration include northern California and the waters off Washington through northern Oregon, offshore from the Columbia River plume.

Green, loggerhead, and olive ridley sea turtles are rarely observed in the U.S. west coast EEZ, but records show that all species have stranded in California and the Pacific Northwest. Two small resident populations of green turtles have been identified in the southern California Bight, associated historically with the warm water outflows from power plants in San Diego Bay and the San Gabriel River in Long Beach, California. In the eastern Pacific, loggerheads have been reported as far north as Alaska and as far south as Chile. Occasionally there are sightings reported from the coasts of Washington and Oregon, but most records are of juveniles off the coast of California. Based upon observer records and aerial observations, loggerheads travel into the southern California Bight during El Niño events (or warm water conditions similar to an El Niño). The majority of fishery interactions with loggerheads during El Niño conditions have occurred during the summer. Olive ridleys have been recorded stranded all along the U.S. west coast. Olive ridleys are believed to use warm water currents along the west coast for foraging. The specific distribution of olive ridleys along the U.S. west coast is unknown at this time.

Sea turtles occur throughout the Pacific Islands Region including the State of Hawaii and the U.S. territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (CNMI). Green and hawksbill turtles are most common in nearshore waters while leatherbacks, loggerheads, and olive ridleys occur in offshore pelagic waters.

Process for Developing an Annual Determination

Pursuant to 50 CFR 222.402, NOAA's Assistant Administrator for Fisheries (AA), in consultation with Regional Administrators and Fisheries Science Center Directors, develops a proposed AD identifying which fisheries are required to carry observers, if requested, to monitor potential interactions with sea turtles. NMFS provides an opportunity for public comment on any proposed determination. The best available scientific, commercial, or other information regarding sea turtle-fishery interactions; sea turtle distribution; sea turtle strandings; fishing techniques, gears used, target species, seasons and areas fished; and/or qualitative data from logbooks or fisher reports informs the determination. Specifically, this determination is based on the extent to which:

(1) The fishery operates in the same waters and at the same time as sea turtles are present;

(2) The fishery operates at the same time or prior to elevated sea turtle strandings; or

(3) The fishery uses a gear or technique that is known or likely to result in incidental take of sea turtles based on documented or reported takes in the same or similar fisheries; and

(4) NMFS intends to monitor the fishery and anticipates that it will have the funds to do so.

The AA uses the most recent version of the annually published LOF as the

comprehensive list of commercial fisheries for consideration. The LOF includes all known state and Federal commercial fisheries that occur in U.S. waters and on the high seas. However, in preparing an AD we do not rely on the three-part MMPA LOF classification scheme. In addition, unlike the LOF, an AD may include recreational fisheries likely to interact with sea turtles on the basis of the best available information.

NMFS consulted with appropriate state and Federal fisheries officials to identify which fisheries, both commercial and recreational, to consider. NMFS carefully considered all recommendations and information available for developing the proposed AD. This is not an exhaustive or comprehensive list of all fisheries with documented or suspected takes of sea turtles. For other fisheries, NMFS may already be addressing incidental take through another mechanism (*e.g.,* rulemaking to implement modifications to fishing gear and/or practices), may be observing the fishery under a separate statutory authority, or will consider including them in future ADs based on the four previously noted criteria (50 CFR 222.402(a)). The fisheries not included on the 2018 AD may still be observed under a different authority (*e.g.,* MMPA, MSA) than the ESA if applicable.

Notice of the final determination will publish in the **Federal Register** and individuals permitted for each fishery identified on the AD will receive a written notification. NMFS will also notify state agencies. Once included in the final determination, a fishery will remain eligible for observer coverage for a period of five years to enable the design of an appropriate sampling program and to ensure collection of sufficient scientific data for analysis. If NMFS determines a need for more than five years to obtain sufficient scientific data, NMFS will include the fishery in the proposed AD again prior to the end of the fifth year.

The first AD was published in 2010 and identified 19 fisheries that were required to carry observers for a period of 5 years, through December 31, 2014, if requested by NMFS. On the 2015 AD, NMFS identified 14 fisheries, 11 were previously listed and 3 were newly listed. The 14 fisheries are currently required to carry observers for a period of 5 years, through December 31, 2019. The fisheries currently listed on the AD can be found at *http://www.nmfs.noaa.gov/pr/species/turtles/observers.htm.*

Fisheries Proposed for Inclusion on the 2018 Annual Determination

NMFS is proposing to include 2 new fisheries (both in the Atlantic Ocean/Gulf of Mexico) on the 2018 AD. The two fisheries, described below and listed in Table 1, are the Mid-Atlantic Gillnet fishery and the Gulf of Mexico Menhaden Purse Seine Fishery.

NMFS used the 2017 MMPA LOF (82 FR 3655; January 12, 2017) as the comprehensive list of commercial fisheries to evaluate for fisheries to include on the AD. The fishery name, definition, and number of vessels/persons for fisheries listed on the AD are taken from the most recent MMPA LOF. Additionally, the fishery descriptions below include a particular fishery's current classification on the MMPA LOF (*i.e.,* Category I, II, or III); Category I and II fisheries are required to carry observers under the MMPA if requested by NMFS. As noted previously, NMFS also has authority to observe fisheries in Federal waters under the MSA and collect sea turtle bycatch information.

Gillnet Fisheries

Sea turtles are vulnerable to entanglement and drowning in gillnets, especially when gear is unattended. The main risk to sea turtles from capture in gillnet gear is forced submergence (*i.e.,* drowning). Sea turtle entanglement in gillnets can also result in severe constriction wounds and/or abrasions. Large mesh gillnets (*e.g.,* 10–12 inch (in). (25.4–30.5 centimeter (cm)) stretched mesh or greater) have been documented as particularly effective at capturing sea turtles. However, sea turtles are prone to and have been commonly documented entangled in smaller mesh gillnets as well.

Mid-Atlantic Gillnet Fishery

NMFS proposes to include the Mid-Atlantic Gillnet Fishery on the 2018 AD given known interactions between sea turtles and this gear type and the need to collect more sea turtle bycatch data in state inshore gillnet fisheries. The Mid-Atlantic gillnet fishery was not listed in the 2015 AD, but the Chesapeake Bay Inshore Gillnet Fishery and Long Island Inshore Gillnet fishery were. By including the Mid-Atlantic gillnet fishery in the 2018 AD, we authorize observer coverage more completely along the mid-Atlantic region. The Mid-Atlantic gillnet fishery (estimated 3,950 vessels/persons) targets monkfish, spiny dogfish, smooth dogfish, bluefish, weakfish, menhaden, spot, croaker, striped bass, large and small coastal sharks, Spanish mackerel, king mackerel, American shad, black drum, skate spp., yellow perch, white perch, herring, scup, kingfish, spotted seatrout, and butterfish. The fishery uses drift and sink gillnets, including nets set in a sink, stab, set, strike, or drift fashion, with some unanchored drift or sink nets used to target specific species. The dominant material is monofilament twine with stretched mesh sizes from 2.5–12 in. (6.4–30.5 cm), and string lengths from 150–8,400 feet (ft) (46–2,560 meter (m)). This fishery operates year-round west of a line drawn at 72°30′ W. long. south to 36°33.03′ N. lat. and east to the eastern edge of the EEZ and north of the North Carolina/South Carolina border, not including Category II and III inshore gillnet fisheries (*i.e.,* Chesapeake Bay, North Carolina, Long Island Sound inshore gillnet, DE River inshore gillnet, Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower NY Bays) inshore gillnet fisheries). This fishery includes any residual large pelagic driftnet effort in the Mid-Atlantic and any shark and dogfish gillnet effort in the Mid-Atlantic zone described. The fishing occurs right off the beach (6 ft. (1.8 m)) or in nearshore coastal waters to offshore waters (250 ft. 76 m]).

Gear in this fishery is managed by several Federal FMPs and Interstate FMPs managed by the Atlantic States Marine Fisheries Commission. These fisheries are primarily managed by total allowable catch (TAC); individual trip limits (quotas); effort caps (limited number of days at sea per vessel); time and area closures; and gear restrictions and modifications.

This fishery is classified as Category I on the MMPA LOF, which authorizes NMFS to observe this fishery in state and Federal waters for marine mammal interactions and to collect information on sea turtles should a take occur on an observed trip. This fishery was listed on the 2010 AD, and was eligible for observer coverage through 2014.

NMFS proposes to include this fishery pursuant to the criteria identified at 50 CFR 222.402(a)(1) for listing a fishery on the AD because sea turtles are known to occur in the same areas where the fishery operates, takes have been well documented in this fishery, and NMFS intends to monitor this fishery, particularly the segment that occurs in the nearshore coastal waters of the mid-Atlantic and Delaware Bay.

Weir/Seine/Floating Trap Fisheries

Pound net, weir, seine and floating trap fisheries may use mesh similar to that used in gillnets, but the gear is

prosecuted differently from traditional gillnets. Purse seines, weirs and floating traps also have the potential to entangle and drown sea turtles.

Gulf of Mexico Menhaden Purse Seine Fishery

NMFS proposes including the Gulf of Mexico Menhaden Purse Seine Fishery on the 2018 AD. The Gulf of Mexico Menhaden Purse Seine Fishery (estimated 40–42 vessels/persons) targets menhaden and thread herring. The fishery uses purse seine gear and operates in bays, sounds, and nearshore coastal waters along the Gulf of Mexico coast. The majority of fishing effort occurs in Louisiana and Mississippi, with lesser effort in Alabama and Texas state waters. Florida prohibits the use of purse seines in state waters. The fishery is managed under the Gulf States Marine Fisheries Commission Interstate Gulf Menhaden Fishery Management Plan.

This fishery is classified as Category II on the MMPA LOF, and NMFS has not yet included it on a previous AD. The fishery was observed in the early-1990s by Louisiana State University. Sea turtle strandings in the northern Gulf of Mexico have been documented during times and in areas near where the menhaden fishery operates. In 2011, NMFS operated a pilot observer program in this fishery to better understand the fishery's operations and evaluate the feasibility of observing for marine mammal and sea turtle bycatch. During the pilot observer program, two sea turtles were documented, one dead Kemp's ridley that was excluded by the large fish excluder, and one live unidentified turtle that was successfully released from the purse-seine net. Future observer efforts will build on the information obtained in 2011.

NMFS proposes to include this fishery pursuant to the criteria identified at 50 CFR 222.402(a)(1) for listing a fishery on the AD because sea turtles are known to occur in the same areas where the fishery operates, takes have been documented in this fishery, and NMFS intends to monitor this fishery.

Implementation of Observer Coverage in a Fishery Listed on the 2018 AD

As part of the proposed 2018 AD, NMFS has included, to the extent practicable, information on the fisheries and gear types to observe, geographic and seasonal scope of coverage, and any other relevant information. NMFS intends to monitor the fisheries and anticipates that it will have the funds to do so. After publication of a final AD, a 30-day delay in effective date for implementing observer coverage will follow, except for those fisheries where the AA has determined that there is good cause pursuant to the Administrative Procedure Act to make the rule effective without a 30-day delay.

The design of any observer program for fisheries identified through the AD process, including how observers will be allocated to individual vessels, will vary among fisheries, fishing sectors, gear types, and geographic regions and will ultimately be determined by the individual NMFS Regional Office, Science Center, and/or observer program. During the program design, NMFS will follow the standards below for distributing and placing observers among fisheries identified in the AD and among vessels in those fisheries:

(1) The requirement to obtain the best available scientific information;

(2) The requirement that observers be assigned fairly and equitably among fisheries and among vessels in a fishery;

(3) The requirement that no individual person or vessel, or group of persons or vessels, be subject to inappropriate, excessive observer coverage; and

(4) The need to minimize costs and avoid duplication, where practicable.

Vessels subject to observer coverage under the AD must comply with observer safety requirements specified in 50 CFR 600.725 and 600.746. Specifically, 50 CFR 600.746(c) requires vessels subject to observer coverage to provide adequate and safe conditions for carrying an observer and conditions that allow for operation of normal observer functions. To provide such conditions, a vessel must comply with the applicable regulations regarding observer accommodations (see 50 CFR parts 229, 300, 600, 622, 635, 648, 660, and 679) and possess a current United States Coast Guard (USCG) Commercial Fishing Vessel Safety Examination decal or a USCG certificate of examination. A vessel that fails to meet these requirements at the time an observer is to be deployed is prohibited from fishing (50 CFR 600.746(f)), unless NMFS determines that an alternative platform (*e.g.,* a second vessel) may be used or the vessel is not required to take an observer under 50 CFR 222.404. All fishermen on a vessel must cooperate in the operation of observer functions. Observer programs designed or carried out in accordance with 50 CFR 222.404 are consistent with existing NOAA observer policies and applicable federal regulations, such as those under the Fair Labor and Standards Act (29 U.S.C. 201 *et seq.*), the Service Contract Act (41 U.S.C. 351 *et seq.*), Observer Health and Safety regulations (50 CFR part 600).

Additional information on observer programs in commercial fisheries is on the NMFS National Observer Program's Web site: *http://www.st.nmfs.noaa.gov/observer-home/;* links to individual regional observer programs are also on this Web site.

TABLE 1—STATE AND FEDERAL COMMERCIAL FISHERIES PROPOSED FOR INCLUSION ON THE 2018 ANNUAL DETERMINATION

Fishery	Years eligible to carry observers
Gillnet Fisheries:	
Mid-Atlantic gillnet	2018–2022
Pound Net/Weir/Seine Fisheries:	
Gulf of Mexico menhaden purse seine	2018–2022

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. On December 29, 2015, we issued a final rule establishing a small business size standard of $11 million in annual gross receipts (revenue) for all businesses primarily engaged in the commercial fishing industry (NAICS code 11411) for RFA compliance purposes only (80 FR 81194, December 29, 2015). The $11 million standard became effective on July 1, 2016, and is to be used in place of the prior Small Business Administration standards of $20.5 million, $5.5 million, and $7.5 million

for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016 (Id. at 81194). In addition to this gross revenue standard, a business primarily involved in commercial fishing is classified as a small business if it is independently owned and operated, and is not dominant in its field of operations (including its affiliates). Based on the information above, the Mid-Atlantic gillnet fishery has 343 small businesses and 23 large businesses operating in the Federal portion of the fishery. We believe those operating in the state portion of the fishery have revenue less than $11 million a year and are, therefore, small businesses. None of the businesses in the Gulf of Mexico menhaden purse seine meet the small business classification.

NMFS has estimated that approximately 4,000 vessels participating in the two proposed fisheries listed in Table 1 would be eligible to carry an observer if requested. However, NMFS would only request a fraction of the total number of participants to carry an observer based on the sampling protocol identified for each fishery by regional observer programs. As noted throughout this proposed rule, NMFS would select vessels and focus coverage in times and areas where fishing effort overlaps with sea turtle distribution. Due to the unpredictability of fishing effort, NMFS cannot determine the specific number of vessels that it will request to carry an observer.

If a vessel is requested to carry an observer, fishers will not incur any direct economic costs associated with carrying that observer. In addition, 50 CFR 222.404(b) states that an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. As a result of this certification, an initial regulatory flexibility analysis is not required and was not prepared.

The information collection for the AD is approved under Office of Management and Budget (OMB) under OMB control number 0648–0593.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) on the issuance of the regulations to implement this observer requirement in 50 CFR part 222, subpart D. The EA concluded that implementing these regulations would not have a significant impact on the human environment. This proposed rule would not make any significant change in the management of fisheries included on the AD; and, therefore, this proposed rule would not change the analysis or conclusion of the EA. If NMFS takes a management action for a specific fishery, for example, requiring fishing gear modifications, NMFS would first prepare any environmental document required under NEPA and specific to that action.

This proposed rule would not affect species listed as threatened or endangered under the ESA or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this proposed rule would not affect the conclusions of those opinions. The inclusion of fisheries on the AD is not considered a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, requiring modifications to fishing gear and/or practices, NMFS would review the action for potential adverse effects to listed species under the ESA.

This proposed rule would have no adverse impacts on sea turtles and may have a positive impact on sea turtles by improving knowledge of sea turtles and the fisheries interacting with sea turtles through information collected from observer programs.

This proposed rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

Dated: October 13, 2017.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2017–22682 Filed 10–18–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 201
Thursday, October 19, 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

October 16, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by November 20, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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.

Forest Service

Title: Disposal of Mineral Materials.

OMB Control Number: 0596–0081.

Summary of Collection: The Forest Service (FS) is responsible for overseeing the management of National Forest System land. The Multiple-Use Mining Act of 1955 (30 U.S.C. 601, 603, 611–615) gives the FS specific authority to manage the disposal of mineral materials mined from National Forest land. FS uses form FS–2800–9, ''Contract for the Sale of Mineral Materials'' to collect detailed information on the planned mining and disposal operations as well as a contract for the sale of mineral materials.

Need and Use of the Information: Interested parties are asked to provide information that includes the purchaser's name and address, the location and dimensions of the area to be mined, the kind and quantity of material to be mined, the sales price of the mined material, the payment schedule, amount of the bond, and the period of the contract. Collected information from the public will ensure that environmental impacts of mineral material disposal are minimized. A review of the operating plan provides the authorized officer the opportunity to determine if the proposed operation is appropriate and consistent with all applicable land management laws and regulations. The information also provides the means of documenting planned operations and the terms and conditions that the FS deems necessary to protect surface resources. A simple annual statement of production (amount of material removed) is also required of each purchaser or permittee. If FS did not collect this information, operations could cause undue damage to surface resources.

Description of Respondents: Business or other for-profit.

Number of Respondents: 2,617.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 6,543.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–22665 Filed 10–18–17; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Minnesota Advisory Committee (Committee) to the Commission will be held at 11:00 a.m. (Central Time) Wednesday November 8, 2017. The purpose of the meeting is for the Committee to discuss completion of and reporting on their 2017 study of civil rights and policing practices in the State.

DATES: The meeting will be held on Wednesday, November 8, 2017, at 11:00 a.m. CST.

Public Call Information:

Dial: 888–329–8893

Conference ID: 9974470

FOR FURTHER INFORMATION CONTACT: Carolyn Allen at *callen@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 888–329–8893, conference ID number: 9974470. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period

at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the U.S. Commission on Civil Rights, Regional Programs Unit, 55 West Monroe Street, Suite 410, Chicago, IL 60603. They may be faxed to the Commission at (312) 353–8324, or emailed Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://facadatabase.gov/committee/meetings.aspx?cid=256.*

Please click on the ''Meeting Details'' and ''Documents'' links to download. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Approval of Minutes
III. Discussion on Draft Report on ''Responses to 21st Century Policing in Minnesota''
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: October 16, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–22672 Filed 10–18–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: Annual Wholesale Trade Survey.

OMB Control Number: 0607–0195.

Form Number(s): SA–42, SA–42A, SA–42A(MSBO), SA–42(AGBR), SA–42A(AGBR).

Type of Request: Revision of a currently approved collection.

Number of Respondents: 8,900.

Average Hours per Response: 1 hour and 15 minutes.

Burden Hours: 11,085.

Needs and Uses: The Annual Wholesale Trade Survey (AWTS) covers employer firms with establishments located in the United States and classified in wholesale trade as defined by the North American Industry Classification System (NAICS). This sector annually publishes two main categories for wholesalers: (1) Merchant wholesalers that sell goods on their own account (including sales offices and sales branches, except retail stores, maintained by manufacturing, refining, or mining enterprises apart from their plants or mines for the purpose of marketing their products) and (2) electronic markets, agents, and brokers that arrange sales for purchases for others generally for a commission or fee.

Respondents are separated into three type of operation classifications: (1) Merchant wholesale establishments, excluding manufacturers' sales branches and offices; (2) manufacturers' sales branches and offices; and (3) agents, brokers, and business-to-business electronic markets. The survey requests firms to provide annual sales, annual e-commerce sales, year-end inventories held inside or outside of the United States, total operating expenses, purchases, and for selected industries, commissions, and sales on their own account. These data are used to satisfy a variety of public and business needs such as conducting economic market analysis, gauging company performance, and forecasting future demand as well as serving as a benchmark for the estimates compiled from the Monthly Wholesale Trade Survey [OMB No. 0607–0190].

Results will be published on the current 2012 NAICS basis, by type of wholesaler, at the United States summary level, and for selected wholesale industries approximately 14 months after the end of the reference year

A new sample was introduced with the 2016 AWTS. Approximately 73% of the sample asked to report will be doing so for the first time (and, consequently, approximately 73% of the old sample will no longer be asked to report). For the 2016 AWTS the Census Bureau requested two years of data, 2016 and 2015, in order to link old and new samples and ensure that the published estimates continue to be reliable and accurate. Every 5 years AWTS collects detailed operating expenses and sales tax. These items were last collected in 2013 for the 2012 survey year. The plan is to reinstate these questions in 2018 as part of the 2017 AWTS data collection. These detailed expense questions are only applicable to the merchant wholesale establishments, excluding manufacturers' sales branches and offices.

The Bureau of Economic Analysis (BEA) uses the data to estimate the change in the private inventories component of gross domestic product (GDP) and output in both the benchmark and annual input-output (I–O) accounts and GDP by industry. The tax data are used to prepare estimates of GDP by industry and to derive industry output for the I–O accounts. The data on detailed operating expenses are used to produce national estimates of value added, gross output, and intermediate inputs and serve as a benchmark for the annual industry accounts, which provide the control totals for the GDP-by-state accounts.

The Bureau of Labor Statistics uses the data as input to its Producer Price Indices and in developing productivity measurements.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: The Census Bureau conducts this survey under the authority of Title 13, United States Code, Sections 131 and 182. Sections 224 and 225 make this survey mandatory.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–22674 Filed 10–18–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–862]

Certain Uncoated Groundwood Paper From Canada: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: Applicable October 19, 2017.

FOR FURTHER INFORMATION CONTACT: Whitley Herndon at (202) 482–6274, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 29, 2017, the Department of Commerce (Department) initiated a countervailing duty (CVD) investigation on certain uncoated groundwood paper from Canada.[1] Currently, the preliminary determination in this investigation is due no later than November 2, 2017.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a CVD investigation within 65 days after the date on which the Department initiated the investigation. However, section 703(c)(1) of the Act permits the Department to postpone the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation if: (A) The petitioner[2] makes a timely request for a postponement; or (B) the Department concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. The Department will grant the request unless it finds compelling reasons to deny the request.

On September 21, 2017, the petitioner submitted a timely request that we postpone the CVD preliminary determination. In its request, the petitioner cited the need for the Department to have sufficient time to thoroughly investigate each of the alleged subsidies, including by issuing any supplemental questionnaires.[3] In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and the Department finds no compelling reason to deny the request. Therefore, pursuant to section 703(c)(1)(A) of the Act, we are extending the due date for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.,* to January 8, 2018.[4] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: October 13, 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.

[FR Doc. 2017–22686 Filed 10–18–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–804]

Certain Steel Nails From the United Arab Emirates: Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determination by the Department of Commerce (Department) and the International Trade Commission (ITC) that revocation of the antidumping duty order on certain steel nails (nails) from the United Arab Emirates (UAE) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order on nails from the UAE.

DATES: Applicable October 19, 2017.

FOR FURTHER INFORMATION CONTACT: Annathea Cook, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0250.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 2012, the Department published in the **Federal Register** its final determination in the less-than-fair value investigation of nails from the UAE.[1] On May 10, 2012, following an affirmative injury determination by the International Trade Commission (ITC), the Department published its amended final determination and the antidumping duty *Order* on nails from the UAE.[2]

On April 3, 2017, the Department published the notice of initiation of the first sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (Act). The Department conducted the sunset review on an expedited basis, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), because it received a complete an adequate response from a domestic interested party, but no substantive responses from respondent interested parties.[3] As a result of its expedited sunset review, the Department determined that revocation of the *Order* would likely lead to a continuation or recurrence of dumping.[4] The Department, therefore, notified the ITC of the magnitude of the margins likely to prevail should the *Order* be revoked. On October 5, 2017, the ITC published notice of its determination,

[1] *See Certain Uncoated Groundwood Paper from Canada: Initiation of Countervailing Duty Investigation,* 82 FR 41603 (September 1, 2017).

[2] In this investigation, the petitioner is North Pacific Paper Company.

[3] *See* letter from the petitioner, ''Certain Uncoated Groundwood Paper from Canada/Petitioner's Request for Postponement of CVD Preliminary Determination and Extension of New Subsidy Allegations Deadline,'' dated September 21, 2017.

[4] The actual deadline is January 6, 2018, which is a Saturday. The Department's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of* ''*Next Business Day*'' *Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[1] *See Certain Steel Nails from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 77 FR 17029 (March 23, 2012).

[2] *See Certain Steel Nails from the United Arab Emirates: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27421 (May 10, 2012) (*Order*).

[3] *See Initiation of Five-Year (Sunset) Reviews*, 82 FR 16159 (April 3, 2017).

[4] *See Certain Steel Nails from the United Arab Emirates Final Results of the Expedited Sunset Reviews of the Antidumping Duty Order*, 82 FR 36731 (August 7, 2017).

pursuant to section 751(c) of the Act, that revocation of the *Order* on nails from the UAE would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the Order

The merchandise covered by this *Order* includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this *Order* are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Certain steel nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.

Certain steel nails subject to this *Order* are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65, and 7317.00.75.

Excluded from the scope of this *Order* are steel nails specifically enumerated and identified in ASTM Standard F 1667 (2011 revision) as Type I, Style 20 nails, whether collated or in bulk, and whether or not galvanized.

Also excluded from the scope of this *Order* are the following products:

- Non-collated (*i.e.,* hand-drive or bulk), two-piece steel nails having plastic or steel washers (caps) already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500″ to 8″, inclusive; an actual shank diameter of 0.1015″ to 0.166″, inclusive; and an actual washer or cap diameter of 0.900″ to 1.10″, inclusive;
- non-collated (*i.e.,* hand-drive or bulk), steel nails having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500″ to 4″, inclusive; an actual shank diameter of 0.1015″ to 0.166″, inclusive; and an actual head diameter of 0.3375″ to 0.500″, inclusive;
- wire collated steel nails, in coils, having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500″ to 1.75″, inclusive; an actual shank diameter of 0.116″ to 0.166″, inclusive; and an actual head diameter of 0.3375″ to 0.500″, inclusive;
- non-collated (*i.e.,* hand-drive or bulk), steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75″ to 3″, inclusive; an actual shank diameter of 0.131″ to 0.152″, inclusive; and an actual head diameter of 0.450″ to 0.813″, inclusive;
- corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side;
- thumb tacks, which are currently classified under HTSUS 7317.00.10.00;
- fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30;
- certain steel nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive; and
- fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), the Department hereby orders the continuation of the *Order* on certain steel nails from the UAE. U.S. Customs and Border Protection will continue to collect cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Order* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the *Order* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: October 12, 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.

[FR Doc. 2017–22684 Filed 10–18–17; 8:45 am]

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[5] *See* Certain Steel Nails from the United Arab Emirates Nos. 731–TA–1185 (Review), USITC Publication 4729 (September 2017).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–911]

Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2016

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

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the countervailing duty (CVD) order on circular welded carbon quality steel pipe (CWP) from the People's Republic of China (PRC) for the period January 1, 2016, through December 31, 2016, based on the timely withdrawal of the request for review.

DATES: Applicable October 19, 2017.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1280.

Background

On July 3, 2017, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on CWP from the PRC for the period January 1, 2016, through December 31,

2016.[1] On July 31, 2017, the Department received a timely request from Zekelman Industries (the petitioner) to conduct an administrative review of this CVD order.[2] Pursuant to this request and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), on September 13, 2017, the Department published in the **Federal Register** a notice of initiation of an administrative review of the CVD order on CWP covering the period of January 1, 2016, through December 31, 2016, with respect to 20 individually-named companies.[3] No other party requested an administrative review. On September 29, 2017, the petitioner withdrew its request for an administrative review.[4]

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The petitioner timely withdrew its request for an administrative review by the 90-day deadline. No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the administrative review of the CVD order on CWP from the PRC covering the period January 1, 2016, through December 31, 2016.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review,* 82 FR 30833 (July 3, 2017).

[2] *See* Letter from the petitioner, ''Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Request for Administrative Review,'' dated July 31, 2017.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 42974 (September 13, 2017).

[4] *See* Letter from the petitioner, ''Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Withdrawal of Request for Administrative Review,'' dated September 29, 2017.

Notification Regarding Administrative Protection Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or the conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751 of the Act, and 19 CFR 351.213(d)(4).

Dated: October 13, 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.

[FR Doc. 2017–22685 Filed 10–18–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF470

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy 2018 Ice Exercise Activities in the Beaufort Sea and Arctic Ocean

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

ACTION: Proposed incidental harassment authorization (IHA); request for comments.

SUMMARY: NMFS has received a request from the United States Department of the Navy (Navy) for authorization to take marine mammals incidental to Ice Exercise 2018 (ICEX18) activities proposed within the Beaufort Sea and Arctic Ocean north of Prudhoe Bay, Alaska. 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 authorizations and agency responses will be summarized in the final notice of our decision. The Navy's activities are considered a military readiness activity pursuant to the Marine Mammal Protection Act (MMPA), as amended by the National Defense Authorization Act for Fiscal Year 2004 (NDAA).

DATES: Comments and information must be received no later than November 20, 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.Pauline@noaa.gov.*

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

FOR FURTHER INFORMATION CONTACT: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8408. 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/military.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.

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, or sheltering (Level B harassment).The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (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 environmental consequences on the human environment.

The Navy is currently preparing an environmental assessment (EA) titled *Environmental Assessment/Overseas Environmental Assessment for Ice Exercise*. Once the EA is finalized, NMFS plans to adopt the Navy's EA, provided our independent evaluation of the document finds that it includes adequate information analyzing the effects on the human environment of issuing the IHA.

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 April 12, 2017, NMFS received a request from the Navy for the taking of marine mammals incidental to submarine training and testing activities including establishment of a tracking range on an ice floe in the Beaufort Sea and Arctic Ocean north of Prudhoe Bay, Alaska. The Navy's request is for take of ringed seals (*Pusa hispida hispida*) by Level B harassment. Neither the Navy nor NMFS expects Level A take or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

The Navy proposes to conduct submarine training and testing activities from an ice camp stationed on an ice floe in the Beaufort Sea and Arctic Ocean for six weeks between February and April 2018. Active acoustic transmissions (low, mid, and high-frequency) may result in the occurrence of temporary hearing impairment (temporary threshold shift (TTS)) and behavioral harassment of ringed seals.

Dates and Duration

The proposed action would occur over approximately a six-week period from February through April 2018, including deployment and demobilization of the ice camp. The submarine training and testing activities would occur over approximately four weeks during the six-week period. The proposed IHA would be valid from February 1, 2018 through May 1, 2018.

Specific Geographic Region

The ice camp would be established approximately 100–200 nmi (185–370 kilometers (km)) north of Prudhoe Bay, Alaska. The exact location cannot be identified ahead of time as required conditions (*e.g.,* ice cover) cannot be forecasted until exercises are expected to commence. The vast majority of submarine training and testing would occur near the ice camp. The ice camp action area is comprised of 27,171 square miles (mi^2) or 70,374 square kilometers (km^2) of ice and open water. However, limited submarine training and testing may occur intermittently throughout the deep Arctic Ocean basin near the North Pole, within the total study area of 1,109,858 mi^2 (2,874,520 km^2) as shown in Figure 2–1 in the Application). The ice camp itself will be no more than 1 mi (1.6 km) in diameter and 0.77 mi^2 (2 km^2) in area.

Detailed Description of Specific Activities

ICEX18 includes the deployment of a temporary camp situated on an ice floe. The camp will consist of a series of portable tents. In the past, the Navy would construct temporary wooden structures at ICEX camps, but they no longer do so. A portable tracking range for submarine training and testing would be installed near the ice camp. Eight hydrophones, located on the ice and extending to 30 meters (m) below the ice, would be deployed by drilling holes in the ice and lowering the cable down into the water column. Four hydrophones would be physically connected to the command hut via cables (Figure 1–2 in Application) while the remaining four would transmit data via radio frequencies. Additionally, tracking pingers would be configured aboard each submarine to continuously monitor the location of the submarines. Acoustic communications with the submarines would be used to coordinate the training and testing schedule with the submarines; an underwater telephone would be used as a backup to the acoustic communications.

Submarine activities associated with ICEX18 are classified, but generally entail safety maneuvers, active sonar use and exercise torpedo use. These maneuvers and sonar use are similar to submarine activities conducted in other undersea environments. They are being conducted in the Arctic to test their performance in a cold environment.

Submarine training and testing activities generate acoustic transmissions that may impact marine mammals. Some acoustic sources either are above the known hearing range of marine species or have narrow beam widths and short pulse lengths that would not result in effects to marine species. Potential effects from these *de minimis* sources are analyzed qualitatively in accordance with current Navy policy. Navy acoustic sources are categorized into ''bins'' based on frequency, source level, and mode of usage, as previously established by the Navy (Department of the Navy 2015). The acoustic transmissions associated

with submarine training fall within bins HF1 (hull-mounted submarine sonars that produce high-frequency (greater than 10 kilohertz (kHz) but less than 200 kHz) signals)), M3 (mid-frequency (1–10 kHz) acoustic modems greater than 190 decibel (dB) re 1micropascal (μPa)), and TORP2 (heavyweight torpedo). As, described below, transmissions are associated with discrete events that may last up to 24 hours. Time between events would not have acoustic transmissions.

Active buoys and moored sources would be used during ICEX18. One active buoy would be the Autonomous Reverberation Measurement System, which would be attached to the bottom of the ice and may be active for up to 30 days of ICEX18. Additionally, a Massachusetts Institute of Technology/Lincoln Lab vertical line array would be deployed through a hole in the ice to a source depth of 150 meters (m). This array would have continuous wave and chirp transmission capability. The continuous wave and chirp transmissions would both be active for no more than 8 days during ICEX18. Over one day of testing (*i.e.,* 24-hour period), he continuous wave source will continuously transmit for 4 hours, the chirp will then transmit for 15 seconds on and 45 seconds off for 4 hours, and the sources will then be silent for 16 hours.

The Naval Research Laboratory would also utilize an unmanned underwater vehicle for the deployment of a synthetic aperture source (SAS), which would transmit for 24 hours per day for up to 4 days. The SAS would be used to make measurements of the acoustic interaction with the ice/water interface. Source parameters, including active sonar transmissions from submarines and torpedoes, are classified. Additional details for the active sources described above can be found in Table 1.

TABLE 1—ACTIVE ACOUSTIC PARAMETERS FOR ICEX18 TRAINING AND TESTING ACTIVITIES

Command or research institution	Source name	Frequency range (kHz)	Source level (dB)	Pulse length (milli-seconds)	Duty cycle (percent)	Source type
U.S. Fleet Forces	Exercise Torpedo	Classified.				
Office of Naval Research	Autonomous Reverberation Measurement System.	3 to 6	200	1,000	1.67	Moored.
Naval Research Laboratory	SAS	Classified				Unmanned Underwater Vehicle (UUV).
Massachusetts Institute of Technology/Lincoln Labs.	Continuous Wave*	0.20 to 1.2	190	continuous	100	Moored.
	Chirp*	0.25 to 1.2	190	15,000	25	Moored.

*Both sources are located on the Massachusetts Institute of Technology/Lincoln Labs deployed vertical line array.

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

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of ringed seals (*Pusa hispida hispida*), which is the only potentially affected species. Other marine mammal species that may occur in the study area include bowhead whales (*Balaena mysticetus*), beluga whales (*Delphinapterus leucas*), and bearded seals (*Erignathus barbatus*). Bowhead whales migrate annually from wintering areas (December to March) in the northern Bering Sea, through the Chukchi Sea in the spring (April through May), to the eastern Beaufort Sea, where they spend much of the summer (June through early to mid-October) before returning again to the Bering Sea (Muto *et al.,* 2017). They are unlikely to be found in the ICEX18 study area during the February through April ICEX18 timeframe. Beluga whales follow a similar pattern, as they tend to spend winter months in the Bering Sea and migrate north to the eastern Beaufort Sea during the summer months. In the fall and winter, Bearded seals also move south with the advancing ice edge through the Bering Strait into the Bering Sea where they spend the winter (Muto *et al.* 2016). While these species are often observed in areas of sea ice, they require access to some open water (*e.g.* leads, polynyas) in order to breath. The Navy proposes to establish its ice camp and conduct operations in late winter when the extent and thickness of the Arctic ice pack is peaking. The ice camp will be located on a multi-year ice floe without cracks or leads that can support a runway for aircraft. Only ringed seals are able to create and maintain their own breathing holes and, therefore, may inhabit areas featuring thick multi-year ice. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about this species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's Web site (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 2 lists all of the species that could occur in the project area and summarizes information related to the population or stock, including regulatory status under the MMPA and the Endangered Species Act (ESA) and potential biological removal (PBR). Only the ringed seal, however, is expected to occur in the project area during the time of year when project activities would take place. 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's 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.

The marine mammal abundance estimates presented in this document represents the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. The

managed stocks in this region are assessed in NMFS's U.S. Alaska SARs (Muto *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 (Muto *et al.,* 2017) (available online at: *www.nmfs.noaa.gov/pr/sars/*)

The only species that could potentially occur in the proposed survey area is the ringed seal. Total sea ice coverage is expected across the study area during the study period which precludes the presence of other arctic marine mammal species. As described below, ringed seals temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and therefore we have proposed authorizing take.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidai						
Bowhead whale	*Balaena mysticetus*	Western Arctic	E/D;Y	16,982 (0.058, 16,091, 2011).	161	44
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae						
Beluga whale	*Delphinapterus leucas*	Beaufort Sea	-/-;N	39,258 (0.229, 32,453, 1992).	649	166
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals)						
Ringed seal	*Pusa hispida hispida*	Alaska	-/-;N	170,000 (Bering Sea and Sea of Okhotsk only)—2013).	5,100 (Bearing Sea-U.S. portion only).	1,054
Bearded seal	*Erignathus barbatus nauticus.*	Alaska	-/-;N	299,174 (–,273,676, 2012) (Bearing Sea—U.S. portion only).	8,210 (Bearing Sea—U.S. portion only).	1.4

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable [explain if this is the case]

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Note: Italicized species are not expected to be taken or proposed for authorization.

Ringed Seal

Ringed seals are found in seasonally and permanently ice-covered waters of the Northern Hemisphere (North Atlantic Marine Mammal Commission 2004). The Alaska stock of ringed seals is found in the study area. Though a reliable population estimate for the entire Alaska stock is not available, research programs have recently developed new survey methods and partial, but useful, abundance estimates. In spring of 2012 and 2013, U.S. and Russian researchers conducted aerial abundance and distribution surveys of the entire Bering Sea and Sea of Okhotsk (Moreland *et al.,* 2013). The data from these image-based surveys are still being analyzed, but Conn *et al.* (2014), using a very limited sub-sample of the data collected from the U.S. portion of the Bering Sea in 2012, calculated an abundance estimate of about 170,000 ringed seals in the U.S. EEZ of the Bering Sea in late April. This estimate does did not account for availability bias, and did not include ringed seals in the shorefast ice zone, which were surveyed using a different method. Thus, the actual number of ringed seals in the U.S. sector of the Bering Sea is likely much higher, perhaps by a factor of two or more. Using data from surveys by Bengtson *et al.* (2005) and Frost *et al.* (2004) in the late 1990s and 2000, Kelly *et al.* (2010) estimated the total population in the Alaska Chukchi and Beaufort seas to be at least 300,000 ringed seals (Muto *et al.,* 2017). This is likely an underestimate since the Beaufort Sea surveys were limited to within 40 km of shore. Current and reliable data on trends in population abundance for the Alaska stock of ringed seals are unavailable. A minimum population estimate (N_{min}) and PBR value are also unavailable. A PBR for only those ringed seals in the U.S. portion of the Bering Sea is 5,100 ringed seals. The total estimated annual level of human-caused mortality and serious injury is 1,062 (Muto *et al.,* 2016). Since the level of human-caused mortality is considerably less than the PBR, the stock is not likely to be declining due to direct human actions (*e.g.* subsistence hunting) and the stock is not listed under the MMPA as strategic. Note, however, that other non-anthropogenic factors (*e.g.* disease, decline is sea ice coverage) may influence overall stock abundance and population trends.

Throughout their range, ringed seals have an affinity for ice-covered waters and are well adapted to occupying both shore-fast and pack ice (Kelly 1988b). Ringed seals can be found further offshore than other pinnipeds since they can maintain breathing holes in ice thickness greater than 2 m (Smith and Stirling 1975). Breathing holes are maintained by ringed seals' sharp teeth and claws on their fore flippers. They remain in contact with ice most of the year and use it as a platform for molting in late spring to early summer, for pupping and nursing in late winter to early spring, and for resting at other times of the year.

Ringed seals have at least two distinct types of subnivean lairs: haul-out lairs and birthing lairs (Smith and Stirling 1975). Haul-out lairs are typically single-chambered and offer protection from predators and cold weather. Birthing lairs are larger, multi-chambered areas that are used for pupping in addition to protection from predators. Ringed seal populations pup on both land-fast ice as well as stable pack ice. Lentfer (1972) found that ringed seals north of Barrow, Alaska (west of the ice camp), build their subnivean lairs on the pack ice near pressure ridges. Since subnivean lairs were found north of Barrow, Alaska, in pack ice, they are also assumed to be found within the sea ice in the ice camp proposed action area. Ringed seals excavate subnivean lairs in drifts over their breathing holes in the ice, in which they rest, give birth, and nurse their pups for 5–9 weeks during late winter and spring (Chapskii 1940; McLaren 1958; Smith and Stirling 1975). Snow depths of at least 50–65 centimeters (cm) are required for functional birth lairs (Kelly 1988a; Lydersen 1998; Lydersen and Gjertz 1986; Smith and Stirling 1975), and such depths typically are found only where 20–30 cm or more of snow has accumulated on flat ice and then drifted along pressure ridges or ice hummocks (Hammill 2008; Lydersen *et al.,* 1990; Lydersen and Ryg 1991; Smith and Lydersen 1991). Ringed seals are born beginning in March, but the majority of births occur in early April. About a month after parturition, mating begins in late April and early May.

In Alaskan waters, during winter and early spring when sea ice is at its maximal extent, ringed seals are abundant in the northern Bering Sea, Norton and Kotzebue Sounds, and throughout the Chukchi and Beaufort Seas (Frost 1985; Kelly 1988b) and, therefore, are found in the study area (Figure 2–1 in Application). Passive acoustic monitoring of ringed seals from a high frequency recording package deployed at a depth of 240 m in the Chukchi Sea 120 km north- northwest of Barrow, Alaska, detected ringed seals in the area between mid- December and late May over the four year study (Jones *et al.,* 2014). With the onset of the fall freeze, ringed seal movements become increasingly restricted and seals will either move west and south with the advancing ice pack with many seals dispersing throughout the Chukchi and Bering Seas, or remain in the Beaufort Sea (Crawford *et al.,* 2012; Frost and Lowry 1984; Harwood *et al.,* 2012). Kelly *et al,* (2010) tracked home ranges for ringed seals in the subnivean period (using shorefast ice); the size of the home ranges varied from less than 1 up to 27.9 km^2; (median is 0.62 km^2 for adult males and 0.65 km^2 for adult females). Most (94 percent) of the home ranges were less than 3 km^2 during the subnivean period (Kelly *et al.,* 2010). Near large polynyas, ringed seals maintain ranges up to 7,000 km^2 during winter and 2,100 km^2 during spring (Born *et al.,* 2004). Some adult ringed seals return to the same small home ranges they occupied during the previous winter (Kelly *et al.,* 2010). The size of winter home ranges can, however, vary by up to a factor of 10 depending on the amount of fast ice; seal movements were more restricted during winters with extensive fast ice, and were much less restricted where fast ice did not form at high levels. Ringed seals may occur within the study area throughout the year and during the proposed action.

In general, ringed seals prey on fish and crustaceans. Ringed seals are known to consume up to 72 different species in their diet; their preferred prey species is the polar cod (Jefferson *et al.,* 2008). Ringed seals also prey upon a variety of other members of the cod family, including Arctic cod (Holst *et al.,* 2001) and saffron cod, with the latter being particularly important during the summer months in Alaskan waters (Lowry *et al.,* 1980). Invertebrate prey seems to become prevalent in the ringed seals diet during the open-water season and often dominates the diet of young animals (Holst *et al.,* 2001; Lowry *et al.,* 1980). Large amphipods (*e.g., Themisto libellula*), krill (*e.g., Thysanoessa inermis*), mysids (*e.g., Mysis oculata*), shrimps *(e.g., Pandalus* spp., *Eualus* spp., *Lebbeus polaris,* and *Crangon septemspinosa*), and cephalopods (*e.g., Gonatus* spp.) are also consumed by ringed seals.

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. 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;
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz, with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009b; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of

available information. As noted previously a single phocid species, ringed seal, has the reasonable potential to co-occur with the proposed survey activities.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section 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 Sound Sources

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.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. RMS is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,*1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). Under sea ice, noise generated by ice deformation and ice fracturing may be caused by thermal, wind, drift and current stresses (Roth *et al.,* 2012).
- *Precipitation:* Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. In the ice-covered study area, precipitation is unlikely to impact ambient sound.
- *Biological:* Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.
- *Anthropogenic:* Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound. Anthropogenic sources are unlikely to significantly contribute to ambient underwater noise during the late winter and early spring in the study area as most anthropogenic activities will not be active due to ice cover (*e.g.* seismic surveys, shipping) (Roth *et al.,* 2012).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a

distinctive signal that may affect marine mammals.

Underwater sounds fall into one of two general sound types: Pulsed and non-pulsed (defined in the following paragraphs). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI 1986; Harris 1998; NIOSH 1998; ISO 2003; ANSI 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features. There are no pulsed sound sources associated with any planned ICEX18 activities.

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 planned for use by the U.S. Navy as part of the proposed action. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Modern sonar technology includes a variety of sonar sensor and processing systems. In concept, the simplest active sonar emits sound waves, or ''pings,'' sent out in multiple directions, and the sound waves then reflect off of the target object in multiple directions. The sonar source calculates the time it takes for the reflected sound waves to return; this calculation determines the distance to the target object. More sophisticated active sonar systems emit a ping and then rapidly scan or listen to the sound waves in a specific area. This provides both distance to the target and directional information. Even more advanced sonar systems use multiple receivers to listen to echoes from several directions simultaneously and provide efficient detection of both direction and distance. In general, when sonar is in use, the sonar 'pings' occur at intervals, referred to as a duty cycle, and the signals themselves are very short in duration. For example, sonar that emits a 1-second ping every 10 seconds has a 10 percent duty cycle. The Navy's most powerful hull-mounted mid-frequency sonar source typically emits a 1-second ping every 50 seconds representing a 2 percent duty cycle. The Navy utilizes sonar systems and other acoustic sensors in support of a variety of mission requirements.

Acoustic Impacts

Please refer to the information given previously regarding sound, characteristics of sound types, and metrics used in this document. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Gotz *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. In this section, we first describe specific manifestations of acoustic effects before providing discussion specific to the proposed activities in the next section.

Permanent Threshold Shift—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or (TTS, in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.,* 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above (a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.,* Southall *et al.,* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as impact pile driving pulses as received close to the source) are at least six dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007).

Temporary threshold shift—TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS

in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus),* beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and three species of pinnipeds (northern elephant seal (*Mirounga angustirostris*), harbor seal, and California sea lion (*Zalophus californianus*)) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran 2015). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), and Finneran *et al.* (2015).

Behavioral effects—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.* 1995; NRC 2003; Wartzok *et al.* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.* 1997; Finneran *et al.* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007; NRC 2003). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark 2000; Costa *et al.,* 2003; Ng and Leung, 2003; Nowacek *et al.,* 2004; Goldbogen *et al.,* 2013). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.;* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005b, 2006; Gailey *et al.,* 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can

occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007b). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006).

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.

For non-impulsive sounds (*i.e.,* similar to the sources used during the proposed action), data suggest that exposures of pinnipeds to sources between 90 and 140 dB re 1 μPa do not elicit strong behavioral responses; no data were available for exposures at higher received levels for Southall *et al.* (2007) to include in the severity scale analysis. Reactions of harbor seals were the only available data for which the responses could be ranked on the severity scale. For reactions that were recorded, the majority (17 of 18 individuals/groups) were ranked on the severity scale as a 4 (defined as moderate change in movement, brief shift in group distribution, or moderate change in vocal behavior) or lower; the remaining response was ranked as a 6 (defined as minor or moderate avoidance of the sound source). Additional data on hooded seals (*Cystophora cristata*) indicate avoidance responses to signals above 160–170 dB re 1 μPa (Kvadsheim *et al.,* 2010), and data on grey (*Halichoerus grypus*) and harbor seals indicate avoidance response at received levels of 135–144 dB re 1 μPa (Götz *et al.,* 2010). In each instance where food was available, which provided the seals motivation to remain near the source, habituation to the signals occurred rapidly. In the same study, it was noted that habituation was not apparent in wild seals where no food source was available (Götz *et al.* 2010). This implies that the motivation of the animal is necessary to consider in determining the potential for a reaction. In one study aimed to investigate the under-ice movements and sensory cues associated with under-ice navigation of ice seals, acoustic transmitters (60–69 kHz at 159 dB re 1 μPa at 1 m) were attached to ringed seals (Wartzok *et al.,* 1992a; Wartzok *et al.,* 1992b). An acoustic tracking system then was installed in the ice to receive the acoustic signals and provide real-time tracking of ice seal movements. Although the frequencies used in this study are at the upper limit of ringed seal hearing, the ringed seals appeared unaffected by the acoustic transmissions, as they were able to maintain normal behaviors (*e.g.,* finding breathing holes).

Seals exposed to non-impulsive sources with a received sound pressure level within the range of calculated exposures, (142–193 dB re 1 μPa), have been shown to change their behavior by modifying diving activity and avoidance of the sound source (Götz *et al.,* 2010; Kvadsheim *et al.,* 2010). Although a minor change to a behavior may occur as a result of exposure to the sources in the Proposed Action, these changes would be within the normal range of behaviors for the animal (*e.g.,* the use of a breathing hole further from the source, rather than one closer to the source, would be within the normal range of behavior) (Kelly *et al.* 1988).

Adult ringed seals spend up to 20 percent of the time in subnivean lairs during the timeframe of the proposed action (Kelly *et al.,* 2010a). Ringed seal pups spend about 50 percent of their time in the lair during the nursing period (Lydersen and Hammill 1993). Ringed seal lairs are typically used by individual seals (haul-out lairs) or by a mother with a pup (birthing lairs); large

lairs used by many seals for hauling out are rare (Smith and Stirling 1975). Although the exact amount of transmission loss of sound traveling through ice and snow is unknown, it is clear that sound attenuation would occur due to the environment itself. Due to the significant attenuation of sound through the water (ice)/air interface, any potential sound entering a lair would be below the behavioral threshold and would not result in take. In-air (*i.e.,* in the subnivean lair), the best hearing sensitivity for ringed seals has been documented between 3 and 5 kHz; at higher frequencies, the hearing threshold rapidly increases (Sills *et al.,* 2015).

If the acoustic transmissions are heard and are perceived as a threat, ringed seals within subnivean lairs could react to the sound in a similar fashion to their reaction to other threats, such as polar bears (*Ursus maritimus*) and Arctic foxes (*Vulpes lagopus*), although the type of sound would be novel to them. Responses of ringed seals to a variety of human-induced noises (*e.g.,* helicopter noise, snowmobiles, dogs, people, and seismic activity) have been variable; some seals entered the water and some seals remained in the lair (Kelly *et al.,* 1988). However, in all instances in which observed seals departed lairs in response to noise disturbance, they subsequently reoccupied the lair (Kelly *et al.,* 1988).

Ringed seal mothers have a strong bond with their pups and may physically move their pups from the birth lair to an alternate lair to avoid predation, sometimes risking their lives to defend their pups from potential predators (Smith 1987). Additionally, it is not unusual to find up to three birth lairs within 100 m of each other, probably made by the same female seal, as well as one or more haul-out lairs in the immediate area (Smith *et al.,* 1991). If a ringed seal mother perceives the acoustic transmissions as a threat, the network of multiple birth and haul-out lairs allows the mother and pup to move to a new lair (Smith and Hammill 1981; Smith and Stirling 1975). However, the acoustic transmissions are unlike the low frequency sounds and vibrations felt from approaching predators. Additionally, the acoustic transmissions are not likely to impede a ringed seal from finding a breathing hole or lair, as captive seals have been found to primarily use vision to locate breathing holes and no effect to ringed seal vision would occur from the acoustic transmissions (Elsner *et al.,* 1989; Wartzok *et al.,* 1992a). It is anticipated that a ringed seal would be able to relocate to a different breathing hole relatively easily without impacting their normal behavior patterns.

Stress responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle 1950; Moberg 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds

such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007b; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Potential Effects of Sonar on Prey—Ringed seals feed on marine invertebrates and fish. Marine invertebrates occur in the world's oceans, from warm shallow waters to cold deep waters, and are the dominant animals in all habitats of the study area. Although most species are found within the benthic zone, marine invertebrates can be found in all zones (sympagic (within the sea ice), pelagic (open ocean), or benthic (bottom dwelling)) of the Beaufort Sea (Josefson *et al.,* 2013). The diverse range of species include oysters, crabs, worms, ghost shrimp, snails, sponges, sea fans, isopods, and stony corals (Chess and Hobson 1997; Dugan *et al.,* 2000; Proctor *et al.,* 1980).

Hearing capabilities of invertebrates are largely unknown (Lovell *et al.,* 2005; Popper and Schilt 2008). Outside of studies conducted to test the sensitivity of invertebrates to vibrations, very little is known on the effects of anthropogenic underwater noise on invertebrates (Edmonds *et al.,* 2016). While data are limited, research suggests that some of the major cephalopods and decapods may have limited hearing capabilities (Hanlon 1987; Offutt 1970), and may hear only low-frequency (less than 1 kHz) sources (Offutt 1970), which is most likely within the frequency band of biological signals (Hill 2009). In a review of crustacean sensitivity of high amplitude underwater noise by Edmonds *et al.* (2016), crustaceans may be able to hear the frequencies at which they produce sound, but it remains unclear which noises are incidentally produced and if there are any negative effects from masking them. Acoustic signals produced by crustaceans range from low frequency rumbles (20–60 Hz) to high frequency signals (20–55 kHz) (Henninger and Watson 2005; Patek and Caldwell 2006; Staaterman *et al.,* 2016). Aquatic invertebrates that can sense local water movements with ciliated cells include cnidarians, flatworms, segmented worms, urochordates (tunicates), mollusks, and arthropods (Budelmann 1992a, 1992b; Popper *et al.,* 2001). Some aquatic invertebrates have specialized organs called statocysts for determination of equilibrium and, in some cases, linear or angular acceleration. Statocysts allow an animal to sense movement and may enable some species, such as cephalopods and crustaceans, to be sensitive to water particle movements associated with sound (Goodall *et al.,* 1990; Hu *et al.,* 2009; Kaifu *et al.,* 2008; Montgomery *et al.,* 2006; Popper *et al.,* 2001; Roberts and Breithaupt 2016; Salmon 1971). Because any acoustic sensory capabilities, if present at all, are limited to detecting water motion, and water particle motion near a sound source falls off rapidly with distance, aquatic invertebrates are probably limited to detecting nearby sound sources rather than sound caused by pressure waves from distant sources.

Studies of sound energy effects on invertebrates are few, and identify only behavioral responses. Non-auditory injury, permanent threshold shift, temporary threshold shift, and masking studies have not been conducted for invertebrates. Both behavioral and auditory brainstem response studies suggest that crustaceans may sense frequencies up to 3 kHz, but best sensitivity is likely below 200 Hz (Goodall *et al.,* 1990; Lovell *et al.,* 2005; Lovell *et al.,* 2006). Most cephalopods likely sense low-frequency sound below 1 kHz, with best sensitivities at lower frequencies (Budelmann 2010; Mooney *et al.,* 2010; Offutt 1970). A few cephalopods may sense higher frequencies up to 1,500 Hz (Hu *et al.,* 2009).

It is expected that most marine invertebrates would not sense the frequencies of the sonar associated with the proposed action. Most marine invertebrates would not be close enough to active sonar systems to potentially experience impacts to sensory structures. Any marine invertebrate capable of sensing sound may alter its behavior if exposed to sonar. Although acoustic transmissions produced during the proposed action may briefly impact individuals, intermittent exposures to sonar are not expected to impact survival, growth, recruitment, or reproduction of widespread marine invertebrate populations.

The fish species located in the study area include those that are closely associated with the deep ocean habitat of the Beaufort Sea. Nearly 250 marine fish species have been described in the Arctic, excluding the larger parts of the sub-Arctic Bering, Barents, and Norwegian Seas (Mecklenburg *et al.,* 2011). However, only about 30 are known to occur in the Arctic waters of the Beaufort Sea (Christiansen and Reist 2013). Largely because of the difficulty of sampling in remote, ice-covered seas, many high-Arctic fish species are known only from rare or geographically patchy records (Mecklenburg *et al.,* 2011). Aquatic systems of the Arctic undergo extended seasonal periods of ice cover and other harsh environmental conditions. Fish inhabiting such systems must be biologically and ecologically adapted to surviving such conditions. Important environmental factors that Arctic fish must contend with include reduced light, seasonal darkness, ice cover, low biodiversity, and low seasonal productivity.

All fish have two sensory systems to detect sound in the water: The inner ear, which functions very much like the inner ear in other vertebrates, and the lateral line, which consists of a series of receptors along the fish's body (Popper and Fay 2010; Popper *et al.,* 2014). The inner ear generally detects relatively higher-frequency sounds, while the lateral line detects water motion at low frequencies (below a few hundred Hz) (Hastings and Popper 2005). Lateral line receptors respond to the relative motion between the body surface and surrounding water; this relative motion, however, only takes place very close to sound sources and most fish are unable to detect this motion at more than one to two body lengths distance away (Popper *et al.,* 2014). Although hearing capability data only exist for fewer than 100 of the 32,000 fish species, current data suggest that most species of fish

detect sounds from 50 to 1,000 Hz, with few fish hearing sounds above 4 kHz (Popper 2008). It is believed that most fish have their best hearing sensitivity from 100 to 400 Hz (Popper 2003). Permanent hearing loss has not been documented in fish. A study by Halvorsen *et al.* (2012) found that for temporary hearing loss or similar negative impacts to occur, the noise needed to be within the fish's individual hearing frequency range; external factors, such as developmental history of the fish or environmental factors, may result in differing impacts to sound exposure in fish of the same species. The sensory hair cells of the inner ear in fish can regenerate after they are damaged, unlike in mammals where sensory hair cells loss is permanent (Lombarte *et al.,* 1993; Smith *et al.,* 2006). As a consequence, any hearing loss in fish may be as temporary as the timeframe required to repair or replace the sensory cells that were damaged or destroyed (Smith *et al.,* 2006), and no permanent loss of hearing in fish would result from exposure to sound.

Fish species in the study area are expected to hear the low-frequency sources associated with the proposed action, but most are not expected to detect sounds above this threshold. Only a few fish species are able to detect mid-frequency sonar above 1 kHz and could have behavioral reactions or experience auditory masking during these activities. These effects are expected to be transient and long-term consequences for the population are not expected. Fish with hearing specializations capable of detecting high-frequency sounds are not expected to be within the study area. If hearing specialists were present, they would have to be in close vicinity to the source to experience effects from the acoustic transmission. Human-generated sound could alter the behavior of a fish in a manner that would affect its way of living, such as where it tries to locate food or how well it can locate a potential mate; behavioral responses to loud noise could include a startle response, such as the fish swimming away from the source, the fish ''freezing'' and staying in place, or scattering (Popper 2003). Auditory masking could also interfere with a fish's ability to hear biologically relevant sounds, inhibiting the ability to detect both predators and prey, and impacting schooling, mating, and navigating (Popper 2003). If an individual fish comes into contact with low-frequency acoustic transmissions and is able to perceive the transmissions, they are expected to exhibit short-term behavioral reactions, when initially exposed to acoustic transmissions, which would not significantly alter breeding, foraging, or populations. Overall effects to fish from active sonar sources would be localized, temporary, and infrequent.

Effects to Physical and Foraging Habitat—Unless the sound source is stationary and/or continuous over a long duration in one area, neither of which applies to ICEX18 activities, the effects of the introduction of sound into the environment are generally considered to have a less severe impact on marine mammal habitat compared to any physical alteration of the habitat. Acoustic exposures are not expected to result in long-term physical alteration of the water column or bottom topography as the occurrences are of limited duration and would occur intermittently. Acoustic transmissions also would have no structural impact to subnivean lairs in the ice. Furthermore, since ice dampens acoustic transmissions (Richardson *et al.,* 1995) the level of sound energy that reaches the interior of a subnivean lair will be less than that ensonifying water under surrounding ice.

Non-acoustic Impacts—Deployment of the ice camp could potentially affect ringed seal habitat by physically damaging or crushing subnivean lairs. These non-acoustic impacts could result in ringed seal injury or mortality. However, seals usually choose to locate lairs near pressure ridges and the ice camp will be deployed in an area without pressure ridges in order to allow operation of an aircraft runway. Further, portable tents will be erected for lodging and operations purposes. Tents do not require building materials or typical construction methods. The tents are relatively easy to mobilize and will not be situated near areas featuring pressure ridges. Finally, the camp buildup will be gradual, with activity increasing over the first five days. This approach allows seals to move to different lair locations outside the ice camp area. Based on this information, we do not anticipate any damage to subnivean lairs that could result in ringed seal injury or mortality.

ICEX18 personnel will be actively conducting testing and training operations on the sea ice and will travel around the camp area, including the runway, on snowmobiles. Although the Navy does not anticipate observing any seals on the ice, it is possible that the presence of active humans could behaviorally disturb ringed seals that are in lairs or on the ice. As discussed above, the camp will not be deployed in areas with pressure ridges and seals will have opportunity to move away from disturbances associated with human activity. Furthermore, camp personnel will maintain a 100-meter avoidance distance for all marine mammals on the ice. Based on this information, we do not believe the presence of humans on ice will result in take.

Our preliminary determination of effects to the physical environment includes minimal possible impacts to ringed seals and ringed seal habitat from camp operation or deployment activities. In summary, given the relatively short duration of submarine testing and training activities, relatively small area that would be affected, and lack of physical impacts to habitat, the proposed actions are not likely to have a permanent, adverse effect on populations of prey species or marine mammal habitat. Therefore, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual ringed seals 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 the negligible impact determination.

Harassment is the only type of take expected to result from these activities. For this military readiness activity, the MMPA defines ''harassment'' as: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns and TTS, for individual marine mammals resulting from exposure to acoustic transmissions. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized. However, as described previously, no serious injury or 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. For the proposed IHA, the Navy employed a sophisticated model known as the Navy Acoustic Effects Model (NAEMO) for assessing the impacts of underwater sound.

Acoustic Thresholds

Using the best available science, NMFS recommends acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to incur PTS of some degree (equated to Level A harassment), TTS, or behavioral harassment (Level B harassment). The thresholds used to predict occurrences of each type of take are described below.

Behavioral harassment—In coordination with NMFS, the Navy developed behavioral harassment thresholds to support Phase III environmental analyses and MMPA Letter of Authorization renewals for the Navy's testing and training military readiness activities; these behavioral harassment thresholds are being proposed for use here to evaluate the potential effects of this proposed action. The response of a marine mammal to an anthropogenic sound will depend on the frequency, duration, temporal pattern and amplitude of the sound as well as the animal's prior experience with the sound and the context in which the sound is encountered (*i.e.,* what the animal is doing at the time of the exposure). The distance from the sound source and whether it is perceived as approaching or moving away can also affect the way an animal responds to a sound (Wartzok *et al.* 2003). For marine mammals, a review of responses to anthropogenic sound was first conducted by Richardson *et al.* (1995). Reviews by Nowacek *et al.* (2007) and Southall *et al.* (2007) address studies conducted since 1995 and focus on observations where the received sound level of the exposed marine mammal(s) was known or could be estimated. Multi-year research efforts have conducted sonar exposure studies for odontocetes and mysticetes (Miller *et al.* 2012; Sivle *et al.* 2012). Several studies with captive animals have provided data under controlled circumstances for odontocetes and pinnipeds (Houser *et al.* 2013a; Houser *et al.* 2013b). Moretti *et al.* (2014) published a beaked whale dose-response curve based on passive acoustic monitoring of beaked whales during U.S. Navy training activity at Atlantic Underwater Test and Evaluation Center during actual Anti-Submarine Warfare exercises. This new information necessitated the update of the Navy's behavioral response criteria for the Phase III environmental analyses.

Southall *et al.* (2007) synthesized data from many past behavioral studies and observations to determine the likelihood of behavioral reactions at specific sound levels. While in general, the louder the sound source the more intense the behavioral response, it was clear that the proximity of a sound source and the animal's experience, motivation, and conditioning were also critical factors influencing the response (Southall *et al.* 2007). After examining all of the available data, the authors felt that the derivation of thresholds for behavioral response based solely on exposure level was not supported because context of the animal at the time of sound exposure was an important factor in estimating response. Nonetheless, in some conditions, consistent avoidance reactions were noted at higher sound levels depending on the marine mammal species or group allowing conclusions to be drawn. Phocid seals showed avoidance reactions at or below 190 dB re 1 µPa @1m; thus, seals may actually receive levels adequate to produce TTS before avoiding the source.

The Navy's Phase III proposed pinniped behavioral threshold has been updated based on controlled exposure experiments on the following captive animals: Hooded seal, gray seal, and California sea lion (Götz *et al.* 2010; Houser *et al.* 2013a; Kvadsheim *et al.* 2010). Overall exposure levels were 110–170 dB re 1 µPa for hooded seals, 140–180 dB re 1 µPa for gray seals and 125–185 dB re 1 µPa for California sea lions; responses occurred at received levels ranging from 125 to 185 dB re 1 µPa. However, the means of the response data were between 159 and 170 dB re 1 µPa. Hooded seals were exposed to increasing levels of sonar until an avoidance response was observed, while the grey seals were exposed first to a single received level multiple times, then an increasing received level. Each individual California sea lion was exposed to the same received level ten times. These exposure sessions were combined into a single response value, with an overall response assumed if an animal responded in any single session. Because these data represent a dose-response type relationship between received level and a response, and because the means were all tightly clustered, the Bayesian biphasic Behavioral Response Function for pinnipeds most closely resembles a traditional sigmoidal dose-response function at the upper received levels and has a 50% probability of response at 166 dB re 1 µPa. Additional details regarding the Phase III criteria may be found in the technical report, Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (2017a) which may be found at: *http://aftteis.com/Portals/3/docs/newdocs/Criteria%20and%20Thresholds_TR_Submittal_05262017.pdf.* This technical report was as part of the Navy's Atlantic Fleet Training and Testing Draft Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) (Navy 2017b) which is located at: *http://www.aftteis.com/.* NMFS is proposing the use of this dose response function to predict behavioral harassment of pinnipeds for this activity.

Level A harassment and TTS—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 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).

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. 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.*

The PTS/TTS analyses begins with mathematical modeling to predict the sound transmission patterns from Navy sources, including sonar. These data are then coupled with marine species distribution and abundance data to determine the sound levels likely to be received by various marine species. These criteria and thresholds are applied to estimate specific effects that animals exposed to Navy-generated sound may experience. For weighting function derivation, the most critical data required are TTS onset exposure levels as a function of exposure frequency. These values can be estimated from published literature by examining TTS as a function of sound exposure level (SEL) for various frequencies.

To estimate TTS onset values, only TTS data from behavioral hearing tests

were used. To determine TTS onset for each subject, the amount of TTS observed after exposures with different SPLs and durations were combined to create a single TTS growth curve as a function of SEL. The use of (cumulative) SEL is a simplifying assumption to accommodate sounds of various SPLs, durations, and duty cycles. This is referred to as an ''equal energy'' approach, since SEL is related to the energy of the sound and this approach assumes exposures with equal SEL result in equal effects, regardless of the duration or duty cycle of the sound. It is well known that the equal energy rule will over-estimate the effects of intermittent noise, since the quiet periods between noise exposures will allow some recovery of hearing compared to noise that is continuously present with the same total SEL (Ward 1997). For continuous exposures with the same SEL but different durations, the exposure with the longer duration will also tend to produce more TTS (Finneran *et al.,* 2010; Kastak *et al.,* 2007; Mooney *et al.,* 2009a).

As in previous acoustic effects analysis (Finneran and Jenkins 2012; Southall *et al.,* 2007), the shape of the PTS exposure function for each species group is assumed to be identical to the TTS exposure function for each group. A difference of 20 dB between TTS onset and PTS onset is used for all marine mammals including pinnipeds. This is based on estimates of exposure levels actually required for PTS (*i.e.,* 40 dB of TTS) from the marine mammal TTS growth curves, which show differences of 13 to 37 dB between TTS and PTS onset in marine mammals. Details regarding these criteria and thresholds can be found in NMFS' Technical Guidance (NMFS 2016).

Table 3 below provides the weighted criteria and thresholds used in this analysis for estimating quantitative acoustic exposures of marine mammals from the proposed action.

TABLE 3—INJURY (PTS) AND DISTURBANCE (TTS, BEHAVIORAL) THRESHOLDS FOR UNDERWATER SOUNDS

Group	Species	Behavioral criteria	Physiological criteria	
			Onset TTS	Onset PTS
Phocid (in water)	Ringed seal	Pinniped Dose Response Function.	181 dB SEL cumulative	201 dB SEL cumulative.

Quantitative Modeling

The Navy performed a quantitative analysis to estimate the number of mammals that could be harassed by the underwater acoustic transmissions during the proposed action. Inputs to the quantitative analysis included marine mammal density estimates, marine mammal depth occurrence distributions (Navy 2017a), oceanographic and environmental data, marine mammal hearing data, and criteria and thresholds for levels of potential effects.

The density estimate used to estimate take is derived from habitat-based modeling by Kaschner *et al.,* (2006) and Kaschner (2004). The area of the Arctic where the proposed action will occur (100–200 nm north of Prudhoe Bay, Alaska) has not been surveyed in a manner that supports quantifiable density estimation of marine mammals. In the absence of empirical survey data, information on known or inferred associations between marine habitat features and (the likelihood of) the presence of specific species have been used to predict densities using model-based approaches. These habitat suitability models include relative environmental suitability (RES) models. Habitat suitability models can be used to understand the possible extent and relative expected concentration of a marine species distribution. These models are derived from an assessment of the species occurrence in association with evaluated environmental explanatory variables that results in defining the RES suitability of a given environment. A fitted model that quantitatively describes the relationship of occurrence with the environmental variables can be used to estimate unknown occurrence in conjunction with known habitat suitability. Abundance can thus be estimated for each RES value based on the values of the environmental variables, providing a means to estimate density for areas that have not been surveyed. Use of the Kaschner's RES model resulted in a value of 0.3957 animals per km² in the cold season (defined as December through May). The density numbers are assumed static throughout the ice camp proposed action area for this species. The density data generated for this species was based on environmental variables known to exist within the proposed ice camp action area during the late winter/early springtime period.

Note that while other surveys by Frost *et al.* (2004) and Bengston *et al.* (2005) provided ringed seal density estimates for areas near or within the Beaufort Sea, the Navy felt that those findings were not applicable to the proposed action area. Frost *et al.* (2004) only surveyed ringed seals out to 40 km from shore in the Beaufort Sea. A small portion of the surveys from Bengston *et al.* (2005) were out to a maximum extent of 185 km (100 nm) from shore, but the surveys were located within the Chukchi Sea, not the Beaufort Sea. Frost *et al.* (2004) also stated the highest densities of ringed seals were in water depths from 5–25 m (1–1.33 seals per km²). Lower densities were seen in waters greater than 35 m in depth (0–0.77 seals per km²).The proposed action area where acoustic transmissions would occur is 3,000 to 4,000 m deep (International Bathymetric Chart of the Arctic Ocean 2015), which makes the bathymetric nature of the areas different enough to be non-comparable. Furthermore, the ice camp is located on multi-year ice and would not be located near the ice edge. Frost *et al.* (2004), and Bengston *et al.* (2005) both had a high percentage of fast or pack ice in their survey area which would not be present in the proposed action area. Additionally, there were areas of cracked ice that were part of the surveys. As previously noted, the ice camp needs to be situated in an area without cracks in the ice. After reviewing both Frost *et al.* (2004) and Bengston *et al.* (2005) NMFS agrees with the Navy that the density data from the RES model provides the most appropriate density values to be assessed for acoustic transmissions during ICEX18.

The quantitative analysis consists of computer modeled estimates and a post-model analysis to determine the number of potential animal exposures. The model calculates sound energy propagation from the proposed active acoustic sources, the sound received by animat (virtual animal) dosimeters representing marine mammals distributed in the area around the modeled activity, and whether the sound received by a marine mammal exceeds the thresholds for effects.

The Navy developed a set of software tools and compiled data for estimating

acoustic effects on marine mammals without consideration of behavioral avoidance or Navy's standard mitigations. These tools and data sets serve are integral components of NAEMO. In NAEMO, animats are distributed nonuniformly based on species-specific density, depth distribution, and group size information and animats record energy received at their location in the water column. A fully three-dimensional environment is used for calculating sound propagation and animat exposure in NAEMO. Site-specific bathymetry, sound speed profiles, wind speed, and bottom properties are incorporated into the propagation modeling process. NAEMO calculates the likely propagation for various levels of energy (sound or pressure) resulting from each source used during the training event.

NAEMO then records the energy received by each animat within the energy footprint of the event and calculates the number of animats having received levels of energy exposures that fall within defined impact thresholds. Predicted effects on the animats within a scenario are then tallied and the highest order effect (based on severity of criteria; *e.g.,* PTS over TTS) predicted for a given animat is assumed. Each scenario or each 24-hour period for scenarios lasting greater than 24 hours is independent of all others, and therefore, the same individual marine animal could be impacted during each independent scenario or 24-hour period. In few instances, although the activities themselves all occur within the study area, sound may propagate beyond the boundary of the study area. Any exposures occurring outside the boundary of the study area are counted as if they occurred within the study area boundary. NAEMO provides the initial estimated impacts on marine species with a static horizontal distribution.

There are limitations to the data used in the acoustic effects model, and the results must be interpreted within these context. While the most accurate data and input assumptions have been used in the modeling, when there is a lack of definitive data to support an aspect of the modeling, modeling assumptions believed to overestimate the number of exposures have been chosen:

- Animats are modeled as being underwater, stationary, and facing the source and therefore always predicted to receive the maximum sound level (*i.e.,* no porpoising or pinnipeds' heads above water);
- Animats do not move horizontally (but change their position vertically within the water column), which may overestimate physiological effects such as hearing loss, especially for slow moving or stationary sound sources in the model;
- Animats are stationary horizontally and therefore do not avoid the sound source, unlike in the wild where animals would most often avoid exposures at higher sound levels, especially those exposures that may result in PTS;
- Multiple exposures within any 24-hour period are considered one continuous exposure for the purposes of calculating the temporary or permanent hearing loss, because there are not sufficient data to estimate a hearing recovery function for the time between exposures; and
- Mitigation measures that are implemented were not considered in the model. In reality, sound-producing activities would be reduced, stopped, or delayed if marine mammals are detected by submarines via passive acoustic monitoring.

Because of these inherent model limitations and simplifications, model-estimated results must be further analyzed, considering such factors as the range to specific effects, avoidance, and the likelihood of successfully implementing mitigation measures. This analysis uses a number of factors in addition to the acoustic model results to predict acoustic effects on marine mammals.

For non-impulsive sources, NAEMO calculates the sound pressure level (SPL) and SEL for each active emission over the entire duration of an event. These data are then processed using a bootstrapping routine to compute the number of animats exposed to SPL and SEL in 1 dB bins across all track iterations and population draws. (Bootstrapping is a type of resampling where large numbers of smaller samples of the same size are repeatedly drawn, with replacement, from a single original sample.) SEL is checked during this process to ensure that all animats are grouped in either an SPL or SEL category. A mean number of SPL and SEL exposures are computed for each 1 dB bin. The mean value is based on the number of animats exposed at that dB level from each track iteration and population draw. The behavioral risk function curve is applied to each 1 dB bin to compute the number of behaviorally exposed animats per bin. The number of behaviorally exposed animats per bin is summed to produce the total number of behavior exposures.

Mean 1 dB bin SEL exposures are then summed to determine the number of PTS and TTS exposures. PTS exposures represent the cumulative number of animats exposed at or above the PTS threshold. The number of TTS exposures represents the cumulative number of animats exposed at or above the TTS threshold and below the PTS threshold. Animats exposed below the TTS threshold were grouped in the SPL category.

Platforms such as a submarine using one or more sound sources are modeled in accordance with relevant vehicle dynamics and time durations by moving them across an area whose size is representative of the training event's operational area. For analysis purposes, the Navy uses distance cutoffs, which is the maximum distance a Level B take would occur, beyond which the potential for significant behavioral responses is considered unlikely. For animals located beyond the range to effects, no significant behavioral responses are predicted. This is based on the Navy's Phase III environmental analysis (Navy 2017a). The Navy referenced Southall *et al.* (2007) who reported that pinnipeds do not exhibit strong reactions to SPLs up to 140 dB re 1 µPa from steady state (non-impulsive) sources. In some cases, pinnipeds tolerate impulsive exposures up to 180 dB re 1 µPa with limited avoidance noted (Southall *et al.,* 2007), and no avoidance noted at distances as close as 42 m (Jacobs & Terhune 2002). While limited data exists on pinniped behavioral responses beyond 3 km in the water, the data that is available suggest that most pinnipeds likely do not exhibit significant behavioral reactions to sonar and other transducers beyond a few kilometers, independent of received levels of sound (Navy 2017a). Therefore, in the Navy's Phase III environmental analysis, the range to effects for pinnipeds is set at 5 km for moderate source level, single platform training and testing events and 10 km for all other events with multiple sonar platforms or sonar with source levels at or exceeding 215 dB re 1 µPa @1 m. Regardless of the source level, take beyond 10 km is not anticipated. These ranges are expected to reasonably contain the anticipated effects predicted by the behavioral response dose curve threshold reference above.

For ICEX18 unclassified sources (*i.e.* Autonomous Reverberation Measurement System and MIT/Lincoln Labs continuous wave/chirp), the Navy models calculated a propagation loss measurement of 13.5 km from the source to the 120 dB re 1 µPa SPL isopleth; 1.5 km from the source to the 130 dB re 1 µPa SPL isopleth; and 400 m from the source to the 140 dB dB re 1 µPa SPL isopleth. Propagation loss measurements cannot be provided for classified sources. However, the ranges

in Table 4 provide realistic maximum distances over which the specific effects from the use of all active acoustic sources during the proposed action would be possible. Based on the information provided, NMFS is confident that the 10km zone safely encompasses the area in which Level B harassment can be expected from all active acoustic sources.

TABLE 4—RANGE TO TEMPORARY THRESHOLD SHIFT AND BEHAVIORAL EFFECTS IN THE ICEX18 STUDY AREA

Source/exercise	Maximum range to Level B takes cold season (m)	
	Behavioral	TTS
Submarine Exercise	10,000	100
Autonomous Reverberation Measurement System	10,000	<50
Massachusetts Institute of Technology/Lincoln Labs Continuous Wave/chirp	10,000	<50
Naval Research Laboratory Synthetic Aperture Sonar	10,000	90

As discussed above, within NAEMO animats do not move horizontally or react in any way to avoid sound. Furthermore, mitigation measures that are implemented during training or testing activities that reduce the likelihood of physiological impacts are not considered in quantitative analysis. Therefore, the current model overestimates acoustic impacts, especially physiological impacts near the sound source. The behavioral criteria used as a part of this analysis acknowledges that a behavioral reaction is likely to occur at levels below those required to cause hearing loss (TTS or PTS). At close ranges and high sound levels approaching those that could cause PTS, avoidance of the area immediately around the sound source is the assumed behavioral response for most cases.

In previous environmental analyses, the Navy has implemented analytical factors to account for avoidance behavior and the implementation of mitigation measures. The application of avoidance and mitigation factors has only been applied to model-estimated PTS exposures given the short distance over which PTS is estimated. Given that no PTS exposures were estimated during the modeling process for this proposed action, the implementation of avoidance and mitigation factors were not included in this analysis.

Utilizing the NAEMO model, the Navy projected that there will be 1,665 behavioral Level B harassment takes and an additional 11 Level B takes due to TTS for a total of 1,676 takes of ringed seals. All takes would be underwater. Note that these quantitative results should be regarded as conservative estimates that are strongly influenced by limited marine mammal population data.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses. NMFS' regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)). The NDAA for FY 2004 amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, we carefully weigh two primary factors:

(1) The manner in which, and the degree to which, implementation of the measure(s) is expected to reduce impacts to marine mammal species or stocks, their habitat, and their availability for subsistence uses (where relevant). This analysis will consider such things as the nature of the potential adverse impact (such as likelihood, scope, and range), the likelihood that the measure will be effective if implemented, and the likelihood of successful implementation; and

(2) The practicability of the measures for applicant implementation. Practicability of implementation may consider such things as cost, impact on operations, and, in the case of a military readiness activity, specifically considers personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity (16 U.S.C. 1371(a)(5)(A)(ii)).

Mitigation for Marine Mammals and Their Habitat

The following general mitigation actions are proposed for ICEX18 to avoid any take of ringed seals on the ice floe:

- Camp deployment would begin in mid-February and would be completed by March 15, which is well before ringed seal pupping season begins. Pups are weaned and then mating occurs in April and May. Completing camp deployment before ringed seal pupping begins will allow ringed seals to avoid the camp area prior to pupping and mating seasons, reducing potential impacts.
- Camp location will not be in proximity to pressure ridges in order to allow camp deployment and operation of an aircraft runway. This will minimize physical impacts to subnivean lairs.
- Camp deployment will gradually increase over five days, allowing seals to relocate to lairs that are not in the immediate vicinity of the camp.
- Passengers on all on-ice vehicles would observe for marine and terrestrial animals; any marine or terrestrial animal observed on the ice would be avoided by 328 ft (100 m). On-ice vehicles would not be used to follow any animal, with the exception of actively deterring polar bears if the situation requires.
- Personnel operating on-ice vehicles would avoid areas of deep snowdrifts near pressure ridges, which are preferred areas for subnivean lair development.
- All material (*e.g.,* tents, unused food, excess fuel) and wastes (*e.g.,* solid waste, hazardous waste) would be removed from the ice floe upon completion of ICEX18.

The following mitigation actions are proposed for ICEX18 activities involving acoustic transmissions:

- For activities involving active acoustic transmissions from submarines and torpedoes, passive acoustic sensors on the submarines will listen for vocalizing marine mammals prior to the initiation of exercise activities. If a marine mammal is detected, the submarine will delay active transmissions, including the launching of torpedoes, and not restart until after 15 minutes have passed with no marine mammal detections. If there are no animal detections, it is assumed that the vocalizing animal is no longer in the immediate area and is unlikely to be subject to harassment. Ramp up procedures will not be required as they would result in an unacceptable impact on readiness and on the realism of training.

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 to ensuring that the most value is obtained from the required monitoring.

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

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

The U.S. Navy has coordinated with NMFS to develop an overarching program plan in which specific monitoring would occur. This plan is called the Integrated Comprehensive Monitoring Program (ICMP) (U.S. Department of the Navy 2011). The ICMP has been created in direct response to Navy permitting requirements established in various MMPA Final Rules, ESA consultations, Biological Opinions, and applicable regulations. As a framework document, the ICMP applies by regulation to those activities on ranges and operating areas for which the Navy is seeking or has sought incidental take authorizations. The ICMP is intended to coordinate monitoring efforts across all regions and to allocate the most appropriate level and type of effort based on set of standardized research goals, and in acknowledgement of regional scientific value and resource availability.

The ICMP is focused on Navy training and testing ranges where the majority of Navy activities occur regularly as those areas have the greatest potential for being impacted. ICEX18 in comparison is a short duration exercise that occurs approximately every other year. Due to the location and expeditionary nature of the ice camp, the number of personnel onsite is extremely limited and is constrained by the requirement to be able to evacuate all personnel in a single day with small planes. As such, a dedicated monitoring project would not be feasible as it would require additional personnel and equipment to locate, tag and monitor the seals.

The Navy is committed to documenting and reporting relevant aspects of training and research activities to verify implementation of mitigation, comply with current permits, and improve future environmental assessments. All sonar usage will be collected via the Navy's Sonar Positional Reporting System database and reported. If any injury or death of a marine mammal is observed during the ICEX18 activity, the Navy will immediately halt the activity and report the incident consistent with the stranding and reporting protocol in the Atlantic Fleet Training and Testing stranding response plan (Navy 2013). This approach is also consistent with other Navy documents including the Atlantic Fleet Training and Testing Environmental Impact Statement/ Overseas Environmental Impact Statement.

The Navy will provide NMFS with a draft exercise monitoring report within 90 days of the conclusion of the proposed activity. The draft exercise monitoring report will include data regarding sonar use and any mammal sightings or detection will be documented. The report will also include information on the number of sonar shutdowns recorded. If no comments are received from NMFS within 30 days of submission of the draft final report, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing

regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Underwater acoustic transmissions associated with ICEX18, as outlined previously, have the potential to result in Level B harassment of ringed seals in the form of TTS and behavioral disturbance. No serious injury, mortality or Level A takes are anticipated to result from this activity. At close ranges and high sound levels approaching those that could cause PTS, avoidance of the area immediately around the sound source would be ringed seals' likely behavioral response. NMFS anticipates that there will be 11 Level B takes due to TTS and 1,665 behavioral Level B harassment takes, for a total of 1,676 ringed seal takes.

Note that there are only 11 Level B takes due to TTS since the TTS range to effects is small at only 100 meters or less while the behavioral effects range is significantly larger extending up to 10 km. TTS is a temporary impairment of hearing and TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, however, hearing sensitivity recovers rapidly after exposure to the sound ends. Though TTS may occur in up to 11 animals, the overall fitness of these individuals is unlikely to be affected and negative impacts to the entire stock are not anticipated.

Effects on individuals that are taken by Level B harassment could include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight. More severe behavioral responses are not anticipated due to the localized, intermittent use of active acoustic sources and mitigation by passive acoustic monitoring which will limit exposure to sound sources. Most likely, individuals will simply be temporarily displaced by moving away from the sound source. As described previously in the behavioral effects section seals exposed to non-impulsive sources with a received sound pressure level within the range of calculated exposures, (142–193 dB re 1 μPa), have been shown to change their behavior by modifying diving activity and avoidance of the sound source (Götz *et al.,* 2010; Kvadsheim *et al.,* 2010). Although a minor change to a behavior may occur as a result of exposure to the sound sources associated with the proposed action, these changes would be within the normal range of behaviors for the animal (*e.g.,* the use of a breathing hole further from the source, rather than one closer to the source, would be within the normal range of behavior). Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and would not result in any adverse impact to the stock as a whole.

The Navy's proposed activities are localized and of relatively short duration. While the total project area is large, the Navy expects that most activities will occur within the ice camp action area in relatively close proximity to the ice camp. The larger study area depicts the range where submarines may maneuver during the exercise. The ice camp will be in existence for up to six weeks with acoustic transmission occurring intermittently over four weeks. The Autonomous Reverberation Measurement System would be active for up to 30 days; the vertical line array would be active for up to four hours per day for no more than eight days, and; the unmanned underwater vehicle used for the deployment of a synthetic aperture source would transmit for 24 hours per day for up to eight days.

The project is not expected to have significant adverse effects on marine mammal habitat. The project activities are limited in time and would not modify physical marine mammal habitat. While the activities may cause some fish to leave the area of disturbance, temporarily impacting marine mammals' foraging opportunities, this would encompass a relatively small area of habitat leaving large areas of existing fish and marine mammal foraging habitat unaffected. As such, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

For on-ice activity, neither take nor mortality of seals are expected due to measures followed during the exercise. Foot and snowmobile movement on the ice will be designed to avoid pressure ridges, where ringed seals build their lairs; runways will be built in areas without pressure ridges; snowmobiles will follow established routes; and camp buildup is gradual, with activity increasing over the first five days providing seals the opportunity to move to a different lair outside the ice camp area. The Navy will also employ its standard 100-meter avoidance distance from any arctic animals. Implementation of these measures should ensure that ringed seal lairs are not crushed or damaged during ICEX18 activities.

The ringed seal pupping season on the ice lasts for five to nine weeks during late winter and spring. Ice camp deployment would begin in mid-February and be completed by March 15, before the pupping season. This will allow ringed seals to avoid the ice camp area once the pupping season begins, thereby reducing potential impacts to nursing mothers and pups. Furthermore, ringed seal mothers are known to physically move pups from the birth lair to an alternate lair to avoid predation. If a ringed seal mother perceives the acoustic transmissions as a threat, the local network of multiple birth and haul-out lairs would allow the mother and pup to move to a new lair.

The estimated population of the Alaska stock of ringed seals in the Bering Sea is 170,000 animals (Muto *et al.,* 2016). The estimated population in the Alaska Chukchi and Beaufort Seas is at least 300,000 ringed seals, which is likely an underestimate since the Beaufort Sea surveys were limited to within 40 km from shore (Kelly *et al.,* 2010). Given these population estimates, only a limited percent of the stock affected would be taken (*i.e.* between 0.98 and 0.56 percent).

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Impacts will be limited to Level B harassment;
- A small percentage (<1 percent) of the Alaska stock of ringed seals would be subject to Level B harassment;
- TTS is expected to affect only a limited number of animals;
- There will be no loss or modification of ringed seal prey or habitat;
- Physical impacts to ringed seal subnivean lairs will be avoided; and
- Ice camp activities would not affect animals during the pupping season.

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.

Unmitigable Adverse Impact Analysis and Determination

Impacts to subsistence uses of marine mammals resulting from the proposed action are not anticipated. The proposed action would occur outside of the primary subsistence use season (*i.e.,* summer months), and the study area is 100–200 nmi seaward of known subsistence use areas. Harvest locations for ringed seals extend up to 80 nmi from shore during the summer months while winter harvest of ringed seals typically occurs closer to shore. Based on this information, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from the Navy's proposed activities.

Endangered Species Act (ESA)

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally with our ESA Interagency Cooperation Division whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the Navy for conducting submarine training and testing provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Authorization is valid from February 1, 2018 through May 1, 2018.

2. This Authorization is valid only for activities associated with submarine training and testing in the Beaufort Sea and Arctic Ocean.

3. General Conditions.

(a) A copy of this IHA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of this IHA.

(b) The number of animals and species authorized for taking by Level B harassment is 1,676 ringed seals.

4. Prohibitions.

(a) The taking, by incidental harassment only, is limited to the species and number listed under condition 3(b). The taking by death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

5. Mitigation Measures.

The holder of this Authorization is required to implement the following mitigation measures.

(a) Shutdown Measures.

(i) The Navy shall implement shutdown measures if a marine mammal is detected by submarines via passive acoustics during use of active sonar transmissions from submarines and torpedoes.

(ii) The Navy shall not restart acoustic transmissions until after 15 minutes have passed with no marine mammal detections.

(b) The Navy shall avoid on-ice take by implementing the following:

(i) Foot and snowmobile movement shall avoid pressure ridges;

(ii) The ice camp, including runway, shall be built on multi-year ice without pressure ridges;

(iii) Snowmobiles shall follow established routes;

(iv) Camp deployment shall be gradual with activity increasing over the first five days and shall be completed by March 15, 2018.

(vi) Implementation of 100-meter avoidance distance of all marine mammals.

6. Reporting.

The holder of this Authorization is required to:

(a) Submit a draft exercise monitoring report within 90 days of the completion of proposed training and testing activities.

(b) The draft exercise monitoring report will include data regarding sonar use and any marine mammal sightings or detection. It will also include information on the number of sonar-related shutdowns recorded.

(c) If no comments are received from NMFS within 30 days of submission of the draft final report, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

(d) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, the Navy shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS. The Navy shall adhere to protocols outlined in the Stranding Response Plan for Atlantic Fleet Training and Testing (AFTT) Study Area (November 2013).

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 Navy's proposed ICEX18 training and testing activities. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: October 13, 2017.

Catherine Marzin,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF745

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (webinar).

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold a webinar meeting that is open to the public.

DATES: The webinar will be held Tuesday, November 7, 2017, from 1 p.m. to 4 p.m., or until business has been completed.

ADDRESSES: The meeting will be held via webinar. A public listening station is available at the Pacific Council office (address below). To attend the webinar,

(1) join the meeting by visiting this link: *https://www.gotomeeting.com/webinar/join-webinar,* (*https://www.gotomeeting.com/webinarhttps://global.gotomeeting.com/join/9556681252*) enter the Webinar ID: 486–474–157, and (3) enter your name and email address (required). After logging in to the webinar, please dial this TOLL number 1–646–749–3131 (not a toll-free number), and enter your audio phone pin (shown after joining the webinar). **Note:** We have disabled Mic/Speakers as an option and require all participants to use a telephone or cell phone to participate. Technical Information and System Requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See the *https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps*). You may send an email to Mr. Kris Kleinschmidt at *Kris.Kleinschmidt@noaa.gov* or contact him at (503) 820–2280, extension 411 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss items on the agenda of the November Pacific Council meeting, being held November 14–20, 2017 in Costa Mesa, CA. These may include exempted fishing permit proposals, methodology review proposals, and administrative matters. The CPSAS and CPSMT may develop reports to the Pacific Council on those items, and public comment may be taken at the discretion of the CPSMT and CPSAS Chairs.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*); (503) 820–2411 at least 10 days prior to the meeting date.

Dated: October 13, 2017.

Jeffrey N. Lonergan,

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

[FR Doc. 2017–22641 Filed 10–18–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Protocol for Access to Tissue Specimen Samples From the National Marine Mammal Tissue Bank

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before December 18, 2017.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Sarah Wilkin, (301) 427–8470 or *sarah.wilkin@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

In 1989, the National Marine Mammal Tissue Bank (NMMTB) was established by the National Marine Fisheries Service (NMFS) Office of Protected Resources (OPR) in collaboration with the National Institute of Standards and Technology (NIST), Minerals Management Service (MMS), and the U.S. Geological Survey/Biological Resources Division (USGS/BRD). The NMMTB provides protocols, techniques, and physical facilities for the long-term storage of tissues from marine mammals. Scientists can request tissues from this repository for retrospective analyses to determine environmental trends of contaminants and other substances of interest. The NMMTB collects, processes, and stores tissues from specific indicator species (*e.g.,* Atlantic bottlenose dolphins, Atlantic white sided dolphins, pilot whales, harbor porpoises), animals from mass strandings, animals that have been obtained incidental to commercial fisheries, animals taken for subsistence purposes, biopsies, and animals from unusual mortality events through two projects, the Marine Mammal Health and Stranding Response Program (MMHSRP) and the Alaska Marine Mammal Tissue Archival Project (AMMTAP).

The purposes of this collection of information are: (1) To enable NOAA to allow the scientific community the opportunity to request tissue specimen samples from the NMMTB and, (2) to enable the Marine Mammal Health and Stranding Response Program (MMHSRP) of NOAA to assemble information on all specimens submitted to the National Institute of Standards and Technology's Marine Environmental Specimen Bank (Marine ESB), which includes the NMMTB.

II. Method of Collection

Respondents must complete a specimen banking information sheet for every sample submitted to the Bank. Methods of submitting reports include Internet, mail and facsimile transmission of paper forms. Those requesting samples send the information, and their research findings, mainly via email.

III. Data

OMB Control Number: 0648–0468.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; state, local, or tribal government; federal government.

Estimated Number of Respondents: 105: 100 specimen submission forms (from ~20 different organizations); 5 requests for tissue samples.

Estimated Time per Response: Request for tissue sample, 2 hours; specimen submission form, 45 minutes.

Estimated Total Annual Burden Hours: 85.

Estimated Total Annual Cost to Public: $152 in recordkeeping/reporting costs.

IV. Request for Comments

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

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

Dated: October 13, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–22648 Filed 10–18–17; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Supervisory Highlights: Summer 2017

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Supervisory Highlights; notice.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau or CFPB) is issuing its fifteenth edition of its Supervisory Highlights. In this issue of *Supervisory Highlights,* we report examination findings in the areas of auto finance lending; credit card account management; debt collection; deposits; mortgage servicing; mortgage origination; service providers; short-term, small-dollar lending; remittances; and fair lending. As in past editions, this report includes information on the Bureau's use of its supervisory and enforcement authority, recently released examination procedures, and Bureau guidance.

DATES: The Bureau released this edition of the Supervisory Highlights on its Web site on September 12, 2017.

FOR FURTHER INFORMATION CONTACT: Adetola Adenuga, Consumer Financial Protection Analyst, Office of Supervision Policy, 1700 G Street NW., 20552, (202) 435–9373.

SUPPLEMENTARY INFORMATION:

1. Introduction

The Consumer Financial Protection Bureau is committed to a consumer financial marketplace that is fair, transparent, and competitive, and that works for all consumers. The Bureau supervises both bank and nonbank institutions to help meet this goal. The findings reported here reflect information obtained from supervisory activities that were generally completed between January 2017 and June 2017 (unless otherwise stated). In some instances, not all corrective actions, including through enforcement, have been completed at the time of this report's publication.

CFPB supervisory reviews and examinations typically involve assessing a supervised entity's compliance management system and compliance with Federal consumer financial laws. When Supervision determines that a supervised entity has violated a statute or regulation, Supervision directs the entity to undertake appropriate corrective measures, such as implementing new policies, changing written communications, improving training or monitoring, or otherwise changing conduct to ensure the illegal practices cease. Supervision also directs the entity to send refunds to consumers, pay restitution, credit borrower accounts, or take other remedial actions as appropriate.

Recent supervisory resolutions have resulted in total restitution payments of approximately $14 million to more than 104,000 consumers during the review period. In addition to these nonpublic supervisory activities, the Bureau also resolves violations using public enforcement actions.[1] CFPB's recent supervisory activities have either led to or supported two recent public enforcement actions, resulting in about $1.15 million in consumer remediation and an additional $1.75 million in civil money penalties.

Please submit any questions or comments to *CFPB_Supervision@cfpb.gov.*

[1] In 2016, about 70 percent of CFPB examinations did not raise issues that led the Bureau to consider opening an enforcement investigation. Instead, these matters were resolved with nonpublic agreements by the company to quickly fix any problems and provide appropriate relief to consumers. *See infra* pp. 37–39 (discussing these figures). *See also https://www.consumerfinance.gov/about-us/blog/how-we-keep-you-safe-consumer-financial-marketplace/.*

2. Supervisory Observations

Recent supervisory observations are reported in the areas of automobile loan servicing, credit card account management, debt collection, deposits, mortgage origination, mortgage servicing, remittances, service provider program, short-term small-dollar lending, and fair lending.

2.1 Automobile Loan Servicing

In the Bureau's recent auto servicing examinations, examiners reviewed how servicers are overseeing repossession agents and how repossessions are conducted. Through that work, examiners identified an unfair practice relating to repossession at one or more automobile servicers.

2.1.1 Repossessions of Borrower Vehicles After Borrowers Make Catch-Up Payments or Enter Agreements To Avoid Repossession

To secure an auto loan, borrowers give creditors a security interest in their vehicles. When a borrower defaults, a creditor can exercise its rights under the contract and repossess the secured vehicle. Many auto servicers provide options to borrowers to avoid repossession once a loan is delinquent or in default. Servicers may have formal extension agreements that allow borrowers to forbear payments for a certain period of time or may cancel a repossession order once a borrower makes a payment.

In one or more recent exams, examiners found that one or more entities were repossessing vehicles after the repossession was supposed to be cancelled. In these instances, the servicer(s) wrongfully coded the account as remaining delinquent, customer service representatives did not timely cancel the repossession order after borrowers made sufficient payments or entered an agreement with the servicer to avoid repossession, or repossession agents had not checked the documentation before repossessing and thus did not learn that the repossession had been cancelled.

Bureau examiners concluded that it was an unfair practice to repossess vehicles where borrowers had brought the account current, entered an agreement with the servicer to avoid repossession, or made a payment sufficient to stop the repossession, where reasonably practicable given the timing of the borrower's action.

Supervision directed the servicer(s) to stop the practice. In response to our examiners' findings, the servicer(s) informed Supervision that the affected consumers were refunded the

repossession fees. The servicer(s) also implemented a system that requires repossession agents to verify that the repossession order is still active immediately prior to repossessing the vehicle, for example, through a specially designed mobile application for that purpose.

2.2 Credit Card Account Management

Supervision reviewed the credit card account management operations of one or more supervised entities over the past few months. Typically, examiners assess advertising and marketing, account origination, account servicing, payments and periodic statements, dispute resolution, and the marketing, sale and servicing of credit card add-on products. Bureau examiners found that supervised entities generally are complying with Federal consumer financial laws. However, in one or more recent examinations, examiners observed that one or more entities violated Regulation Z and committed the deceptive practices as described below.

2.2.1 Failure To Provide Required Tabular Account-Opening Disclosures

Examiners observed that one or more credit card issuers violated Regulation Z by failing to provide the requisite tabular disclosures with the account opening materials provided to numerous cardholders.[2] Specifically, the account-opening disclosures were missing the table set forth in Appendix G–17 of Regulation Z, resulting in consumers receiving incomplete disclosures.[3] At one or more entities, management attributed this violation to an employee's incorrect entry of source code for printing disclosures, controls that were not appropriately structured to detect errors, and the entity's lack of an independent disclosure review. After acknowledging the violations with examiners, one or more entities initiated a review to ensure that the errors were limited, the root causes were further identified, and corrective actions were developed.

2.2.2 Deceptive Misrepresentations to Consumers Regarding Costs and Availability of Pay-by-Phone Options

During one or more examinations, credit card companies provided consumers with the opportunity to pay their credit card bills by mail, online, or in person free of charge or by using one of two pay-by-phone services. The first pay-by-phone service permitted consumers to make an expedited payment for a predetermined fee, credited the same day or the following business day. The second pay-by-phone service allowed consumers to arrange future payments options free of charge to be credited to the consumer's account as soon as two days after the call. Customer service representatives were given a call script to read to consumers describing both the fee-based expedited payment option and the free future payments option.

A review of calls between customer service representatives and consumers revealed that in one or more examinations representatives did not follow the script in its entirety and often read the script for expedited payments only. Typically, customer service representatives did not inform consumers of any free payment options until after the consumer authorized the expedited phone payment and the customer service representatives did not inform consumers that the payment could be paid free of charge by phone by not expediting when the payment was credited. This practice resulted in consumers incurring fees for expedited payments that could have been avoided. Supervision found this practice was deceptive because these customer service representatives made an implied misrepresentation to consumers paying over the phone that all of the pay-by-phone services carried a fee.[4]

Supervision directed the entity(ies) to establish effective controls over communications to consumers, ensure representatives informed consumers of free payment options prior to authorization of an expedited phone payment, and reimburse fees to consumers impacted by the deceptive representations about the costs and availability of pay-by-phone options.

2.2.3 Deceptive Misrepresentations to Consumers Concerning Benefits and Terms of Credit Card Add-On Products

One or more entities provided its customer service representatives with call scripts that contained basic information about debt cancellation credit card add-on product(s). A review of calls by examiners indicated that customer service representatives often did not read the entire script, and in some instances, did not read the script at all. In one or more instances, the customer service representatives did not correct consumers' stated erroneous assumptions concerning the benefits of the product(s), misrepresented the potential fees, and assured consumer(s) that the product(s) would avoid the accrual of late fees or other penalties.

Supervision found such practices constituted deceptive marketing and sales practices by misrepresenting product features, such as the cost and coverage of the optional debt cancellation add-on product.[5] Supervision directed these entities to establish effective controls over marketing and sales practices for the debt cancellation credit card add-on products, ensure representatives make accurate disclosure of the add-on product's terms, conditions, and costs, and to reimburse the costs of the credit card add-on products to impacted consumers.

2.2.4 Failure To Comply With Billing Error Resolution and Unauthorized Transactions

Regulation Z requires credit card issuers to follow an error resolution process when a cardholder submits a billing error notice and provides that, during resolution, the cardholder may withhold payment for the disputed amount and the issuer shall not report the disputed amount as delinquent.[6] In addition, Regulation Z also limits the amount a cardholder can be held liable for any unauthorized use.[7]

During one or more examinations, examiners observed that entities: (1) Failed to provide consumers with a timely written acknowledgement of receipt of a billing error notice; [8] (2) generally failed to timely comply with the billing error resolution procedures; [9] (3) failed to limit the liability of cardholders for unauthorized use to the lesser of $50 or the amount of money, property, labor or services obtained by the unauthorized use before the card issuer is notified; [10] (4) before a billing error was resolved, made or threatened to make an adverse credit report concerning the consumer's credit standing, or that the amount or account was delinquent, because the consumer failed to pay the disputed amount or applicable related finance or other charges; [11] (5) failed to timely correct billing errors and credit consumers' accounts with disputed amounts or related finance or other charges, as applicable; [12] (6) failed to send, or failed to timely send, consumers a correction notice where the issuer concluded that the billing error occurred as asserted; [13] (7) failed to conduct, or failed to timely

[2] 12 CFR 1026.6(b)(1)–(2).

[3] Appendix G to 12 CFR part 1026, Form G–17(A)—Account-Opening Model Form.

[4] 12 U.S.C. 5536(a)(1)(B).

[5] 12 U.S.C. 5536(a)(1)(B).

[6] 12 CFR 1026.13.

[7] 12 CFR 1026.12(b).

[8] 12 CFR 1026.13(c)(1).

[9] 12 CFR 1026.13(c)(2).

[10] 12 CFR 1026.12(b)(1)(ii).

[11] 12 CFR 1026.13(d)(2).

[12] 12 CFR 1026.13(c)(2) & 1026.13(e)(1).

[13] 12 CFR 1026.13(c)(2) & (e)(2).

conduct, a reasonable investigation before determining that no billing error occurred; [14] or (8) failed to provide, or failed to timely provide, consumers with a written explanation for its determination as to why it concluded that a billing error did not occur.[15]

The root cause of these regulatory violations can, among other things, be attributed to weak oversight of service providers that handle dispute resolution for the card issuers. At one or more entities, management failed to perform sufficient due diligence of a service provider hired to perform intake of incoming phone calls from customers who reported billing errors and other disputes, and ceased doing business with the service provider because of increasing complaints about the service provider's customer service. One or more entities failed to have sufficient documentation of its monitoring of service providers and did not audit its oversight of service providers.

Supervision directed one or more entities to develop a plan that ensures the handling of billing error disputes is corrected, identifies all impacted consumers, and remediates harmed consumers. One or more entities were directed to revise their service provider program(s) to require document retention relating to service provider monitoring and risk assessment reviews.

2.3 Debt Collection

The Bureau's Supervision program covers certain bank and nonbank creditors that originate and collect their own debt, as well as nonbanks that are larger participants in the debt collection market. These reviews, among other things, evaluate the adequacy of the relevant entities' compliance management systems and communications with consumers. At one or more entities, examiners' review of these systems and practices included activities conducted in a foreign country. During recent examinations of larger participants, examiners identified several violations of the Fair Debt Collection Practices Act (FDCPA),[16] including unauthorized communications with third parties, false representations made to authorized credit card users regarding their liability for debts, false representations regarding credit reports, and communications with consumers at inconvenient times.

At one or more entities, examiners discovered that debt collectors followed client instructions that led to violations of the FDCPA. Entities can mitigate the risk of an FDCPA violation if they determine whether client instructions would violate the FDCPA before following them.

2.3.1 Impermissible Communications With Third Parties

Under section 805(b) of the FDCPA, a debt collector generally may not communicate with a person other than the consumer in connection with the collection of a debt without permission from the consumer. Examiners determined that one or more entities did not confirm that the correct party had been contacted prior to beginning collection activities. As a result, one or more entities communicated with a third party in connection with the collection of a debt by discussing the debt with an authorized user of a credit card who was not financially responsible for the debt (and who was not otherwise a ''consumer'' under section 805(b)). In response to these findings, one or more entities enhanced consumer verification processes to include the verification of first and last names, and confirmation of date of birth or the last four digits of Social Security number, before disclosing the debt or the nature of the call to the consumer. Additionally, one or more entities revised their processes to discuss the debt with an authorized user only after explicit authorization from the cardholder. Lastly, the entities trained their collection agents on the enhanced policies and procedures.

2.3.2 Deceptively Implying That Authorized Users Are Responsible for a Debt

Under section 807(10) of the FDCPA, a debt collector may not use false representations or deceptive means to collect or attempt to collect any debt. Examiners determined that one or more entities violated the FDCPA by attempting to collect a debt directly from the authorized user of a credit card even though the authorized user was not financially responsible for the debt. The practice of soliciting payment from a non-obligated user in a manner that implies that the authorized user is personally responsible for the debt constitutes a deceptive means to collect a debt in violation of the FDCPA. One or more entities have undertaken remedial and corrective actions regarding these violations, which are under review by Supervision.

2.3.3 False Representations Regarding the Effect on a Consumer's Credit Report of Paying a Debt in Full Rather Than Settling the Debt in Full

As noted above, a debt collector may not use false representations or deceptive means to collect or attempt to collect any debt under section 807(10) of the FDCPA. Examiners found that one or more entities made false representations to consumers about the effect on their credit score of paying a debt in full rather than settling the debt for less than the full amount. As the CFPB explained in a 2013 bulletin, representations about the impact of paying a debt on a consumer's credit score may be deceptive. The bulletin states that ''in light of the numerous factors that influence an individual consumer's credit score, such payments may not improve the credit score of the consumer to whom the representation is being made. Consequently, debt owners or third-party debt collectors may well deceive consumers if they make representations that paying debts in collection will improve a consumer's credit score.'' [17] In response to these findings, one or more entities amended training materials to remove references to how a consumer's credit score may be affected by either settling the debt in full or paying the debt in full.

2.3.4 Communicating With Consumers at a Time Known To Be Inconvenient

Under section 805(a)(1) of the FDCPA, a debt collector may not communicate with a consumer in connection with the collection of any debt at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. Examiners discovered that consumers were contacted by one or more entities outside of the hours of 8:00 a.m. to 9:00 p.m. (which, in the absence of knowledge to the contrary, may be assumed to be convenient) or at times consumers had previously informed the entities were inconvenient. These violations were caused by the failure to accurately update account notes and the use of auto dialers that based call parameters solely on the consumer's area code, rather than also considering the consumer's last known address. Supervision directed one or more entities to enhance compliance monitoring for dialer systems to ensure that they input system parameters accurately and to ensure that they

[14] 12 CFR 1026.13(c)(2) & (f).

[15] 12 CFR 1026.13(c)(2) & (f)(1).

[16] 15 U.S.C. 1692–1692p.

[17] CFPB Bulletin 2013–08, *Representations Regarding Effect of Debt Payments on Credit Reports and Scores, available at: http://files.consumerfinance.gov/f/201307_cfpb_bulletin_collections-consumer-credit.pdf.*

properly monitor collectors for inputting and adhering to account notations.

2.4 Deposits

The CFPB continues to examine banks for compliance with Regulation E as well as review for any unfair, deceptive, or abusive acts or practices (UDAAPs) in connection with deposit accounts. As described in more detail below, CFPB examiners continue to find deceptive acts or practices related to deposit disclosures and representations that incorrectly inform consumers about fees, including conditions when certain fees will apply. Separately, Supervision concluded that one or more institutions were engaging in deceptive acts or practices by misrepresenting deposit overdraft protection products. Examiners also found unfair acts or practices related to conditions where one or more institutions froze deposit accounts. Finally, examiners continue to find issues associated with Regulation E error resolution investigations.

In all cases where examiners found UDAAPs or violations of Regulation E, Supervision directed institutions to make appropriate changes to address the underlying issue(s), as well as enhance compliance management systems to prevent future violations and, where appropriate, to remediate consumers for harm they experienced.

2.4.1 Freezing of Deposit Accounts

Examiners found that one or more institutions engaged in unfair acts or practices by placing hard holds on customer accounts to stop all activity when the institution(s) observed suspicious activity. These hard holds resulted in the consumers' accounts being locked, resulting in payments not being honored, deposits being rejected, and the consumer lacking access to his or her funds for as long as two weeks. Examiners also found that one or more institutions failed to clearly, consistently, and promptly communicate information about the nature and status of these hard holds to consumers. Examiners found that less drastic measures would have sufficiently addressed the suspicious activity concern in many instances. Even where the hard holds were appropriate, the failure to properly communicate with consumers prevented consumers from being able to take measures to mitigate the injury.

Supervision directed the institution(s) to cease unnecessarily placing hard holds on consumer deposit accounts and to develop and implement policies and procedures to clearly, consistently, and promptly communicate with consumers with respect to hard holds placed on their accounts.

2.4.2 Misrepresentations About Monthly Service Fees

Examiners found that one or more institutions engaged in deceptive acts or practices by representing in deposit account fee schedules that monthly account service fees would be waived under circumstances in which those fees, in fact, would be assessed. One or more institutions offered a deposit product that contained a monthly service fee. The service fee was waived if consumers met certain qualifications. One such qualification—as described in the fee schedules—was if the consumer made ten or more payments from the checking account during a statement cycle. In fact, only debit card purchases and debit card payments qualified toward the fee waiver threshold, and other payments from a consumer's checking account, such as ACH payments, did not qualify. Moreover, only payments that ''posted'' during the statement cycle qualified toward the waiver and payments that were initiated but not posted during the statement cycle did not qualify. The representations that the institution(s) made in the fee schedules could lead a reasonable consumer to believe that all checking-account payments initiated during the statement cycle would qualify toward the ten-payment fee waiver threshold, a material aspect of the product or service. As a result, Supervision cited the institution(s) for deceptive acts or practices. Supervision directed the institution(s) to ensure that all disclosures regarding the fee waivers include accurate and non-misleading information.

2.4.3 Violations of Error Resolution Requirements

Supervision continues to find violations of Regulation E's error resolution requirements. As noted in the Fall 2014 edition of *Supervisory Highlights,* Regulation E, which implements the Electronic Fund Transfer Act, imposes specific requirements on financial institutions for how to resolve error allegations reported by consumers related to electronic fund transfers. Among other requirements, Regulation E requires financial institutions to promptly investigate error allegations, to provide timely provisional credit to consumers, to promptly provide consumers with notice of the findings of the financial institution's investigation, and to allow consumers to review the documentation the financial institution relied upon in the course of the investigation.[18]

Examiners found that one or more institutions violated several of the error resolution provisions of Regulation E. Among other things, examiners observed that one or more entities prematurely closed investigations and denied claims when consumers failed to submit, or delayed in submitting, supplemental information beyond that which financial institutions may require under Regulation E.[19] Examiners also found that the institution(s) failed to investigate claims and to provide provisional credit within 10 business days of receiving notice of the alleged error.[20] Examiners further observed that one or more institutions refused consumers' requests to review material relied upon by the institution(s) in denying error claims, and incorrectly informed consumers that subpoenas would be required to review that material.[21] With respect to these types of violations, Supervision directed the relevant entities to take measures to ensure compliance with the error resolution provisions of Regulation E.

2.4.4 Deceptive Statements About Overdraft Protection Products

In 2010, Federal rules took effect that prohibited banks and credit unions from charging overdraft fees on ATM and one-time debit card transactions unless consumers affirmatively opted in.[22] Many depository institutions provide a variety of overdraft products that may cover consumer transactions that overdraw accounts.

Supervision determined that one or more institutions engaged in a deceptive act or practice by misrepresenting their opt-in deposit overdraft protection products when answering inbound telephone calls from consumers, including that:

- The overdraft protection product applied to check, automated clearing house (ACH), and recurring bill payment transactions, when the overdraft protection product did not apply to those transactions;
- The overdraft protection product would allow a consumer to withdraw more than the daily ATM cash withdrawal limit and be subject to only one overdraft fee. In actuality, a consumer would not have been allowed to surpass the daily ATM cash

[18] 12 CFR 1005.11.

[19] *See* 12 CFR 1005.11(b).

[20] *See* 12 CFR 1005.11(c)(1) & (c)(2)(i).

[21] *See* 12 CFR 1005.11(d)(1).

[22] 74 FR 59033 (Nov. 17, 2009) (codified at 12 CFR part 1005.17), *available at https://www.gpo.gov/fdsys/granule/FR-2009-11-17/E9-27474.*

withdrawal limit, regardless of enrollment in the overdraft protection product, and it was not possible to do so while incurring only one overdraft fee; and

- The overdraft protection product would take effect on the same day as enrollment, when the product would not actually take effect until the next day.

Supervision determined that these representations misled or were likely to mislead a reasonable consumer regarding a material aspect of the overdraft protection product and that account opening disclosures or subsequent enrollment disclosures did not cure the misleading representations. Supervision directed one or more depository institutions to cease misrepresenting features of their overdraft protection products.

2.5 Mortgage Origination

Supervision assessed the mortgage origination operations of one or more supervised entities for compliance with applicable Federal consumer financial laws. Examiners identified instances of regulatory violations and one or more instances where supervised entities engaged in a deceptive practice, as described below.

2.5.1 Know Before You Owe Mortgage Disclosure Rule

Supervision has completed its first round of mortgage origination examinations for compliance with the Know Before You Owe mortgage disclosure rule. The Bureau stated that it would be sensitive to the progress made by supervised entities focused on making good faith efforts to come into compliance with the rule upon the effective date of October 3, 2015. Initial examination findings and observations conclude that, for the most part, supervised entities, both banks and nonbanks, were able to effectively implement and comply with the Know Before You Owe mortgage disclosure rule changes. However, examiners did find some violations. Listed below are violations found by examiners relating to the content and timing of Loan Estimates and Closing Disclosures:

- Amounts paid by the consumer at closing exceeded the amount disclosed on the Loan Estimate beyond the applicable tolerance threshold; [23]
- The entity(ies) failed to retain evidence of compliance with the requirements associated with the Loan Estimate; [24]
- The entity(ies) failed to obtain and/or document the consumer's intent to proceed with the transaction prior to imposing a fee in connection with the consumer's application; [25]
- Waivers of the three-day review period did not contain a bona fide personal financial emergency; [26]
- The entity(ies) failed to provide consumers with a list identifying at least one available settlement service provider, if the creditor permits the consumer to shop for a settlement service; [27]
- The entity(ies) failed to disclose the amount payable into an escrow account on the Loan Estimate and Closing Disclosure when the consumer elected to escrow taxes and insurance; [28]
- Loan Estimates did not include the date and time at which estimated closings cost expire; [29] and
- The entity(ies) failed to properly disclose on the Closing Disclosure fees the consumer paid prior to closing.[30]

Examiners worked in a collaborative manner with one or more entities to identify the root cause of these violations and determine appropriate corrective actions, including reimbursement to consumers where tolerance violations occurred.

2.5.2 Failure To Reimburse Unused Portions of a Required Service Deposit Where Certain Disclosure Language Was Used Constituted an Unfair Practice

At one or more entities, pursuant to certain disclosure language a specified service deposit was collected from consumers but unused portions were not reimbursed when consumers withdrew their applications. This would constitute unfair acts or practices in those cases where the loans did not proceed to closing due to the entity's unreasonable actions or inactions. Supervision directed each entity to conduct a review to identify impacted consumers. Refunds were provided to consumers where the loan files could not support retention of the service deposit.

2.5.3 Deceptive Practice Involving an Arbitration Notice on Certain Residential Mortgage Loan Documents

Under Regulation Z, a contract or other agreement for a consumer credit transaction secured by a dwelling (including a home equity line of credit secured by the consumer's principal dwelling) may not include terms that require arbitration or any other non-judicial procedure to resolve any controversy or settle any claims arising out of the transaction.[31]

Despite this prohibition, at one or more entities examiners identified template language for certain residential loan document(s) containing a notice that the note is subject to arbitration. Supervision concluded that use of the arbitration-related notice constitutes a deceptive act or practice since it is likely to mislead a reasonable consumer into believing that a claim arising under the residential loan document must be submitted to arbitration. After having viewed the notice, a consumer would have been more likely to agree to post-dispute arbitration or to fail to pursue judicial remedies under the mistaken belief that arbitration was required. Supervision directed one or more of the entities to cease further use of the template.

2.6 Mortgage Servicing

2.6.1 Requirements To Help Borrowers Complete Loss Mitigation Applications

Regulation X provides important process protections for borrowers in financial distress who apply for a foreclosure alternative. Specifically, it requires mortgage servicers to exercise reasonable diligence in obtaining documents and information to complete a loss mitigation application.[32] A complete loss mitigation application includes all the information that the servicer requires from a borrower in evaluating applications for the loss mitigation options available to the borrower.[33]

While Regulation X permits a servicer to offer a loss mitigation option based on a borrower's incomplete application under certain circumstances,[34] the servicer still must act with reasonable diligence to collect the information needed to complete the application.[35] For example, in the context of a short-term payment forbearance program offered based on an incomplete loss mitigation application, reasonable diligence could include notifying the borrower that the borrower is being offered a payment forbearance program based on an evaluation of an incomplete application and that the borrower retains the option of completing the application to receive a full evaluation of all loss mitigation options available to

[23] 12 CFR 1026.19(e)(3)(i), (ii).

[24] 12 CFR 1026.25(c)(1).

[25] 12 CFR 1026.19(e)(2)(i)(A), 1026.25(c)(1).

[26] 12 CFR 1026.19(f)(1)(iv).

[27] 12 CFR 1026.19(e)(1)(vi)(c).

[28] 12 CFR 1026.37(c)(2)(iii), .38(c)(1).

[29] 12 CFR 1026.37(a)(13)(ii).

[30] 12 CFR 1026.38(f)(2), (f)(5), (h)(2), (i)(2)(ii).

[31] 12 CFR 1026.36(h)(1).

[32] 12 CFR 1024.41(b)(1).

[33] 12 CFR 1024.41(b)(1).

[34] 12 CFR 1024.41(c)(2)(ii) and (iii).

[35] 12 CFR 1024.41(b)(1) and Comments 41(b)(1)–4.iii and 41(c)(2)(iii)–2.

the borrower.[36] Near the end of the program, and prior to the end of the forbearance period, it may also be necessary for the servicer to contact the borrower to determine if the borrower wishes to complete the application and proceed with a full loss mitigation evaluation.[37] Generally, the reasonable diligence requirement helps address the concern that borrowers offered a short-term payment forbearance program or short-term repayment plan may be experiencing a hardship, for which other, longer-term loss mitigation solutions might be more appropriate given their individual circumstances.

In recent exams, examiners found that one or more servicers received oral incomplete loss mitigation applications and pre-approved borrowers for short-term payment forbearance programs based on those applications. However, the servicer(s) did not notify borrowers of their right to complete the application and did not separately request other information needed to evaluate for all the other loss mitigation options offered by the owner or assignee of the loan. And near the end of the program, and prior to the end of the short-term payment forbearance period, the servicer(s) failed to conduct outreach to determine whether borrowers wished to complete the application and proceed with a full loss mitigation evaluation.

Supervision determined that the servicer(s) violated Regulation X by failing to exercise reasonable diligence in obtaining documents and information to complete a loss mitigation application.[38] Supervision directed the servicer(s) to implement policies and procedures to ensure that the servicer(s) exercise reasonable diligence in obtaining documents and information to complete a loss mitigation application for borrowers entering into short term payment forbearance programs based on incomplete applications, including by contacting the borrowers near the end of the program, and prior to the end of the forbearance period.

2.6.2 Broad Waivers in Short Sale and Cash-for-Keys Agreements

Supervision previously identified broad waiver of rights clauses in forbearance, loan modification and other loss mitigation options as violating the Dodd-Frank Act's prohibition against unfair or deceptive acts or practices.[39] Supervision determined such waivers to be deceptive where reasonable consumers could construe the waivers as barring them from bringing claims in court—including Federal claims—related to their mortgages. Regulation Z states that a ''contract or other agreement relating to a consumer credit transaction secured by a dwelling . . . may not be applied or interpreted to bar a consumer from bringing a claim in court pursuant to any provision of law for damages or other relief in connection with any alleged violation of any Federal law.'' [40] Supervision also determined broad waivers to be unfair insofar as they are offered in a ''take it or leave it'' fashion in the ordinary course of offering loss mitigation agreements, rather than in the context of resolution of a contested claim or another individualized analysis of the servicer's risks and the consumer's potential claims.[41]

Supervision continues to find broad waivers of rights in loss mitigation agreements. For example, in exchange for a short sale agreement, one or more servicers required consumers to completely waive, release, and relinquish any claims of any nature against the servicer(s) arising out of or relating to the mortgage note and any obligations thereunder, and to agree that they had no defenses to payment in full under the note. Supervision determined the waiver to be deceptive and required the servicer(s) to remove it from the agreements.

In one or more servicing exams, Supervision also identified blanket waivers in cash-for-keys agreements that gave borrowers the opportunity to receive a payment in exchange for their commitment to vacate the property by a date certain, thereby avoiding eviction proceedings. The servicer(s) presented the waivers as take-it-or-leave-it boilerplate and a reasonable borrower would have construed them to broadly waive all claims or defenses including any in connection with the original credit transaction that the borrower might have asserted against the servicer(s). Supervision determined the waiver to be deceptive and unfair, and directed the servicer(s) to remove all such waivers from the agreements.

2.7 Remittances

The CFPB continues to examine both large banks and nonbanks for compliance with the CFPB's amendments to Regulation E governing international money transfers (or remittances).[42] Regulation E, Subpart B (or the Remittance Rule) provides protections, including disclosure requirements, and error resolution and cancellation rights to consumers who send remittance transfers to other consumers or businesses in a foreign country.[43] The amendments implement statutory requirements set forth in the Dodd-Frank Act.

CFPB's examination program for both bank and nonbank remittance providers assesses the adequacy of each entity's CMS for remittance transfers. These reviews also check for providers' compliance with the Remittance Rule and other applicable Federal consumer financial laws. Supervision directed entities to make appropriate changes to compliance management systems to prevent future violations and, where appropriate, to remediate consumers for harm they experienced.

2.7.1 International Top-Up and Bill Pay Services

Examiners found that one or more supervised entities violated section 919(a)(1) [44] of EFTA and applicable provisions of Regulation E by failing to treat international mobile top-up services in excess of $15 as a remittance transfer. An international mobile top-up service converts funds from consumers in the United States to airtime on a phone account based on the usage and rate plan selected by the owner of the phone residing in a foreign country. The entirety of these transactions occurs exclusively in currencies up until the point funds are received by the international cellphone carrier. The entity(ies) failed to provide the disclosures, cancellation, or error resolution rights to international top-up consumers required by EFTA and Regulation E.

Similarly, one or more institutions violated section 919(a)(1) of EFTA and applicable provisions of Regulation E by failing to treat international bill payment services in excess of $15 as remittance transfers and, as a result, failed to comply with the required disclosure, error resolution, and cancellation requirements of the Remittance Rule. Supervision directed entities to make appropriate changes to their CMS in order to prevent future violations.

[36] Comment 1024.41(b)(1)–4.iii.

[37] Comment 1024.41(b)(1)–4.iii.

[38] 12 CFR 1024.41(b)(1).

[39] 12 U.S.C. 5536(a)(1).

[40] 12 CFR 1026.36(h)(2).

[41] *See* Supervisory Highlights: Winter 2013, at 6, *available at http://files.consumerfinance.gov/f/201401_cfpb_supervision-highlights.pdf.*

[42] *See* 78 FR 30662 (May 22, 2013) (codified at 12 CFR part 1005), *available at http://www.gpo.gov/fdsys/pkg/FR-2013-05-22/pdf/2013-10604.pdf.*

[43] Regulation E implements the Electronic Fund Transfer Act (EFTA).

[44] 15 U.S.C. 1693o–1(a)(1).

2.8 Service Provider Program

The Spring 2017 edition of *Supervisory Highlights* described Supervision's service provider program, which involves the direct examination of service providers, particularly in the mortgage origination and mortgage servicing markets. Examiners are focusing on the structure, operations and compliance management systems of various service providers, as well as certain other targeted areas.

2.8.1 Deficient Mortgage Periodic Statements

Examiners reviewed whether one or more service provider(s) adequately considered certain requirements of the Title XIV Final Rule in developing products for mortgage servicers.[45] Examiners found that the service provider(s) developed a mortgage servicing information technology (IT) system functionality that failed to implement certain Regulation Z requirements for periodic statements. The service provider(s)' billing files failed to list the total sum of any fees or charges imposed, and the transaction activity that occurred since the last statement.[46] Moreover, the service provider(s) did not adequately consider client concerns about the issue. Supervision concluded that these weaknesses contributed to the clients' violations of Regulation Z and directed the service provider(s) to implement policies and procedures that span systems design and application controls to ensure that the billing files made available through the mortgage servicing IT system functionality enable compliance with Regulation Z. In addition, Supervision directed the service provider(s) to ensure that when clients communicate potential regulatory issues, the service provider(s) analyze and implement changes as appropriate to enable users of the mortgage servicing IT system functionality to comply with Regulation Z.

2.9 Short-Term, Small-Dollar Lending

The Bureau's Supervision program covers entities that offer or provide payday loans. Such entities often offer other short-term, small dollar (STSD) products to consumers as well such as single payment, installment, or auto or vehicle title loans. During the examinations of STSD entities, examiners identified CMS weaknesses and violations of Federal consumer financial law, including the Dodd-Frank Act's prohibition on UDAAPs. Highlighted below are some of the UDAAP findings in recent examinations regarding collection practices, marketing representations, representations regarding use of references, and payment practices.

2.9.1 Short-Term, Small-Dollar Debt Collection

As noted in the Spring 2014 *Supervisory Highlights,* a continued focus of the CFPB's short-term, small-dollar lending examination program is how lenders collect consumer debt. Since then, we have learned that 11 percent of consumers who indicated that they had been contacted about a debt in collection reported attempts to collect on a payday loan.[47] Nearly ten percent of all debt collection complaints handled by the CFPB are related to payday loans.[48] Examiners have identified a range of illegal collections practices by small-dollar lenders, some of which are highlighted below.

Workplace Collection Calls

Examiners found that one or more entities, in the course of collecting their own debt, called borrowers at their places of employment. The entity(ies) placed repeated calls to borrowers at work even after borrowers asked the lenders to stop calling them at work or told the lenders that the borrowers' employers did not allow such calls. Examiners determined that this collection activity constituted an unfair act or practice. The practice of continuing to call borrowers repeatedly at the workplace after requests to stop causes or is likely to cause substantial injury because continued contact may result in negative employment consequences to the borrower. Borrowers cannot avoid the injury when the lenders continue to make repeated calls after the borrowers requested that they stop. Where the lender has been expressly told to stop contacting the consumer at work or that the employer prohibits such calls, the harm to consumers from continued calling outweighs any countervailing benefits to consumers and competition. One or more lenders have undertaken remedial and corrective actions regarding these violations, which are under review by Supervision.

Repeated Collection Calls to Third Parties

Examiners observed one or more entities routinely making repeated calls to third parties, including personal and work references that borrowers listed on their loan applications. In some instances, one or more entities repeatedly requested that the third parties relay messages to delinquent borrowers in a manner that disclosed or risk disclosing the debt. The loan applications required consumers to list the names and numbers of third parties and, in some instances, disclosures provided to consumers conveyed that the individuals listed would be contacted by the entity(ies) only as part of the origination and underwriting process. The collection calls to third parties were not made for the purpose of locating the borrowers.

Supervision determined that these collection activities constituted unfair acts or practices. Through these calls, the entity(ies) caused or was likely to cause substantial injury because the entity(ies) either disclosed or risked disclosing borrowers' default or delinquency to third parties. The consumer injury associated with the calls could not be reasonably avoided because the borrowers were not aware that the lenders would contact references or other third parties for debt collection purposes, nor were they aware that one or more lenders would continue to call such references after requests to stop. The benefits to consumers and to competition did not outweigh the injury; the entities had the borrower's location information and therefore had other ways to reach consumers without disclosing or risking disclosure of the borrowers' default or delinquency to third parties. One or more entities have undertaken remedial and corrective actions regarding these violations, which are under review by Supervision.

Misrepresentations in Collections

Examiners observed one or more entities in the course of collecting delinquent or defaulted loans making statements to borrowers that they must immediately contact the lenders to avoid additional collection activity, including being visited at home or work. In fact, the entity(ies) did not actually conduct such in-person collection visits. Supervision concluded these representations constituted deceptive acts or practices. Delinquent consumers could reasonably interpret the entity(ies)' statements to mean that in-

[45] Title XIV Final Rule updates effective January 10, 2014, with the exception of the appraisal requirements effective for applications received on or after January 18, 2014.

[46] 12 CFR 1026.41(d)(2)(ii); (d)(4).

[47] Consumer Experiences with Debt Collection (Jan. 2017) at 19, *available at http://files.consumerfinance.gov/f/documents/201701_cfpb_Debt-Collection-Survey-Report.pdf.*

[48] Semi-annual report of the Consumer Financial Protection Bureaus (Fall 2016) at 31, *available at https://www.consumerfinance.gov/documents/1977/122016_cfpb_SemiAnnualReport.pdf.*

person visits to the consumers' place of employment or home would take place if the consumers did not immediately contact the entity(ies). The representations were material to consumers because they could cause consumers to change their behavior to avoid the promised visits. One or more entities agreed to modify their collection practices to comply with Federal consumer financial laws.

2.9.2 Marketing Misrepresentations About Small Dollar Loan Products

No Credit Check

Examiners observed that one or more entities advertised that consumers could receive loans without undergoing credit checks. However, these entity(ies) obtained consumer reports from specialty consumer reporting companies during their underwriting processes and sometimes denied loans to consumers based on the information in the reports. Supervision concluded that this conduct constituted deceptive acts or practices. The advertisements were deceptive because they were likely to mislead reasonable consumers into believing that no credit inquiries would be conducted and thus, they could receive a loan without a credit check. These misrepresentations were likely to influence consumers' decisions to choose to apply for the loans. Supervision directed the one or more entities to cease advertising that consumers could receive loans without credit checks.

Availability of Products and Services

Examiners observed that one or more entities advertised products and services in outdoor signage that the entity(ies) did not, in fact, offer. They consisted of products and services that the lenders had not offered for several years but would be of interest to payday loan customers. Supervision concluded that by advertising products and services the entity(ies) did not, in fact, offer, the lenders engaged in deceptive acts or practices. A reasonable consumer could interpret the outdoor advertising to mean that the consumers who wished to purchase the advertised services could do so inside the stores. The representations were material because they impacted a consumer's conduct in terms of whether to visit the stores. Supervision directed the one or more entities to cease advertising products and services that they did not offer.

Comparisons to Competitors

Examiners observed one or more entities advertising that many of their products and services had substantially lower fees than their competitors' products and services. The entity(ies), however, did not have substantiation to support these claims. The entity(ies) relied on out-of-date internal analyses that only covered fees for a small number of products and services and did not reflect current rates, products, or services or those of their competitors. Supervision concluded that by making these misleading comparisons, the entity(ies) engaged in deceptive acts or practices. The representations were likely to mislead reasonable consumers into believing that the entity(ies) had a basis for claiming that consumers would pay lower fees for the products and services identified in the advertisement. This misrepresentation was material because it likely influenced consumers' decisions to obtain these products and services from the entity(s) over other short-term, small-dollar lenders. Supervision directed one or more entities to cease advertising that their fees were lower than their competitors, absent adequate substantiation.

Ability To Apply Online

Examiners observed one or more entities representing on their Web sites that consumers may ''apply online'' by completing lengthy online forms. The forms solicited all or most of the information that a consumer would typically submit in order to apply for a short-term, small-dollar loan. The forms also permitted consumers to list most states as their home State, suggesting that an application for an online loan was available to consumers nationwide. In fact, consumers could not apply online because the entity(ies) only originate loans at their physical store front locations and do not originate loans based on the purported online loan applications. Consumers could only receive a loan from the lenders if they visited storefront locations. In addition, the entity(ies) only extends credit in a small number of States where they operate, not nationwide. Supervision determined that the entity(ies)' representations constituted deceptive acts or practices. Consumers acting reasonably were likely to view the ''apply online'' advertisements on the lenders' Web sites and comprehensive online applications as invitations to apply for, and receive, loans online. The representations were material because had consumers understood that they could not obtain a loan from the entity(ies) based on where they lived or that would be required to visit a storefront location to obtain a loan, many consumers would decide not to submit the purported application forms with detailed contact and financial information, and instead seek out other loan options. Supervision directed the one or more entities to revise their Web sites and other marketing materials.

2.9.3 Misrepresentations Regarding Use of References Provided by Borrowers in Small Dollar Loan Applications

Examiners observed one or more entities making false representations regarding the use of information provided by consumers in loan applications. The entity(ies) required applicants to provide names of references, including work colleagues, neighbors, and family members, on the loan applications. On its loan applications, the entity(ies) represented, directly and by implication, that the references would only be contacted to verify information and evaluate creditworthiness in connection with the consumers' loans. However, the entity(ies) also contacted the applicants' references to market loan products to them. Supervision concluded that the entity(ies), by misleading consumers about how they would use the consumers' references, engaged in deceptive acts or practices. A consumer acting reasonably under the circumstances could interpret the loan applications to mean that the entity(ies) would only contact references in connection with the consumers' loans and that the entity(ies) would not market their services to the individuals identified by consumers as references. The representations were material because they were likely to impact consumer behavior. For example, if borrowers were aware that the entity(ies) makes marketing calls to the references listed on applications, borrowers may provide different references or not apply for the loan at all. Supervision directed one or more lenders to ensure that all disclosures regarding the collection and use of references do not include any false or misleading information.

Examiners also observed one or more entities representing, directly or by implication, in loan applications that the reference information provided by borrowers would be used only to contact references regarding the borrowers' loan applications. The entity(ies) indicated that these references would be ''checked,'' implying that they would be contacted only at loan origination. Instead, the entity(ies) repeatedly contacted the references when the borrowers' loans became delinquent. Supervision concluded that these representations constituted deceptive acts or practices.

The entity(ies) applications were likely to mislead consumers acting reasonably under the circumstances by creating the net impression that references would be contacted only at origination. This representation was material because borrowers might have supplied other names of references or not applied for loans at all if they had known their references would be contacted for debt collection purposes. Supervision directed one or more entities to review all disclosures regarding the collection and use of references, including references listed by borrowers on loan applications, and to ensure that the disclosures do not include any false or misleading information.

2.9.4 Small Dollar Lending Unauthorized Debits and Overpayments

Examiners observed that one or more entities debited the accounts of borrowers who had already paid their debts. Under the applicable loan agreements, the entity(ies) was permitted to initiate ACH debits from the accounts of borrowers whose loans were past due. However, one or more entities sought payment through the ACH system from the accounts of borrowers who had already paid their loans by making cash payments at branch locations. Supervision concluded that failing to implement adequate processes to reasonably avoid unauthorized charges of, debits to, and overpayments by borrowers constituted unfair acts or practices. The failure to prevent successful and unsuccessful payment attempts to the accounts of borrowers who paid their debts caused substantial injury in the form of overpayments and fees. Consumers could not avoid this injury because they were not aware, regardless of whether they were making payments in response to collection efforts, that ACH debits had been initiated. The injury to consumers from failing to have adequate processes to avoid the unauthorized charges, debits and overpayments outweighs the benefits to consumers or competition, given that implementing such processes would not involve excessive costs to the entity(ies). One or more entities have undertaken remedial and corrective actions regarding these violations, which are under review by Supervision.

One or more entities also failed to implement adequate processes to accurately and promptly identify and refund borrowers who paid more than they owed, either in person at stores or via the ACH network. Several consumers did not receive refunds until examiners alerted the entity(ies) to the overpayments, which in some cases was almost a year after the borrowers made the overpayments. Supervision concluded that by failing to implement adequate processes to accurately and promptly monitor, identify, correct, and refund overpayments by consumers, the entity(ies) engaged in unfair acts or practices. The acts or practices caused injury to borrowers who have paid their debts because a number of consumers were deprived of their funds for extended periods of time. They could not avoid the injury because they were unaware that the entity(ies) would double debit their accounts and the consumers have no control over the lenders' refund process. The injury to borrowers from failing to have adequate processes to refund borrowers outweighs the benefits to them or to competition, given that implementing such processes would not involve excessive costs to the entity(ies). One or more entities have undertaken remedial and corrective actions regarding these violations, which are under review by Supervision.

2.10 Fair Lending

2.10.1 Mortgage Servicing

As part of its fair lending work, the Bureau seeks to ensure that creditworthy consumers have access to the full array of appropriate options when they have trouble paying their mortgages, without regard to any prohibited basis. Mortgage servicing, and specifically default servicing, may introduce fair lending risks because of the complexity of certain processes, the range of default servicing options, and the discretion that can sometimes exist in evaluating and selecting among available default servicing options.

In mortgage servicing, our supervisory work has included use of the Mortgage Servicing Exam Procedures and the ECOA Baseline Modules, both of which are part of the CFPB Supervision and Examination Manual. Examination teams use these procedures to conduct ECOA Baseline Reviews, which evaluate institutions' compliance management systems (CMS), or ECOA Targeted Reviews, which are more in-depth reviews of activities that may pose heightened fair lending risks to consumers. As discussed in the Mortgage Servicing Special Edition of *Supervisory Highlights,*[49] published in June 2016, these exam procedures contain questions about, among other things, the fair lending training of servicing staff, fair lending monitoring of servicing, and servicing of consumers with limited English proficiency.

In one or more ECOA targeted reviews of mortgage servicers, CFPB examiners found weaknesses in fair lending CMS. In general, examiners found deficiencies in oversight by board and senior management, monitoring and corrective action processes, compliance audits, and oversight of third-party service providers.

In one or more examinations, data quality issues, which were related to a lack of complete and accurate loan servicing records, made certain fair lending analyses difficult or impossible to perform. Examiners attributed these data quality issues to significant weaknesses in CMS-related policies, procedures, and service provider oversight.

Separately, fair lending analysis at one or more mortgage servicers was affected by a lack of readily-accessible information concerning a borrower's ethnicity, race, and sex information that had been collected pursuant to Regulation B or Regulation C and transferred to the servicer. One or more mortgage servicers acknowledged the importance of retaining in readily-accessible format—for the express purpose of performing future fair lending analyses—ethnicity, race, and sex data that it had received in the borrower's origination file.

3. Remedial Actions

3.1 Public Enforcement Actions

3.1.1 Fay Servicing

On June 7, 2017, the CFPB announced an enforcement action against Fay Servicing for failing to provide mortgage borrowers with certain protections against foreclosure that are required by law.[50] The Bureau found that Fay violated the CFPB's servicing rules by keeping borrowers in the dark about critical information about the process of applying for foreclosure relief. As part of the requirements for keeping borrowers informed, servicers generally must send an acknowledgement notice when they receive an application for foreclosure relief. The notice must state whether and what additional documents or information are required from the borrower to complete the application. After a borrower completes the application, servicers must also generally send an evaluation notice spelling out what foreclosure relief options they are offering, the deadline to

[49] *See* Supervisory Highlights Mortgage Servicing Special Edition 2016, at 5, *available at http://files.consumerfinance.gov/f/documents/Mortgage_Servicing_Supervisory_Highlights_11_Final_web_.pdf.*

[50] *See* related Consent Order, *available at http://www.consumerfinance.gov/documents/4820/062017_cfpb_Fay_Servicing-consent_order.pdf.*

accept or reject the offer, and the rights borrowers have to appeal a servicer's decision to deny certain types of relief.

Fay Servicing failed to send or timely send both acknowledgment and evaluation notices with the relevant, correct information, putting the onus on borrowers to try to determine what else they had to do to attempt to save their homes or otherwise avoid foreclosure. The Bureau also found instances where the servicer illegally launched or moved forward with the foreclosure process while borrowers were actively seeking help to save their homes. The CFPB has ordered Fay Servicing to provide timely and accurate acknowledgment and evaluation notices, to solicit certain consumers for available loss mitigation options and pay up to $1.15 million to harmed borrowers.

3.1.2 Nationstar Mortgage LLC, d/b/a Mr. Cooper

On March 15, 2017, the Bureau announced an enforcement action against Nationstar Mortgage LLC, d/b/a Mr. Cooper (Nationstar) for violating the Home Mortgage Disclosure Act (HMDA) by consistently failing to report accurate data from 2012 through 2014, under the version of the HMDA rule that predates the creation of the CFPB.

Through its supervision process, the Bureau found that Nationstar's HMDA compliance systems were flawed and generated mortgage lending data with significant, preventable errors. Nationstar also failed to maintain detailed HMDA data collection and validation procedures, and failed to implement adequate compliance procedures. It also created reporting discrepancies by failing to maintain consistent data definitions among its various lines of business.

Nationstar has a history of HMDA non-compliance. In 2011, the Commonwealth of Massachusetts Division of Banks reached a settlement with Nationstar to address HMDA compliance deficiencies. The loan file samples reviewed by the Bureau showed substantial error rates in three consecutive reporting years, even after the settlement with the Massachusetts Division of Banks. In the samples reviewed, the Bureau found error rates of 13 percent in 2012, 33 percent in 2013, and 21 percent in 2014.

The Bureau's consent order requires Nationstar to pay a $1.75 million penalty to the Bureau's Civil Penalty Fund. Nationstar must also review, correct, and make available its corrected HMDA data from 2012–14. In addition, Nationstar must assess and undertake any necessary improvements to its HMDA compliance management system to prevent future violations. The action includes the largest HMDA civil penalty imposed by the Bureau to date, which stems from Nationstar's market size, the substantial magnitude of its errors, and its history of previous violations.

3.2 Non-Public Supervisory Actions

In addition to the public enforcement actions above, recent supervisory activities have resulted in approximately $14 million in restitution to more than 104,000 consumers. These nonpublic supervisory actions generally have been the product of CFPB supervision and examinations, often involving either examiner findings or self-reported violations of Federal consumer financial law during the course of an examination. Recent nonpublic resolutions were reached in auto finance origination matters.

4. Supervision Program Developments

4.1 Use of Enforcement and Supervisory Authority

In the Summer 2015 edition of *Supervisory Highlights,* the Bureau provided information on its Potential Action and Request for Response (PARR) letter process and the Action Review Committee (ARC) process. The ARC process is used by senior executives in the Bureau's Division of Supervision, Enforcement, and Fair Lending to determine through a deliberative and rigorous process whether matters that originate from examinations will be resolved through confidential supervisory action or be further investigated for possible public enforcement action.[51]

In June 2017, the Bureau released a blog which noted that in fiscal year 2016, about one-third of those examinations that were considered through the ARC process were determined appropriate for further investigation for possible public enforcement action. This equated to approximately 10 percent of all examinations in fiscal year 2016.[52]

More detailed information on the number of ARC decisions is presented in Table 1 below. This table reflects the total number of ARC decisions and their outcomes for the fiscal years 2012 through 2016. The numbers in the table do not reflect all supervisory examinations or all enforcement investigations in any given year. Instead, they show the ARC decisions made on the subset of matters that go through the ARC process, which are generally those examinations in which the exam team found evidence of significant violations of Federal consumer financial law. These numbers are also reflective in part of the Bureau's risk-based approach to supervision. Pursuant to that approach, the Bureau concentrates its efforts on institutions and product lines that it determines through its analytical prioritization process pose the greatest risk to consumers.

As reflected in the table, since 2014, the number of matters raising issues that trigger the ARC process and the number of those matters that are determined appropriate for further investigation for possible public enforcement action moving to enforcement—in whole or in part—have remained somewhat consistent. Taken together, about a third of the ARC decisions in fiscal years 2014 to 2016 were determined appropriate for further investigation for possible public enforcement action. Any violations identified in the remaining matters were determined appropriate to be resolved through confidential supervisory action.

TABLE 1—ARC DECISIONS THROUGH FY 2016

[September 30, 2016]

Outcome	FY 12*	FY 13	FY 14	FY 15	FY 16	Total	% of total
Determined appropriate for further investigation for possible public enforcement action	7	10	11	9	8	45	24.59
Determined appropriate for resolution through confidential supervisory action	7	6	32	41	31	117	63.93

[51] *See* Supervisory Highlights: Summer 2015, at 27, *available at http://files.consumerfinance.gov/f/201506_cfpb_supervisory-highlights.pdf.*

[52] For more information regarding the evaluation factors, *see* CFPB blog titled ''How we keep you safe in the consumer financial market place'' *available at https://www.consumerfinance.gov/about-us/blog/how-we-keep-you-safe-consumer-financial-marketplace/.*

TABLE 1—ARC DECISIONS THROUGH FY 2016—Continued

[September 30, 2016]

Outcome	FY 12*	FY 13	FY 14	FY 15	FY 16	Total	% of total
Determined appropriate, in part for further investigation for possible public enforcement, and in part for resolution through confidential supervisory action**	0	1	8	5	7	21	11.48
Total	14	17	51	55	46	183	100.00

* Reflects part of the Fiscal Year; the ARC process was first implemented partway through FY 2012.

** With respect to some exams, some findings are referred to supervision and some findings are referred to enforcement. Either Enforcement or Supervision will exclusively consider each finding.

The Bureau commits to publishing ARC data going forward at the conclusion of each fiscal year, beginning with the data for fiscal year 2017 in the next edition of *Supervisory*

4.2 Fair Lending Developments

4.2.1 HMDA Data Collection and Reporting Reminders for 2017

As reported in previous editions of *Supervisory Highlights,* beginning with Home Mortgage Disclosure Act (HMDA) data collected in 2017 and submitted in 2018, responsibility to receive and process HMDA data will transfer from the Federal Reserve Board (FRB) to the CFPB.[53] The HMDA agencies have agreed that a covered institution filing HMDA data collected in or after 2017 with the CFPB will be deemed to have submitted the HMDA data to the appropriate Federal agency.[54]

The effective date of the change in the Federal agency that receives and processes the HMDA data does not coincide with the effective date for the new HMDA data to be collected and reported under the Final Rule amending Regulation C published in the **Federal Register** on October 28, 2015. The Final Rule's new data requirements will apply to data collected beginning on January 1, 2018. The data fields for data collected in 2017 have not changed.

Additional information about HMDA, the HMDA Filing Instructions Guide (FIG) and other data submission resources are located at: *http://www.consumerfinance.gov/data-research/hmda/.*

4.2.2 HMDA Data Reviews and the Adequacy of HMDA Compliance Programs

As part of its supervision of very large banks and nonbank mortgage lenders, the CFPB reviews the accuracy of HMDA data and the adequacy of HMDA compliance programs. In 2013, the CFPB issued a bulletin reminding mortgage lenders about the importance of submitting correct mortgage loan data. The CFPB has conducted HMDA reviews at dozens of bank and nonbank mortgage lenders, and has found that many lenders have adequate compliance systems and produce HMDA data with few errors. Moreover, while some lenders have been required to resubmit their HMDA data because their errors exceeded the relevant resubmission thresholds, most of those matters have been addressed through a supervisory resolution.

As noted above, the 2015 Final Rule's new data requirements will apply to data collected beginning on January 1, 2018. Given the recent updates to the rule, the Bureau's current principal focus is on providing regulatory implementation support to financial institutions, to assist them in operationally implementing the recent changes to the HMDA requirements. After the rule takes effect, consistent with our approach to the implementation of other Bureau rules requiring significant systems and operational changes, our approach will generally be diagnostic and corrective, not punitive. In our initial examinations for compliance with the rule, we intend to consider whether companies have made good faith efforts to come into compliance with the rule in a timely manner. Specifically, we will be evaluating a company's overall efforts to come into compliance, including assessing the compliance management system and conducting transaction testing. If errors are identified, we will work with the institution to determine the root cause of the issue and determine what corrective actions, if any, are necessary.

4.2.3 FFIEC Releases Updates to HMDA Examiner Transaction Testing Guidelines

In August 2017, the FFIEC, of which the Bureau is a member agency, released the *FFIEC HMDA Examiner Transaction Testing Guidelines* (Guidelines).[55] For HMDA data collected by financial institutions in or after 2018, these new FFIEC Guidelines replace the Bureau's *HMDA Resubmission Schedule and Guidelines* which was released in October 2013.

The Guidelines Will Help Ensure Accurate Data and Address Reporting Burden Concerns

When examining financial institutions, federal supervisory agencies may check the accuracy of HMDA data within a sample of reported transactions. If examiners find that the number of errors in the sample exceeds certain thresholds, the lender is directed to correct and resubmit its HMDA data.

In light of the new data fields that will be required beginning in 2018, the new Guidelines:

- Eliminate the file error resubmission threshold under which a financial institution would be directed to correct and resubmit its entire Loan Application Register (LAR) if the total number of sample files with one or more errors equaled or exceeded a certain threshold.
- Establish, for the purpose of counting errors toward the field error resubmission threshold, allowable tolerances for certain data fields.
- Provide a more lenient 10 percent field error resubmission threshold for financial institutions with LAR counts of 100 or less, many of which are community banks and credit unions.

[53] For additional information regarding HMDA data collection and reporting reminders for 2017, see *Supervisory Highlights,* Fall 2016, *available at http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf.*

[54] The ''HMDA agencies'' refers collectively to the CFPB, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the FRB, the National Credit Union Administration (NCUA) and the Department of Housing and Urban Development (HUD).

[55] *See* the related Guidelines, available at *https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_ffiec-hmda-examiner-transaction-testing-guidelines.pdf.*

At the same time, the Guidelines ensure HMDA data integrity by maintaining field error resubmission thresholds that safeguard the accuracy of each data field, and thus all data, reported under HMDA. Furthermore, under the Guidelines, examiners may direct financial institutions to change their policies, procedures, audit processes, or other aspects of its compliance management system to prevent the reoccurrence of errors.

All Federal HMDA Supervisory Agencies Will Use the Same Guidelines

The Guidelines represent a joint effort by the Bureau, the FRB, the OCC, the FDIC, and the NCUA to provide—for the first time—uniform guidelines across all Federal HMDA supervisory agencies. This collaboration began with the Bureau issuing a Request for Information [56] and holding outreach meetings in which the other supervisory agencies participated. The agencies then worked together to develop the Guidelines.

Information about HMDA and other data submission resources are located at *http://www.consumerfinance.gov/adata-research/hmda/.*

4.3 Examination Procedures

4.3.1 Updates to the Compliance Management Review Examination Procedures

On August 30, 2017, the CFPB released revised Compliance Management Review examination procedures. The procedures were updated in order to reflect changes to the FFIEC Interagency Consumer Compliance Ratings System (CC Ratings System), which became effective March 31, 2017. These procedures do not reflect any new or additional expectations of institutions regarding their CMS, nor do they change the examiner's assessment from that which examiners have been conducting in the past: They only reorganize the procedures to align with the CC Ratings System and formalize current CMS review processes.

As revised, the CMS examination procedures are divided into five Modules:

- Module 1: Board and Management Oversight
- Module 2: Compliance Program
- Module 3: Service Provider Oversight
- Module 4: Violations of Law and Consumer Harm
- Module 5: Examiner Conclusions and Wrap-Up

In general, all CFPB reviews will include Modules 1, 2, 3, and 5. Module 4 will generally be included in targeted reviews of individual product lines, as well as examinations that will result in the institution receiving a consumer compliance rating. The CMS review for target reviews will generally be limited to reviewing aspects of CMS pertaining to the product line under review. To the extent that CMS for a particular product line or a specific institution has been previously reviewed, CFPB examiners may evaluate CMS by reviewing previous conclusions and assessing only the changes to the current CMS program.

4.4 Recent CFPB Guidance

The CFPB is committed to providing guidance on its supervisory priorities to industry and members of the public.

4.4.1 Phone Pay Fees Bulletin

On July 31, 2017, the Bureau released Bulletin 2017–01,[57] which provides guidance to covered persons and service providers regarding fee assessments for pay-by-phone services. The bulletin provides examples of conduct observed during supervisory examinations and enforcement investigations that may violate the Dodd-Frank Act prohibition on engaging in UDAAPs, as well as the FDCPA. The bulletin clarifies that the Bureau is not mandating specific pay-by-phone disclosure requirements, but states that the Bureau expects supervised entities to review their practices on charging phone pay fees for potential risks of violating Federal consumer financial laws. To that end, the bulletin offers a number of suggestions for entities assessing whether their practices violate these laws and further recommends having in place a corrective action program to address any violations identified and reimburse consumers when appropriate.

5. Conclusion

The Bureau recognizes the value of communicating its program findings to CFPB-supervised entities to help them comply with Federal consumer financial law, and to other stakeholders to foster a better understanding of the CFPB's work.

To this end, the Bureau remains committed to publishing its *Supervisory Highlights* report periodically to share information about general supervisory and examination findings (without identifying specific institutions, except in the case of public enforcement actions), to communicate operational changes to the program, and to provide a convenient and easily accessible resource for information on the Bureau's guidance documents.

Dated: September 7, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017–22700 Filed 10–18–17; 8:45 am]

BILLING CODE 4810–AM–P

[56] *See* the related Request for Information, *available at http://files.consumerfinance.gov/f/201601_cfpb_request-for-information-regarding-home-mortgage-disclosure-act-resubmission.pdf.*

[57] *See* Compliance Bulletin 2017–01, *available at https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/bulletin-phone-pay-fees/.*

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2017–OS–0057]

Notice of Availability of an Environmental Assessment Addressing Defense Logistics Agency Construction and Operation of a Disposition Services Complex at DLA Disposition Services Red River, Texas

AGENCY: Defense Logistics Agency (DLA), Department of Defense (DoD).

ACTION: Notice of availability (NOA).

SUMMARY: DLA announces the availability of an Environmental Assessment (EA) documenting the potential environmental effects associated with the Proposed Action to construct and operate a DLA Disposition Services Complex at DLA Disposition Services Red River, Texas, which is on the Red River Army Depot. The EA has been prepared as required under the National Environmental Policy Act (NEPA).

DATES: The public comment period will end on November 20, 2017.

ADDRESSES: You may submit comments, identified by DOD–2017–OS–0057, to one of the following:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

FOR FURTHER INFORMATION CONTACT: Ira Silverberg at 703–767–0705 during normal business hours Monday through Friday, from 8:00 a.m. to 4:30 p.m. (EDT) or by email: *ira.silverberg@dla.mil.*

SUPPLEMENTARY INFORMATION: The EA complies with 32 Code of Federal

Regulations part 651, Environmental Analysis of Army Actions (AR 200–2), and DLA's regulation for NEPA compliance, DLA Regulation 1000.22, Environmental Considerations in DoD Actions. However, because DLA is a tenant on Red River Army Depot, a U.S. Army-supported installation, this EA is subject to compliance with U.S. Army implementing regulations for NEPA. DLA has determined that the Proposed Action would not have a significant impact on the human environment within the context of NEPA. Therefore, the preparation of an environmental impact statement is not required.

Comments received by the end of the 30-day period will be considered when preparing the final version of the documents. The EA is available electronically at the Federal eRulemaking Portal at *http://www.regulations.gov,* and in hardcopy at the County Clerk's Office at the Bowie County Courthouse, 710 James Bowie Drive, New Boston, TX 75570.

Dated: October 16, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–22668 Filed 10–18–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0129]

Agency Information Collection Activities; Comment Request; Personal Authentication Service (PAS) for FSA ID

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before December 18, 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–0129. 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 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

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: Personal Authentication Service (PAS) for FSA ID.

OMB Control Number: 1845–0131.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 55,300,000.

Total Estimated Number of Annual Burden Hours: 14,715,000.

Abstract: Federal Student Aid (FSA) replaced the PIN system with the Personal Authentication Service (PAS) which will employ an FSA ID, a standard user name and password solution. In order to create an FSA ID to gain access to certain FSA systems (FAFSA on the Web, NSLDS, StudentLoans.gov, etc.) a user must register on-line for an FSA ID account. The FSA ID allows the customer to have a single identity, even if there is a name change or change to other personally identifiable information. The information collected to create the FSA ID enables electronic authentication and authorization of users for FSA web-based applications and information and protects users from unauthorized access to user accounts on all protected FSA sites.

Dated: October 16, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–22683 Filed 10–18–17; 8:45 am]

BILLING CODE 4000–01–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: ER12–543–003.
Applicants: Clean Choice Energy, Inc.
Description: Notification of Change in Status of Clean Choice Energy, Inc.
Filed Date: 10/12/17.
Accession Number: 20171012–5162.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–68–000.
Applicants: Natural Gas Exchange Inc.
Description: Notice of Cancellation of Market-Based Rate Tariff of Natural Gas Exchange Inc.
Filed Date: 10/12/17.
Accession Number: 20171012–5107.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–69–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: NTTG Attachment K Revisions (Interconnection-Wide) to be effective 12/12/2017.
Filed Date: 10/12/17.
Accession Number: 20171012–5136.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–70–000.
Applicants: Citizens Sunrise Transmission LLC.
Description: § 205(d) Rate Filing: Annual TRBAA Filing October 2017 to be effective 1/1/2018.
Filed Date: 10/12/17.
Accession Number: 20171012–5138.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–71–000.
Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Ministerial Clean Up: Overlapping Dates, Italicized Language and Corrections to be effective 6/27/2016.

Filed Date: 10/12/17.

Accession Number: 20171012–5143.

Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–72–000.

Applicants: Deseret Generation & Transmission Co-operative, Inc.

Description: § 205(d) Rate Filing: OATT Attachment K Amend to be effective 12/12/2017.

Filed Date: 10/12/17.

Accession Number: 20171012–5152.

Comments Due: 5 p.m. ET 11/2/17.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF18–33–000.

Applicants: UE–00301MD, LLC.

Description: Form 556 of UE–00301MD, LLC.

Filed Date: 10/6/17.

Accession Number: 20171006–5082.

Comments Due: None Applicable.

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: October 13, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22654 Filed 10–18–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14859–000]

Big Chino Valley Pumped Storage LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On September 29, 2017, Big Chino Valley Pumped Storage LLC (Big Chino) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Big Chino Valley Pumped Storage Project (project) to be located near Chino Valley in Yavapai, Coconino, and Mohave Counties, Arizona. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project will be closed-loop. Water to initially fill the reservoirs and required make-up water will be pumped from locally available groundwater sources. The proposed project would consist of an upper and lower reservoir, a 10.1-mile-long water conveyance system connecting the two reservoirs, a powerhouse, and three 500-kV transmission lines. A 2,900-foot-long, 360-foot-high rockfill, concrete-faced dam would be constructed to form the 50-acre upper reservoir, which would have a storage capacity of 19,739-acre-foot at an elevation of 6,560 feet. A 2,700-foot-long, 250-foot-high rockfill, concrete-faced dam would be constructed to form a 50-acre lower reservoir with a storage capacity of 19,811-acre-foot at an elevation of 5,294 feet. Water would be conveyed from the upper reservoir to the lower reservoir via two upper reservoir inlet/outlets, two vertical shafts, two horizontal power tunnels, two penstock manifold tunnels, and eight 12-foot-diameter, steel-lined penstocks. The powerhouse would contain eight pump-turbine/motor-generator units rated at 250 MW each. From the powerhouse, water will discharge into eight, 16-foot diameter draft tubes from each unit and then into two, 32-foot-diameter tailrace tunnels, which will discharge into the lower reservoir through a lower reservoir inlet/outlet structure. Project power would be transmitted through a 30-mile-long 500-kilovolt (kV), line traversing northerly to interconnect with the existing Arizona Public Service owned-and operated Eldorado-Moenkopi 500-kV line or a planned and sited new Dine Navajo Transmission Project 500-kV line from Moenkopi to Marketplace; a 54-mile long 500-kV traversing westerly to interconnect with an existing Western Area Power Administration owned and operated 230-kV line from Prescott to Peacock that would be upgraded to 500 kV; and a 47-mile-long 500-kV line traversing easterly to interconnect with two Navajo Southern Transmission 500-kV lines owned by participants of the Navajo Generating Plant and operated by Arizona Public Service.

The estimated annual generation of the project would be 4,614 gigawatt-hours.

Applicant Contact: Brian Studenka, Director, Grid Development ITC Holdings Corp., 27175 Energy Way, Novi, MI 48377, phone (248) 946–3247; Andrew M. Jamieson, Counsel—Regulatory & Legislative ITC Holdings Corp., 27175 Energy Way, Novi, MI 48377, phone (248) 946–3536; Jay Ryan, Baker Botts L.L.P., The Warner—Suite 1000, 1299 Pennsylvania Avenue NW, Washington, DC 20016, phone (202) 639–7789.

FERC Contact: Kim Nguyen, (202) 502–6105.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14859–000.

More information about this project, including a copy of the application, can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibary.asp.* Enter the docket number (P–14859) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: October 13, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22656 Filed 10–18–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1499–005.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: City of Independence 2018 Stated Rate Compliance Filing to be effective 1/1/2018.
Filed Date: 10/13/17.
Accession Number: 20171013–5110.
Comments Due: 5 p.m. ET 11/3/17.

Docket Numbers: ER18–73–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: Request to Disclaim Jurisdiction—SA 828 Agreement with Vista LLC to be effective 10/14/2017.
Filed Date: 10/13/17.
Accession Number: 20171013–5092.
Comments Due: 5 p.m. ET 11/3/17.

Docket Numbers: ER18–74–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Serv. Agreement Nos. 2nd Rev. 3349, 4792, 4793, Queue No. U2–073/Z2–013/AB2–038 to be effective 9/13/2017.
Filed Date: 10/13/17.
Accession Number: 20171013–5124.
Comments Due: 5 p.m. ET 11/3/17.

Docket Numbers: ER18–75–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–10–13_Installed Capacity (ICAP) Deferral Process Filing to be effective 12/13/2017.
Filed Date: 10/13/17.
Accession Number: 20171013–5149.
Comments Due: 5 p.m. ET 11/3/17.

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: October 13, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22655 Filed 10–18–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0677; FRL–9968–58]

Receipt of Information Under the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing its receipt of information submitted pursuant to a rule, order, or consent agreement issued under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which information has been received; the uses or intended uses of such chemical substance and/or mixture; and describes the nature of the information received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT:

For technical information contact: John Schaeffer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8173; email address: *schaeffer.john@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Chemical Substances and/or Mixtures

Information received about the following chemical substance(s) and/or mixture(s) is provided in Unit IV.: *1,3,5-Triazine-1,3,5(2H,4H,6H)-triethanol* (*CASRN 4719–04–4*).

II. Authority

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of information submitted pursuant to a rule, order, or consent agreement promulgated under TSCA section 4 (15 U.S.C. 2603).

III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document, which announces the receipt of the information. Upon EPA's completion of its quality assurance review, the information received will be added to the docket identified in Unit IV., which represents the docket used for the TSCA section 4 rule, order, and/or consent agreement. In addition, once completed, EPA reviews of the information received will be added to the same docket. Use the docket ID number provided in Unit IV. to access the information received and any available EPA review.

EPA's dockets are available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

IV. Information Received

As specified by TSCA section 4(d), this unit identifies the information received by EPA: *1,3,5-Triazine-1,3,5(2H,4H,6H)-triethanol* (*CASRN 4719–04–4*).

1. *Chemical Use(s): 1,3,5-Triazine-1,3,5(2H,4H,6H)-triethanol* is used in the manufacture of bactericides and biocides, with uses as a disinfectant in cleaners and detergents.

2. *Applicable Rule, Order, or Consent Agreement:* Chemical testing requirements for second group of high production volume chemicals (HPV2), 40 CFR 799.5087.

3. *Information Received:* EPA received the following information:

- Request for exemption from testing requirements.

The docket ID number assigned to this information is EPA–HQ–OPPT–2007–0531.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: October 5, 2017.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–22702 Filed 10–18–17; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2017–6013]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

This collection of information is necessary to determine eligibility of the export sales for insurance coverage. The Report of Premiums Payable for Financial Institutions Only is used to determine the eligibility of the shipment(s) and to calculate the premium due to Ex-Im Bank for its support of the shipment(s) under its insurance program. Export-Import Bank customers will be able to submit this form on paper or electronically.

By neutralizing the effect of export credit support offered by foreign governments and by absorbing credit risks that the private sector will not accept, EXIM enables U.S. exporters to compete fairly in foreign markets on the basis of price and product. Under the Working Capital Guarantee Program, EXIM provides repayment guarantees to lenders on secured, short-term working capital loans made to qualified exporters. The guarantee may be approved for a single loan or a revolving line of credit. In the event that a buyer defaults on a transaction insured by EXIM, the insured exporter or lender may seek payment by the submission of a claim.

DATES: Comments must be received on or before December 18, 2017 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Mardel West, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

Form can be viewed at *https://www.exim.gov/sites/default/files/pub/pending/eib10_03–1.pdf*

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 10–03 Notice of Claim and Proof of Loss, Export Credit Insurance Policies

OMB Number: 3048–0033.

Type of Review: Regular.

Need and Use: This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1), to determine if such claim complies with the terms and conditions of the relevant insurance policy.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 300.

Estimated Time per Respondent: 60 minutes.

Annual Burden Hours: 300 hours.

Frequency of Reporting or Use: As needed to request claim payment.

Government Expenses:

Reviewing Time per Year: 300 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $12,750.

Benefits and Overhead: 20%.

Total Government Cost: $15,300.

Bassam Doughman,

IT Specialist.

[FR Doc. 2017–22664 Filed 10–18–17; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, October 17, 2017, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Richard Cordray (Director, Consumer Financial Protection Bureau), concurred in by Director Keith A. Noreika (Acting Comptroller of the Currency), and Chairman Martin J. Gruenberg, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10).

Dated: October 17, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–22794 Filed 10–17–17; 4:15 pm]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment From the American College of Physicians Patient Safety Organization

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety Rule authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ has accepted a notification of voluntary relinquishment from the American College of Physicians Patient Safety Organization of its status as a PSO, and has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was applicable at 12:00 Midnight ET (2400) on October 10, 2017.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.ahrq.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, Room 06N94B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to b–26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, 73 FR 70732–70814, establish a framework by which hospitals, doctors, and other health care providers may voluntarily report information to Patient Safety Organizations (PSOs), on a privileged and confidential basis, for the aggregation and analysis of patient safety events.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from the American College of Physicians Patient Safety Organization, a component entity of American College of Physicians, PSO number P0128, to voluntarily relinquish its status as a PSO. Accordingly, the American College of Physicians Patient Safety Organization was delisted effective at 12:00 Midnight ET (2400) on October 10, 2017.

The American College of Physicians Patient Safety Organization has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO and of section 3.108(c)(2)(ii) regarding disposition of PSWP consistent with section 3.108(b)(3). According to section 3.108(b)(3) of the Patient Safety Rule, the PSO has 90 days from the effective date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.ahrq.gov.*

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2017–22671 Filed 10–18–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–18F5, CMS–10137, and CMS–10651]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by November 20, 2017.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Fax Number:* (202) 395–5806 *OR Email: OIRA_submission@omb.eop.gov*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Application for Hospital Insurance and Supporting Regulations; *Use:* Individuals who are already entitled to retirement or disability benefits under Social Security or Railroad Retirement Board (RRB) benefits are automatically entitled to premium-free Medicare Hospital Insurance (Part A) when they attain age 65 or reach the 25th month of disability benefit entitlement. These individuals do not file a separate application for Medicare Part A because their application for Social Security or RRB benefits is also an application for

Part A. The form is for individuals who are not eligible for Social Security for RRB benefits, but may qualify for premium-free Medicare Part A based on certain requirements outlined in § 406.11 and 406.15 or for certain disabled individuals who may enroll in premium Medicare Part A based on certain requirements outlined in § 406.20. Individuals may also choose to enroll in Medicare Part B at the same time they apply for Medicare Part A. *Form Number:* CMS–18F5 (OMB control number: 0938–0251); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 51,000; *Total Annual Responses:* 51,000; *Total Annual Hours:* 29,580. (For policy questions regarding this collection contact Carla Patterson at 410–786–8911.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Solicitation for Applications for Medicare Prescription Drug Plan 2019 Contracts; *Use:* Coverage for the prescription drug benefit is provided through contracted prescription drug (PD) plans or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion application. *Form Number:* CMS–10137 (OMB control number: 0938–0936); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other For-profits and Not-for-profit institutions); *Number of Respondents:* 243; *Total Annual Responses:* 243; *Total Annual Hours:* 2,240. (For policy questions regarding this collection contact Arianne Spaccarelli at 410–786–5715.)

3. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* CMS Tribal Long Term Services and Supports (LTSS) Program Survey; *Use:* The Survey will provide CMS with an inventory of LTSS programs for older adults or individuals with disabilities managed by American Indian and Alaska Native (AI/AN) tribes. Information on tribal LTSS programs has previously been gathered through publicly available data via online research. However, not all of the information, including program contact information and program focus, are regularly available online as tribal Web sites are not updated frequently. Therefore, the survey will enable the collection of the most accurate information possible. The respondents include 424 LTSS programs run by AI/AN tribes. Once the survey has been conducted, CMS will feature the survey data, specifically a list of AI/AN managed LTSS programs, online on CMS.gov. The dissemination of survey data on CMS.gov will allow tribal communities and the general public to access this important data. Documentation of these programs will support sharing of LTSS best practices and innovative models employed in Indian Country. CMS will use the survey data to generate further content on LTSS in Indian Country, including literature reviews and reports on best practices. *Form Number:* CMS–10651 (OMB control number: 0938-New); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 425; *Total Annual Responses:* 425; *Total Annual Hours:* 106. (For policy questions regarding this collection contact John Johns at 410–786–7253.)

Dated: October 16, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–22699 Filed 10–18–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0598]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0119

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: 1625–0119, Coast Guard Exchange System Scholarship Application. 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 November 20, 2017.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2016–0598] 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.*

(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–2016–0598], and must be received by November 20, 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: 1625–0119.

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 95154, 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: Coast Guard Exchange System Scholarship Application.

OMB Control Number: 1625–0119.

Summary: This information collected on this form allows the Coast Guard Exchange System Scholarship Program Committee to evaluate and rank scholarship applications in order to award the annual scholarships.

Need: Commandant Instruction, COMDTINST 1780.1 (series), provides policy and procedure for the award of annual scholarships from the Coast Guard Exchange System to dependents of Coast Guard members and employees. The information collected by this form allows for the awarding of scholarships based upon the criteria and procedures outlined in the Instruction under the auspices of 5 U.S.C. 301.

Forms: CG–5687, Coast Guard Exchange System Scholarship Program Application.

Respondents: Coast Guard dependents.

Frequency: Annually.

Hour Burden Estimate: The estimated annual burden remains 120 hours per year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: October 12, 2017.

James D. Roppel,

U.S. Coast Guard, Acting Chief, Office of Information Management.

[FR Doc. 2017–22703 Filed 10–18–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of AmSpec LLC (Plainfield, IL) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec LLC (Plainfield, IL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Plainfield, IL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of April 26, 2017.

DATES: AmSpec LLC (Plainfield, IL) was approved and accredited as a commercial gauger and laboratory as of April 26, 2017. The next triennial inspection date will be scheduled for April 2020.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec LLC, 12351 South Industrial Drive East, Plainfield, IL 60585, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec LLC is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
1	Vocabulary.
3	Tank Gauging
7	Temperature Determination.
8	Sampling.
9	Density Determinations.
12	Calculations.
17	Maritime Measurement.

AmSpec LLC is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method)
27–02	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	D4006	Standard Test Method for Water in Crude Oil by Distillation
27–04	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D86	Standard Test Method for Distillation of Petroleum Products.

CBPL No.	ASTM	Title
27–11	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27–13	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27–48	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester..
27–54	D1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
27–58	D5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *ttp://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: October 11, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2017–22691 Filed 10–18–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0160]

Agency Information Collection Activities; Verification of Indian Preference for Employment in BIA and IHS

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 18, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to Ms. Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW., Mail Stop 4513 MIB, Washington, DC 20240; facsimile: (202) 208–5113; email: *laurel.ironcloud@bia.gov.* Please reference OMB Control Number 1076–0160 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Laurel Iron Cloud, telephone (202) 513–7641.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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.

Abstract: The BIA is seeking renewal of the approval for the information collection conducted under 25 U.S.C. 43, 36 Stat. 472, *inter alia,* and implementing regulations, at 25 CFR part 5, regarding verification of Indian preference for employment. The purpose of Indian preference is to encourage qualified Indian persons to seek employment with the BIA and Indian Health Service (IHS) by offering preferential treatment to qualified candidates of Indian heritage. BIA collects the information to ensure compliance with Indian preference hiring requirements. The information collection relates only to individuals applying for employment with the BIA and IHS. The tribe's involvement is limited to verifying membership information submitted by the applicant. The collection of information allows certain persons who are of Indian descent to receive preference when appointments are made to vacancies in positions with the BIA and IHS as well as in any unit that has been transferred intact from the BIA to a Bureau or office within the Department of the Interior or the Department of Health and Human Services and that continues to perform functions formerly performed as part of the BIA and IHS. You are eligible for preference if (a) you are a member of a federally recognized Indian tribe; (b) you are a descendent of a member and you were residing within the present boundaries of any Indian reservation on June 1, 1934; (c) you are an Alaska native; or (d) you possess one-half degree Indian blood derived from tribes that are indigenous to the United States.

Title of Collection: Verification of Indian Preference for Employment in BIA and IHS.

OMB Control Number: 1076–0160.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Qualified Indian persons who are seeking preference in employment with the BIA and IHS.

Total Estimated Number of Annual Respondents: 5,000 per year, on average.

Total Estimated Number of Annual Responses: 5,000 per year, on average.

Estimated Completion Time per Response: 30 minutes.

Total Estimated Number of Annual Burden Hours: 2,500 hours.

Respondent's Obligation: A response is required to obtain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $6,920.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2017–22589 Filed 10–18–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDC01000. 17XL1109AF. L10100000.MU0000. 241A0; 4500103746]

Notice of Realty Action; Recreation and Public Purposes Act Classification

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has examined 28.69 acres of public land located in Kootenai County, Idaho, and found it suitable for classification for lease and conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended.

DATES: In order to be considered in the classification determination, all comments must be received or postmarked no later than December 4, 2017.

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

- *Email: BLM_blm_id_cda_rpp@blm.gov.*
- *Mail/Hand-Delivery:* Field Manager, BLM Coeur d'Alene Field Office, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815.

Documents pertinent to this proposal may be examined at the BLM Coeur d'Alene Field Office at the above address during regular business hours (7:45 a.m. to 4:30 p.m.). Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Janna Paronto, Realty Specialist, at the above address or phone 208–769–5037, or visit the BLM project Web site at *http://bit.ly/cdarpp.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Paronto. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Ms. Paronto. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The City of Coeur d'Alene, Idaho submitted an application to the BLM to lease and eventually acquire the subject parcel of land for use as a park, under the authority of the R&PP Act, as amended. The parcel, which is located in the city limits within an abandoned railroad right-of-way corridor, is described as:

Boise Meridian, Kootenai County, Idaho

T. 50 N., R. 4 W., tract 44.

The area described contains 28.69 acres as shown on the official survey plat dated January 18, 2002.

The described parcel is not needed for any Federal purpose. The classification is in the public interest and is consistent with the BLM Coeur d'Alene Resource Management Plan, dated June 29, 2007 and the Resource Management Plan Amendment approved on May 26, 2017.

Effective upon publication of this Notice in the **Federal Register**, the above-described public land is segregated from all forms of appropriation under the public land laws, including United States mining laws, except for lease or conveyance under the R&PP Act.

Interested parties may submit written comments regarding the classification. Comments on the classification should be limited to whether the land is physically suited for the proposed use, and whether the use is consistent with local planning and zoning, as well as State and Federal programs. Any adverse comments concerning the classification decision will be reviewed by the authorized officer, who may sustain, vacate, or modify the realty action.

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 the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2741.5(h).

Kurt Pavlat,

Coeur d'Alene Field Manager.

[FR Doc. 2017–22681 Filed 10–18–17; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SERO–RTCA–24091; PPMPSPD1T.Y00000] [PPSESERO10]

Cancellation of September 13, 2016, Meeting of the Wekiva River System Advisory Management Committee

AGENCY: National Park Service, Interior.

ACTION: Cancellation of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act, that the September 13, 2016, meeting of the Wekiva River System Advisory Management Committee previously announced in the **Federal Register** on December 22, 2016, is cancelled.

FOR FURTHER INFORMATION CONTACT: Jaime Doubek-Racine, Community Planner and Designated Federal Official, Rivers, Trails, and Conservation Assistance Program, Florida Field Office, Southeast Region, 5342 Clark Road, PMB #123, Sarasota, Florida 34233, or via telephone (941) 685–5912.

SUPPLEMENTARY INFORMATION: The Wekiva River System Advisory Management Committee was established by Public Law 106–299 to assist in the development of the comprehensive management plan for the Wekiva River System and provide advice to the Secretary of the Interior in carrying out management responsibilities of the Secretary under the Wild and Scenic Rivers Act (16 U.S.C. 1274).

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2017–22380 Filed 10–18–17; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–313–314, 317, and 379 (Fourth Review)]

Brass Sheet and Strip From France, Germany, Italy, and Japan; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on March 1, 2017 (82 FR 12238) and determined on June 5, 2017 that it would conduct expedited reviews (82 FR 32871, July 18, 2017).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on October 13, 2017. The views of the Commission are contained in USITC Publication 4733 (October 2017), entitled *Brass Sheet and Strip from France, Germany, Italy, and Japan: Investigation Nos. 731–TA–313–314, 317, and 379 (Fourth Review).*

By order of the Commission.

Issued: October 13, 2017.

Jessica Mullan,

Attorney Advisor.

[FR Doc. 2017–22653 Filed 10–18–17; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1007, Investigation No. 337–TA–1021 (Consolidated)]

Certain Personal Transporters, Components Thereof, and Packaging and Manuals Therefor and Certain Personal Transporters and Components Thereof; Notice of a Commission Determination To Review in Part a Final Initial Determination; Schedule for Filing Written Submissions on Certain Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''the Commission'') has determined to review in part the final initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') finding in part a violation of section 337 of the Tariff Act of 1930, as amended, in the above-referenced investigation on August 10, 2017. The Commission requests certain briefing from the parties on the issues under review, as indicated in this notice. The Commission also requests briefing from the parties and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–1007, *Certain Personal Transporters, Components Thereof, and Packaging and Manuals Therefor* under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), on June 24, 2016, based on a complaint filed by Segway, Inc. of Bedford, New Hampshire (''Segway''); DEKA Products Limited Partnership of Manchester, New Hampshire (''DEKA''); and Ninebot (Tianjin) Technology Co., Ltd. of Tianjin, China (''Ninebot'') (collectively, ''Complainants''). 81 *FR* 41342–43 (Jun. 24, 2016). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,302,230 (''the '230 patent''); 6,651,763 (''the '763 patent''); 7,023,330 (''the '330 patent''); 7,275,607 (''the '607 patent''); 7,479,872 (''the '872 patent''); and 9,188,984 (''the '984 patent''); and U.S. Trademark Registration Nos. 2,727,948 and 2,769,942. The named respondents for Investigation No. 337–TA–1007 are Inventist, Inc. of Camas, Washington; PhunkeeDuck, Inc. of Floral Park, New York; Razor USA LLC of Cerritos, California; Swagway LLC of South Bend, Indiana (''Swagway''); Segaway of Studio City, California; and Jetson Electric Bikes LLC of New York, New York (''Jetson''). The Commission's Office of Unfair Import Investigations (''OUII'') was also named as a party to this investigation. 81 FR 41342 (Jun. 24, 2016).

On September 21, 2016, the Commission instituted Inv. No. 337–TA–1021, *Certain Personal Transporters and Components Thereof,* based on a complaint filed by the same Complainants. 81 FR 64936–37 (Sept. 21, 2016). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,302,230 and 7,275,607. The named respondents for Investigation No. 337–TA–1021 are Powerboard LLC of Scottsdale, Arizona (''Powerboard''); Metem Teknoloji Sistemleri San of Istanbul, Turkey; Changzhou Airwheel Technology Co., Ltd. of Jiangsu, China (''Airwheel''); Airwheel of Amsterdam, Netherlands; Nanjing Fastwheel Intelligent Technology Co., Ltd. of Nanjing, China; Shenzhen Chenduoxing Electronic, Technology Ltd., China, a.k.a. C-Star of Shenzhen, China; Hangzhou Chic Intelligent Technology Co., Ltd. of Hangzhou, China (''Chic''); Hovershop of Placentia, California; Shenzhen Jomo Technology Co., Ltd., a.k.a. Koowheel of Shenzhen City, China; Guanghzou Kebye Electronic Technology Co., Ltd., a.k.a. Gotway of Shenzhen, China; and Inventist, Inc. of Camas, Washington. OUII was also named as a party to this investigation. 81 *Fed. Reg.* 64936 (Sept.

21, 2016). The Commission directed the presiding ALJ to consolidate Inv. Nos. 337–TA–1007 and 337–TA–1021. *See id.* at 64937.

Subsequently, the Commission determined not to review an ID finding respondents PhunkeeDuck, Inc. and Segaway in default. Order No. 9 (Sept. 1, 2016) (*not reviewed* Oct. 3, 2016). The Commission further determined not to review an ID granting complainants' corrected motion to amend the complaint and notice of investigation to assert the '763, '330, and '872 patents against respondent Jetson Electric Bikes LLC, and to terminate the investigation with respect to all asserted claims of the '984 patent as to all respondents. Order No. 17 (Nov. 14, 2016) (*not reviewed* Dec. 7, 2016). The Commission also determined not to review an ID terminating the investigation as to respondent Nanjing Fastwheel Intelligent Technology Co., Ltd. based on a Consent Order Stipulation. Order No. 18 (Nov. 15, 2016) (*not reviewed* Dec. 7, 2016).

The Commission likewise determined not to review an ID granting a motion to terminate the investigation as to the '763 patent. Order No. 19 (Dec. 16, 2016) (*not reviewed* Jan. 10, 2017). The Commission further determined not to review an ID finding respondents Shenzhen Chenduoxing Electronic, Technology Ltd., China, a.k.a. C-Star; Shenzhen Jomo Technology Co., Ltd., a.k.a. Koowheel; Guanghzou Kebye Electronic Technology Co., Ltd., a.k.a. Gotway; Metem Teknoloji Sistemleri San; and Airwheel Netherlands in default. Order No. 22 (Jan. 9, 2017) (*not reviewed* Feb. 7, 2017). The Commission also determined not to review an ID terminating this investigation with respect to all asserted claims of the '330 patent and the '872 patent as to all respondents. *See* Order No. 24 (Jan. 10, 2017) (*not reviewed* Feb. 7, 2017).

Furthermore, the Commission determined to review an ID terminating respondent Inventist, Inc. in this investigation based on a Consent Order Stipulation and proposed Consent Order. Order No. 25 (Jan. 31, 2017) (Notice of Review issued Feb. 22, 2017 (''Notice of Review'')). The Commission requested corrections to be made in the proposed Consent Order. *See* Notice of Review at 2. The corrected Consent Order was filed with the Commission on February 27, 2017. The Commission determined to affirm Order No. 25, and terminated the investigation as to Inventist and issued a Consent Order on October 12, 2017.

The Commission also determined not to review an ID to terminate this investigation as to Razor USA, LLC based on a Settlement Agreement and Release. Order No. 28 (Mar. 22, 2017) (*not reviewed* Apr. 24, 2017). Also, the Commission determined not to review an ID granting Complainants' motion for summary determination concerning the technical prong of the domestic industry requirement with respect to the asserted trademarks. Order No. 32 (Apr. 6, 2017) (*not reviewed* May 9, 2017). Finally, the Commission determined not to review an ID granting Complainants' motion to terminate the investigation as to respondent Hovershop for good cause. *See* Order No. 34 (Apr. 13, 2017) (*not reviewed* May 15, 2017).

As a result, the following two patents (and 13 claims) and two trademarks remain at issue in this investigation: Claims 1, 3–5, and 7 of the '230 patent; claims 1–4 and 6 of the '607 patent; U.S. Trademark Registration No. 2,727,948; and U.S. Trademark Registration No. 2,769,942. The following respondents participated in the evidentiary hearing and remain in the investigation: Airwheel, Chic, Jetson, Powerboard, and Swagway.

The evidentiary hearing on the question of violation of section 337 was held from April 18 through April 21, 2017. The final ID finding in part a violation of section 337 was issued on August 10, 2017. The ALJ issued his recommended determination on remedy, the public interest and bonding on August 22, 2017. The ALJ recommended that if the Commission finds a violation of section 337 in the present investigation, the Commission should: (1) Issue a general exclusion order (''GEO'') covering accused products found to infringe the asserted patents; (2) issue a limited exclusion order (''LEO'') covering accused products found to infringe the asserted patents if the Commission does not issue a GEO; (3) issue an LEO covering accused products found to infringe the asserted trademarks; (4) issue cease and desist orders; and (5) not require a bond during the Presidential review period. RD at 1–2; 18. No public interest statements were filed by the public in this investigation.

All parties to this investigation that participated in the evidentiary hearing (with the exception of respondent Powerboard) filed timely petitions for review of various portions of the final ID. The parties likewise filed timely responses to the petitions.

On September 11, 2017, Complainants filed a ''Request For Acceptance of Memorandum Correcting Misstatements of the Record Found In Respondents Chic's and Airwheel's Oppositions and OUII'S Response to Complainant's Petition For Review'' (''Request''). The IA and Respondents Chic and Airwheel filed timely responsive pleadings opposing Complainants' Request. The Commission notes that no such further briefing is normally permitted, and that in any event it can resolve the relevant facts from the established record in this Investigation without additional briefing from Complainants or any other party in determining whether to review the final ID. Accordingly, Complainants' Request is denied.

Having examined the record in this investigation, including the final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part. In particular, the Commission has determined as follows:

(1) To review the ID's determination that the claim term ''maximum operating velocity'' should be construed to mean ''a variable maximum velocity where adequate acceleration potential is available to enable balance and control of the vehicle,'' *see* ID at 44;

(2) to review the ID's determination that ''nothing in the plain language of the disputed limitation ['the motorized drive arrangement causing, when powered, automatically balanced operation of the system'] from claim 1 of the '230 patent requires the operation by a rider. The claim only requires the 'motorized drive arrangement causing, when powered, automatically balanced operation of the system,' '' *see* ID at 82;

(3) to review the ID's infringement, validity, and domestic industry (technical prong) determinations pertaining to the '230 patent;

(4) to review the instances in the ID that refer to a disclaimer of ''manual input'' with respect to the '607 patent. On review, the Commission finds that this disclaimer is actually a disclaimer of ''manual input via joystick.'' The Commission notes that the ID uses these terms interchangeably and determines not to review any other portion of the ID's analysis or findings pertaining to this disclaimer. The Commission's analysis on this issue will be provided in our opinion, which will issue upon conclusion of the investigations;

(5) to review the ID's finding with respect to actual confusion regarding the SWAGWAY mark, *see* ID at 171–72.

In addition, the Commission has determined to correct two typographical errors: In the first line of the last paragraph on page 170 ''the Swagway 'trademark'' is replaced with ''the Segway 'trademark''; and in the first line on page 171 '''Swagway''' is replaced with '''Segway'''.

The Commission has determined not to review the remainder of the ID.

The parties are requested to brief their positions on only the following issues, with reference to the applicable law and the evidentiary record:

1. The ID determined with respect to the '230 patent that ''the claim term 'maximum operating velocity' should be construed to mean 'a variable maximum velocity where adequate acceleration potential is available to enable balance and control of the vehicle.' '' ID at 44.

a. Does intrinsic evidence support the ID's above determination?

b. Does extrinsic evidence support the ID's above determination?

2. The ID determined with respect to the '230 patent that ''nothing in the plain language of the disputed limitation ['the motorized drive arrangement causing, when powered, automatically balanced operation of the system'] from claim 1 of the '230 patent requires the operation by a rider. The claim only requires the 'motorized drive arrangement causing, when powered, automatically balanced operation of the system.' '' ID at 82.

a. Does intrinsic evidence support the ID's above determination?

b. Does extrinsic evidence support the ID's above determination?

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered, including against the defaulted respondents. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (Dec. 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest and bonding. Such submissions should address the recommended determination on remedy, the public interest and bonding issued on August 22, 2017, by the ALJ and the appropriate remedy for the respondents previously found in default. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration.

Complainants are further requested to provide the expiration date of the '230 patent, the HTSUS numbers under which the accused articles are imported, and any known importers of the accused products. The written submissions and proposed remedial orders must be filed no later than the close of business on October 30, 2017. Reply submissions must be filed no later than the close of business on November 6, 2017. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1007,' 'Investigation No. 337–TA–1021' (Consolidated))'' in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronicfiling.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: October 13, 2017.

Jessica Mullan,

Attorney Advisor.

[FR Doc. 2017–22652 Filed 10–18–17; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Mathematical and Physical Sciences (#66).

Date and Time:

November 16, 2017; 12:30 p.m.–5:15 p.m.

November 17, 2017; 8:30 a.m.–2:45 p.m.

Place: National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314.

Meeting Information: https://www.nsf.gov/mps/advisory.jsp.

Type of Meeting: Open.

Contact Person: Tamara Savage, National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314; Email: *tasavage@nsf.gov.*

Purpose of Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to mathematical and physical sciences programs and activities.

Agenda

Thursday, November 16, 2017

- Meeting opening, FACA briefing, introductions, and approval of previous meeting minutes
- MPS updates
- Division updates
- More effective external partnerships, part 1
- Strategy discussion about Big Ideas
- Prep for meeting with the NSF Director and COO

Friday, November 17, 2017

- Meeting opening and FACA briefing
- More effective external partnerships, part 2
- Meeting with the NSF Director and COO
- Debrief and discussion on meeting with the NSF Director and COO
- Forming a sub-committee to assess the Physics Frontiers program
- Continued discussion about external partnerships and Big Ideas
- Wrap up and opportunity for public Q&A/comments

Dated: October 16, 2017.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2017–22666 Filed 10–18–17; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0198]

Revision of the Guidance Document for Alternative Disposal Requests

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; public meeting and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting comment on the draft revision to its guidance document for alternative disposal requests entitled, ''Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material Under 10 CFR 20.2002 and 10 CFR 40.13(a).''

DATES: Submit comments by December 18, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0198. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN–2–A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Robert Lee Gladney, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1022; email: *Robert.Gladney@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0198 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0198.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS Accession Number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0198 in your submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* and enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

In 2007, following developments in the national program for Low-Level Radioactive Waste disposal (LLRW), as well as changes in the regulatory environment, the NRC conducted a Strategic Assessment of the NRC's regulatory program for LLRW. The results of this assessment were published in late 2007 in SECY–07–0180, ''Strategic Assessment of Low-Level Radioactive Waste Regulatory Program'' (ADAMS Accession No. ML071350299). The goal of the 2007 assessment was to identify and prioritize staff activities that: (1) Ensure safe and secure LLRW disposal; (2) improve the effectiveness, efficiency, and adaptability of the NRC's LLRW regulatory program; and (3) ensure regulatory stability and predictability,

while allowing flexibility in disposal options.

One high priority task (Task 2) in the Strategic Assessment was to address the challenge of alternative disposal of Very Low-Level Waste (VLLW), in accordance with § 20.2002 of title 10 of the *Code of Federal Regulations* (10 CFR), in non-traditional LLRW facilities such as Resource Conservation and Recovery Act facilities, as well as the regulatory review and approval needed for such disposal. In response to stakeholder input regarding the 2007 assessment, the NRC determined that the process for authorizing these disposals needed more consistency and clarity. The NRC committed to addressing these concerns through the development of new regulatory guidance.

On August 31, 2009, the NRC issued interim staff procedure, ''Review, Approval, and Documentation of Low-Activity Waste Disposals in Accordance with 10 CFR 20.2002 and 10 CFR 40.13(a)'' (ADAMS Accession No. ML092460058). Prior to its issuance, there had been no single procedure covering safety and security reviews, the preparation of an environmental assessment, and coordination with internal and external stakeholders for alternative disposal requests. Accordingly, this document was developed and issued to provide consistency and guidance for NRC staff's review of alternative disposal requests received from licensees, applicants, and other entities for alternative disposal of licensed material. In addition, the NRC determined that this guidance would be finalized after it had been implemented and used for more alternative disposal requests.

In order to set the direction for the NRC's LLRW regulatory program in the next several years, including the alternative disposal request review process, the NRC decided to conduct a new evaluation of the NRC's LLRW program (referred to as a Programmatic Assessment). The results of this assessment were published in October 2016, in SECY–16–0118, ''Programmatic Assessment of Low-Level Radioactive Waste Regulatory Program'' (ADAMS Accession No. ML15243A192). The objectives of the 2016 assessment were similar to the objectives of the 2007 Strategic Assessment. Both assessments also have considered future needs and changes that may occur in the nation's commercial LLRW management system. One of the high priority tasks (Task 5) included within Enclosure 1 (ADAMS Accession No. ML15243A205) of the Programmatic Assessment was to address the challenge of alternative disposal of VLLW by finalizing the draft guidance document. Per the Programmatic Assessment, this final draft would be published for public comment, then issued as a final document.

Accordingly, the purpose of this draft revision to the guidance is to improve the alternative disposal process by providing more clarity, consistency, and transparency to the process. In addition, this draft revision to the guidance also clarifies the meaning of disposal relative to 10 CFR 20.2002 authorizations to include recycling and reuse of materials. The draft revision to the guidance is available for public comment as ADAMS Accession No. ML16326A063. The NRC is interested in receiving comments related to the draft revision to the guidance from stakeholders, including professional organizations, licensees, Agreement States, and members of the public. Comments will be considered to determine if additional changes to the draft revision to the guidance and the alternative disposal request process are needed.

During the comment period, the NRC will conduct a public meeting at the NRC's Headquarters that will explain the draft revision to the guidance and address questions. Information regarding the public meeting will be posted on the NRC's public meeting Web site at least 10 calendar days before the meeting. The NRC's public meeting Web site is located at *https://www.nrc.gov/public-involve.html.*

The NRC will also post the meeting notice on the Federal rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2017–0198. The NRC may post additional materials related to this document, including public comments, on the Federal rulemaking Web site. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2017–0198); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

III. Requested Information and Comments

The NRC staff will treat all public feedback as public comments on the draft revision to the guidance and consider them as it finalizes the revision to the guidance.

Dated at Rockville, Maryland, this 16th day of October 2017.

For the Nuclear Regulatory Commission.

Andrea Kock,

Deputy Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–22694 Filed 10–18–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0079]

Quality Assurance Program Criteria (Design and Construction)

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 5 to Regulatory Guide (RG) 1.28, ''Quality Assurance Program Criteria (Design and Construction).'' This regulatory guide (RG 1.28) updates the guidance to endorse, with clarification or exceptions, multiple revisions of the American Society of Mechanical Engineers standard NQA–1 titled ''Quality Assurance Requirements for Nuclear Facility Applications.'' The proposed revision describes methods that the NRC considers acceptable for establishing and implementing a quality assurance (QA) program for the design and construction of nuclear power plants and fuel reprocessing plants.

DATES: Revision 5 to RG 1.28 is available on October 19, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0079 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0079. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public

Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The RG is available in ADAMS under Accession No. ML17207A293.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Ashley Ferguson, Office of New Reactors, telephone: 301–415–6638, email: *Ashley.Ferguson@nrc.gov,* and Stephen Burton, Office of Nuclear Regulatory Research, telephone: 301–415–7000, email: *Stephen.Burton@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 5 of RG 1.28 was issued with a temporary identification of Draft Regulatory Guide, DG–1326. This revision of the guide (Revision 5) updates the guidance to endorse, with clarification or exceptions, multiple revisions of the American Society of Mechanical Engineers standard NQA–1 titled ''Quality Assurance Requirements for Nuclear Facility Applications.''

II. Additional Information

The NRC published a notice of the availability of DG–1326 in the **Federal Register** on March 27, 2017 (82 FR 15242), for a 60-day public comment period. The public comment period closed on May 26, 2017. Public comments on DG–1326 and the staff responses to the public comments are available in ADAMS under Accession No. ML17207A289.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This RG 1.28 describes methods that the NRC considers acceptable for establishing and implementing a QA program for the design and construction of nuclear power plants and fuel reprocessing plants. Issuance of this RG does not constitute backfitting as defined in § 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in part 52. As discussed in the ''Implementation'' section of this RG, the NRC has no current intention to impose this guidance on holders of current operating licenses or combined licenses.

This RG may be applied to applications for operating licenses, combined licenses, early site permits, and certified design rules docketed by the NRC as of the date of issuance of this RG, as well as future applications submitted after the issuance of the regulatory guide. Such action would not constitute backfitting as defined in the Backfit Rule or be otherwise inconsistent with the applicable issue finality provision in part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in part 52.

Dated at Rockville, Maryland, this 13th day of October, 2017.

For the Nuclear Regulatory Commission.

Edward O'Donnell,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–22670 Filed 10–18–17; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

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

1. Title and purpose of information collection: RUIA Claims Notification and Verification System; OMB 3220–0171. Section 5(b) of the Railroad Unemployment Insurance Act (RUIA), requires that effective January 1, 1990, when a claim for benefits is filed with the Railroad Retirement Board (RRB), the RRB shall provide notice of the claim to the claimant's base year employer(s) to provide them an opportunity to submit information relevant to the claim before making an initial determination. If the RRB determines to pay benefits to the claimant under the RUIA, the RRB shall notify the base-year employer(s).

The purpose of the RUIA Claims Notification and Verification System is to provide two notices, pre-payment Form ID–4K, Prepayment Notice of Employees' Applications and Claims for Benefits Under the Railroad Unemployment Insurance Act, and post-payment Form ID–4E, Notice of RUIA Claim Determination. Prepayment Form ID–4K provides notice to a claimant's base-year employer(s), of each unemployment application and unemployment and sickness claim filed for benefits under the RUIA and provides the employer an opportunity to convey information relevant to the proper adjudication of the claim.

The railroad employer can elect to receive Form ID–4K by one of three options: A computer-generated paper notice, by Electronic Data Interchange (EDI), or online via the RRB's Employer Reporting System (ERS). The railroad employer can respond to the ID–4K notice by telephone, manually by mailing a completed ID–4K back to the RRB, or electronically via EDI or ERS. Completion is voluntary. The RRB proposes to replace using EDI with the use of secure File Transfer Protocol (FTP), which is the standard network protocol used for transferring files between a railroad employer and the RRB. The RRB proposes no changes to the other versions of the ID–4K.

Once the RRB determines to pay a claim post-payment Form Letter ID–4E, Notice of RUIA Claim Determination, is used to notify the base-year employer(s). This gives the employer a second

opportunity to challenge the claim for benefits.

The ID–4E mainframe-generated paper notice, EDI, and Internet versions are transmitted on a daily basis, generally on the same day that the claims are approved for payment. Railroad employers who are mailed Form ID–4E are instructed to write if they want a reconsideration of the RRB's determination to pay. Employers who receive the ID–4E electronically, may file a reconsideration request by completing the ID–4E by either EDI or ERS. Completion is voluntary. The RRB proposes to replace using EDI with the use of secure File Transfer Protocol (FTP). The RRB proposes no changes to the other versions of the ID–4E.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
ID–4K (Manual)	1,250	2	42
ID–4K (FTP)	16,500	(*)	210
ID–4K (Internet)	64,000	2	2,133
ID–4E (Manual)	50	2	2
ID–4E (Internet)	120	2	4
Total	81,920		2,391

* The burden for the 5 participating employers who transmit FTP responses is calculated at 10 minutes each per day, 251 workdays a year or 210 total hours of burden.

2. Title and purpose of information collection: Request for Internet Services, OMB 3220–0198. The RRB uses a Personal Identification Number (PIN)/Password system that allows RRB customers to conduct business with the agency electronically. As part of the system, the RRB collects information needed to establish a unique PIN/Password that allows customer access to RRB Internet-based services. The information collected is matched against records of the railroad employee that are maintained by the RRB. If the information is verified, the request is approved and the RRB mails a Password Request Code (PRC) to the requestor. If the information provided cannot be verified, the requestor is advised to contact the nearest field office of the RRB to resolve the discrepancy. Once a PRC is obtained from the RRB, the requestor can apply for a PIN/Password online. Once the PIN/Password has been established, the requestor has access to RRB Internet-based services.

Completion is voluntary, however, the RRB will be unable to provide a PRC or allow a requestor to establish a PIN/Password (thereby denying system access), if the requests are not completed. The RRB proposes no changes to the PRC screens or the PIN/Password screens.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
Request PRC	14,000	5.0	1,167
Establish Pin/Password	17,500	1.5	200
Total	31,500		1,367

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov.* Written comments should be received within 60 days of this notice.

Brian D. Foster,

Clearance Officer.

[FR Doc. 2017–22651 Filed 10–18–17; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995, the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. Title and purpose of information collection: Certification of Termination of Service and Relinquishment of Rights; OMB 3220–0016.

Under Section 2(e)(2) of the Railroad Retirement Act (RRA), an age and service annuity, spouse annuity, or divorced spouse annuity cannot be paid unless the Railroad Retirement Board (RRB) has evidence that the applicant has ceased railroad employment and

relinquished rights to return to the service of a railroad employer. Under Section 2(f)(6) of the RRA, earnings deductions are required for each month an annuitant works in certain non-railroad employment termed Last Pre-Retirement Non-Railroad Employment.

Normally, the employee, spouse, or divorced spouse relinquishes rights and certifies that employment has ended as part of the annuity application process. However, this is *not always* the case. In limited circumstances, the RRB utilizes Form G–88, *Certification of Termination of Service and Relinquishment of Rights,* to obtain an applicant's report of termination of employment and relinquishment of rights. One response is required of each respondent. Completion is required to obtain or retain benefits.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 37133 on August 8, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Certification of Termination of Service and Relinquishment of Rights.

OMB Control Number: 3220–0016.

Form(s) submitted: G–88.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under Section 2(e)(2) of the Railroad Retirement Act, the Railroad Retirement Board must have evidence that an annuitant for an age and service, spouse, or divorced spouse annuity has ceased railroad employment and relinquished their rights to return to the service of a railroad employer. The collection provides the means for obtaining this evidence.

Changes proposed: The RRB proposes no changes to Form G–88.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–88	3,600	6	360

2. Title and Purpose of information collection: Statement of Authority to Act for Employee; OMB 3220–0034.

Under Section 5(a) of the Railroad Unemployment Insurance Act (RUIA), claims for benefits are to be made in accordance with such regulations as the Railroad Retirement Board (RRB) shall prescribe. The provisions for claiming sickness benefits as provided by Section 2 of the RUIA are prescribed in 20 CFR 335.2. Included in these provisions is the RRB's acceptance of forms executed by someone else on behalf of an employee if the RRB is satisfied that the employee is sick or injured to the extent of being unable to sign forms.

The RRB utilizes Form SI–10, Statement of Authority to Act for Employee, to provide the means for an individual to apply for authority to act on behalf of an incapacitated employee and also to obtain the information necessary to determine that the delegation should be made. Part I of the form is completed by the applicant for the authority and Part II is completed by the employee's doctor. One response is requested of each respondent. Completion is required to obtain benefits.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 37134 on August 8, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Statement of Authority to Act for Employee.

OMB Control Number: 3220–0034.

Form(s) submitted: SI–10.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under 20 CFR 335.2, the Railroad Retirement Board (RRB) accepts claims for sickness benefits by other than the sick or injured employees, provided the RRB has the information needed to satisfy itself that the delegation should be made.

Changes proposed: The RRB proposes no changes to Form SI–10.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
SI–10	32	6	3

3. Title and Purpose of information collection: Employee Non-Covered Service Pension Questionnaire; OMB 3220–0154.

Section 215(a)(7) of the Social Security Act provides for a reduction in social security benefits based on employment not covered under the Social Security Act or the Railroad Retirement Act (RRA). This provision applies a different social security benefit formula to most workers who are first eligible after 1985 to both a pension based in whole or in part on non-covered employment and a social security retirement or disability benefit. There is a guarantee provision that limits the reduction in the social security benefit to one-half of the portion of the pension based on non-covered employment after 1956. Section 8011 of Public Law 100–647 changed the effective date of the onset from the first month of eligibility to the first month of concurrent entitlement to the non-covered service benefit and the RRA benefit.

Section 3(a)(1) of the RRA provides that the Tier I benefit of an employee annuity shall be equal to the amount (before any reduction for age or deduction for work) the employee would receive if entitled to a like benefit under the Social Security Act. The reduction for a non-covered service pension also applies to a Tier I portion of the employee annuity under the RRA when the annuity or non-covered service pension begins after 1985. Since the amount of a spouse's Tier I benefit is one-half of the employee's Tier I, the spouse annuity is also affected.

Form G–209, Employee Non-Covered Service Pension Questionnaire, is used by the RRB to obtain needed information (1) from a railroad employee who while completing Form AA–1, Application for Employee

Annuity (OMB No. 3220–0002), indicates entitlement to or receipt of a pension based on employment not covered under the Railroad Retirement Act or the Social Security Act; or (2) from a railroad employee when an independently-entitled divorced spouse applicant believes the employee to be entitled to a non-covered service pension. However, this development is unnecessary if RRB records indicate the employee has 30 or more years of coverage; or (3) from an employee annuitant who becomes entitled to a pension based on employment not covered under the Railroad Retirement Act or the Social Security Act. One response is requested of each respondent. Completion is required to obtain or retain benefits.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 37134 on August 8, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employee Non-Covered Service Pension Questionnaire.

OMB Control Number: 3220–0154.

Form(s) submitted: G–209.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under Section 3 of the Railroad Retirement Act, the Tier I portion of an employee annuity may be subjected to a reduction for benefits received based on work not covered under the Social Security Act or Railroad Retirement Act. The questionnaire obtains the information needed to determine if the reduction applies and the amount of such reduction.

Changes proposed: The RRB proposes no changes to Form G–209.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–209 (Partial Questionnaire)	50	1	1
G–209 (Full Questionnaire)	100	8	13
Total	150		14

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or *Brian.Foster@rrb.gov* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Brian D. Foster,

Clearance Officer.

[FR Doc. 2017–22647 Filed 10–18–17; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F St. NE., Washington, DC 20549–2736

Extension:

Rule 15c1–7, SEC File No. 270–146, OMB Control No.3235–0134

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15c1–7 (17 CFR 240.15c1–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15c1–7 states that any act of a broker-dealer designed to effect securities transactions with or for a customer account over which the broker-dealer (directly or through an agent or employee) has discretion will be considered a fraudulent, manipulative, or deceptive practice under the federal securities laws, unless a record is made of the transaction immediately by the broker-dealer. The record must include (a) the name of the customer, (b) the name, amount, and price of the security, and (c) the date and time when such transaction took place.

The Commission estimates that 394 respondents collect information related to approximately 400,000 transactions annually under Rule 15c1–7 and that each respondent would spend approximately 5 minutes on the collection of information for each transaction, for approximately 33,338 aggregate hours per year (approximately 84.6 hours per respondent).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: October 13, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22646 Filed 10–18–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81872; File No. SR–IEX–2017–20]

Self-Regulatory Organizations; Investors Exchange LLC; Order Approving Proposed Rule Change To Adopt Rule 14.602 To Describe the Complimentary Products and Services To Be Made Available to All Listed Companies

October 13, 2017.

I. Introduction

On August 10, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rule 14.602 to describe the complimentary products and services to be made available to all listed companies. The proposed rule change was published for comment in the **Federal Register** on August 29, 2017.[3] No comment letters were received in response to the Notice. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange has proposed to adopt Rule 14.602 to describe the complimentary products and services that will be offered to all listed companies pursuant to a listing program that the Exchange intends to begin in 2017.[4]

In particular, the Exchange has proposed to provide all listed companies with the same optional complimentary services through access to IEX Issuer, a market information analytics platform consisting of access to a team of market professionals and web-based content.[5] As described by the Exchange in its proposal, the team of market professionals will provide market intelligence, fundamental and technical trading analysis, and real-time market information to all listed companies.[6] The Exchange also stated that the web-based portion of IEX Issuer will provide similar information that will enable all listed companies to follow their stock's trading, competitors, and market activity through an online interface.[7] Further, IEX noted that IEX Issuer may, from time to time, provide information about products and services from third-party vendors that IEX determines may be relevant to listed issuers, without any subsidy or other involvement by the Exchange for such products and services.[8] The proposed rule text states that the Exchange will provide a description of all products and services available through IEX Issuer on its Web site.[9]

The Exchange represented in its proposal that all issuers listed on the Exchange will have access to services through IEX Issuer on the same basis and that the Exchange will not be proposing to offer any additional products and services to listed companies on a tiered or differentiated basis.[10]

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act.[11] Specifically, the Commission finds that the proposal is consistent with Sections 6(b)(4) [12] and 6(b)(5) of the Act [13] in particular, in that the proposed rule is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members, issuers, and other persons using the Exchange's facilities, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Moreover, the Commission finds that the proposed rule change is consistent with Section 6(b)(8) of the Act [14] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that the proposed rule change, which would permit the Exchange to provide complimentary products and services to all listed companies through IEX Issuer, as described above,[15] is appropriate and consistent with the Act. The Commission believes that by describing in its Rules the products and services available to listed companies, the Exchange is adding greater transparency to its rules and the fees applicable to such companies.[16] This will help to ensure that individual listed companies are not given specially negotiated packages of products and services to list or remain listed that would raise unfair discrimination issues under the Act.

The Commission notes that all listed companies will receive access to the same services on the same basis without any differentiation and the Exchange is not proposing to offer any additional products and services to listed companies on a tiered or differentiated basis. Accordingly, the Commission believes that the proposed rule change is consistent with the requirements of the Act and, in particular, that the products and services are equitably allocated among issuers consistent with Section 6(b)(4) of the Act, and the rule does not unfairly discriminate between issuers consistent with Section 6(b)(5) of the Act.

As described above, the Exchange will provide all of the products and services and will separately provide information about additional products and services available from third-party vendors that IEX determines may be relevant to listed issuers. As noted by the Exchange in its proposal, listed companies may elect to purchase products and services from other vendors, or not to use any such products and services, rather than accepting the products and services offered by the Exchange.[17] The Exchange stated that the provision of any products and services from a third-party vendor would need to be effected through arrangements directly between the listed issuer and the third-party vendor, without any subsidy or other involvement by the Exchange.[18] The Exchange further stated that it does not have exclusive arrangements with third-party vendors with respect to any optional access to discounted products and services from third-party vendors.[19] The Exchange has represented that listed companies will not be required to accept any discounted products and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81469 (August 23, 2017), 82 FR 41077 (''Notice'').

[4] *See id.* at 41078.

[5] *See* proposed Rule 14.602.

[6] *See id.*

[7] *See* Notice, *supra* note 3, at 41078.

[8] *See* proposed Rule 14.602. The provision of any products and services from a third-party vendor would need to be effected through arrangements directly between the listed issuer and the third-party vendor, without any subsidy or other involvement by the Exchange. *See id.*

[9] *See id.*

[10] *See* Notice, *supra* note 3, at 41078.

[11] 15 U.S.C. 78f. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

[15] *See supra* notes 5–7 and accompanying text.

[16] The Commission views complimentary products and services provided by exchanges to listed companies as a discount on the ultimate listing fees paid by such companies. *See, e.g.,* Securities Exchange Act Release Nos. 65127 (August 12, 2011), 76 FR 51449 (August 18, 2011) (order approving SR–NYSE–2011–20) and 65963 (December 15, 2011), 76 FR 79262 (December 21, 2011) (order approving SR–NASDAQ–2011–122).

[17] *See* Notice, *supra* note 3, at 41079.

[18] This representation is also specifically set forth in the proposed rule text.

[19] *See* Notice, *supra* note 3, at 41079.

services as a condition to listing.[20] The Commission believes that these representations should additionally help to ensure that individual listed companies are not given specially negotiated deals, through Exchange subsidized discounts on products and services from third-party vendors, to list or remain listed that would raise unfair discrimination issues under the Act .

The Commission believes that the Exchange is responding to competitive pressures in the market for listings in making this proposal. Specifically, the Exchange stated in its proposal that it expects to face competition as a new entrant in the market for exchange listings and that it believes the complimentary products and services that it offers to listed companies will facilitate its ability to attract and retain listings.[21] In particular, the Exchange states that it expects to face significant competition from the New York Stock Exchange (''NYSE'') and the Nasdaq Stock Market LLC (''Nasdaq'') for listings, both of which offer complimentary products and services to listed companies.[22] Accordingly, the Commission believes that the proposed rule reflects the current competitive environment for exchange listings among national securities exchanges, and is appropriate and consistent with Section 6(b)(8) of the Act.[23]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–IEX–2017–20), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22644 Filed 10–18–17; 8:45 am]

BILLING CODE 8011–01–P

[20] *See id.*

[21] *See id.* at 41078.

[22] *See id. See also* Section 907.00 of the NYSE Listed Company Manual and Nasdaq Rule IM–5900–7.

[23] 15 U.S.C. 78f(b)(8).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81871; File No. SR–DTC–2017–018]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the DTC Distributions Guide Relating to Announcements and Tax Treatment of Certain Corporate Action Events and To Amend the DTC Fee Schedule

October 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 2017, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rules 19b–4(f)(2) and (f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change [5] would (i) revise the Distributions Guide to (A) enhance the DTC Announcements feature (''Announcements'') within the DTC Distributions Service (''Distributions Service'') [6] by adding new corporate action events that do not involve the payment of funds or distribution of Securities through DTC, but which may result in a taxable event for holders (''Tax Event''), as a type of distribution covered by Announcements (''Distribution Event'') [7] and (B) make technical and conforming changes relating to U.S. tax withholding and information reporting performed by DTC with respect to Tax Events; and (ii) add a fee relating to the announcement of Tax Events (''New Fee'') to the DTC Fee Schedule (''Fee Schedule''),[8] as discussed below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would (i) revise the Distributions Guide to (A) enhance Announcements by adding Tax Events as a Distribution Event and (B) make technical and conforming changes relating to U.S. tax withholding and information reporting performed by DTC with respect to Tax Events; and (ii) add the New Fee to the Fee Schedule, as discussed below.

A. Distributions Service Announcements Feature

The Distributions Service includes the announcement, collection, allocation and reporting by DTC, on behalf of its Participants, of dividend, interest and principal payments for Eligible Securities held by Participants at DTC. This centralized processing provides efficiency for Participants for their receipt of (i) payment information and (ii) payments on Distribution Events, from multiple issuers and agents.[9] In this regard, Announcements provides Participants with information pertaining to their record date (''Record Date'') [10] positions for Distribution Events.[11] This

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2) and (f)(4).

[5] Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of DTC (the ''DTC Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx* and the DTC Distributions Service Guide (''Distributions Guide''), *available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Service%20Guide%20Distributions.pdf.*

[6] The Distributions Service includes DTC's announcement, collection, allocation and reporting of dividend, interest and certain principal payments on behalf of Participants holding Securities at DTC. *See* Distributions Guide, *supra* note 1 at 9.

[7] Distribution Events covered by Announcements include cash dividends, interest, principal, capital gains, sale of rights on American depositary receipts, return of capital, dividend with option, stock splits, stock dividends, automatic dividend reinvestments, spinoffs, rights distributions, pay in kind, and liquidation. Distributions Guide, *supra* note 1 at 12.

[8] *Available at http://www.dtcc.comn/media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf?la=en.*

[9] *See* Distributions Guide, *supra* note 5 at 9.

[10] The Record Date is the date set by an issuer of a security by which an investor must own the security in order to be eligible to receive an upcoming distribution.

[11] *See* Distributions Guide, *supra* note 5 at 11–13.

information facilitates Participants' ability to reconcile their records with DTC before the payable date (''Payable Date'').[12]

B. Internal Revenue Code Section 305(c)

Section 305(c) of the Internal Revenue Code [13] (''Section 305(c)'') states that holders of convertible securities may be deemed to have received a dividend because of a corporate action on common stock into which the convertible security may be converted.[14]

In the most frequent scenario relevant to Distribution Events, an issuer that pays a cash dividend to its shareholders may trigger an increase to the conversion rate (''Convertible Rate Adjustment'') [15] on a convertible debt Security. Under Section 305(c), this Convertible Rate Adjustment is considered as a deemed distribution.[16] This deemed distribution under Section 305(c) [17] may be subject to tax reporting by Participants, and if the convertible debt Securities are held by non-U.S. persons, the appropriate tax withholding.

In April 2016, the U.S. Treasury released proposed regulations to provide guidance to financial institutions regarding their withholding and reporting obligations.[18] The regulations also require issuers of convertible securities to provide the amount and the timing of deemed distributions under Section 305(c) to the holders of convertible securities, *i.e.,* DTC. Despite this reporting requirement, holders may not be directly informed of changes that have occurred in the instrument's conversion ratio or the amount of the resulting ''deemed'' distribution that may result in a tax withholding obligation for them. A lack of information relating to these deemed distributions and other Tax Events may affect Participants' ability to comply with applicable Federal tax withholding requirements and applicable DTC Rules requirements relating to the use of DTC services.[19]

C. Proposed Enhancement to Announcements Feature

Pursuant to the proposed rule change, in order to facilitate Participants' ability to comply with the requirements described above, DTC would revise the Distributions Guide to allow it to source information on Section 305(c) deemed distributions and other Tax Events for Securities on Deposit at DTC directly from issuers, and then provide the Tax Event information to Participants. DTC would distribute the Tax Event information for a deemed distribution in the same standardized manner that DTC uses to announce distributions. In this regard, DTC would revise the text of the Distributions Guide to (i) add Tax Events as a Distribution Event covered by the functionality described in the Distributions Guide and (ii) add a new section titled ''Tax Event Announcements'' to (a) describe and define Tax Events and Tax Event Announcements and (b) describe the systemic data fields (''Fields'') that DTC would use to provide relevant Tax Event information for a Security to Participants, including: (1) ''Event Type'' to be shown as ''Tax Event,'' (2) ''Sub Event Type,'' which would be used to classify the type of Tax Event, (3) Payable Date, (4) Record Date, (5) ''Cash Rate,'' to provide the amount of the deemed distribution, and (6) ''Comments,'' which would be used to provide any other pertinent information regarding the Tax Event.

D. Proposed New Fee

Pursuant to the Fee Schedule, DTC charges fees to Participants for the processing of corporate action events. Fees are established to offset the cost of processing all aspects of the applicable corporate action event, including the announcement processing, the actual processing of payments, and book-entries associated with the corporate action. Pursuant to the proposed rule change, the Fee Schedule would be revised so that a Participant that holds Securities subject to a Tax Event would be charged flat fee of $40 per announcement. The proposed New Fee would align DTC's revenue with costs for retrieving Tax Event information from issuers and announcing that information to Participants, as proposed. The New Fee would be added to the Fee Schedule underneath the heading for U.S. Tax Withholding, which is a feature of the Distributions Service, for reference purposes so that it would be located on the Fee Schedule in the same place as other fees charged for tax-related processing performed by DTC.

E. Processing of Tax Withholding and Information Reporting

DTC performs adjustments for entitlement and allocation activity that is outside of traditional pay date allocations. This includes activity tracking for stock loans, repos, and due bill fail tracking.[20] With respect to tax treatment of such adjustments, currently the text of the Distributions Guide refers to DTC's performance of U.S. tax withholding and information reporting for credit adjustments that occur with respect to Participant positions in their DTC accounts.[21] The proposed rule change would modify the applicable text with respect to the tax treatment described within the Due Bill Fail Tracking System, Stock Loan Income Tracking System and Repurchase Agreement (REPO) Tracking System subsections of the Adjustments Section of the Distributions Guide, to state that such withholding and reporting would also be performed related to Tax Events.

F. Implementation Timeframe

The proposed rule change would be implemented on October 2, 2017.

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to DTC, in particular Sections 17A(b)(3)(D) [22] and 17A(b)(3)(F) [23] of the Act.

Section 17A(b)(3)(D) of the Act [24] requires that the rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. DTC believes that the proposed New Fee would be equitably allocated among Participants because each Participant holding Securities subject to Tax Events would be charged the same New Fee

[12] The Payable Date is a date established by an issuer on which a distribution to holders will be paid by the issuer.

[13] 26 U.S.C. 305(c).

[14] Under Section 305(c), a change in the conversion ratio or conversion price or a similar transaction is treated ''as a distribution [by the issuer] with respect to any shareholder whose proportionate interest in the earnings and profits or assets of the corporation is increased by such change.'' *Id.*

[15] Such a convertible debt Security provides for a Conversion Rate Adjustment so that the conversion rate is changed if a distribution is made on the issuer's common stock. Generally, the primary purpose of a Convertible Rate Adjustment is to prevent the holder of a convertible debt Security from being diluted upon a distribution to the shareholders by adjusting the conversion rate on the stock to increase the number of shares that the debt holder can obtain in a conversion of the bond to shares of the issuer.

[16] Such a distribution based on dividend payments made to common shareholders will be considered to be deemed distribution to bondholders even before the bondholders convert the debt to equity.

[17] *Supra* note 14.

[18] IRS–2016–0016–0001. 81 FR 21795 (April 13, 2016) (REG–133673–15).

[19] In connection with their use of DTC's services, Participants must comply with all applicable laws, including, but not limited to all applicable laws relating to taxation. *See* Rule 2, Section 8, *supra* note 5.

[20] *See* Distributions Guide, *supra* note 5 at 32.

[21] *Id.* at 34, 36, and 37

[22] 15 U.S.C. 78q–1(b)(3)(D).

[23] 15 U.S.C. 78q–1(b)(3)(F).

[24] *Supra* note 22.

amount per Announcement. DTC believes that the proposed New Fee would be reasonable because it would allow DTC to align its revenue with its costs of providing important Tax Event information through Announcements to Participants, which information is needed by them to facilitate their compliance with applicable tax withholding obligations, as described above. Therefore, DTC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act, cited above.

Section 17A(b)(3)(F) of the Act [25] requires, *inter alia,* that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[26] As described above, the proposed rule change would enhance the Distributions Service to include the distribution of Announcements for Tax Events to Participants. As described above, by providing for the distribution of Tax Event information to Participants, the proposed rule change would facilitate Participants' ability to comply with their Federal tax withholding obligations. This would further facilitate Participant's ability to continue to maintain Eligible Securities subject to Tax Events on Deposit at DTC and make use of DTC's book-entry transfer and settlement services with respect to those Securities, in accordance with DTC Rules requirements relating to the use of DTC services by Participants.[27] Therefore, by facilitating Participant's ability to continue to use DTC's book-entry transfer and settlement services at DTC with respect to Eligible Securities that are subject to Tax Events, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act, cited above.

Section 17A(b)(3)(F) of the Act [28] requires, *inter alia,* that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[29] As described above, the proposed rule change would enhance the Distributions Service to include the distribution of Announcements for Tax Events to Participants. As described above, by providing for the distribution of Tax Event information to Participants, the proposed rule change would facilitate Participants' ability to comply with their Federal tax withholding obligations. This would further facilitate Participant's ability to continue to maintain Eligible Securities subject to Tax Events on Deposit at DTC and make use of DTC's book-entry transfer and settlement services with respect to those Securities. Therefore, by facilitating Participant's ability use DTC's book-entry transfer and settlement services at DTC with respect to Eligible Securities that are subject to Tax Events, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act, cited above.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change proposing to amend the Distributions Guide to provide for the announcement of Tax Events would have any impact, or impose any burden, on competition, because the information that would be provided to Participants in this regard is necessary for Participants to receive in order to be able to accurately perform tax accounting for their positions held at DTC, and maintain compliance with their tax withholding requirements, as described above. The addition of the New Fee could have an impact on competition because only those Participants that hold Securities subject to Tax Events would be charged the New Fee. To the extent the proposed rule change to add the New Fee to the Fee Schedule would provide for a burden on competition, DTC believes it would be necessary and appropriate under the Act because the New Fee is required to cover the cost of providing the Tax Event information to Participants, which information is necessary for Participants to receive in order to facilitate their compliance with their tax withholding obligations.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [30] and paragraph (f) of Rule 19b–4 thereunder.[31] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2017–018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2017–018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the

[25] *Supra* note 23.
[26] 15 U.S.C. 78q–1(b)(3)(F).
[27] *See supra* note 19.
[28] *Supra* note 23.
[29] 15 U.S.C. 78q–1(b)(3)(F).
[30] 15 U.S.C. 78s(b)(3)(A).
[31] 17 CFR 240.19b–4(f).

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2017–018 and should be submitted on or before November 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22643 Filed 10–18–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15352 and #15353; California Disaster Number CA–00279]

Presidential Declaration of a Major Disaster for the State of California

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of California (FEMA–4344–DR), dated 10/12/2017.

Incident: Wildfires.

Incident Period: 10/08/2017 and continuing.

DATES: Issued on 10/12/2017.

Physical Loan Application Deadline Date: 12/11/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 07/12/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/12/2017, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Sonoma

Contiguous Counties (Economic Injury Loans Only):

California: Lake, Marin, Mendocino, Napa, Solano.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.500
Homeowners Without Credit Available Elsewhere	1.750
Businesses With Credit Available Elsewhere	6.610
Businesses Without Credit Available Elsewhere	3.305
Non-Profit Organizations With Credit Available Elsewhere	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.305
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 153525 and for economic injury is 153530.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2017–22673 Filed 10–18–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10175]

Foreign Affairs Policy Board Charter Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App., the Department of State announces the Charter of the Foreign Affairs Policy Board, established July 2011, was renewed for a two year period. The Board is established under the general authority of the Secretary of State and the Department of State set forth in title 22 of the United States Code, in particular Section 2656 of that Title, and consistent with the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix). The Foreign Affairs Policy Board was established to provide the Secretary of State, the Deputy Secretary of State, and the Director of Policy Planning with independent, informed advice and opinions concerning matters of U.S. foreign policy. It is comprised of twenty-five distinguished U.S. citizens from the private sector, nongovernmental organizations, think tanks, and academia.

FOR FURTHER INFORMATION CONTACT: Adam Lusin, 202–647–0724, *LusinAW2@state.gov.*

Dated: July 17, 2017.

Adam W. Lusin,

Designated Federal Officer.

Editorial Note: This document was received for publication by the Office of the Federal Register on October 16, 2017.

[FR Doc. 2017–22675 Filed 10–18–17; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirty Seventh RTCA SC–216 Aeronautical Systems Security Plenary

AGENCY: Federal Aviation Administration, U.S. Department of Transportation.

ACTION: Thirty Seventh RTCA SC–216 Aeronautical Systems Security Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Thirty Seventh RTCA SC–216 Plenary. This is a subcommittee to RTCA.

DATES: This meeting will be held December 11–15, 2017 09:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at: Embraer Engineering and Technology Center, 1400 General Aviation Drive, Melbourne, Florida 32935. Pre-registration is required.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.* Registration is required and seating is limited.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Thirty Seventh RTCA SC–216 Plenary. The agenda will include the following:

Monday, December 11, 2017—9:00 a.m.–5:00 p.m.

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Review
4. Meeting-Minutes Review
5. Review Joint Action List
6. Continuation of Plenary or Working Group Sessions

Tuesday, December 12, 2017—9:00 a.m.–5:00 p.m.

[32] 17 CFR 200.30–3(a)(12).

Continuation of Plenary or Working Group Sessions

Wednesday, December 13, 2017—9:00 a.m.–5:00 p.m.

Continuation of Plenary or Working Group Sessions

Thursday, December 14, 2017—9:00 a.m.–5:00 p.m.

Review DO–356A/ED–203A for Final Review and Comment(FRAC)/Open Consultation

Friday, December 15, 2017—9:00 a.m.–12:00 p.m.

1. Schedule Update
2. Decision to approve release of DO–356A/ED–203A for final review and comment (frac)/Open consulation
3. Date, Place and Time of Next Meeting
4. New Business
5. Adjourn Plenary

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 16, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–22669 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0090]

Notice of Application for Approval To Discontinue or Modify a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations and 49 U.S.C. 20502(a), this provides the public notice that in a letter dated October 4, 2017, Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2017–0090.

Applicant: Norfolk Southern Corporation, Mr. B. L. Sykes, Chief Engineer C&S Engineering, 1200 Peachtree Street NE.; Atlanta, GA 30309

NS seeks to discontinue signal A8E–1 and A8E–2 on running tracks number 11 & 12 in the approach to control point (CP) Harrisburg on the Pittsburgh Line at milepost PT 105 on the Harrisburg Division, Harrisburg PA.

These changes are being proposed because NS Operating Rule #93—*Main track within Yard Limits,* states ''[a]ll train and engine movements within Yard Limits must be made at Restricted Speed unless operating on a block signal indication that is more favorable than an approach.'' Yard limits signs are to be moved upon approval to CP Harrisburg which will require all train and engine movements to be made at Restricted Speed.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by December 4, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–22698 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2017–0002–N–24]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and comment request.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA), this notice announces that FRA is forwarding the currently approved Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the information collections FRA is submitting for renewal and their expected burden.

DATES: Comments must be submitted on or before November 20, 2017.

ADDRESSES: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Safety Regulatory Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493–6292); or Ms. Kim Toone, Information Collection Clearance Officer, Office of Administration, Office of Information

Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493–6132). (These telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), and 1320.12. On June 30, 2017, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs for which it is now seeking OMB approval. *See* 82 FR 29976. FRA received no comments in response to the notice. The summaries below describe the ICRs and their expected burden. FRA is submitting these renewal requests for clearance by OMB, as the PRA requires.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

Comments are invited on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

Title: Railroad Operating Rules.

OMB Control Number: 2130–0035.

Abstract: Title 49 CFR 217 requires Class I and Class II railroads to file with FRA copies of their operating rules, timetables, timetable special instructions, and subsequent amendments (49 CFR 217.7(a) and (b)), while Class III railroads are required to retain copies of these documents at their systems headquarters (49 CFR 217.7(c)). Also, 49 CFR 220.21(b) requires railroads to retain one copy of their current operating rules with respect to radio communications at a specified location. These railroads are also required to retain one copy of each subsequent amendment thereto. These documents must be made available to FRA upon request. FRA uses the information collected to determine the railroads' rules and practices with respect to train operations and instructions provided by the railroads to their operating employees.

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

Affected Public: Businesses.

Form(s): N/A.

Total Estimated Annual Responses: 188,591,125.

Total Estimated Annual Burden: 4,797,590 hours.

Title: Track Safety Standards; Concrete Crossties.

OMB Control Number: 2130–0592.

Abstract: On April 1, 2011, FRA amended 49 CFR 213 (Track Safety Standards) to ensure safe operations over track constructed with concrete crossties. FRA issued specific requirements for effective concrete crossties, rail fastening systems connected to concrete crossties, and automated inspections of track constructed with concrete crossties. FRA uses the information collected under 49 CFR 213.234 to ensure that automated track inspections of track constructed with concrete crossties are carried out as specified in this section to supplement visual inspections by Class I and Class II railroads, intercity passenger railroads, and commuter railroads or small governmental jurisdictions that serve populations greater than 50,000.

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

Affected Public: Businesses.

Form(s): N/A.

Total Estimated Annual Responses: 2,318.

Total Estimated Annual Burden: 4,875 hours.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to a collection of information, unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Deputy Chief Counsel.

[FR Doc. 2017–22650 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; General Motors Corporation

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full General Motors Corporation's (GM) petition for an exemption of the Cadillac XT4 vehicle line in accordance with *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the *Federal Motor Vehicle Theft Prevention Standard (Theft Prevention Standard).*

DATES: The exemption granted by this notice is effective beginning with the 2019 model year (MY).

FOR FURTHER INFORMATION CONTACT: Hisham Mohamed, Office of International Policy, Fuel Economy, and Consumer Standards, NHTSA, W43–437, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Mohamed's phone number is (202) 366–0307. His fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated May 29, 2017, GM requested an exemption from the parts-marking requirements of the Theft Prevention Standard for its Cadillac XT4 vehicle line beginning with MY 2019. The petition requested an exemption from parts-marking pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, GM

provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Cadillac XT4 vehicle line. GM will install the PASS-Key III+ antitheft device as standard equipment on its Cadillac XT4 vehicle line. The PASS-Key III+ is a passive, transponder-based, electronic immobilizer device. The major components of the antitheft device are a PASS-Key III+ controller module, engine control module (ECM), electronically-coded ignition key, radio frequency (RF) receiver, immobilizer exciter module, three low frequency antennas and a passive antenna module. GM stated that the device will provide protection against unauthorized use (*i.e.,* starting and engine fueling), but will not provide any visible or audible indication of unauthorized vehicle entry (*i.e.,* flashing lights or horn alarm). GM stated that the PASS-Key III+ immobilizer device is designed to be active at all times without direct intervention by the vehicle operator. GM further stated that activation of the device occurs immediately after the ignition has been turned off and the key has been removed and deactivation of the antitheft device occurs automatically when the engine is started. GM stated that the Cadillac XT4 vehicle line will be equipped with one of two ignition versions. Specifically, the Cadillac XT4 will be equipped with either a keyed or keyless ignition version of its PASS-Key III+ immobilizer antitheft device. GM also stated that the ''keyed'' ignition version utilizes a special ignition key and decoder module and its electrical code must be sensed and properly decoded by the controller module before the vehicle can be operated. GM further stated that with the ''keyless'' ignition version, an electronic key fob performs normal remote keyless entry functions and communicates with the vehicle without direct owner intervention. Specifically, during operation of the vehicle, when the owner presses the engine start/stop switch, the vehicle transmits a randomly generated challenge and vehicle identifier within the passenger compartment of the vehicle via three low-frequency antennas, controlled by the passive antenna module. The electronic key receives the data and if the vehicle identifier matches that of the vehicle, the electronic key will calculate the response to the vehicle using the challenge and secret information shared between the key and the vehicle. The electronic key then transmits the response via a radio frequency channel to a vehicle mounted receiver, conveying the information to the PASS-Key III+ control module. The PASS-Key III+ control module compares the received response with an internally calculated response. If the values match, the device will allow the vehicle to enter functional modes and transmit a fixed code pre-release password to the engine controller over the serial data bus, and enable computation and communication of a response to any valid challenge received from the engine controller. If a valid key is not detected, the device will not transmit a fixed code pre-release password to the engine controller preventing fuel from being delivered to the engine, enabling starting.

GM's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

In addressing the specific content requirements of 543.6, GM provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, GM conducted tests based on its own specified standards. GM provided a detailed list of the specific tests it used to validate the integrity, durability and reliability of the PASS-Key III+ device. Some of the tests GM conducted were for high temperature storage, low temperature storage, thermal shock, humidity, frost, salt fog, flammability and others. GM believes that the device is reliable and durable since the components must operate as designed after each test. GM further stated that the design and assembly processes of the PASS-Key III+ subsystem and components are validated for 10 years of vehicle life and 150,000 miles of performance.

GM further stated that the PASS-Key III+ device has been designed to enhance the functionality and theft protection provided by its first, second and third generation PASS-Key, PASS-Key II, and PASS-Key III devices. GM also referenced data provided by the American Automobile Manufacturers Association (AAMA) in support of the effectiveness of GM's PASS-Key devices in reducing and deterring motor vehicle theft. Specifically, GM stated that data which provide the basis for GM's confidence that the PASS-Key 111+ system will be effective in reducing and deterring motor vehicle theft are contained in the response of the American Automobile Manufacturers Association (AAMA) to Docket 97–042; Notice I (NHTSA Request for Comments on its Preliminary Report to Congress on the Effects of the Anti Car Theft Act of 1992 and the Motor Vehicle Theft Law Enforcement Act of 1984). In the Report to Congress, AAMA stated the more recent antitheft systems are more effective in reducing auto theft. AAMA also cited the Highway Loss Data Institute (HLDI) findings on the effectiveness of antitheft devices in reducing theft. AAMA noted that vehicles with antitheft devices are less likely to be stolen for joyriding or transportation and therefore, their recovery rates are lower.

GM also noted that theft rate data have indicated a decline in theft rates for vehicle lines equipped with comparable devices that have received full exemptions from the parts-marking requirements. GM stated that the theft rate data, as provided by the Federal Bureau of Investigation's National Crime Information Center (NCIC) and compiled by the agency, show that theft rates are lower for exempted GM models equipped with the PASS-Key-like systems than the theft rates for earlier models with similar appearance and construction that were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III devices on other GM models, and the advanced technology utilized in PASS-Key III+, GM believes that the PASS-Key III+ device will be more effective in deterring theft than the parts-marking requirements of 49 CFR part 541.

Additionally, GM stated that the model year (MY) 2014 Cadillac CTS and SRX theft rates (per 1000 vehicles produced) are below the 1990/1991 median rate of 3.5826. Specifically, the theft for the MY 2014 Cadillac CTS is 0.3546 and 0.8481 for the MY 2014 Cadillac SRX vehicle line. Since the same antitheft device will be used on the 2019 MY Cadillac XT4, GM believes the statistical data indicates that this vehicle will also have an acceptable theft rate to obtain an exemption from the parts marking requirements of 49 CFR part 541. GM was granted an exemption from the parts-marking requirements by the agency for the Cadillac CTS vehicle line beginning with MY 2011 (See 74 FR 62385, November 27, 2009). The average theft rate for the Cadillac CTS and SRX vehicle lines, based on NHTSA's theft rate data, using 3 MYs data (MYs 2012–2014) are 0.8518 and 0.6020 respectively.

GM further stated that it believes that PASS-Key III+ devices will be more effective in deterring theft than the parts-marking requirements and that the agency should find that inclusion of the PASS-Key III+ device on the Cadillac XT4 vehicle line is sufficient to qualify

it for full exemption from the parts-marking requirements.

GM's proposed device lacks an audible or visible alarm. Therefore, this device cannot perform one of the functions listed in 49 CFR part 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. Based on comparison of the reduction in the theft rates of Chevrolet Corvettes using a passive antitheft device along with an audible/visible alarm system to the reduction in theft rates for the Chevrolet Camaro and the Pontiac Firebird models equipped with a passive antitheft device without an alarm, GM finds that the lack of an alarm or attention-attracting device does not compromise the theft deterrent performance of a device such as PASS-Key III+ device. In these instances, the agency has concluded that the lack of an audible or visible alarm has not prevented these antitheft devices from being effective protection against theft.

Based on the evidence submitted by GM, the agency believes that the antitheft device for the Cadillac XT4 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that GM has provided adequate reasons for its belief that the antitheft device for the Cadillac XT4 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information GM provided about its device.

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the Cadillac XT4 vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with its model year (MY) 2019 vehicles. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard.

If GM decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Issued in Washington, DC, under authority delegated in 49 CFR Part 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2017–22660 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Fiat Chrysler Automobiles US LLC

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Fiat Chrysler Automobiles US LLC's, (FCA) petition for exemption of the Jeep Wrangler vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the *Federal Motor Vehicle Theft Prevention Standard.* (Theft Prevention Standard).

DATES: The exemption granted by this notice is effective beginning with 2018 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43–439, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated June 2, 2017, FCA requested an exemption from the parts-marking requirements of the Theft Prevention Standard for its Jeep Wrangler vehicle line beginning with MY 2018. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, FCA provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Jeep Wrangler vehicle line. FCA stated that its MY 2018 Jeep Wrangler vehicle line will be installed with the Sentry Key Immobilizer System (SKIS) antitheft device as standard equipment on the entire vehicle line. The SKIS will provide passive vehicle protection by

preventing the engine from operating unless a valid electronically encoded key is inside the cabin of the vehicle and a valid key code is detected in the ignition system of the vehicle. Key components of the antitheft device will include an immobilizer, a Radio Frequency Hub Module (RFHM), Engine Control Module (ECM), Body Controller Module (BCM), a Transponder Key/Finger Operated Button (FOB) with Integrated Key (FOBIK) and an Instrument Panel Cluster (IPC) which contains the telltale function only. According to FCA, these components work collectively to perform the immobilizer function. FCA will not provide an audible alert, however, the vehicle will be equipped with a security indicator in the instrument panel cluster that will flash if an invalid transponder key is detected. Specifically, FCA stated that its Wrangler vehicles will be equipped with a security indicator that acts as a diagnostic indicator. If the RFHM detects an invalid transponder key or if a transponder key related fault occurs, the security indicator will flash. If the RFHM detects a system malfunction or the SKIS becomes ineffective, the security indicator will stay on. The SKIS also performs a self-test each time the ignition system is turned to the RUN position and will store fault information in its RFHM memory if a system malfunction is detected.

FCA's submission is considered a complete petition as required by 49 CFR 543.7 in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

In addressing the specific content requirements of 49 CFR part 543.6, FCA provided information on the reliability and durability of the device. FCA conducted tests based on its own specified standards (*i.e.,* voltage range and temperature range) and stated its belief that the device meets the stringent performance standards prescribed. Specifically, FCA stated that its device must demonstrate a minimum of 95 percent reliability with 90 percent confidence and 100 percent system functionality prior to being shipped from the supplier to the vehicle assembly plant for installation in the vehicles. FCA also stated that each transponder key has a unique identification code that is permanently programmed into it by the manufacturer and must be programmed into the RFHM. Once a transponder key has been programmed to a particular vehicle, it cannot be used on any other vehicle.

FCA stated that the SKIS immobilizer feature is activated when the transponder key is removed from the ignition system (whether the doors are open or not) and the ignition system is in the ''OFF'' position. Specifically, once the SKIS is activated, only a valid transponder key that is recognized by the ignition system will disable it and allow the vehicle to start and continue to run. FCA stated that the functions and features of the SKIS are all integral to the BCM in this vehicle. The RFHM contains a Radio Frequency (RF) transceiver and a microprocessor and it initiates the ignition process by communicating with the BCM. The RFHM and the ECM both use software that includes a rolling code algorithm strategy which helps to reduce the possibility of unauthorized SKIS disarming. The microprocessor-based SKIS hardware and software also uses electronic messages to communicate with other electronic modules in the vehicle over the Controller Area Network (CAN) data bus.

FCA further stated that the SKIS uses RF communication with an Advanced Encryption System (AES) to obtain confirmation that the transponder key is a valid FOBIK for operating the vehicle. The RFHM initiates the ignition process by communicating with the BCM. The RFHM contains an RF transceiver and a microprocessor. The RFHM is paired with a Keyless Go START/STOP push button (also known as the Keyless Ignition Node (''KIN'')). The RFHM receives Low Frequency (LF) and/or RF signals from the Sentry Key transponder through a tuned RF antenna. When the Keyless Go START/STOP button is pressed on the KIN, the RFHM transmits an LF signal to the transponder key. The RFHM then waits for a RF signal response from the transponder in the FOBIK. If the response received identifies the FOBIK as valid, the communication between the RFHM, the BCM, and the ECM proceeds, and the ECM allows the engine to start. If the ECM receives an invalid key message or receives no message from the RFHM over the CAN data bus, the engine will be disabled. FCA further stated that its antitheft immobilizer device prevents the engine from running for more than two seconds unless a valid transponder key is recognized by the ignition system. Additionally, FCA stated that only six consecutive invalid start attempts will be permitted and that all other attempts will be locked out by preventing the fuel injectors from firing and disabling the starter.

FCA stated that it expects the Jeep Wrangler vehicle line to mirror the lower theft rate results achieved by the Jeep Grand Cherokee vehicle line when ignition immobilizer systems were installed as standard equipment on the line. FCA stated that it has offered the SKIS immobilizer device as standard equipment on all Jeep Grand Cherokee vehicles since MY 1999. According to FCA, the average theft rate for Jeep Grand Cherokee vehicles, based on NHTSA's theft rate data for the four model years prior to 1999 (1995–1998), when a vehicle immobilizer device was not installed as standard equipment was 5.3574 per one thousand vehicles produced. This was significantly higher than the 1990/1991 median theft rate of 3.5826. However, FCA also indicated that the average theft rate for the Jeep Grand Cherokee for the nine model years (1999–2009, excluding MY 2007 and 2009) after installation of the standard immobilizer device was 2.5704, significantly lower than the median. The Jeep Grand Cherokee vehicle line was also granted an exemption from the parts-marking requirements beginning with MY 2004 (67 FR 79687, December 30, 2002). FCA further exerts that NHTSA's theft rate data for the Jeep Grand Cherokee indicates that the inclusion of a standard immobilizer device resulted in a 52 percent net average reduction in vehicle thefts. Theft rate data reported in the **Federal Register** notices published by the agency show that the theft rate for the Jeep Wrangler vehicle line, using an average of three MYs' data (2012–2014) is also 0.3980, which is significantly lower than the median theft rate established by the agency.

Based on the evidence submitted by FCA, the agency believes that the antitheft device for the Jeep Wrangler vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 41). The agency concludes that the device will provide four of the five types of performance listed in 49 CFR part 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR part 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that FCA has provided adequate reasons for its belief that the antitheft

device for the vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information FCA provided about its device.

For the foregoing reasons, the agency hereby grants in full FCA's petition for exemption for its Jeep Wrangler vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with its MY 2018 Jeep Wrangler vehicles. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard. FCA stated that an official nameplate for the vehicle has not yet been determined.

If FCA decides not to use the exemption for this vehicle line, it must formally notify the agency. If such a decision is made, the vehicle line must be fully marked as required by 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if FCA wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. 49 CFR part 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, 49 CFR part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that 49 CFR part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Issued in Washington, DC, under authority delegated in 49 CFR part 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2017–22659 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Toyota Motor North America, Inc.

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Toyota Motor North America, Inc.'s, (Toyota) petition for an exemption of the Avalon vehicle line. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard).

DATES: The exemption granted by this notice is applicable beginning with the 2019 model year (MY).

FOR FURTHER INFORMATION CONTACT: Hisham Mohamed, International Policy, Fuel Economy and Consumer Programs, NHTSA, W43–437, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Mohamed's phone number is (202) 366–0307. His fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated June 19, 2017, Toyota requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Avalon vehicle line beginning with MY 2019. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Toyota provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Avalon vehicle line. Toyota stated that its MY 2019 Avalon vehicle line will be installed with a ''smart entry and start'' system and an engine immobilizer as standard equipment. Key components of the ''smart entry and start'' system device on the Avalon vehicle line will include, a certification electronic control unit (ECU), engine switch, steering lock ECU, security indicator, door control receiver, electrical key, an engine immobilizer and an electronic control module (ECM). Toyota stated that there will also be position switches installed on the vehicle to protect the hood and doors from unauthorized tampering/opening. Toyota further explained that locking the doors can be accomplished through use of a key, wireless switch or its smart entry system, and that unauthorized tampering with the hood or door without using one of these methods will cause the position switches to trigger its antitheft device to operate. Toyota stated that it will not incorporate an audible and visual alarm system as standard equipment on its trim-line vehicles.

Toyota's submission is considered a complete petition as required by 49 CFR 543.7 in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In addressing the specific content requirements of § 543.6, Toyota provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Toyota conducted tests based on its own specified standards. Toyota provided a detailed list of the tests conducted (*i.e.,* high and low temperature operation, overvoltage, strength, impact, vibration, electro-magnetic interference, etc.). Toyota stated that it believes that its device is reliable and durable because it complied with its own specific design standards and the antitheft device is installed on other vehicle lines for which the agency has granted a parts-marking exemption. As an additional measure of reliability and durability, Toyota stated that its vehicle key cylinders are covered with casting cases to prevent the key cylinder from easily being broken. Toyota further explained that there are approximately 10,000 combinations for inner cut keys which makes it difficult to unlock the doors without using a valid key because the key cylinders would spin out and cause the locks to not operate.

Toyota stated that its ''smart entry and start system'' device is activated when the engine switch is pushed from the

''ON'' ignition status to any other status. The certification ECU then performs the calculation for the immobilizer and the immobilizer signals the ECM to activate the device. Toyota also stated that key verification is also performed after the driver pushes the engine switch. Specifically, after the driver pushes the engine switch, the certification ECU and steering lock ECU receive confirmation of a valid key, and the certification ECU allows the ECM to start the engine. Toyota also stated that in the ''smart entry and start system'' installed vehicle, a security indicator notifies the users and others inside and outside the vehicle with the status of the immobilizer. Toyota further explained that the security indicator flashes continuously when the immobilizer is activated, and turns off when it is deactivated.

Toyota stated that the proposed antitheft device has also been installed as standard equipment on its Avalon vehicle line beginning with its MY 2015 vehicles. The theft rate for the MY 2015 Avalon vehicle line is not available. However, Toyota compared its proposed device to other devices NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Toyota compared its proposed device to that which has been installed on the Nissan Altima and granted a parts-marking exemption from 49 CFR part 541 by the agency beginning with its MY 2000 vehicles. Toyota also referenced the NHTSA theft rate data published for several years before and after the Nissan Altima was equipped with a standard immobilizer device. Specifically, Toyota stated that the publication showed that the average theft rate for the Nissan Altima dropped to 3.0 per 1,000 cars produced between MY's 2000–2006 compared to 5.3 per 1,000 cars produced between MY's 1996–1999. This represents approximately a 43% decrease in the theft rate for the Nissan Altima vehicle line installed with an immobilizer between MY's 2000–2006 as compared to the Nissan Altima vehicle line without an immobilizer between MY's 1996–1999. The theft rates for the Nissan Altima vehicle line using an average of three model years' data (2012–2014) are 2.4207, 1.7598 and 2.1212 respectively, all well below the median theft rate of 3.5826. Therefore, Toyota has concluded that the antitheft device proposed for its Avalon vehicle line is no less effective than those devices on the lines for which NHTSA has already granted full exemption from the parts-marking requirements. Toyota stated that it believes that installing the immobilizer device as standard equipment reduces the theft rate for the Avalon vehicle line and expects it to experience comparable effectiveness and ultimately be more effective than parts-marking labels.

Based on the supporting evidence submitted by Toyota on its device, the agency believes that the antitheft device for the Avalon vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541). The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Toyota has provided adequate reasons for its belief that the antitheft device for the Avalon vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Toyota provided about its device.

For the foregoing reasons, the agency hereby grants in full Toyota's petition for exemption for the Avalon vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Toyota decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Toyota wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2017–22657 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Nissan North America, Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Nissan North America, Inc.'s, (Nissan) petition for exemption of the Infiniti QX50 vehicle line in accordance with the *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard

equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). Nissan also requested confidential treatment for specific information in its petition. Therefore, no confidential information provided for purposes of this notice has been disclosed.

DATES: The exemption granted by this notice is applicable beginning with the 2019 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Room W43–439, Washington, DC 20590. Ms. Ballard's telephone phone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated July 8, 2017, Nissan requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Infiniti QX50 vehicle line beginning with MY 2019. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Infiniti QX50 vehicle line. Nissan stated that the MY 2019 Infiniti QX50 vehicle line will be installed with a passive, electronic engine immobilizer antitheft device as standard equipment. Key components of the antitheft device will include an engine immobilizer, engine control module (ECM), body control module (BCM), security indicator light, immobilizer antenna, Key FOB, and a specially-designed key with a microchip. Nissan stated that its vehicle's security indicator light will be a warning to a potential thief, and an added deterrence to a thief's decision to enter the vehicle. However, Nissan stated that its antitheft device will not provide any visible or audible indication if unauthorized vehicle entry (*i.e.,* flashing lights and horn alarm) on its Infiniti QX50 vehicle line.

Nissan's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In addressing the specific content requirements of 543.6, Nissan provided information on the reliability and durability of its proposed device. Nissan stated that its antitheft device is tested for specific parameters to ensure its reliability and durability. Nissan provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test. Nissan further stated that its immobilizer device satisfies the European Directive ECE R116, including tamper resistance. Nissan also stated that all control units for the device are located inside the vehicle, providing further protection from unauthorized accessibility of the device from outside the vehicle.

Nissan stated that activation of its immobilizer device occurs automatically when the ignition switch is turned to the ''OFF'' position which then causes the security indicator light to flash notifying the operator that the immobilizer device is activated. Nissan stated that the immobilizer device prevents normal operation of the vehicle without using a specially-designed microchip key with a pre-registered ''Key-ID''. Nissan also stated that, when the brake and clutch is on and the key FOB is near the engine start switch, the Key-ID is scanned via the immobilizer antenna. The microchip in the key transmits the Key-ID to the BCM, beginning an encrypted communication process. If the Key-ID and encrypted code are correct, the ECM will allow the engine to keep running and the driver to operate the vehicle. If the Key-ID and encrypted code are not correct, the ECM will cause the engine to shut down.

Nissan stated that the proposed device is functionally equivalent to the antitheft device installed on the MY 2011 Nissan Cube vehicle line which was granted a parts-marking exemption by the agency on April 14, 2010 (75 FR 19458). The agency notes that the theft rates for the Nissan Cube using an average of 3 MYs data (2012–2014), are 0.3322, 0.6471 and 2.0373 respectively.

Nissan provided data on the effectiveness of the antitheft device installed on its Infiniti QX50 vehicle line in support of the belief that its antitheft device will be highly effective in reducing and deterring theft. Nissan referenced the National Insurance Crime Bureau's data which it stated showed a 70% reduction in theft when comparing MY 1997 Ford Mustangs (with a standard immobilizer) to MY 1995 Ford Mustangs (without an immobilizer). Nissan also referenced the Highway Loss Data Institute's data which reported that BMW vehicles experienced theft loss reductions resulting in a 73% decrease in relative claim frequency and a 78% lower average loss payment per claim for vehicles equipped with an immobilizer. Additionally, Nissan stated that theft rates for its Pathfinder vehicle line experienced reductions from model year (MY) 2000 to 2001 and subsequent years with implementation of an engine immobilizer device as standard equipment. Specifically, Nissan stated that the agency's theft rate data for MY's 2001 through 2006 reported theft rates of 1.9146, 1.8011, 1.1482, 0.8102, 1.7298 and 1.3474 respectively for the Nissan Pathfinder.

Nissan compared its device to other similar devices previously granted exemptions by the agency. Specifically, it referenced the agency's grant of full exemptions to General Motors Corporation for its Buick Riviera and Oldsmobile Aurora vehicle lines (58 FR 44872, August 25, 1993) and its Cadillac Seville vehicle line (62 FR 20058, April 24, 1997) from the parts-marking requirements of the theft prevention standard. Nissan stated that it believes that since its device is functionally equivalent to other comparable manufacturer's devices that have already been granted parts-marking exemptions by the agency, along with the evidence of reduced theft rates for vehicle lines equipped with similar devices and advanced technology of transponder electronic security, the Nissan immobilizer device will have the potential to achieve the level of effectiveness equivalent to those vehicles already exempted by the agency. The agency agrees that the device is substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions.

Based on the supporting evidence submitted by Nissan, the agency believes that the antitheft device for the Infiniti QX50 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Nissan has provided adequate reasons for its belief that the antitheft device for the Infiniti QX50 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Nissan provided about its device.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Nissan Infiniti QX50 vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Nissan decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Issued in Washington, DC, under authority delegated in 49 CFR part 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2017–22658 Filed 10–18–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1024–A; Extension of Comment Period

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments; extension of comment period.

SUMMARY: This document extends the comment period for a notice and request for comments that was published in the **Federal Register** on Monday, August 28, 2017. The notice and request for comments relates to the Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code.

DATES: The comment period for the notice and request for comments published on August 28, 2017 (82 FR 40228), is extended to November 28, 2017.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke at (202) 317–6009, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION: A notice and request for comments that appeared in the **Federal Register** on Monday, August 28, 2017 (82 FR 40228) announced that written comments are to be received by October 23, 2017. In order to provide the public with a sufficient opportunity to submit comments, the due date to receive written comments has been extended to Tuesday, November 28, 2017.

Approved: October 12, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–22596 Filed 10–16–17; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Scientific Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act that the Cooperative Studies Scientific Evaluation Committee will hold a meeting on December 13, 2017, at the American Association of Airport Executives, 601 Madison Street, Alexandria, VA. The meeting will begin at 8:30 a.m. and end at 3:30 p.m.

The Committee advises the Chief Research and Development Officer on the relevance and feasibility of proposed projects and the scientific validity and propriety of technical details, including protection of human subjects.

The session will be open to the public for approximately 30 minutes at the start of the meeting for the discussion of administrative matters and the general status of the program. The remaining portion of the meeting will be closed to the public for the Committee's review, discussion, and evaluation of research and development applications.

During the closed portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research proposals and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. As provided by section 10(d) of Public Law 92–463, as amended, closing portions of this meeting is in accordance with 5 U.S.C. 552b(c)(6) and (c)(9)(B).

The Committee will not accept oral comments from the public for the open portion of the meeting. Those who plan to attend or wish additional information should contact Dr. Grant Huang, Acting Director, Cooperative Studies Program (10P9CS), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 443–

5700 or by email at *grant.huang@va.gov.* Those wishing to submit written comments may send them to Dr. Huang at the same address and email.

Dated: October 16, 2017.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–22679 Filed 10–18–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0556]

Agency Information Collection Activity Under OMB Review: Living Will and Durable Power of Attorney for Health Care

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 20, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0556'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0556'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 7331.

Title: Living Will and Durable Power of Attorney for Health Care; VA Form 10–0137

OMB Control Number: 2900–0556.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 10–0137, VA Advance Directive: Durable Power of Attorney for Health Care and Living Will, is the Department of Veterans Affairs (VA) recognized legal document that permits VA patients to designate a health care agent and/or specify preferences for future health care. The VA Advance Directive is invoked if a patient becomes unable to make health care decisions for him or herself. Use of the VA Advance Directive is specified in VHA Handbook 1004.02, Advance Care Planning and Management of Advance Directives. Veterans' rights to designate a health care agent and specify health care preferences in advance are codified in 38 CFR 17.32. This regulation also obligates VA to recognize advance directives and to use the information contained therein when health care decisions must be made for a patient that has lost decision making capacity. Use of advance directives is a well-established standard within clinical practice in the U.S. Offering the opportunity to complete an advance directive and the requirement to honor such documents is supported by Joint Commission standards and the Patient Self Determination Act of 1990 (applicable to Medicare providers.) Use of advance directives is also consistent with the health care ethics standard that patients have autonomy in health care decision making and have a right to control what is done to them in a medical setting.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 151 on August 8, 2017, page 37167.

Affected Public: Individuals and households.

Estimated Annual Burden: 171,811 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 343,622.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–22689 Filed 10–18–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: VA Disaster Resilience Survey of Community Dwelling Veterans

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 18, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Brian.McCarthy4@va.gov.* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 461–6345.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use

of automated collection techniques or the use of other forms of information technology.

Authority: Pursuant to Section 3506(c)(2)(A) of the PRA.

Title: VA Disaster Resilience Survey of Community Dwelling Veterans; VA Form 10–21086(NR).

OMB Control Number: 2900–NEW.

Type of Review: New information collection request.

Abstract: The proposed study is being conducted by the Veterans Emergency Management Evaluation Center (VEMEC) of the U.S. Department of Veterans Affairs. The mission of VEMEC is to promote the health and social welfare of America's Veterans and the Nation by initiating and coordinating projects aimed at developing evidence-based practices for use in mitigating against, preparing for, responding to, and recovering from national emergencies and natural disasters. In so doing, VEMEC helps to ensure timely access to high-quality health care for our nation's veterans.

The proposed study will be a one-time study of all VA patients in the United States. We will survey a sample of Veterans who at the time of fielding received care from any VA healthcare system in the U.S. at least once in the past 24 months. Health status, socioeconomic status, and other factors can impact a Veteran's resiliency/vulnerability during major disaster.

Affected Public: Individuals and households.

Estimated Annual Burden: 905 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 3,620.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–22662 Filed 10–18–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0390]

Agency Information Collection Activity: Application of Surviving Spouse or Child for REPS Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veteran's Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 18, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Dawn Johnson, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Dawn.Johnson7@va.gov.* Please refer to ''OMB Control No. 2900–0390'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 42 U.S.C. 402, E.O. 12436, Public Law 97–377 Section 156.

Title: Application of Surviving Spouse or Child for REPS Benefits (VA Form 21P–8924).

OMB Control Number: 2900–0390.

Type of Review: Extension without change of a currently approved collection.

Abstract: Restored Entitlement Program for Survivors (REPS) benefits are payable to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981. Child beneficiaries over age 18 and under age 23 must be enrolled full-time in an approved post-secondary school.

Executive Order 12436 ''Payment of Certain Benefits to Survivors of Persons Who Died In or As A Result of Military Service'' (found at 42 U.S.C. 402 (Note)) directs VA administer the provisions of Public Law 97–377 Section 156. VA codified this authority at 38 CFR 3.812.

VBA uses VA Form 21P–8924 to evaluate the eligibility of surviving spouses and children to REPS benefits, including information regarding the claimant's relationship to the Veteran, employment status, and earnings. Based on the information contained in the form, VBA makes decisions to grant, deny, or amend existing, benefits payments.

The VA Form number is being changed to ''21P–8924'' to reflect Pension and Fiduciary Service's responsibility for the form.

Affected Public: Individuals and households.

Estimated Annual Burden: 600 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 1,800.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–22663 Filed 10–18–17; 8:45 am]

BILLING CODE 8320–01–P

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