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Federal Register

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket No. FCIC–17–0004]

RIN 0563–AC56

Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains necessary amendments to address corrections in the final rule with request for comments for the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance Basic Provisions, and the Common Crop Insurance Policy Basic Provisions which published in the **Federal Register** on November 24, 2017.

DATES: *Effective Date:* March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Francie Tolle, Director, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

This correction is being published to correct section 18(f)(2)(iv) of the Common Crop Insurance Policy Basic Provisions, published November 24, 2017 (82 FR 55723–55734). The term ''and'' at the end of the paragraph following the semicolon was inadvertently omitted and is being added in this correction.

List of Subjects in 7 CFR Part 457

Administrative practice and procedure, Crop insurance, Reporting and recordkeeping requirements.

Need for Correction

Accordingly, 7 CFR part 457 is corrected by making the following amendments:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

§ 457.8 [Amended]

■ 2. Amend § 457.8, in the Common Crop Insurance Policy, in section 18(f)(2)(iv), by adding the term ''and'' at the end of the paragraph following the semicolon.

Signed in Washington, DC, on March 6, 2018.

Heather Manzano,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2018–05391 Filed 3–15–18; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

7 CFR Part 800

Fees for Official Inspection and Official Weighing Services Under the United States Grain Standards Act (USGSA); Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an error introduced into our regulations by a final rule that was published in the February 14, 2018, **Federal Register**. The final rule used the Roman numeral (v) consecutively in a table. This document corrects the table by renumbering the last six items in the table.

DATES: *Effective date:* March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Denise Ruggles, FGIS Executive Program Analyst, USDA AMS; Telephone: (816) 659–8406; Email: *Denise.M.Ruggles@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2018–02884 appearing in the **Federal Register** of Wednesday, February 14, 2018 [83 FR 6451], the final rule used the Roman numeral (v) consecutively in § 800.71 table 3. This document corrects the Code of Federal Regulations by renumbering the last six items in the table.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Exports, Grains, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 800 is corrected by making the following correcting amendments:

PART 800—GENERAL REGULATIONS

■ 1. The authority citation for part 800 continues to read as follows:

Authority: 7 U.S.C. 71–87k.

§ 800.71 [Amended]

■ 2. Section 800.71(a)(1) is amended in Table 3 of Schedule A by redesignating entries (vi) through (x) as entries (vii) through (xi) and redesignating the second entry for (v) as entry (vi).

Dated: March 12, 2018.

Greg Ibach,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 2018–05315 Filed 3–15–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4279

RIN 0570–AA85

Guaranteed Loanmaking and Servicing Regulations; Corrections

AGENCY: Rural Business-Cooperative Service and Rural Utilities Service; USDA.

ACTION: Final rule; technical correction.

SUMMARY: On June 3, 2016, the Rural Business-Cooperative Service promulgated changes to its Guaranteed Loanmaking and Servicing Regulations. Following final implementation of this final rule, RBS found two technical corrections that are necessary.

DATES: Effective March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Kelley Oehler, Rural Development, Business Programs, U.S. Department of Agriculture, 1400 Independence Ave. SW, Stop 3224, Washington, DC 20250–3224; email: *kelley.oehler@wdc.usda.gov*; telephone number: (202) 720–1418.

SUPPLEMENTARY INFORMATION:

Need for Corrections

The Agency published a final rule on June 3, 2016 (81 FR 35984–36027) for the purpose of improving program delivery, clarifying the regulations to make them easier to understand, and reducing delinquencies.

This document makes technical corrections to the Business and Industry (B&I) Guaranteed Loan regulations in two areas: Full faith and credit and leasehold improvements.

Full faith and credit. In § 4279.72(a), Full faith and credit, the Agency identifies in the second, third, and fourth sentences circumstances under which the guarantee is unenforceable in whole or in part. In all circumstances, the guarantee is unenforceable by the lender. However, the rule identifies ''by the lender'' in the third sentence, but not in the second or fourth sentence. To correct this oversight and provide clarity, the Agency is revising the second and fourth sentences to include the phrase ''by the lender.''

Leasehold improvements. The B&I Guaranteed Loan Program rule specifically identifies, in § 4279.113, certain leasehold improvements as an eligible project purpose for a B&I loan guarantee. However, there are other provisions in the B&I Guaranteed Loan Program rule that are inconsistent with and undermine this intent. Specifically, the rule relies on the definition of ''leasehold improvements'' as found in General Acceptable Accounting Practices (GAAP) (see § 4279.2(c)). GAAP considers leasehold improvements to be ''intangible assets.'' Provisions in the B&I rule regarding intangible assets in the calculation of tangible balance sheet equity (see § 4279.131(d)(2)) and the prohibition of intangible assets from serving as primary collateral (see § 4279.131(b)(3)) make it unintentionally difficult for leasehold improvement projects to meet equity and collateral requirements. Therefore, with this document, the Agency is correcting those provisions of the B&I Guaranteed Loan Program rule that are preventing leasehold improvement projects from meeting equity and collateral requirements for a B&I loan guarantee.

List of Subjects in 7 CFR Part 4279

Loan programs—business and industry, Reporting and recordkeeping requirements, Rural areas.

Accordingly, 7 CFR chapter XLII is amended by making the following correcting amendments:

PART 4279—GUARANTEED LOAN MAKING

■ 1. The authority citation for part 4279 continues to read as follows:

Authority: 5 U.S.C. 301; and 7 U.S.C. 1989.

Subpart A—General

■ 2. Revise the second and fourth sentences of § 4279.72(a) introductory text to read as follows:

§ 4279.72 Conditions of guarantee.

* * * * *

(a) * * * The guarantee will be unenforceable by the lender to the extent that any loss is occasioned by a provision for interest on interest or default or penalty interest. * * * Any losses occasioned will be unenforceable by the lender to the extent that loan funds were used for purposes other than those specifically approved by the Agency in its Conditional Commitment or amendment thereof in accordance with § 4279.173(b). * * *

* * * * *

Subpart B—Business and Industry Loans

■ 3. Amend § 4279.131 as follows:

■ a. Add a sentence to the end of paragraph (b)(3); and

■ b. Revise the first and fourth sentences in paragraph (d)(2).

The addition and revisions read as follows:

§ 4279.131 Credit quality.

* * * * *

(b) * * *

(3) * * * For purposes of determining compliance with this requirement, leasehold improvements are considered tangible assets and can serve as primary collateral.

* * * * *

(d) * * *

(2) Tangible balance sheet equity will be determined based upon financial statements prepared in accordance with GAAP except that, for the purposes of this subpart, leasehold improvements are to be considered tangible assets when making the tangible balance sheet equity calculation. * * * Tangible equity cannot include appraisal surplus, bargain purchase gains, or intangible assets (except for leasehold improvements). * * *

* * * * *

Dated: March 8, 2018.

Bette B. Brand,

Administrator, Rural Business-Cooperative Service.

Dated: March 8, 2018.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2018–05319 Filed 3–15–18; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2018–0200; Special Conditions No. 23–287–SC]

Special Conditions: Honda Aircraft Company, Inc., HA–420 Airplane; Single-Place Side-Facing Lavatory Seat Dynamic Test

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Honda Aircraft Company, Inc., HA–420 airplane. This airplane will have a novel or unusual design feature associated with a single-place side-facing seat in the lavatory that can be used as a passenger seat during taxi, takeoff, and landing. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The special conditions are effective March 16, 2018, and are applicable March 7, 2018.

We must receive your comments by April 16, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0200 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Take comments to Docket Operations in

Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: Bob Stegeman, Federal Aviation Administration, AIR–691, Policy & Innovation Division, Small Airplane Standards Branch, Aircraft Certification Service, 901 Locust, Kansas City, Missouri 64106; telephone (816) 329–4140; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected airplanes.

Comments Invited

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

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On January 6, 2017, Honda Aircraft Company, Inc. applied for a change to Type Certificate (TC) No. A00018AT for the installation of a single-place side-facing belted lavatory seat in the HA–420 airplane. The HA–420, currently approved under TC No. A00018AT, is a 7-seat, lightweight business jet with a 43,000-foot service ceiling and a maximum takeoff weight of 9,963 pounds. The airplane is powered by two GE-Honda Aero Engines (GHAE) HF–120 turbofan engines.

The airplane will be equipped with a ''belted'' lavatory seat cover that a passenger can be seated in during taxi, takeoff, and landing. Therefore, compliance with the provisions of 14 CFR 23.562 and 23.785—in addition to the certification basis as established in TC No. A00018AT—and any additional requirements the FAA determines, are applicable. In this case, the approval of a side-facing seat to these provisions is considered novel or unusual; therefore, special conditions are required.

14 CFR part 23, amendment 23–36,[2] effective September 14, 1988, revised the emergency landing conditions that must be considered in the design of the airplane. Specifically, it revised the static load conditions in § 23.561 and added § 23.562 to require dynamic testing for all seats approved for occupancy during takeoff and landing. The intent of amendment 23–36 is to provide an improved level of safety for occupants on airplanes certificated under part 23 (part 23 airplanes). In part 23 airplanes, most seating is forward or aft facing; therefore, the pass/fail criteria in amendment 23–36 focuses on forward- and aft-facing seats.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Honda Aircraft Company, Inc., must show that the HA–420, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in TC No. A00018AT or the applicable regulations in effect on the date of application for the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC No. A00018AT are as follows:

14 CFR part 23, Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Airplanes, effective February 1, 1965, as amended by amendments 23–1, July 29, 1965, through amendment 23–62, dated December 2, 2011.

14 CFR part 34, Fuel Venting and Exhaust Emission Requirements for Turbine-Engine-Powered Airplanes, effective September 10, 1990, as amended by amendments 34–1, dated July 31, 1995 through amendment 34–5, dated December 31, 2012.

14 CFR part 36, Noise Standards: Aircraft Type Certification and Airworthiness Certification, effective March 11, 1994, as amended by amendments 36–1, dated December 1, 1965, through amendment 36–29, dated March 11, 2013.

Exemption 11123, dated December 16, 2014, § 23.181(b), Dynamic Stability Compliance with § 23.181(b) during takeoff and landing.

ELOS ACE–15–08, dated June 5, 2015: Use of 1-g Stall Speeds in lieu of Minimum Speed in the Stall as a Basis for Determining.

ELOS ACE–15–09, dated March 26, 2015: Electronic Display of Engine Instruments N1, N2, ITT, Oil Pressure, Oil Temperature, Fuel Flow, and Fuel Quantity on a Garmin G3000 Integrated Flight Deck.

ELOS ACE–15–10, dated March 25, 2015: Storage Battery Design and Installation Compliance.

ELOS ACE–15–11, dated September 14, 2015: Airspeed Indicator (ASI) Flap Markings.

ELOS ACE–15–15, dated September 1, 2015: Amendment 23–62 Corrections.

Special Condition No. 23–263–SC, dated March 25, 2015, Dynamic Test Requirements for Single-Place Side-Facing Seats.

Special Condition No. 23–264–SC, dated March 25, 2015, Electronic Engine Control System.

Special Condition 23–265–SC, dated June 9, 2015, Fire Extinguishing. Note: This special condition supersedes the ELOS finding of ELOS Memo ACE–15–15.

Special Condition No. 23–269–SC, dated Sept 14, 2015, Lithium-Ion Battery Installation.

Special Condition No. 23–270–SC, dated August 3, 2015: High Altitude Operations.

Special Condition Notice No. 23–271–SC, dated October 26, 2015, Cruise Speed Control.

If the Administrator finds the applicable airworthiness regulations (*i.e.,* 14 CFR part 23, § 23.562) do not contain adequate or appropriate safety standards for the HA–420 because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16.

The FAA issues special conditions, as defined in 14 CFR 11.19, under § 11.38,

[2] *Ref* 53 FR 30802, August 15, 1988.

and they become part of the type certification basis under § 21.101.

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

Novel or Unusual Design Features

The HA–420 will incorporate the following novel or unusual design feature:

A single-place side-facing lavatory seat intended for taxi, takeoff, and landing.

Discussion

The seat is to incorporate design features that reduce the potential for injury in the event of an accident. The seat is essentially a padded toilet cover. In a severe impact, the occupant will be restrained by a 2-point seatbelt attached to the sidewall and, in an accident, bear on an adjacent wall/bulkhead forward of the occupant. This wall/bulkhead may or may not be padded, depending upon test results. Due primarily to its close proximity to the occupant, the wall provides the same function of the upper torso restraint for forward facing occupants.

The testing should represent features in the cabin that may influence dynamic test results. Notable details include a representative bulkhead forward lavatory wall and any objects that may influence its ability to attenuate load or otherwise affect its stiffness. This could include cabin furniture or seats forward of the bulkhead.

Dynamic seat testing also requires seat attachment points be deflected in pitch and roll in order to demonstrate the seat will remain attached as the airplane deforms in an accident. In this installation, pitch and roll are not practicable and not required because the seat is primarily attached to the sidewall and the seatbelt and bulkhead primarily restrain the occupant.

In addition to the design features intended to minimize occupant injury during an accident sequence, the installation will also require operational procedures that will facilitate egress in the event of an accident, including leaving the lavatory door locked open during taxi, takeoff, and landing. The adjacent forward wall/bulkhead interior structure may have padding that will provide some protection to the head of the occupant if head injury criteria (HIC) values require it.

Applicability

As discussed above, these special conditions are applicable to the HA–420. Should Honda Aircraft Company, Inc. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the FAA would apply these special conditions to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The FAA has determined that notice and opportunity for prior public comment are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected airplanes. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702; 44704, Pub. L. 113–53, 127 Stat 584 (49 U.S.C. 44704) note, 14 CFR 21.16 and 21.101(d).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Honda Aircraft Company, Inc., HA–420 airplanes.

(1) Single-Place Side-Facing Lavatory Seat Dynamic Test

(a) *Existing Criteria.* As referenced by § 23.785(b), all injury protection criteria of § 23.562(c)(l) through (c)(7) apply to the occupants of the side-facing seat. Head injury criteria (HIC) assessments are only required for head contact with the seat and/or adjacent structures.

(b) *Body-to-wall furnishing contact.* The seat must be installed aft of a structure such as an interior wall or furnishing that will contact the pelvis, upper arm, chest, or head of an occupant seated next to the structure. A conservative representation of the structure and its stiffness must be included in the tests.

(c) *Thoracic Trauma.* Testing with a Side Impact Dummy (SID), as defined by 49 CFR part 572, subpart F or its equivalent, must be performed in order to establish Thoracic Trauma Index (TTI) injury criteria. TTI acquired with the SID must be less than 85, as defined in 49 CFR part 572, subpart F. SID TTI data must be processed as defined in Federal Motor Vehicle Safety Standard (FMVSS) part 571.214, section S11.5 Rational analysis, comparing an installation with another installation where TTI data were acquired and found acceptable, may also be viable.

(d) *Pelvis.* Pelvic lateral acceleration must not exceed 130g. Pelvic acceleration data must be processed as defined in FMVSS part 571.214, section S11.5.

(e) *Shoulder Strap Loads.* Where upper torso straps (shoulder straps) are used for occupants, tension loads in individual straps must not exceed 1,750 pounds. If dual straps are used for restraining the upper torso, the total strap tension loads must not exceed 2,000 pounds.

(f) *Compression Loads.* The compression load measured between the pelvis and the lumbar spine of the Anthropomorphic Test Device (ATD) may not exceed 1,500 pounds.

(g) *Emergency Evacuation.* When occupied, the lavatory door must be latched open for taxi, takeoff and landing and remain latched under the § 23.561(b) loads. The airplane configuration must meet the emergency evacuation requirements of its certification basis with the seat occupied.

(h) *Lavatory Placard.* A placard specifying that the lavatory door must be latched (in the open position) for taxi, takeoff, and landing when the lavatory is occupied must be displayed in an acceptable manner for § 23.791 compliance.

(i) *Test Requirements in § 23.562 dynamic loads.* The tests in § 23.562(a), (b), and (c) must be conducted on the lavatory seat. Floor deformation is generally required except for a seat that is cantilevered to the bulkhead.

(j) The following are the agreed upon methods of compliance and test requirements:

(1) General Test Guidelines

(i) One longitudinal test with the SID ATD or its equivalent, un-deformed floor, no yaw, and with all lateral structural supports (armrests/walls) will be accomplished.

—Pass/fail injury assessments: TTI and pelvic acceleration.

(ii) One longitudinal test with the Hybrid II ATD, deformed floor, with 10 degrees yaw, and with all lateral structural supports (armrests/walls) will be accomplished.

—Pass/fail injury assessments: HIC and upper torso restraint load, restraint system retention, and pelvic acceleration.

(iii) Vertical (15 g's) test is to be conducted with modified Hybrid II ATDs with existing pass/fail criteria.

(iv) The ATD can be tethered for the floor deformation test.

(v) The seatbelt is not required to have a TSO Authorization but will need to comply with the TSO–C22g Minimum Performance Standards (MPS).

(2) Special Notes

(i) The ATD head and torso must remain supported by the forward divider (wall) during the event. The ATD is not permitted to move inboard of the divider.

(ii) Honda Aircraft Company, Inc. must determine whether the last cabin seat will become a partition panel or bulkhead restraint that can increase ATD inertial loading or otherwise affect the test whether the last cabin seat is occupied or unoccupied.

(iii) The ATD should be fitted in a manner reflecting the worst occupant seating. Belts, buckles, and other clothing must remain restrained for the event duration and not become loose items of mass.

Issued in Kansas City, Missouri, on March 7, 2018.

Pat Mullen,

Manager, Small Airplane Standards Branch, Aircraft Certification Service.

[FR Doc. 2018–05321 Filed 3–15–18; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232 and 274

[Release Nos. 33–10467; 34–82830; 39–2520; IC–33041]

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (''EDGAR'') Filer Manual and related rules. The EDGAR system is scheduled to be upgraded on March 12, 2018.

DATES: Effective March 16, 2018. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of March 16, 2018.

FOR FURTHER INFORMATION CONTACT: In the Division of Investment Management, for questions concerning Form N–PORT and Form N–CEN, contact Heather Fernandez at (202) 551–6708 and for questions concerning submission form type 486BXT, contact Shawn Davis at (202) 551–6413. In the Division of Trading and Markets, for questions concerning Form 13H, contact Richard Holley at (202) 551–5614. In the Division of Economic and Risk Analysis, for questions concerning the updated XBRL taxonomies, contact Brian Hankin at (202) 551–8497. In the Office of Strategic Initiatives, for questions concerning Form ID, contact Christian Windsor at (202) 551–3419 or Mellissa Duru at (202) 551–3757. In the Division of Corporation Finance, for questions concerning the draft registration statements on form type DRS and DRS/A, the draft offering statements on form type DOS and DOS/A, and submission form type SF–1MEF, contact Heather Mackintosh at (202) 551–8111. In the Office of Municipal Securities, for questions concerning Form MA–I and Form MA–I/A, contact Ahmed Abonamah at (202) 551–3887.

SUPPLEMENTARY INFORMATION: We are adopting an updated EDGAR Filer Manual, Volume I and Volume II, and making corresponding rule and form amendments. The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.[1] It also describes the requirements for filing using EDGARLink Online and the Online Forms/XML website.

The revisions to the Filer Manual reflect changes within Volume I, entitled EDGAR Filer Manual, Volume I: ''General Information,'' (Version 30) (March 2018), and Volume II, entitled EDGAR Filer Manual, Volume II: ''EDGAR Filing,'' Version 45 (March 2018). The updated manual will be incorporated by reference into the Code of Federal Regulations.

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.[2] Filers may consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.[3]

The EDGAR System and Filer Manual will be updated in Release 18.1 and will reflect the following changes.

The Form ID entry screen will be revised to allow filers that are applying for access codes to indicate whether they intend to submit a draft registration statement or draft offering statement. Clarifying instructions will be added to Chapter 3 (Becoming an EDGAR Filer) of the EDGAR Filer Manual, Volume I and a technical conforming amendment will be made to Form ID.

EDGAR will be revised to add the submission form type SF–1MEF, which will allow registrants to register additional securities pursuant to Rule 462(b) of the Securities Act of 1933 (the ''Securities Act'') to a prior related effective registration statement filed on Form SF–1. Corresponding changes have been made to Chapter 3 (Index to Forms), Chapter 4 (Filing Fee Information) and Appendix C (EDGAR Submission Types) of the EDGAR Filer Manual, Volume II.

EDGAR will also be revised to add submission form type 486BXT for post-effective amendments to Form N–2 filed pursuant to Securities Act Rule 486(b)(1)(iii) to designate a new effective date for a post-effective amendment previously filed pursuant to Securities Act Rule 486(a). Corresponding changes have been made to Chapter 3 (Index to Forms) and Appendices A (Messages Reported by EDGAR) and C (EDGAR Submission Types) of the EDGAR Filer Manual, Volume II.

EDGAR will be updated to allow multiple accession numbers and series IDs in the header of NPORT–EX and NPORT–EX/A submissions. This will allow the filer to make a single submission for multiple series. Clarifying changes have been made to Appendix A, (Messages Reported by EDGAR) and Chapter 7 (Preparing and Transmitting EDGARLink Online Submissions) of the EDGAR Filer Manual, Volume II.

[1] We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33–6986 (April 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on December 8, 2017. *See* Release No. 33–10444 (December 8, 2017) [83 FR 2369].

[2] *See* Rule 301 of Regulation S–T (17 CFR 232.301).

[3] *See* Release No. 33–10385 (July 6, 2017) [82 FR 35062] (implementing revisions to reflect EDGAR Release 17.2. For additional history of EDGAR Filer Manual revisions, please see the citations therein).

In Release No. 33–10332 (March 31, 2017) [82 FR 17545] the Commission adopted revisions to certain Commission forms to add checkboxes to the cover pages to the forms to enable registrants to indicate their status as an Emerging Growth Company, as defined in Section 6(e) of the Securities Act, and to indicate whether they were opting out of the extended transition period for complying with any new or revised financial accounting standards. Updates are being made in EDGAR Release 18.1 to allow filers submitting draft registration statements on submission form type DRS and DRS/A to provide similar indications when submitting those submission form types. Corresponding changes will be made to Chapter 7 (Preparing and Transmitting EDGARLink Online Submissions) of the EDGAR Filer Manual, Volume II.

EDGAR Release 18.1 will revise EDGAR to allow investment company filers to skip Part C of submission Forms N–CEN and N–CEN/A if all of their series are terminated. Clarifying changes have been made to Chapter 8 (Preparing and Transmitting Online Submissions) of the EDGAR Filer Manual, Volume II.

EDGAR Release 18.1 will revise EDGAR to allow filers to sort the dates provided in Items 3 and 4 of submission form types MA–I and MA–I/A in reverse chronological order. Clarifying changes have been made to Chapter 8 (Preparing and Transmitting Online Submissions) of the EDGAR Filer Manual, Volume II.

Instructions in the EDGAR Filer Manual will be revised to clarify that filers of Form 13H who are natural persons and who do not have a Tax Identification Number or TIN, should enter ''00–0000000'' in lieu of the TIN. Natural person filers should immediately discontinue the practice of providing their Social Security number in that field. Corresponding changes will be made to Chapter 8 (Preparing and Transmitting Online Submissions) of the EDGAR Filer Manual, Volume II.

In EDGAR Release 18.1, the EDGAR system will be upgraded to support the 2018 XBRL Taxonomies and updated SEC taxonomies COUNTRY, CURRENCY, EXCH and NAICS. Please see *https://www.sec.gov/info/edgar/edgartaxonomies.shtml* for a complete listing of supported standard taxonomies. Conforming changes have been made to Chapter 5 (Constructing and Transmitting Online Submissions) and Chapter 6 (Interactive Data) of the EDGAR Filer Manual, Volume II.

EDGAR Release 18.1 will revise the EDGAR system to suspend ABS–EE and ABS–EE/A submissions (along with Combined 10–D/ABS–EE submissions and their amendments) if the Reporting Period Begin Date is after the Reporting Period End Date. Clarifying changes have been added to Appendix A (Messages Reported By EDGAR) of the EDGAR Filer Manual, Volume II.

Along with the adoption of the Filer Manual, we are amending Rule 301 of Regulation S–T to provide for the incorporation by reference into the Code of Federal Regulations of today's revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

The updated EDGAR Filer Manual will be available for website viewing and printing; the address for the Filer Manual is *https://www.sec.gov/info/edgar/edmanuals.htm.* You may also obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m.

Since the Filer Manual and the corresponding rule and form amendments relate solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (''APA'').[4] It follows that the requirements of the Regulatory Flexibility Act[5] do not apply.

The effective date for the updated Filer Manual and the related rule and form amendments is March 16, 2018. In accordance with the APA,[6] we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The Commission believes that establishing an effective date less than 30 days after publication of these rules is necessary to coordinate the effectiveness of the updated Filer Manual and related rule and form amendments with these system upgrades and to provide updated instructions for filers of Form 13H in a timely manner.

Statutory Basis

We are adopting the amendments to Regulation S–T under the authority in Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,[7] Sections 3, 12, 13, 14, 15, 15B, 23, and 35A of the Securities Exchange Act of 1934,[8] Section 319 of the Trust Indenture Act of 1939,[9] and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.[10]

We are adopting the technical conforming amendment to Form ID under the authority in Section 19(a) of the Securities Act,[11] Sections 3(b), 13(a), 23(a), and 35A of the Exchange Act,[12] Section 319 of the Trust Indenture Act of 1939[13] and Sections 30 and 38 of the Investment Company Act of 1940.[14]

List of Subjects

17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of the Amendments

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets forth the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the updated EDGAR Filer Manual, Volume I: ''General Information,'' Version 30 (March 2018). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: ''EDGAR Filing,'' Version 45 (March 2018). Additional provisions applicable to Form N–SAR filers are set forth in the EDGAR Filer Manual, Volume III: ''N–SAR Supplement,'' Version 6 (January 2017). All of these provisions have been incorporated by reference into the Code

[4] 5 U.S.C. 553(b)(A).

[5] 5 U.S.C. 601–612.

[6] 5 U.S.C. 553(d)(3).

[7] 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

[8] 15 U.S.C. 78c, 78*l,* 78m, 78n, 78o, 78o_4, 78w, and 78*ll.*

[9] 15 U.S.C. 77sss.

[10] 15 U.S.C. 80a–8, 80a–29, 80a–30, and 80a–37.

[11] 15 U.S.C. 77s(a).

[12] 15 U.S.C. 78c(b), 78m(a), 78w(a), and 78*ll.*

[13] 15 U.S.C. 77sss.

[14] 15 U.S.C. 80a–29, and 80a–37.

of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You must comply with these requirements in order for documents to be timely received and accepted. The EDGAR Filer Manual is available for website viewing and printing; the address for the Filer Manual is *https://www.sec.gov/info/edgar/edmanuals.htm.* You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. You can also inspect the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 3. The authority citation for part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l,* 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, 80a–29, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 4. Form ID (referenced in §§ 239.63, 249.446, 269.7 and 274.402 of this chapter) is amended to add in ''PART I—APPLICATION FOR ACCESS CODES TO FILE ON EDGAR'' the following text and checkbox ''Access codes will be used to submit draft registration or draft offering statement. □''

Note: The text of Form ID does not, and the amendment will not, appear in the Code of Federal Regulations.

By the Commission.

Dated: March 8, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–05238 Filed 3–15–18; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201, 801, and 1100

[Docket No. FDA–2015–N–2002]

RIN 0910–AH94

Clarification of When Products Made or Derived From Tobacco Are Regulated as Drugs, Devices, or Combination Products; Amendments to Regulations Regarding ''Intended Uses''; Partial Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; partial delay of effective date.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is issuing this final rule to delay the effective date of amendments to the existing medical product ''intended use'' regulations, contained in the final rule published January 9, 2017, until further notice. This final rule delays the effective date of the amendments to allow further consideration of the substantive issues raised in the comments received regarding the amendments. This action does not delay the effective date of the portions of the January 9, 2017, final rule that describe the circumstances in which a product made or derived from tobacco that is intended for human consumption will be subject to regulation as a drug, device, or a combination product under the Federal Food, Drug, and Cosmetic Act (FD&C Act), which remains March 19, 2018.

DATES: Effective March 16, 2018, the amendments made to §§ 201.128 and 801.4, revised at 82 FR 2193 (January 9, 2017), delayed at 82 FR 9501 (February 7, 2017) until March 21, 2017, and further delayed at 82 FR 14319 (March 20, 2017) until March 19, 2018, are delayed indefinitely. Section 1100.5, added at 82 FR 2193 (January 9, 2017), delayed at 82 FR 9501 (February 7, 2017) until March 21, 2017, and further delayed at 82 FR 14319 (March 20, 2017) until March 19, 2018, is effective March 19, 2018.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kelley Nduom, Center for Drug Evaluation and Research, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6221, Silver Spring, MD 20993, 301–796–8597, *kelley.nduom@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 9, 2017 (82 FR 2193), FDA published a final rule entitled ''Clarification of When Products Made or Derived From Tobacco Are Regulated as Drugs, Devices, or Combination Products; Amendments to Regulations Regarding 'Intended Uses'" (January 2017 final rule). The final rule added a new regulation (§ 1100.5 (21 CFR 1100.5)) to title 21 of the Code of Federal Regulations (CFR) to describe the circumstances in which a product made or derived from tobacco that is intended for human consumption will be subject to regulation as a drug, device, or a combination product under the FD&C Act. The rule also amended FDA's existing regulations describing the types of evidence that may be considered in determining a medical product's intended uses (§§ 201.128 and 801.4 (21 CFR 201.128 (drugs) and 21 CFR 801.4 (devices))).

In the **Federal Register** of February 7, 2017 (82 FR 9501), in accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' we delayed, until March 21, 2017, the effective date of the final rule.

On February 8, 2017, various industry organizations filed a petition raising concerns with the January 2017 final rule, requesting reconsideration and a stay pursuant to 21 CFR 10.33(b) and 10.35(b) (see FDA–2015–N–2002–1977). The petition requests that FDA reconsider the amendments to the ''intended use'' regulations and issue a new final rule that, with respect to the intended use regulations at §§ 201.128 and 801.4, reverts to the language of the September 25, 2015, proposed rule. The petition also requests that FDA indefinitely stay the rule because petitioners argue that (1) the final rule was issued in violation of the fair notice requirement under the Administrative Procedure Act (APA) (petition at pp. 10–13) and (2) the ''totality of the evidence'' language in the final rule is

a new and unsupported legal standard (petition at pp. 10, 13–21).[1]

In the **Federal Register** of March 20, 2017 (82 FR 14319), we further delayed the effective date of the final rule until March 19, 2018, and reopened the docket to invite additional public comment on the rule. Fifteen comments were submitted to the docket in response. Two of the comments submitted to the docket related to the new regulation included in the final rule that describes circumstances in which a product made or derived from tobacco that is intended for human consumption will be subject to regulation as a drug, device, or a combination product under the FD&C Act (§ 1100.5). Neither comment requested a delay in the effective date of that new regulation. The remainder of the comments related to the amendments to FDA's existing regulations describing the types of evidence that may be considered in determining a medical product's intended use (§§ 201.128 and 801.4). Many of these comments opposed what they described as a broadening from the September 25, 2015, proposed rule (see 80 FR 57756 at 57764 to 57765) of the types of evidence that could be considered in determining intended use, and specifically raised concerns with the ''totality of the evidence'' language included in the final rule.[2]

To allow for further consideration of the substantive issues raised in these comments, in the **Federal Register** of January 16, 2018 (83 FR 2092) (January 2018 proposed rule), we proposed to delay the effective date of the amendments to the existing medical product ''intended use'' regulations contained in the January 2017 final rule, until further notice (§§ 201.128 and 801.4). We did not propose to delay the effective date of the portions of the final rule that issued a new regulation regarding products made or derived from tobacco that are intended for human consumption (§ 1100.5). The Agency received 19 comments to the docket on the proposed delay, which are summarized below.

[1] For a more comprehensive discussion of the arguments raised in the petition, please see the March 2017 final rule (82 FR 14319 at 14320 to 14321) and the January 2018 proposed rule (83 FR 2092 at 2095). Consistent with this rule, FDA is granting in part the petition. Specifically, we are granting petitioners' request for an indefinite stay of the effective date of the amendments to the intended use regulations (see FDA–2015–N–2002).

[2] For a more comprehensive discussion of the comments submitted to the reopened docket, please see the January 2018 proposed rule (83 FR 2092 at 2095).

II. Comments on the Proposed Rule and FDA Responses

A. Introduction

We received 19 comments on the proposed delay from drug and device industries, various associations and organizations, academia, and individual submitters, including a health professional and consumers. We describe and respond to the comments in sections II.B through II.D of this document. We have numbered each comment to help distinguish between different comments. We have grouped similar comments together under the same number and, in some cases, we have separated different issues discussed in the same comment and designated them as distinct comments for purposes of our responses. The number assigned to each comment or comment topic is purely for organizational purposes and does not signify the comment's value or importance or the order in which comments were received.

B. Description of Comments in Support of the Delay and FDA Response

The majority of comments supported the proposed delay and included specific proposals and recommendations for how FDA should address issues related to intended use, and amendments to §§ 201.128 and 801.4, going forward. In the following paragraphs, we discuss and respond to such comments.

(Comment 1) Many of the comments expressed support for the delay based on legal concerns with the January 2017 final rule. Among these legal concerns were arguments that the final rule: (1) Violates the First Amendment by regulating truthful speech regarding lawful activity; (2) violates the due process clause of the Fifth Amendment to the extent that the types of evidence to be considered are not clearly defined; (3) unlawfully interferes with the practice of medicine; (4) departs from relevant statutory text, legislative history, case law, and FDA past practices, and/or (5) was issued in violation of the notice requirement under the APA based on the inclusion of the ''totality of the evidence'' language in that final rule. Many of these arguments were based, at least in part, on what commenters described as a broadening from the September 25, 2015, proposed rule (see 80 FR 57756 at 57764 to 57765) of the types of evidence that could be considered in determining intended use, and specifically raised concerns with the ''totality of the evidence'' language included in the January 2017 final rule.

(Response) We agree that it is appropriate to delay the effective date of the final rule and we will consider the legal concerns raised regarding the January 2017 final rule as we continue to work diligently on the issues relating to intended use raised in the underlying rulemaking.

(Comment 2) Several of the comments supporting the delay also included specific proposals and recommendations for how FDA should address issues related to intended use, and specifically amendments to §§ 201.128 and 801.4, going forward. For example, these comments stated that FDA should:

a. Adopt the approach set forth in the September 2015 proposed rule preamble and codified—including deletion of the ''knowledge'' sentences in §§ 201.128 and 801.4—and ensure that all guidance and policy documents are aligned with that approach;

b. Withdraw the January 2017 final rule and the ''totality of the circumstances'' test included in that rule;

c. Revise §§ 201.128 and 801.4 to make them ''more consistent with applicable law''; and/or

d. Clarify that certain types of evidence, such as the following, do *not* constitute evidence of intended use: (i) Scientific exchange, (ii) truthful, non-misleading communications, and/or (iii) mere knowledge of unapproved use by third parties, including when in combination with non-promotional communication.

(Response) The wide-ranging proposals and recommendations for how FDA should address issues related to intended use and §§ 201.128 and 801.4 in these and other comments underscore the complexities of the issues involved. We believe these comments provide additional support for the delay of the effective date of amendments to the existing medical product ''intended use'' regulations. The Agency needs more time to consider the feedback we received, make sure that our approach is guided by our public health mandate, and ensure the clarity of our rules on the subject. We will consider these proposals and recommendations as we continue to work diligently on the issues relating to intended use raised in the underlying rulemaking.

(Comment 3) One comment stated that the proposed rule should be delayed due to several Federal lawsuits involving FDA and vaping firms. That comment further asserted that FDA acted deceptively and violated the Constitution, that FDA should provide clear rulemaking procedures, that the

tobacco and medical products parts of the rule both should not be addressed piecemeal and should be cleanly split, and that the docket should be closed.

(Response) To the extent the comment intended to support the delay of the effective date of the medical product portions of the January 2017 final rule, we agree. However, to the extent the comment intended to assert that the effective date of new § 1100.5 should likewise be delayed, the comment is outside the scope of this rulemaking. In any event, we disagree that there is any reason to delay the effective date of § 1100.5. As noted in the January 2018 proposed rule, when FDA reopened the docket for the January 2017 final rule, the Agency did not receive any comments requesting that we further delay the effective date of § 1100.5 or that we make any changes to that regulation. This comment likewise did not suggest any changes to the substance of that regulation. To the extent the comment can be understood to relate to the substance of the amendments to the intended use regulations, we will consider them as we continue to work diligently on the issues relating to intended use raised in the underlying rulemaking.

C. Description of Comment in Opposition to the Delay and FDA Response

(Comment 4) One comment opposed the proposed delay and asked that FDA not further delay implementation of the January 2017 final rule. The comment expressed support for the January 2017 final rule, stating that (1) the ''totality of evidence'' language does not lower the relevant evidentiary standard and (2) there has been adequate notice and opportunity to be heard regarding the final rule. The comment recommended that FDA build on the approach it has adopted in the past several years to address intended use issues and argued against the removal of the ''knowledge'' sentences in §§ 201.128 and 801.4.

(Response) With respect to the request not to delay implementation of the January 2017 final rule, under FDA regulations, the Commissioner of Food and Drugs (Commissioner) is authorized to stay, including for an indefinite time period, the effective date of any action if the stay is in the public interest and the interest of justice (see § 10.35(a) to (b), (e) to (f) (21 CFR 10.35(a) to (b), (e) to (f))). We believe that the delay is reasonable and appropriate in light of the complex issues under consideration and the wide range of concerns, proposals, and recommendations we have received in comments from stakeholders on these issues. In addition to these comments, the Agency received a petition specifically requesting that the Commissioner ''indefinitely stay the Final Rule'' (petition at p. 1). The petition raised a number of concerns with the January 2017 final rule, including constitutional concerns and public health concerns related to what the petition stated could be a chilling of valuable scientific speech. While the Agency remains committed to providing clarity on issues relating to intended use, we have determined that it best serves the public health for the Agency to take additional time to carefully consider all of these concerns and delay the effective date of the January 2017 final rule. The petitioners raised significant concerns with the text of the ''intended use'' amendments, which were echoed by several additional commenters. The Agency does not believe that indefinitely delaying the effective date of the January 2017 final rule to consider these issues will create a public health risk. To the contrary, the potential for confusion and uncertainty regarding the text of the January 2017 final rule might affect FDA's medical product jurisdiction in ways that FDA did not intend when it set out to clarify the ''intended use'' regulations.

Accordingly, the Commissioner has concluded that the delay is warranted because it is in the public interest and the interest of justice (see § 10.35(e)). As noted above, we will consider the concerns, recommendations, and proposals set forth in these comments as we continue to work diligently on the issues relating to intended use raised in the underlying rulemaking.

D. Description of Comments Outside the Scope of This Rulemaking and FDA Response

(Comment 5) Several comments supported FDA suspending rulemaking and closing the docket to address issues related to a specific drug product.

(Response) These comments appear to concern product-specific issues that are outside the scope of this rulemaking.

III. Effective/Compliance Date(s)

This rule is effective March 16, 2018. As provided at 82 FR 14319, March 20, 2017, the amendments to FDA's existing regulations describing the types of evidence that may be considered in determining a medical product's intended uses (§§ 201.128 (drugs) and 801.4 (devices)) will take effect on March 19, 2018. In order to delay that effective date, this final rule needs to be effective on or before March 19, 2018, and therefore it is not possible for this rule delaying that effective date to take effect 30 days from publication in the **Federal Register**. Thus, the Commissioner finds good cause under 21 CFR 10.40(c)(4)(ii) to make this rule effective on the day of publication.

IV. Economic Analysis of Impacts

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us 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, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this final rule is not a significant regulatory action as defined by Executive Order 12866. The final rule is not a regulatory or deregulatory action for the purposes of Executive Order 13771.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this final rule will impose negligible costs, if any, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $148 million, using the most current (2016) Implicit Price Deflator for the Gross Domestic Product. This final rule would not result in an expenditure in any year that meets or exceeds this amount.

We received no comments on the proposed rule that specifically addressed our preliminary regulatory impact analysis. Therefore, we retain our preliminary estimate that the final rule will maintain the status quo for the medical product industries and impose no additional burden on affected entities. In table 1, we provide the costs

and benefits of the final rule in the Regulatory Information Service Center and Office of Information and Regulatory Affairs Consolidated Information Center Accounting information.

TABLE 1—SUMMARY OF BENEFITS, COSTS AND DISTRIBUTIONAL EFFECTS OF FINAL RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (percent)	Period covered (years)	
Benefits:							
Annualized	.....	.....	.....	.....	7	10	
Monetized $millions/year	.....	.....	.....	.....	3	10	
Annualized	.....	.....	.....	.....	7	.....	
Quantified	.....	.....	.....	.....	3	.....	
Qualitative	Avoid potential unintended consequences			.....	.....	.....	
Costs:							
Annualized	.....	.....	.....	.....	7	10	
Monetized $millions/year	.....	.....	.....	.....	3	10	
Annualized	.....	.....	.....	.....	7	.....	
Quantified	.....	.....	.....	.....	3	.....	
Qualitative	Negligible costs, if any			.....	.....	.....	
Transfers:							
Federal	.....	.....	.....	.....	7	.....	
Annualized	.....	.....	.....	.....	3	.....	
Monetized $millions/year	.....	.....	.....	.....	.....	.....	
From/To	From:			To:			
Other	.....	.....	.....	.....	7	.....	
Annualized	.....	.....	.....	.....	3	.....	
Monetized $millions/year	.....	.....	.....	.....	.....	.....	
From/To	From:			To:			

Effects:
State, Local or Tribal Government: None.
Small Business: None.
Wages: None.
Growth: None.

V. Analysis of Environmental Impact

We have determined under 21 CFR 25.20(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies that have substantial direct effects 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

VIII. Consultation and Coordination With Indian Tribal Governments

We have analyzed this rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies that would have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive Order and, consequently, a tribal summary impact statement is not required.

Dated: March 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–05347 Filed 3–15–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0070]

Drawbridge Operation Regulation; St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Florida East Coast (FEC) Railroad Bridge across the St. Johns River, mile 24.9, at Jacksonville, FL. The deviation is necessary to accommodate maintenance and repairs on the bridge. This deviation allows the bridge to remain closed to navigation with partial openings at pre-determined times during the maintenance period.

DATES: This deviation is effective without actual notice March 16, 2018 through 11:59 p.m. on March 23, 2018. For the purposes of enforcement, actual notice will be used from 1 p.m. on March 10, 2018 through March 16, 2018.

ADDRESSES: The docket for this deviation, USCG–2018–0070 is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email LT Allan Storm, U.S. Coast Guard Sector Jacksonville, Waterways Management Division; telephone 904–714–7616, email *Allan.H.Storm@uscg.mil.*

SUPPLEMENTARY INFORMATION: The owner of the bridge, Florida East Coast Railway, requested a temporary deviation. The existing operating racks were found damaged during maintenance. The Florida East Coast (FEC) Railroad Bridge across the St. Johns River, mile 24.9, at Jacksonville, Florida is a single-leaf bascule bridge with at vertical clearance of 5 feet at mean high water in the closed position. The existing bridge operating regulation is published in 33 CFR 117.325(b).

This temporary deviation allows the bridge to remain closed to navigation from 1 p.m. on March 10, 2018 through 7:59 a.m. on March 18, 2018. The bridge will be allowed to remain in the closed to navigation positon with partial openings from 8 a.m. to 9:30 a.m. on March 18, 2018; from 8:45 a.m. to 10:15 a.m. on March 19, 2018; from 9:45 a.m. to 11:15 a.m. on March 20, 2018; from 10:30 a.m. to 12 p.m. and 4:15 p.m. to 5:45 p.m. on March 21, 2018; from 11:30 a.m. to 1 p.m. and 5 p.m. to 6:30 p.m. on March 22, 2018; and from 12:15 p.m. to 1:45 p.m. and 6 p.m. to 7:30 p.m. on March 23, 2018. During these designated time periods, the bridge will provide a partial opening with a vertical clearance of 75 feet at mean high water at the center of the channel. This temporary deviation has been coordinated with waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Barry L. Dragon,

Director, Bridge Branch, Seventh Coast Guard District.

[FR Doc. 2018–05339 Filed 3–15–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0144]

Drawbridge Operation Regulation; Trent River, New Bern, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the U.S. 70/Alfred C. Cunningham Bridge which carries U.S. 70 and East Front Street across the Trent River, mile 0.0, at New Bern, NC. The deviation is necessary to facilitate the 2018 Neuse River Bridge Run. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: The deviation is effective from 6:45 a.m. through 10 a.m. on Saturday, March 24, 2018.

ADDRESSES: The docket for this deviation, [USCG–2018–0144] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Michael Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6557, email *Michael.R.Thorogood@uscg.mil.*

SUPPLEMENTARY INFORMATION: The North Carolina Department of Transportation, owner and operator of the U.S. 70/Alfred C. Cunningham Bridge that carries U.S. 70 and East Front Street over the Trent River, mile 0.0, at New Bern, NJ, has requested a temporary deviation from the current operating regulations to ensure the safety of the participants and spectators associated with the 2018 Neuse River Bridge Run on Saturday, March 24, 2018. This bridge is a double bascule drawbridge, with a vertical clearance of 14 feet above mean high water in the closed position and unlimited vertical clearance in the open position.

The current operating regulation is set out in 33 CFR 117.843(a). Under this temporary deviation, the bridge will be maintained in the closed-to-navigation position from 6:45 a.m. through 10 a.m. on Saturday, March 24, 2018.

The Trent River is used by a variety of vessels including small commercial vessels and recreational vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at any time. The bridge will be able to open for emergencies, if 5 minutes prior notification is given, and there is no immediate alternative route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: March 13, 2018.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2018–05349 Filed 3–15–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0075]

RIN 1625–AA00

Safety Zone; Ohio River, Letart, WV

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River from mile marker (MM) 236 to MM 239. The safety zone is needed to provide for the safety of life and property due to severe out draft from high water that have rendered the Ohio River conditions to be hazardous to navigation. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or designated representative.

DATES: This rule is effective without actual notice from March 16, 2018 until March 30, 2018. For the purposes of enforcement, actual notice will be used from February 23, 2018 until March 16, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0075 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Caitlin Furman, Marine Safety Unit Huntington, U.S. Coast Guard; telephone 304–733–0198, email *STL-SMB-MSUHuntington-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. On February 22, 2018, the United States Coast Guard was informed that the severe out draft on the Ohio River by Racine Lock and Dam is expected to rise significantly over the next couple of days and will continue to result in hazardous river conditions near the Letart, WV area. This severe out draft has resulted in commercial mariners not being able to maintain safe control of their tow as they begin their northbound or southbound approach into the Letart, WV area between mile marker (MM) 236 and MM 239 on the Ohio River. We must establish this safety zone by February 23, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. It would be contrary to the public interest to delay this rule to provide a full 30 days' notice as the hazardous river conditions are expected to take place daily from February 23, 2018 through March 30, 2018.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the current river conditions starting immediately 24 hours daily from February 23, 2018 through March 30, 2018, there will be a safety concern for anyone within mile marker (MM) 236 to MM 239 on the Ohio River, near Letart, West Virginia. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the power line crossing is being conducted.

IV. Discussion of the Rule

This rule establishes a safety zone for 24 hours daily on February 23, 2018 through March 30, 2018. The safety zone will cover all navigable waters of the Ohio River from mile marker (MM) 236 to MM 239. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the power line crossing is being conducted. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Ohio Valley(COTP) in the enforcement of the safety zone.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will not be able to safely transit around this safety zone which will impact a small designated area of the Ohio River from mile marker (MM) 236 to MM 239 for twenty-four hours daily for 36 days a time of year when vessel traffic is normally low. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions

with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only nine and a half hours that will prohibit entry within mile marker (MM) 236 to MM 239 on the Ohio River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration (REC) will be made available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0075 to read as follows:

§ 165.T08–0075 Safety zone; Ohio River, mile marker 236 to mile marker 239, Letart, WV.

(a) *Location.* The following area is a safety zone: All navigable waters of the Ohio River from mile marker 236 to mile marker 239 near Letart, West Virginia.

(b) *Enforcement period.* This section will be enforced 24 hours daily from February 23, 2018 through March 30, 2018.

(c) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Ohio Valley (COTP) in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or a designated representative.

(2) To seek permission to enter, contact the COTP or designated representative via radio on channel 16.

(3) All persons and vessels shall comply with the instruction of the COTP and designated on-scene personnel.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate of the enforcement period for each safety zone as well as any changes in the planned and published dates and times of enforcement.

Dated: February 22, 2018.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2018–05385 Filed 3–15–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0113]

Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone: Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Main Branch of the Chicago River between Columbus Drive Bridge, mile marker 326.5, and Dearborn Street Bridge, mile marker 326.1. This action is necessary to prevent collisions between mariners and to facilitate safety during the dying of the Chicago River.

DATES: The regulations in 33 Code of Federal Regulations (CFR) 165.930 will be enforced from 7:30 a.m. to 9:30 a.m. on March 17, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT John Ramos, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2155, email address *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone: Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone on all waters of the Main Branch of the Chicago River between Columbus Drive Bridge, mile marker 326.5, and Dearborn Street Bridge, mile marker 326.1. Enforcement will occur from 7:30 a.m. to 9:30 a.m. on March 17, 2018. During the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port Lake Michigan or a designated representative. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This notice of enforcement is issued under the authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Captain of the Port Lake Michigan will also provide notice through other means, which will include Broadcast Notice to Mariners and Local Notice to Mariners. Additionally, the Captain of the Port Lake Michigan may notify representatives from the maritime industry through telephonic notifications, email notifications, or by direct communication from on scene patrol commanders. If the Captain of the Port or a designated representative determines that the regulated area need not be enforced for the full duration stated in this notice of enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via Channel 16, VHF–FM or at (414) 747–7182.

Dated: February 28, 2018.

Thomas J. Stuhlreyer,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2018–05390 Filed 3–15–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170816769–8162–02]

RIN 0648–XF895

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 50 Feet Length Overall Using Hook-and-Line Gear in the Central 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 directed fishing for Pacific cod by catcher vessels greater than or equal to 50 feet length overall (LOA) using hook-and-line gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2018 Pacific cod total allowable catch apportioned to catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 14, 2018, through 1200 hours, A.l.t., June 10, 2018.

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. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2018 Pacific cod total allowable catch (TAC) apportioned to catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA is 338 metric tons (mt), as established by the final 2018 and 2019 harvest specifications for groundfish of the GOA (83 FR 8768, March 1, 2018).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2018 Pacific cod TAC apportioned to catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 278 mt and is setting aside the remaining 60 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and

opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central 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 March 12, 2018.

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

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

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

Dated: March 13, 2018.

Emily H. Menashes,

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

[FR Doc. 2018–05412 Filed 3–13–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 52
Friday, March 16, 2018

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1214

[Document No. AMS–SC–17–0079]

Christmas Tree Promotion Research, and Information Order; Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible producers and importers of Christmas trees to determine whether they favor continuance of the Agricultural Marketing Service's (AMS) regulations regarding a national Christmas tree research and promotion program.

DATES: The referendum will be conducted by mail ballot from May 1 through May 31, 2018. The Department will provide the option for ballots to be returned electronically. Further details will be provided in the ballot instructions. Ballots must be received by the referendum agents no later than the close of business on May 31, 2018, to be counted.

ADDRESSES: Copies of the Christmas tree program may be obtained from: Referendum Agent, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244, telephone: (202) 720–9915; facsimile: (202) 205–2800; or contact Victoria Carpenter at (202) 720–6930 or via electronic mail: *VictoriaM.Carpenter@ams.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Victoria Carpenter, Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915, (202) 720–6930 (direct line); facsimile: (202) 205–2800; or electronic mail: *VictoriaM.Carpenter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425) (1996 Act), it is hereby directed that a referendum be conducted to ascertain whether continuance of the Christmas Tree Promotion, Research, and Information Order (7 CFR part 1214) is favored by eligible domestic producers and importers of Christmas trees. The program is authorized under the 1996 Act.

The representative period for establishing voter eligibility for the referendum shall be the period from September 1, 2017 through March 15, 2018. Persons who domestically produced or imported more than 500 trees during the representative period, and were subject to assessments during that period are eligible to vote. Persons who received an exemption from assessments pursuant to § 1214.53 for the entire representative period are ineligible to vote. The referendum will be conducted by mail ballot from May 1 through May 31, 2018. The Department will provide the option for ballots to be returned electronically. Further details will be provided in the ballot instructions.

Section 518 of the 1996 Act (7 U.S.C. 7417) authorizes required referenda. Under § 1214.81(a) of 7 CFR part 1214, the U.S. Department of Agriculture (USDA) must conduct a referendum not later than three years after assessments first begin under the order to determine whether persons subject to assessment favor continuance of the program. Assessment collection began for the newly established program in 2015. USDA would continue the program if continuance is favored by a majority of producers and importers of Christmas trees voting in the referendum.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0093. It has been estimated that approximately 1,800 entities will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot.

Referendum Order

Victoria Carpenter, Marketing Specialist, and Heather Pichelman, Director, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW, Washington, DC 20250–0244, are designated as the referendum agents to conduct this referendum. The referendum procedures at 7 CFR 1214.100 through 1214.108, which were issued pursuant to the 1996 Act, shall be used to conduct the referendum.

The referendum agent will mail the ballots to be cast in the referendum and voting instructions to all known, eligible domestic producers and importers prior to the first day of the voting period. Persons who domestically produced or imported 500 or more Christmas trees during the representative period, and were subject to assessment during that period, are eligible to vote. Persons who received an exemption from assessments pursuant to § 1214.53 during the entire representative period are ineligible to vote. Any eligible producer or importer who does not receive a ballot should contact the referendum agent no later than one week before the end of the voting period. Ballots must be received by the referendum agent by 4:30 p.m. Eastern time, May 31, 2018, in order to be counted.

List of Subjects in 7 CFR Part 1214

Administrative practice and procedure, Advertising, Consumer information, Christmas trees, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Dated: March 12, 2018.

Bruce Summers,

Acting Administrator.

[FR Doc. 2018–05313 Filed 3–15–18; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Parts 101 and 102

RIN 3142–AA12

Representation—Case Procedures

AGENCY: National Labor Relations Board.

ACTION: Request for information; extension of time to submit responses.

SUMMARY: The National Labor Relations Board (the Board) published a Request for Information in the **Federal Register** of December 14, 2017, seeking information from the public regarding the representation election regulations (the Election Regulations), with a specific focus on amendments to the Board's representation case procedures adopted by the Board's final rule published on December 15, 2014 (the Election Rule or Rule). On January 29, 2018, the Board extended the response deadline to March 19, 2018. The Board has decided to grant an additional 30 days to file responses to the request for information.

DATES: Responses to the request for information published in the **Federal Register** on December 14, 2017 (82 FR 58783) and extended January 29, 2018 (83 FR 4011) must be received by the Board on or before April 18, 2018. No late responses will be accepted. Responses are limited to 25 pages.

ADDRESSES: Electronic responses may be submitted by going to *www.nlrb.gov* and following the link to submit responses to this request for information. The Board encourages electronic filing. If you do not have the ability to submit your response electronically, responses may be submitted by mail to: Roxanne Rothschild, Deputy Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: For any assistance, please contact Gary Shinners at (202) 273–3737 or Roxanne Rothschild at (202) 273–2971.

SUPPLEMENTARY INFORMATION: On December 15, 2014, the Board published the Election Rule, which amended the Board's prior Election Regulations. 79 FR 74308 (2014). The Election Rule was adopted after public comment periods in which tens of thousands of public comments were received. The Rule was approved by a three-member Board majority, with two Board members expressing dissenting views. The amendments adopted by the final rule became effective on April 14, 2015, and have been applicable to all representation cases filed on or after that date.

Dated: March 9, 2018.

Roxanne Rothschild,

Deputy Executive Secretary.

[FR Doc. 2018–05156 Filed 3–15–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0338]

Regulated Navigation Areas; Harbor Entrances Along the Coast of Northern California

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: The Coast Guard is reopening the public comment period on the request for comments on the potential establishment of Regulated Navigation Areas (RNAs) at the harbor entrance bars to Crescent Harbor, Humboldt Bay, Noyo River, and Morro Bay that published on February 8, 2018. The comment period ended on March 12, 2018. The Coast Guard did not receive any comments on the original request for comments and has decided to re-open the comment period to provide additional opportunity for informed public comment.

DATES: The comment period for the request for comments published at 83 FR 5592 has been reopened. Comments and related material must reach the Coast Guard on or before March 30, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0338, as published at 83 FR 5592 on February 8, 2018, using the Federal portal at *http://www.regulations.gov.* See the ''Public Participation and Request for portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or email Lieutenant Colleen Ryan, Coast Guard District Eleven, Waterways Management; telephone 510–437–5984, email *Colleen.M.Ryan@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

On February 8, 2018, we published a request for comments entitled, ''Regulated Navigation Areas; Harbor Entrances Along the Coast of Northern California'' at 83 FR 5592. The comment period ended on March 12, 2018. The Coast Guard did not receive any comments on the original request for comments and has decided to re-open the comment period to provide additional opportunity for informed public comment. The Coast Guard will consider any comments that are received by the agency after the original March 12th closing date, but before the publication of this notice reopening the comment period.

II. Information Requested

As discussed in the original published request for comment, the Coast Guard seeks comments and information for agency consideration and to inform any future establishment of RNAs that would create bar closure conditions as well as regulate vessel bar transits during hazardous bar conditions for all recreational, commercial fishing, and passenger vessels. The Coast Guard requests and encourages open discussion and candid feedback on the possibility of establishing RNAs for Crescent City, Humboldt Bay, Noyo River, and Morro Bay harbor bar entrances. The following considerations warrant special attention:

- Weather and sea conditions at the bars that the maritime community considers a risk to safe navigation for recreational vessels, passenger vessels, fishing vessels and deep draft vessel;
- The economic impact of bar closures and restrictions on the maritime community; and
- Preferred methods of notification for bar restrictions and closures.

III. Public Participation and Request for Comments

We encourage you to submit comments through the Federal 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. In your submission, please include the docket number for this notice of inquiry and provide a reason for each suggestion or recommendation.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

All public comments will be available in our online docket at *http://*

www.regulations.gov and can be viewed by following that website's instructions.

Dated: March 12, 2018.

James B. Pruett,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 2018–05342 Filed 3–15–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–PERI–24759; PPMWPERIS0 PPMPSPD1Z.YM0000]

RIN 1024–AE41

Special Regulations, Areas of the National Park System, Pea Ridge National Military Park; Bicycles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to promulgate special regulations for Pea Ridge National Military Park to allow bicycle use on two proposed multi-use trails located within the park. One trail will be approximately 0.55 miles in length and the other will be approximately 1.17 miles in length. Both trails will require trail construction activities to accommodate bicycles and are therefore considered new trails that will be opened to bicycles. National Park Service regulations require promulgation of a special regulation to designate new trails for bicycle use off park roads and outside developed areas.

DATES: Comments on the proposed rule must be received by 11:59 p.m. EST on May 15, 2018.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024–AE41, by either of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail or hand deliver to:* Pea Ridge National Military Park, 15930 U.S. Hwy. 62 East, Garfield, AR 72732, Attention: Superintendent.
- *Instructions:* Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words ''National Park Service'' or ''NPS'' and must include the docket number or RIN (1024–AE41) for this rulemaking. Comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lee Terzis, NPS Denver Service Center Transportation Division, 1155 E Pearl St., Monticello, FL 32344. Phone (850) 997–9972. Email: *lee_terzis@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pea Ridge National Military Park (the park), established in 1956 and opened to the public in 1963, preserves and commemorates the site of the March 1862 Civil War battle that helped Union forces maintain physical and political control of the State of Missouri. Administered by the National Park Service (NPS), the 4,300-acre battlefield is situated in the foothills of the Ozark Mountains 10 miles north of Rogers, Arkansas, just off of U.S. Highway 62. The park is divided into two sections: The main portion of the park is located north of U.S. Highway 62 and encompasses a majority of the historic battleground. The main portion consists of a dedicated series of soft surface trails for equestrians and pedestrians, as well as the tour road, which bicyclists share with vehicle users. The second, smaller portion is located to the south of U.S. Highway 62 along the bluffs of Little Sugar Creek and contains the Federal Trenches of the Union troops. This non-contiguous section is currently accessible from a small parking lot along Sugar Creek Road, which intersects with U.S. Highway 62, with a trail leading to the trenches.

The park contains a portion of the northern route of the Trail of Tears that is one of the few places the Trail of Tears passes through Arkansas. Eleven Cherokee Removal contingents used this route from 1837 to 1839. Through the park, the Trail of Tears generally followed the route of Telegraph Road, which is eligible for the National Register of Historic Places.

Road and Trail System in the Park

The park contains an existing road and trail system (including the Federal Trenches trail) that provides pedestrians, hikers, bicyclists, and equestrians with interpretive and recreational opportunities. This system consists of a total of 32 miles of trail, including 7.6 miles of asphalt trail, 13.9 miles of off-road hiking trail, and 10.8 miles of horse trail. Bicycles are allowed on roads but not on trails within the park.

The area surrounding the park—including local communities such as Pea Ridge, Garfield, Bentonville, Rogers, Springdale, and Fayetteville—has experienced dynamic population growth in recent years. Increased visitation to the park has created a need to improve the existing road and trail system to better accommodate travel through the park by various methods (*e.g.,* automobile, pedestrian, equestrian, bicycle). In addition to enhancing interpretive and recreational opportunities, an improved road and trail system will generate operational efficiencies. There are opportunities to combine trails or locate trails adjacent to other trail types or facilities (*e.g.,* water, restrooms, phones) to maximize the efficiency of performing park maintenance. By removing duplicative trails and infrastructure, the NPS can reduce overall maintenance costs.

Trail Plan/Environmental Assessment

In November 2017, the NPS published the Pea Ridge National Military Park Trail Master Plan/Environmental Assessment (EA). The EA evaluates two action alternatives that are designed to improve visitor access to the park's historical and interpretive sites while avoiding or minimizing impacts to these sites by consolidating and restructuring the existing trail network. These alternatives also seek to improve multi-modal trail connections within the park while linking to a regional trail network outside of the park. Under both action alternatives, the NPS would expand and enhance opportunities for pedestrian trail interpretation, construct additional trailheads, modify trail loops for simplicity and interpretive value, construct additional ADA-accessible trails, install signage for the Trail of Tears, improve multi-use trails, and improve equestrian trails to avoid erosion-prone areas. These actions will meet the increasing recreational needs of the area while protecting the cultural and natural resources within the park.

The EA identifies one of the action alternatives as the NPS preferred alternative. This alternative would allow bicycle use on two proposed multi-use trails that would require trail construction activities. The first would be a 0.55-mile trail from U.S. Highway 62 to the visitor center. The second would be a 1.17-mile trail from Arkansas Highway 72 to the Sugar Creek Greenway on the western edge of the park. Bicycles would also be allowed on Ford Road, which is closed to motor vehicle use by the public, but open to motor vehicle use for administrative purposes. Bicycles would also be allowed on segments of the Tour Road, which is paved and open to motor vehicle use by the public.

With respect to the proposed bike trails, the EA evaluates (i) the suitability of the trails for bicycle use; and (ii) life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, and methods to protect natural and cultural resources and mitigate impacts associated with bicycle use on the trails. The EA, which contains a full description of the purpose and need for taking action, scoping, the alternatives considered, maps, and the environmental impacts associated with the project, may be viewed on the park's planning website at *http://parkplanning.nps.gov/peri,* by clicking on the link entitled ''Trail Master Plan/Environmental Assessment'' and then clicking on the link entitled ''Document List.''

Proposed Rule

This proposed rule would implement the preferred alternative in the EA and authorize the Superintendent to designate bicycle use on the two trails described above. In order to accommodate bicycles, both trails will require construction activities that will be conducted in accordance with sustainable trail design principles and guidelines. NPS regulations at 36 CFR 4.30 require a special rule to designate these trails for bicycles use because they are located outside of developed areas. Bicycle use would not be authorized by the Superintendent until the trail construction activities are completed.

The proposed rule would add a new section 7.95 to 36 CFR part 7—Special Regulations, Areas of the National Park System for the park. The proposed rule would require the Superintendent to notify the public of trail designation for bicycle use and identify the designation on maps available in the office of the Superintendent and other places convenient to the public. The rule would also authorize the Superintendent to establish closures, conditions, or restrictions for bicycle use on designated trails in accordance with 36 CFR 4.30. After notifying the public, the Superintendent would be able to take these actions for reasons of public health and safety, natural and cultural resource protection, and other management activities and objectives.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under Executive Order 12866.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled ''Benefit-Cost and Regulatory Flexibility Analyses: Bicycle Trails at Pea Ridge National Military Park'' which is available online at *http://parkplanning.nps.gov/peri* by clicking on the link entitled ''Trail Master Plan/Environmental Assessment'' and then clicking on the link entitled ''Document List.''

Small Business Regulatory Enforcement Fairness Act

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

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

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

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

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

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

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

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

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and has determined that tribal consultation is not required

because the rule will have no substantial direct effect on federally recognized Indian tribes.

Nevertheless, the NPS recognizes that the park contains significant archeological sites and the Trail of Tears, which are considered very important to the following tribes: Absentee Shawnee Tribe, Cherokee Nation of Oklahoma, Jena Band of the Choctaw Indians, The Osage Nation, Shawnee Tribe of Oklahoma, Quapaw Tribe of Oklahoma, United Keetoowah Band of Cherokee Indians, The Chickasaw Nation, Caddo Nation, and the Muscogee (Creek) Nation. The park consulted with these tribes throughout the development of the EA and incorporated comments by adjusting proposed trails to mitigate or avoid impacts to these areas of interest.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The NPS has prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. A copy of the EA can be found online at *http://parkplanning.nps.gov/peri,* by clicking on the link entitled ''Trail Master Plan/Environmental Assessment'' and then clicking on the link entitled ''Document List.''

Effects on the Energy Supply (Executive Order 13211)

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

Clarity of This Rule

The NPS is required by Executive Orders 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule the NPS publishes must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that the NPS has not met these requirements, send the NPS comments by one of the methods listed in the **ADDRESSES** section. To better help the NPS revise the rule, your comments should be as specific as possible. For example, you should identify the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section of this document.

Public Availability of Comments

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 NPS in your comment to withhold your personal identifying information from public review, the NPS cannot guarantee that it will be able to do so.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10–137 and D.C. Code 50–2201.07.

■ 2. Add § 7.95 to read as follows:

§ 7.95 Pea Ridge National Military Park.

(a) *Bicycle Use.* (1) The Superintendent may designate all or portions of the following trails as open to bicycle use:

(i) A trail from U.S. Highway 62 to the visitor center (approximately 0.55 miles).

(ii) A trail from Arkansas Highway 72 to the Sugar Creek Greenway on the western edge of the park (approximately 1.17 miles).

(2) A map showing trails open to bicycle use will be available at park visitor centers and posted on the park website. The Superintendent will provide notice of all bicycle route designations in accordance with § 1.7 of this chapter. The Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions in accordance with § 4.30 of this chapter.

(b) [Reserved]

Jason Larrabee,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2018–05414 Filed 3–15–18; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R01–OAR–2018–0069; FRL–9975–17—Region 1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New Hampshire; Delegation of Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a request from the New Hampshire Department of Environmental Services (NH DES) for delegation of authority to implement and enforce the Federal Plan Requirements for Sewage Sludge Incineration Units Constructed on or before October 14, 2010 (SSI Federal Plan). under Clean Air Act (CAA).

DATES: Written comments must be received on or before April 16, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2018–0069 at *www.regulations.gov,* or via email to *bird.patrick@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is

restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Patrick Bird, Air Permits, Toxic, & Indoor Programs Unit, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square—Suite 100, Mail Code: OEP05–2, Boston, MA 02109–3912, tel. (617) 918–1287, email *bird.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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II. What are the CAA requirements?
III. What was submitted by the NH DES and how did the EPA respond?
IV. What is the EPA's proposed conclusion?
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I. What action is the EPA proposing to take today?

The EPA is proposing to approve the NH DES request for delegation of authority to implement and enforce the SSI Federal Plan found at 40 CFR part 62 subpart LLL and to adhere to the terms and conditions prescribed in the Memorandum of Agreement (MoA) signed by the EPA and the NH DES, as further explained further in this action. The purpose of this SSI Federal Plan delegation is to transfer primary implementation and enforcement responsibility from the EPA to the NH DES for all affected facilities within the jurisdiction of the State of New Hampshire. However, nothing in this action, nor in the MoA, shall be construed to prohibit the EPA from enforcing the SSI Federal Plan.

II. What are the CAA requirements?

Sections 111(d) and 129 of the CAA require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type and the EPA has established emission guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria has been issued or which is not included on a list published under section 108(a) (national ambient air quality standards) or section 112 (hazardous air pollutants) of the CAA, but emissions of which would be subject to a standard of performance for new stationary sources under section 111(b). In addition, section 129 of the CAA also requires the EPA to promulgate emission guidelines for solid waste incineration units that emit specific air pollutants or a mixture of air pollutants. These pollutants include organics (dioxins and dibenzofurans), carbon monoxide, metals (cadmium, lead and mercury), acid gases (hydrogen chloride, sulfur dioxide and oxides of nitrogen), particulate matter and opacity (as appropriate).

On March 21, 2011 (76 FR 15372), the EPA promulgated new source performance standards and emission guidelines for sewage sludge incineration (SSI) units at 40 CFR part 60 subparts LLLL and MMMM, respectively. The designated facility to which the emission guidelines applies is existing SSI units, as stipulated in subpart MMMM, that commenced construction on or before October 14, 2010.

Pursuant to section 129 of the CAA, state plan requirements must be ''at least as protective'' as the emission guidelines and become federally enforceable upon approval by the EPA. The procedures for adoption and submittal of state plans are codified in 40 CFR part 60, subpart B. For states that fail to submit a plan, the EPA is required to develop and implement a Federal Plan within two years following promulgation of the emission guidelines. The EPA implementation and enforcement of the Federal Plan is viewed as an interim measure until states assume their role as the preferred implementers of the emission guidelines requirements stipulated in the Federal Plan. Accordingly, the EPA promulgated the SSI Federal Plan on April 29, 2016. In this rulemaking, the EPA strongly encouraged state and local agencies in jurisdictions that did not submit approvable State Plans to request delegation of the SSI Federal Plan so that they can have the primary responsibility for implementing and enforcing regulations affecting existing source SSI unit, consistent with the intent of section 129 of the CAA.

III. What was submitted by the NH DES and how did the EPA respond?

On November 14, 2017, the NH DES submitted to the EPA a request for delegation of authority to implement and enforce the SSI Federal Plan. The EPA evaluated the NH DES request for delegation pursuant to the provisions of the SSI Federal Plan and the EPA's Delegation Manual.[1] Section 62.15865 of the SSI Federal Plan establishes that a state may meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the Federal Plan that includes the following requirements: (1) A demonstration of adequate resources and legal authority to administer and enforce the Federal Plan; (2) an inventory of affected SSI units, an inventory of emissions from affected SSI units, and provisions for state progress reports (see items under § 60.5015(a)(1), (2) and (7) from the SSI emission guidelines); (3) certification that the hearing on the state delegation request, similar to the hearing for a state plan submittal, was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; and (4) a commitment to enter into a MoA with the Regional Administrator that sets forth the terms, conditions and effective date of the delegation and that serves as the mechanism for the transfer of authority.

In parallel with our review of the delegation request, the EPA prepared the MoA which defines the policies, responsibilities, and procedures by which the SSI Federal Plan will be administered by both the NH DES and the EPA. The MoA is the mechanism for the transfer of responsibility from the EPA to the NH DES.

[1] Section 7–139 of the EPA's Delegation Manual is entitled ''Implementation and Enforcement of 111(d)(2) and 111(d)/129(b)(3) Federal Plans'' and the reader may refer to it in the docket for this rulemaking at *www.regulations.gov* (see Docket ID Number EPA–R01–OAR–2018–0069).

Both the EPA and the NH DES signed the MoA in which the parties agreed to the terms and conditions regarding the responsibility to implement and enforce the policies, responsibilities and procedures of the SSI Federal Plan. The MoA became effective upon signature by the EPA on December 22, 2017.

Under the EPA's Delegation Manual, item 7–139, the Regional Administrator is authorized to delegate implementation and enforcement of sections 111(d)/129 Federal Plans to state environmental agencies. The Regional Administrator may consider delegating authority to implement and enforce Federal Plans to a state provided the following conditions are met: (1) The state does not already have an EPA approved State Plan; (2) the state submits a demonstration of adequate resources and legal authority to administer and enforce the Federal Plan; and (3) the state enters into a MoA with the Regional Administrator that sets forth the terms, conditions and effective date of the delegation and that serves as the mechanism for the transfer of authority.

NH DES has met all of the EPA's delegation requirements as described above. The reader may view the NH DES letter to the EPA requesting delegation and the MoA signed by both parties at *www.regulations.gov,* identified by Docket ID Number EPA–R01–OAR–2018–0069.

IV. What is the EPA's proposed conclusion?

The EPA has evaluated the NH DES submittal for consistency with the CAA, EPA regulations, and EPA policy. The NH DES has met all the requirements of the EPA's guidance for obtaining delegation of authority to implement and enforce the SSI Federal Plan. The NH DES entered into a MoA with the EPA, and it became effective on December 22, 2017. Accordingly, the EPA is proposing to approve the NH DES request dated November 14, 2017 for delegation of authority to implement and enforce the Federal Plan for existing SSI units. The EPA will continue to retain certain specific authorities reserved to the EPA in the SSI Federal Plan and as indicated in the MoA (*e.g.,* authority to approve major alternatives to test methods or monitoring, etc.).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a state plan submission that complies with the provisions of the CAA section 111(d) and 129(b)(2) and applicable Federal regulations. 42 U.S.C. 7411(d) and 7429(b)(2); 40 CFR 62.02(a). Thus, in reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves a state delegation request as meeting Federal requirements and does not impose additional requirements beyond those already imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rulemaking does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: March 8, 2018.

Alexandra Dapolito Dunn,

Regional Administrator, EPA Region 1.

[FR Doc. 2018–05316 Filed 3–15–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 264, 265, 268, 270, and 273

[EPA–HQ–OLEM–2017–0463; FRL–9975–44–OLEM]

RIN 2050–AG92

Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing to add hazardous waste aerosol cans to the universal waste program under the federal Resource Conservation and Recovery Act (RCRA) regulations. This proposed change, once finalized, would benefit the wide variety of establishments generating and managing hazardous waste aerosol cans, including the retail sector, by providing a clear, protective system for managing discarded aerosol cans. The streamlined universal waste regulations are expected to ease regulatory burdens on retail stores and others that discard hazardous waste aerosol cans; promote the collection and recycling of these cans; and encourage the development of municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.

DATES: Comments must be received on or before May 15, 2018. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before April 16, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–

OLEM–2017–0463, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Tracy Atagi, Office of Land and Emergency Management (5304P), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 703–308–8672; email address: *atagi.tracy@epa.gov,* or Tiffany Kollar, Office of Land and Emergency Management (5304P), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 703–308–8675; email address: *kollar.tiffany@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This proposed rulemaking would affect persons who generate, transport, treat, recycle, or dispose of hazardous waste aerosol cans, herein referred to as aerosol cans, unless those persons are households or very small quantity generators (VSQGs). Entities potentially affected by this action include over 18,000 industrial facilities in 18 different industries (at the 2-digit North American Industry Classification System (NAICS) code level). Most of these industries have relatively few entities that are potentially affected. The two top economic sectors (at the 2-digit NAICS code level) with the largest percentage of potentially affected entities are the retail trade industry (NAICS code 44–45), representing 65% of the affected Large Quantity Generator universe, and Manufacturing (NAICS code 31–33), representing 20% of the affected Large Quantity Generator universe. Potentially affected categories and entities include, but are not necessarily limited to:

2 Digit NAICS code	Primary NAICS description	Total affected large quantity generators	Generated tons
44–45	Retail Trade	4,225	395.8
31–33	Manufacturing	1,327	6,767.2
48–49	Transportation and Warehousing	138	1,214.9
62	Health Care and Social Assistance	179	29.5
92	Public Administration	116	186.8
61	Educational Services	126	18.0
54	Professional, Scientific, and Technical Services	81	63.6
56	Administrative and Support and Waste Management and Remediation Services	112	2,655.2
42	Wholesale Trade	73	130.0
22	Utilities	32	6.8
81	Other Services (except Public Administration)	65	4.2
21	Mining, Quarrying, and Oil and Gas Extraction	28	10.3
23	Construction	4	24.1
71	Arts, Entertainment, and Recreation	3	3.2
55	Management of Companies and Enterprises	6	0.6
53	Real Estate and Rental and Leasing	3	0.6
51	Information	1	0.5
11	Agriculture, Forestry, Fishing and Hunting	1	0.0
Total		6,520	11,511.3

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in Section IV of this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the agency taking?

The Environmental Protection Agency (EPA) is proposing to add hazardous waste aerosol cans to the list of universal wastes regulated under the Resource Conservation and Recovery Act (RCRA) regulations. This proposed change, once finalized, would benefit the wide variety of establishments generating and managing aerosol cans, including the retail sector, by providing a clear, practical system for handling discarded aerosol cans.

C. What is the agency's authority for taking this action?

These regulations are proposed under the authority of sections 2002(a), 3001, 3002, 3004, and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), and as amended by the Hazardous and Solid Waste Amendments (HSWA), 42 U.S.C. 6921(a), 6921, 6922, 6924, and 6926.

D. What are the incremental costs and benefits of this action?

This proposed action, if finalized as proposed, is expected to result in an annual cost savings of $3.0 million to $63.3 million. Information on the estimated future economic impacts of this action is presented in Section VII of this notice, as well as in the Regulatory Impact Analysis (RIA) available in the docket for this proposed action. Note

that the expected cost savings is based on the assumption that all eligible states would adopt regulatory changes, once they are finalized. EPA requests comment on this assumption.

In addition to cost savings, EPA's analysis shows qualitative benefits to adding aerosol cans to the universal waste program, including improved implementation of and compliance with the hazardous waste program and increased recovery and recycling of aerosol cans.

II. Background

A. Description of Aerosol Cans

Aerosol cans are widely used for dispensing a broad range of products including paints, solvents, pesticides, food and personal care products, and many others. The Consumer Specialty Products Association (CSPA) estimates that 3.82 billion aerosol cans were filled in the United States in 2015 for use by commercial and industrial facilities as well as by households.[1]

A typical aerosol can consists of several components, including (but not limited to): (1) The can or container storing both propellant and the product; (2) an actuator or button at the top of the can that is pressed to deliver the product; (3) a valve which controls delivery or flow of the product; (4) the propellant (a compressed gas or liquefied gas), which provides the pressure in the container to expel or release the product when the actuator is pressed to open the valve; (5) the product itself; and (6) a dip tube which is connected to the valve to bring the product up through the can to be released when the actuator is pressed.[2]

The can itself is typically a small steel or aluminum container, designed to be hand-held, which is sealed with its contents under pressure. The can's design is intended to prevent unwanted releases of the contents to the environment under normal handling and storage conditions. However, when aerosol cans are mismanaged, particularly when exposed to excessive heat, the resulting increase in internal pressure can reach a point beyond the design strength of the can, thereby causing it to burst and release its contents. At the point of bursting, the contents of the can have been heated to a temperature and pressure far above ambient environmental conditions, causing the contents to rapidly vaporize and be forcefully released. One or more of the following may occur when a can bursts as a result of over-heating: (1) If the propellant or product are ignitable, the contents of the can may readily catch fire as they are released and exposed to atmospheric oxygen, creating a rapidly burning vapor ''fireball''; (2) the bottom of the can may detach as a result of a manufacturing defect or an external force, causing the upper part of the can to become a projectile; or (3) the can may fragment as it bursts, releasing metal shards.

Aerosol cans frequently contain flammable propellants such as propane or butane which can cause the aerosol can to demonstrate the hazardous characteristic for ignitability (40 CFR 261.21).[3] In addition, the aerosol can may also be a hazardous waste for other reasons when discarded. More specifically, an aerosol can may contain materials that exhibit hazardous characteristics per 40 CFR part 261 subpart C. Similarly, a discarded aerosol can may also be a P or U-listed hazardous waste if it contains a commercial chemical product found at 40 CFR 261.33(e) or (f).

B. Current Federal Regulation of Aerosol Cans

1. Regulation of Aerosol Cans Under the Resource Conservation and Recovery Act (RCRA)

Any person who generates a solid waste, as defined in 40 CFR 261.2, must determine whether the solid waste qualifies as hazardous waste. The waste may be hazardous either because it is listed as a hazardous waste in subpart D of 40 CFR part 261 or because it exhibits one or more of the characteristics of hazardous waste, as provided in subpart C of 40 CFR part 261. As discussed above, aerosol cans are frequently hazardous due to the ignitability characteristic, and in some cases may also contain listed or exhibit other hazardous waste characteristics.[4]

Many, but not all, generators of aerosol cans identified or listed as a hazardous waste are subject to the full RCRA subtitle C hazardous waste management requirements, including all applicable requirements of 40 CFR parts 260 through 268. Depending on their activities, some generators have only to meet the requirements of part 262, including on-site management, pre-transport, and manifesting. Under 40 CFR 262.14, very small quantity generators (VSQGs), defined as facilities that generate less than or equal to 100 kilograms of hazardous waste in a calendar month, are not subject to the RCRA subtitle C hazardous waste management standards, provided they send their waste to a municipal solid waste landfill or non-municipal nonhazardous waste facility approved by the state for the management of VSQG wastes and meet other conditions. In addition, households that generate waste aerosol cans are exempt from the federal hazardous waste management requirements under the household hazardous waste exemption in 40 CFR 261.4(b)(1).[5]

Facilities that treat, store, and/or dispose of hazardous waste aerosol cans are subject to the requirements of 40 CFR part 264 (for permitted facilities), or the requirements of 40 CFR part 265 (for interim status facilities). However, when hazardous waste aerosol cans are recycled, the recycling process itself is not subject to regulation, except as indicated in 40 CFR 261.6(d). EPA has interpreted the current hazardous waste regulations to mean that puncturing and draining an aerosol can, if performed for the purpose of recycling (*e.g.,* for scrap metal recycling), is considered part of the recycling process and is exempt from RCRA permitting requirements under 40 CFR 261.6(c).[6] However, facilities receiving hazardous waste aerosol cans from off-site would require a RCRA permit for storage prior to the recycling activity, and the recycling process would be subject to subparts AA and BB of 40 CFR part 264, 265, or 267.

2. Regulation Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Hazardous waste aerosol cans that contain pesticides are also subject to the requirements of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), including compliance with the instructions on the label. In general, the statement on aerosol pesticide product FIFRA labels prohibits the puncturing of the cans. However, in April 2004, EPA

[1] Consumer Specialty Product Association, What's New, Industry Updates and Association Highlights, June 2016. *https://www.cspa.org/aerosol-products-industry-growing-steadily-survey-reveals-north-american-production-reaches-historic-high/,* retrieved November 8, 2017.

[2] National Aerosol Association, *History of the Aerosol, http://www.nationalaerosol.com/history-of-the-aerosol/,* retrieved December 11, 2017.

[3] University of Vermont, *Paint and Aerosol Safety, http://www.uvm.edu/safety/art/paint-aerosol-safety,* retrieved December 11, 2017.

[4] Aerosol cans that have not been discarded are not solid or hazardous wastes.

[5] Under 40 CFR 261.4(b)(1), ''household waste'' means any material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas).

[6] EPA first explained this interpretation in 1993. *See* U.S. EPA *1993 Regulatory Status of Used Residential And Commercial/Industrial Aerosol Cans,* Memo from Jeff Denit, Acting Director, Office of Solid Waste to John DiFazio, Chemical Specialties Manufacturers Association, October 7, 1993. RO #11780.

issued a determination[7] that puncturing aerosol pesticide containers is consistent with the purposes of FIFRA and is therefore lawful pursuant to FIFRA section 2(ee)(6) provided that the following conditions are met:

- The puncturing of the container is performed by a person who, as a general part of his or her profession, performs recycling and/or disposal activities;
- The puncturing is conducted using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof; and
- The puncturing, waste collection, and disposal, are conducted in compliance with all applicable federal, state and local waste (solid and hazardous waste) and occupational safety and health laws and regulations.

EPA anticipates that this 2004 FIFRA determination would not be affected by the proposed addition of hazardous waste aerosol cans to the universal waste rules.

C. Retail Strategy and Aerosol Cans

The retail sector as a whole handles a very large number of diverse products, which change over time and may, in many instances, become regulated as hazardous waste under RCRA when discarded. As a result, retailers are required to make hazardous waste determinations for a variety of products being discarded at stores located across the country.

In 2014, EPA published a Notice of Data Availability (NODA) for the Retail Sector as part of the Agency's continuing efforts to better understand concerns from all stakeholders regarding RCRA's applicability to the retail sector, as well as to obtain information and feedback on issues affecting the retail sector. (79 FR 8926, February 14, 2014) In the NODA, EPA requested comment on a series of topics related to retail operations, waste management practices and management of materials that may become hazardous waste when discarded. This specifically included requests for information regarding aerosol cans (*e.g.,* quantity generated, classification and management options, including handling as universal waste), since aerosol cans comprise a large percentage of the retail sector's hazardous waste stream. Approximately 35% of NODA commenters specifically suggested that discarded aerosol cans be managed as universal waste.

In response to comments on the Retail Sector NODA, the Agency published the *Strategy for Addressing the Retail Sector under RCRA's Regulatory Framework,* which lays out a cohesive plan to address the unique challenges faced by the retail sector in complying with RCRA regulations while reducing burden and protecting human health and the environment.[8] One of the action items under the Retail Strategy is to explore adding hazardous waste aerosol cans to the universal waste rule.

D. Universal Waste Rule

In 1995, EPA promulgated the universal waste rule (60 FR 25492, May 11, 1995) to establish a streamlined hazardous waste management system for widely generated hazardous wastes as a way to encourage environmentally sound collection and proper management of the wastes within the system. Hazardous waste batteries, certain hazardous waste pesticides, mercury-containing equipment, and hazardous waste lamps are already included on the federal list of universal wastes. The universal waste regulations in 40 CFR part 273 are a set of alternative hazardous waste management standards that operate in lieu of regulation under 40 CFR parts 260 through 272 for specified hazardous wastes.

Handlers and transporters who generate or manage items designated as a universal waste are subject to the management standards under 40 CFR part 273, rather than the full RCRA subtitle C regulations. Handlers include both facilities that generate universal waste and facilities that receive universal waste from other universal waste handlers, accumulate the universal waste and then send the universal waste to another handler, a destination facility or a foreign destination. Handlers do not include facilities that treat, dispose of, or recycle universal waste except as provided in the universal waste regulations. The regulations distinguish between ''large quantity handlers of universal waste'' (those who handle more than 5,000 kilograms of total universal waste at one time) and ''small quantity handlers of universal waste'' (those who handle 5,000 kilograms or less of universal waste at one time). The 5,000-kilogram accumulation criterion applies to the quantity of all universal wastes accumulated. The streamlined standards include requirements for storage, labeling and marking, preparing the waste for shipment off site, employee training, response to releases, and, in the case of large quantity handlers, notification and tracking of universal waste shipments. Transporters of universal waste are also subject to less stringent requirements than the full subtitle C hazardous waste transportation regulations. The primary difference between the universal waste transporter requirements and the subtitle C transportation requirements is that no manifest is required for transport of universal waste.

Under the universal waste rule, destination facilities are those facilities that treat, store, dispose, or recycle universal wastes. Universal waste destination facilities are subject to all currently applicable requirements for hazardous waste treatment, storage, and disposal facilities (TSDFs) and must receive a RCRA permit for such activities. Destination facilities that recycle universal waste and that do not store that universal waste prior to recycling in accordance with 40 CFR 261.6(c)(2) may be exempt from permitting under the federal regulations (see 40 CFR 273.60(b)). Finally, some states are authorized to add wastes that are not federal universal wastes to their lists of universal wastes. Therefore, in some states, aerosol cans are already regulated as a universal waste.

E. State Universal Waste Programs That Include Aerosol Cans

Four states, California, Colorado, Utah and New Mexico, already have universal waste aerosol can programs in place, and two more states, Ohio and Minnesota, have proposed to add aerosol cans to their universal waste regulations.[9] The universal waste programs in all these states include streamlined management standards similar to 40 CFR part 273 for small and large quantity handlers of universal waste, and a one-year accumulation time limit for the aerosol cans. In addition, the four current state universal waste programs, as well as Ohio's proposed regulations, set standards for puncturing and draining of aerosol cans by universal waste handlers.

The aerosol can universal waste programs of California, Colorado, Utah and New Mexico, as well as Ohio's proposed aerosol can universal waste program, allow for puncturing and draining of aerosol cans by universal

[7] 2004 U.S. EPA *Puncturing of Aerosol Pesticide Products Under FIFRA for the Purpose of Recycling,* Letter from Lois Rossi and William Diamond, Office of Pollution Prevention and Toxic Substances, U.S. EPA, to John A. Wildie, Randolph Air Force Base, April 30, 2004, available in the docket for this rule.

[8] EPA 2016. *Strategy for Addressing the Retail Sector under RCRA's Regulatory Framework.* September 12, 2016. *https://www.epa.gov/hwgenerators/strategy-addressing-retail-sector-under-resource-conservation-and-recovery-acts,* retrieved on January 24, 2018.

[9] EPA 2017. *Summary of State Programs Addressing Aerosol Cans Under RCRA Hazardous Waste Regulations or Under State Universal Waste Programs.*

waste handlers, as long as specific management standards and waste characterization requirements are met. In addition, California does not allow off-site commercial processors [10] to puncture and drain aerosol cans without a permit, and requires those handlers that do puncture and drain cans to submit a notification. Minnesota's proposed rule would not allow handlers to puncture and drain their aerosol cans.

III. Rationale for Proposing Aerosol Cans Be Managed Under the Universal Waste Rule

A. Factors for Inclusion in the Universal Waste Rule

EPA is proposing to add aerosol cans to the universal waste rule, because the Agency believes that this waste meets the factors that describe hazardous waste that is appropriate for management under the streamlined universal waste system. Adding aerosol cans to the universal waste rule simplifies handling and disposal of the wastes for generators, while ensuring that aerosol cans are sent to the appropriate destination facilities, where they will be managed as a hazardous waste with all applicable subtitle C requirements. Management as universal waste under the proposed requirements is also expected to facilitate environmentally sound recycling of the metal used to make the cans. The universal waste regulations include eight factors to consider in evaluating whether a waste is appropriate for inclusion in the universal waste rule. These factors, codified at 40 CFR 273.81, are to be used to determine whether regulating a particular hazardous waste under the streamlined standards would improve overall management of the waste and, therefore, whether the waste is a good candidate for the universal waste rule. As the Agency noted in the preamble to the final universal waste rule (60 FR 25513), not every factor must be met for a waste to be appropriately regulated under the universal waste system. However, consideration of all the factors should result in a conclusion that regulating a particular hazardous waste under 40 CFR part 273 will improve waste management. EPA has examined information on aerosol cans, including information submitted in the public comments on the 2014 Retail NODA,[11] using the criteria in 40 CFR 273.81. In light of its evaluation of this information, the Agency is proposing that on balance, these wastes are appropriate for inclusion onto the federal list of universal wastes for management under part 273. EPA believes that adding aerosol cans to the universal waste rule would make collection and transportation of this waste to an appropriate facility easier and, therefore, will help facilitate recycling and reduce the amount of aerosol cans disposed of in municipal landfills. A summary of how the criteria in 40 CFR 273.81 apply to aerosol cans is described below. EPA solicits comment on this analysis.

1. The Waste, as Generated by a Wide Variety of Generators, Should Be a Listed or Characteristic Hazardous Waste (40 CFR 273.81(a))

As discussed in Section III, aerosol cans frequently demonstrate the hazardous characteristic for ignitability (40 CFR 261.21) due to the nature of the propellant used. In addition, the contents (propellant or product) may also cause the can to be a hazardous waste for other reasons if discarded.

2. The Waste, or Category of Waste, Should Not Be Exclusive to a Particular Industry or Group of Industries, But Generated by a Wide Variety of Establishments (40 CFR 273.81(b))

EPA has documented in the Regulatory Impact Analysis (RIA) developed for this proposal, that large and small quantity generators that manage hazardous waste aerosol cans can be found in 18 different industries (at the 2-digit North American Industry Classification System (NAICS) code level). Thus, aerosol cans are commonly generated by a wide variety of types of establishments, including households, retail and commercial businesses, office complexes, very small quantity generators, small businesses, government organizations, as well as large industrial facilities.

3. The Waste Should Be Generated by a Large Number of Generators and Frequently Generated in Relatively Small Quantities (40 CFR 273.81(c))

As documented in the RIA, more than 18,000 large and small quantity generators manage hazardous waste aerosol cans. Quantities generated vary depending on the type of generator and the situations associated with generation. For example, a retail store may determine that large quantities of aerosol cans, which can no longer be sold or donated, must be discarded as hazardous waste. On the other hand, entities that use aerosol cans in their day-to-day operations may generate small quantities of partially-used hazardous waste aerosol cans on a sporadic basis. Data from the RIA demonstrate that in 2015, large quantity generators that generated hazardous waste aerosol cans generated an average of 1.8 tons per year (approximately 4,100 cans), while small quantity generators generated an average of 0.5 tons per year (approximately 1,100 cans). The median amounts are 0.12 tons (approximately 274 cans) and 0.04 tons (approximately 85 cans) for large quantity generators and small quantity generators respectively, per year.

4. Systems To Be Used for Collecting the Waste (Including Packaging, Marking, and Labeling Practices) Should Ensure Close Stewardship of the Waste (40 CFR 273.81(d))

The baseline universal waste requirements of notification, labeling, training, response to releases found in 40 CFR part 273 subparts B and C and the proposed specific requirements for management of aerosol cans in 40 CFR 273.13 and 40 CFR 273.33 as discussed Section IV below are designed to ensure close stewardship of the hazardous waste aerosol cans.

5. Risks Posed by the Waste During Accumulation and Transport Should Be Relatively Low Compared to the Risks Posed by Other Hazardous Waste, and Specific Management Standards Would Be Protective of Human Health and the Environment During Accumulation and Transport (40 CFR 273.81(e))

Aerosol cans are designed to contain the products they hold during the periods of storage and transportation as they move from the manufacturer, to the retailer, and ultimately to the final customer. As long as they remain intact, therefore, EPA expects that hazardous waste aerosol cans would present a lower risk as compared to other types of hazardous waste that are not contained as-generated under normal management conditions. In addition, the ignitability risk posed during accumulation and transport is addressed by standards set by the Department of Transportation, Office of Safety and Health Administration, and local fire codes.[12]

[10] According to California's guidance for their regulations, a ''commercial processor'' is any person that processes aerosol cans in exchange for compensation. Some examples include: Individuals from another generator's site, registered hazardous waste transporters, operators of hazardous waste treatment, storage and/or disposal facilities, and operators of transportable treatment units.

[11] Public comments on the 2014 Retail NODA can be found in docket number EPA–HQ–RCRA–2012–0426 on *regulations.gov*.

[12] For example, DOT—49 CFR 173.306 for Shipping of Limited Quantities, Aerosol Cans and 49 CFR 173.115 for Flammable Gas, OSHA—29 CFR 1910.106(d)(6), Flammable Liquids, 2015 NFPA—Chapter 30, Flammable and Combustible Liquids

These standards include requirements for outer packaging and can design, including limits on the amount of flammable gas and general pressure conditions.

Finally, as discussed below, the proposed management standards for aerosol cans that are punctured and drained at the handler would address the ignitability risk, and help prevent releases, and thus EPA believes that the risks posed by the activities proposed are addressed by the universal waste designation.

6. Regulation of the Waste Under 40 CFR Part 273 Will Increase the Likelihood That the Waste Will Be Diverted From Non-Hazardous Waste Management Systems (*e.g.,* the Municipal Solid Waste Stream) to Recycling, Treatment, or Disposal in Compliance With Subtitle C of RCRA (40 CFR 273.81(f))

Managing hazardous waste aerosol cans under the universal waste program is expected to increase the number of these items collected, and to increase the number of aerosol cans being diverted from the non-hazardous waste stream into the hazardous waste stream because it would allow generators, especially those that generate this waste sporadically, to send it to a central consolidation point. Under the universal waste rule, a handler of universal waste can send the universal waste to another handler, where it can be consolidated into a larger shipment for transport to a destination facility. Therefore, under the proposed rule it would be more economical to send hazardous waste aerosol cans to recycling for recovery of metal values. EPA thus expects such management to not only advance the RCRA goal of increased resource conservation, but also to increase proper disposal as hazardous waste, making it less likely that it will be sent for improper disposal in municipal landfills or municipal incinerators. In addition, because of the streamlined structure of the universal waste rule makes aerosol can collection programs more economical, hazardous waste aerosol cans that might otherwise be sent to a municipal landfill under a VSQG or household hazardous waste exemption, would be more easily collected and consolidated for hazardous waste disposal by those who are interested in managing it this way. This waste would be diverted from the municipal solid waste stream to universal waste management.

7. Regulation of the Waste Under 40 CFR Part 273 Will Improve the Implementation and Compliance With the Hazardous Waste Regulatory Program (40 CFR 273.81(g))

The structure and requirements of the universal waste rule are well suited to the circumstances of handlers of hazardous waste aerosol cans and their participation in the universal waste program will improve compliance with the hazardous waste regulations. In particular, handlers of hazardous waste aerosol cans who are infrequent generators of hazardous waste and who might otherwise be unfamiliar with the more complex subtitle C management structure, but who generate hazardous waste aerosol cans will be able to more easily send this waste for proper management. Therefore, adding aerosol cans to the universal waste rule would offer a protective hazardous waste management system that is likely to be more accessible, particularly for the retail sector, which can pose unique compliance challenges as compared to manufacturing and other ''traditional'' RCRA-regulated sectors.[13]

8. Additional Factor (40 CFR 273.81(h)): States' Experience Under Existing State Universal Waste Programs Indicates That Regulation Under 40 CFR Part 273 Will Improve Management of Aerosol Cans

As discussed above, the factors included in 40 CFR 273.81 are designed to determine whether regulating a particular hazardous waste under the streamlined standards of the universal waste rules would improve the overall management of the waste. Because in this case, as at least four states have added aerosol cans to their universal waste programs, those states' experiences with management of aerosol cans under their respective universal waste programs provides a useful source of information to inform EPA's judgment on whether to propose adding aerosol cans to the national universal waste program.

Information supplied to EPA from those states' officials indicates that their programs improve the implementation of the hazardous waste program. Specifically, State waste management officials have represented to EPA that these programs have been operating well and achieving their objective of facilitating safe management of hazardous waste aerosol cans.[14] In particular, state officials from both California and Colorado stated to EPA that their respective aerosol can universal waste programs have been in effect since 2002, and they have not identified any problems with compliance with the standards. Accordingly, this information also weighs in favor of concluding that management of aerosol cans under the federal universal waste regulations is likely to be successful.

B. Expected Changes in Management of Aerosol Cans

If EPA's proposal to include aerosol cans in the list of Universal Waste is finalized as proposed, EPA expects that the number of aerosol cans that are diverted from municipal solid waste landfills and incinerators to recycling or disposal in subtitle C facilities would increase. Small and large quantity generators are already required to manage their hazardous waste aerosol cans under RCRA subtitle C. As a result of implementation of this rule in the states, some of these generators would likely begin managing their aerosol cans as a universal waste, either to save money or to improve implementation of their existing waste management program. One of the streamlined provisions of the universal waste rule allows consolidation of aerosol cans at central locations, which makes it easier for smaller users to arrange for hazardous waste recycling or disposal of these materials when they are generated. EPA intends to encourage individual households and VSQGs to participate in such programs, which would divert aerosol cans from the municipal waste stream.

In summary, EPA believes that management of hazardous waste aerosol cans can best be implemented through a universal waste approach where handlers are operating within a simple, streamlined management system with some limited oversight. The universal waste program addresses the environmental concerns surrounding the management of such wastes, while at the same time putting into place a structure that will allow for and encourage increased collection of aerosol cans for recycling.

IV. Discussion of Proposed Rule

A. Waste Covered by Proposed Rule

EPA is proposing that an ''aerosol can'' be defined as an intact container

Code, and Chapter 30B, Code for the Manufacture and Storage of Aerosol Products.

[13] EPA 2016. *Strategy for Addressing the Retail Sector under RCRA's Regulatory Framework.* September 12, 2016. *https://www.epa.gov/hwgenerators/strategy-addressing-retail-sector-under-resource-conservation-and-recovery-acts.*

[14] EPA 2017. *Summary of State Programs Addressing Aerosol Cans Under RCRA Hazardous Waste Regulations or Under State Universal Waste Programs.* December 2017.

in which gas under pressure is used to aerate and dispense any material through a valve in the form of a spray or foam. This definition is the same as the definition of aerosol can in the California, Colorado, New Mexico and Utah universal waste programs, with the exception of a size limit in Utah's definition of aerosol can, as described below. EPA is proposing to adopt this definition of aerosol can to keep consistency with the existing state programs.

EPA also intends this definition to be limited to sealed containers whose intended use is to dispense a material by means of a propellant or compressed gas. Aerosol cans are designed to contain those materials until they are intended for release and to present minimal risk during normal storage and transport. Other types of containers, including compressed gas canisters and propane cylinders, present a greater risk than aerosol cans and would not be included.

Utah's definition of aerosol cans includes a size limitation of twenty-four ounces for aerosol cans that would qualify under their universal waste provisions. EPA has not, however, included a size limitation on universal waste aerosol cans in this proposal because EPA believes that aerosol cans that meet the proposed definition in general can be safely managed under the universal waste system for the reasons explained in Section III above, and has not identified reasons why size would affect the considerations described. However, EPA requests comment on whether to include a size limit of twenty-four ounces or other type of limitations on the types of aerosol cans that would be eligible for the federal universal waste rule, including any information on how such a limit would be necessary to ensure safe management of aerosol cans. EPA requests comment on the appropriate scope of the definition of ''aerosol can'' and the types of materials that should fall under it.

Proposed section 273.6 has specific exclusions from the coverage of the proposed rules in paragraph 273.6(b). First, the proposed rules at 273.6(b)(1) and (2) exclude from the definition of ''aerosol can'' those cans that are not yet a waste under 40 CFR part 261, and those cans that are not hazardous waste, respectively. An aerosol can would only be subject to the proposed rule if it is considered a hazardous waste under 40 CFR part 261, and before a material can be determined to be a hazardous waste, it first must be determined to be a solid waste. Accordingly, any aerosol can that is not yet a solid waste (for example, because it is not yet discarded) would also not be subject to this section. Consistent with prior universal waste rules, the proposed rule at 273.6(c) also explains that a used aerosol can becomes a waste on the date it is discarded, and an unused aerosol can becomes a waste on the date the handler decides to discard it.

A solid waste may be a hazardous waste either because it is listed as a hazardous waste in subpart D of 40 CFR part 261 or because it exhibits one or more of the characteristics of hazardous waste, as provided in subpart C of 40 CFR part 261. For example, as discussed in Section II above, aerosol cans are frequently hazardous due to the ignitability characteristic, and in some cases may also contain listed hazardous waste or materials exhibiting another hazardous characteristic. If a solid waste aerosol can is determined to be non-hazardous then it is also not subject to the proposed universal waste regulations.

In proposed 273.6(b)(3), EPA specifically excludes aerosol cans that have been emptied of their contents (both propellant and product). Once the contents of a universal waste aerosol can have been removed, the emptied can is considered a new point of generation and is subject to a hazardous waste determination per 40 CFR 262.11. An aerosol can that meets the definition of empty container in 40 CFR 261.7 is not subject to hazardous waste regulation, and may be recycled as scrap metal.

The proposed rules also exclude at 273.4(b)(4), aerosol cans that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. Through this exclusion, EPA intends that hazardous waste aerosol cans that are not intact continue to be subject to the full hazardous waste standards. The protectiveness of the proposed management standards described below relies in part on the fact that the aerosol cans to be managed in accordance with those rules are not leaking or otherwise damaged where contents or propellants could be dispersed out of the can, because such uncontrolled release could pose risk to human health and the environment, including an increased risk of fire. A leaking or damaged hazardous waste aerosol can that presents a risk of the contents or propellants being dispersed out of the can would need to be managed as RCRA hazardous waste under 40 CFR parts 260 through 272. Therefore, this provision includes all discarded, intact, non-empty hazardous waste aerosol cans.

B. Proposed Management Requirements for Aerosol Cans

1. Proposed Requirements for Small and Large Quantity Handlers

Under this proposed rule, the existing universal waste requirements currently applicable to small quantity handlers of universal waste (SQHUWs) and large quantity handlers of universal waste (LQHUWs) would also be applicable to handlers of discarded aerosol cans. For both SQHUWs and LQHUWs, these requirements include waste management standards, labeling and marking, accumulation time limits, employee training, response to releases, requirements related to off-site shipments, and export requirements. LQHUWs are subject to additional notification and tracking requirements. For the labeling requirement, EPA is proposing that either each aerosol can, or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: ''Universal Waste—Aerosol Can(s),'' ''Waste Aerosol Can(s)'', or ''Used Aerosol Can(s)''.

In addition, EPA is proposing that small and large quantity universal waste handlers must follow certain specific management standards while handling their aerosol cans. Under this proposal, all handlers must manage their universal waste aerosol cans in a manner designed to prevent releases to the environment. This includes accumulating universal waste aerosol cans in containers that are structurally sound and compatible with the contents of the can, and show no evidence of leaks, spills, or damage that could cause leaks under reasonably foreseeable conditions. Handlers may sort aerosol cans by type and consolidate intact aerosol cans in larger containers, remove actuators to reduce the risk of accidental release, and under certain conditions, may puncture and drain aerosol cans that are being recycled, as described below.

2. Proposed Requirements and Request for Comment on Puncturing and Draining at Small and Large Quantity Handlers

As discussed in Section II above, under the current hazardous waste regulations, puncturing and draining an aerosol can, if performed as part of the recycling process (*e.g.,* scrap metal recycling), is exempt from RCRA permitting requirements per 40 CFR 261.6(c). Storage of hazardous waste aerosol cans prior to recycling still requires a permit, unless it is exempt from permitting under another provision.

However, EPA expects that puncturing and draining activities at universal waste handlers will be different from those currently performed by hazardous waste generators. Because handlers may receive universal waste from many other handlers, the volume of aerosol cans punctured and drained at a commercial universal waste handler is likely to be much greater than at a typical hazardous waste generator (which can only puncture and drain its own hazardous waste aerosol cans). In addition, under the universal waste regulations, handlers can store their universal waste up to a year, which could increase the number of cans punctured and drained at one time if the facility processes the cans in batches.

Because of the likely differences between recycling of aerosol cans at hazardous waste generators versus recycling of aerosol cans at universal waste handlers, EPA is proposing specific management standards for the puncturing and draining of aerosol cans at universal waste handlers, similar to the requirements currently being implemented in states that have added aerosol cans to their list of universal waste. The aerosol can universal waste programs of California, Colorado, Utah and New Mexico, as well as Ohio's proposed aerosol can universal waste program, allow for puncturing and draining of aerosol cans by universal waste handlers, as long as specific management standards and waste characterization requirements are met.

Similar to the current state requirements, EPA is proposing that puncturing and draining activities must be conducted by a commercial device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof. Puncturing and draining systems for aerosol cans are available from multiple commercial vendors. These devices generally consist of an enclosed puncturing device that punctures an aerosol can, allowing the contents to be drained into an attached container. In many cases, these containers are 55-gallon drums with a filter made of carbon or similar materials to capture any gases that may escape the 55-gallon drum during the puncturing and draining process.

Manufacturers of aerosol can puncturing and draining devices include instructions for their use.[15] These instructions include operating devices in a well ventilated area that is free from sparks and ignition sources in order to prevent fires, use of personal protective equipment such as safety goggles, and segregating incompatible products from being drained into the same container. Operators of puncturing and draining devices are also instructed to ensure that the container remains closed, does not become overfilled and that the container storing the contents of the drained aerosol cans is also kept in a well ventilated area free from sparks or ignition sources.

However, the Agency has previously investigated the performance of at least one aerosol can puncturing and draining device through EPA's Environmental Technology Verification (ETV) program. The ETV review demonstrated one type of drum-top puncturing and draining system was effective in processing at least 187 cans before breakthrough of volatile chemicals occurred, which was significantly less than the 600–750 cans recommended by some manufacturers. The drum that contained the drained liquid from the aerosol cans was also never more than 25% full before breakthrough occurring. These findings were contrary to manufacturer recommendations of ensuring the container is not filled past 70% full in order to avoid breakthrough of volatile chemicals. In addition, the ETV program found that halogenated compounds (*e.g.,* chlorinated solvents) were found to be incompatible with the seal and gasket materials.

The performance of aerosol can puncturing and draining devices will vary by manufacturer and it remains the responsibility of the operator to ensure that the puncturing device is properly draining the contents of the aerosol cans into the drum, that breakthrough is not occurring, and that aerosol cans incompatible with the device are not punctured. For example, information is readily available regarding potential incompatibilities for aerosol can propellants with puncturing devices containing rubber seals or gaskets.[16]

Therefore, EPA is proposing that handlers must establish a written procedure detailing how to safely puncture and drain universal waste aerosol can (including operation and maintenance of the unit; segregation of incompatible wastes; and proper waste management practices to prevent fires or releases), and ensure employees operating the device are trained in the proper procedures. At minimum, EPA is proposing that the written procedure address the operation and maintenance of the unit including its proper assembly; segregation of incompatible wastes; and proper waste management practices, (*e.g.,* ensuring that flammable wastes are stored away from heat or open flames).

EPA is also proposing that the actual puncturing of the cans should be done in a manner designed to prevent fires and to prevent the release of the aerosol can contents to the environment. This includes, but is not limited to, locating the equipment on a solid, flat surface in a well-ventilated area.

In addition, EPA is proposing that the contents from the cans should be immediately transferred from the waste aerosol can, or puncturing device if applicable, to a container or tank and that the contents are subject to a hazardous waste determination under 40 CFR 262.11. The handler becomes that hazardous waste generator of the hazardous aerosol can contents and must manage those waste in accordance with applicable RCRA regulations.

The proposed rule would also require that a written procedure be in place in the event of a spill or release and a spill clean-up kit should be provided. All spills or leaks of the contents of the aerosol cans should be cleaned up promptly.

Finally, EPA notes that all puncturing, waste collection, and disposal, must be conducted in compliance with all applicable federal, state and local waste (solid and hazardous waste) and occupational safety and health laws and regulations.

In addition, EPA is requesting comment on establishing further limitations on puncturing and draining of aerosol cans, similar to limitations that have been established by state waste management programs either through regulations or guidance. Many states have issued guidelines for puncturing and draining aerosol cans under their hazardous waste program. Some state guidelines recommend against the generator puncturing and draining certain types of aerosol cans due to the possible incompatibility with the puncturing and draining equipment or the contents of other cans being drained, or due to the hazardous nature of the contents. These aerosol cans include, but are not limited to, cans containing the following contents: Ethers including ethyl ether, chlorinated compounds, pesticides, herbicides, freons, foamers, corrosive cleaners and unknowns.[17] EPA requests comment on

[15] EPA 2017. *Compilation of Manufacturer's Guidance on Devices for Puncturing and Draining Aerosol Cans,* December 2017.

[16] EPA 2017. *Compilation of Manufacturer's Guidance on Devices for Puncturing and Draining Aerosol Cans,* December 2017. *See* table beginning on page 54.

[17] EPA 2017. *Summary of State Programs Addressing Aerosol Cans Under RCRA Hazardous Waste Regulations or Under State Universal Waste Programs.* December 2017.

establishing additional regulatory requirements for can draining devices and limits on aerosol cans that may pose compatibility problems and that may be punctured and drained under the proposed rules.

In addition, EPA is requesting comment on limiting puncturing and draining practices to handlers that are not commercial processors (*i.e.,* a person that processes aerosol cans received from other entities in exchange for compensation). Such a limitation would be consistent with California's universal waste program. Under this option, the puncturing and draining management standards would only apply to handlers that are not commercial processors. Handlers that are commercial processors may still accept aerosol cans and process the cans by sorting and consolidating them, but would be unable to puncture and drain the cans. Under this option, commercial processors that would like to puncture and drain aerosol cans must first meet the requirements for a universal waste destination facility (including requiring a permit for storage of the hazardous waste aerosol cans prior to recycling). Handlers would still be allowed to puncture and drain the hazardous waste aerosol cans that they generate.

1. Proposed Requirements for Transporters

This proposed rule would not change any of the existing requirements applicable to universal waste transporters. Under 40 CFR 273.9, the definition of a universal waste transporter is ''a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.'' Persons meeting the definition of universal waste transporter include those persons who transport universal waste from one universal waste handler to another, to a processor, to a destination facility, or to a foreign destination. These persons are subject to the universal waste transporter requirements of part 273, subpart D. EPA notes that this proposed rule also would not affect the applicability of shipping requirements under the hazardous waste materials regulations of the Department of Transportation. Transporters continue to be subject to these requirements, if applicable (*e.g.,* 49 CFR 173.306 for shipping of limited quantities of aerosol cans, or 49 CFR 173.115(l) which sets limits in the definition of ''aerosol'' for the purpose of shipping flammable gas).

2. Proposed Requirements for Destination Facilities

This proposed rule would not change any of the existing requirements applicable to universal waste destination facilities (subpart E of part 273). Under 40 CFR 273.9, the definition of a destination facility is ''a facility that treats, disposes of, or recycles a particular category of universal waste'' (except certain activities specified in the regulations at § 273.13(a) and (c) and § 273.33(a) and (c)).

3. Effect of This Proposed Rule on Household Wastes and Very Small Quantity Generators

Adding hazardous waste aerosol cans to the federal definition of universal wastes would not impose any requirements on households and very small quantity generators for managing these cans. Household waste continues to be exempt from RCRA subtitle C regulations under 40 CFR 261.4(b)(1). However, under the universal waste rule, households and VSQGs may choose to manage their hazardous waste aerosol cans in accordance with either the VSQG regulations under 40 CFR 261.5 or as a universal waste under part 273 (40 CFR 273.8(a)(2)). It should be noted, however, that 40 CFR 273.8(b) would continue to apply. Under this provision, if household or VSQG wastes are mixed with universal waste subject to the requirements of 40 CFR part 273 (*i.e.,* universal waste that is not generated by households or VSQGs), the commingled waste must be handled as universal waste in accordance with part 273. Under this proposed rule, handlers of universal waste who collect 5,000 kilograms or more of this commingled aerosol can waste would be considered large quantity handlers of universal waste and must meet the requirements of that category of universal waste handler. Hazardous waste aerosol cans that are managed as a universal waste under 40 CFR part 273 would not be required to be included in a facility's determination of hazardous waste generator status (40 CFR 261.5(c)(6)). Therefore, a generator that manages such cans under the universal waste rule and does not generate any other hazardous waste would not be subject to other subtitle C hazardous waste management regulations, such as the hazardous waste generator regulations in part 262. A large or small universal waste handler that generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month in addition to the universal waste it generates would be regulated as a small quantity generator of hazardous waste and would be required to manage all hazardous waste not included within the scope of that universal waste rule in accordance with all applicable subtitle C hazardous waste management standards. Similarly, a larger or small universal waste handler that generates 1000 kilograms or more of hazardous waste in a calendar month in addition to the universal waste it generates would be regulated as a large quantity generator of hazardous waste.

4. Applicability of Land Disposal Restriction Requirements

This proposed rule would not change the applicability of land disposal restriction (LDR) requirements to universal waste. Under the existing regulations (40 CFR 268.1(f)), universal waste handlers and transporters are exempt from the land disposal restriction (LDR) requirements regarding testing, tracking, and recordkeeping in 40 CFR 268.7 and the storage prohibition in 40 CFR 268.50. EPA proposes to amend 40 CFR 268.1(f) to add aerosol can universal waste for consistency. This proposed rule would also not change the regulatory status of destination facilities; they remain subject to the full LDR requirements.

V. Technical Corrections

As part of this rulemaking, EPA is proposing four technical corrections to the universal waste standards for mercury-containing equipment in 40 CFR 273.13(c)(2)(iii) and (iv) and 273.33(c)(2)(iii) and (iv). Each of these paragraphs contains a reference to 40 CFR 262.34, which was removed and reserved as part of the November 28, 2016, Hazardous Waste Generator Improvements Rule (81 FR 85732). EPA neglected to update these references as part of its corresponding changes in that rule and is correcting that mistake here. In all four places, EPA is proposing that the regulation refer to 40 CFR 262.16 or 262.17, as applicable.

VI. State Authority

A. Applicability of Proposed Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized states have primary enforcement responsibility. The standards and requirements for state authorization are found at 40 CFR part 271. Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the federal program in

that state. The federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities in that state, since only the state was authorized to issue RCRA permits. When EPA promulgated new, more stringent federal requirements for these pre-HSWA regulations, the state was obligated to enact equivalent authorities within specified time frames. However, the new federal requirements did not take effect in an authorized state, until the state adopted the federal requirements as state law. In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), which was added by HSWA, new requirements and prohibitions imposed under HSWA authority take effect in authorized states at the same time that they take effect in unauthorized states. EPA is directed by the statute to implement these requirements and prohibitions in authorized states, including the issuance of permits, until the state is granted authorization to do so. While states must still adopt HSWA related provisions as state law to retain final authorization, EPA implements the HSWA provisions in authorized states until the states do so.

Authorized states are required to modify their programs only when EPA enacts federal requirements that are more stringent or broader in scope than existing federal requirements. RCRA section 3009 allows the states to impose standards more stringent than those in the federal program (see also 40 CFR 271.1). Therefore, authorized states may, but are not required to, adopt federal regulations, both HSWA and non-HSWA, that are considered less stringent than previous federal regulations.

B. Effect on State Authorization

This proposed rule would be less stringent than the current federal program. Because states are not required to adopt less stringent regulations, they would not have to adopt the universal waste regulations for aerosol cans, although EPA encourages them to do so. Some states have already added aerosol cans to the list of universal wastes in that state, and others may do so in the future. If a state's standards for aerosol cans are less stringent than those in the final rule, the state would have to amend its regulations to make them at least equivalent to the federal standards and pursue authorization.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action because it does not have a significant economic impact nor does it raise novel legal or policy issues. The Office of Management and Budget (OMB) waived review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is expected to be an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) documents that the EPA prepared have been assigned EPA ICR number 1597.12 and ICR number 2513.03. You can find copies of the ICRs in the docket for this rule, and they are briefly summarized here.

Because aerosol cans managed under the proposed rule are not counted toward a facility's RCRA generator status, respondents will see a reduction in burden. This is because the aerosol cans would not be subject to recordkeeping and reporting requirements as hazardous waste, and the respondent may no longer be subject to hazardous waste generator recordkeeping and reporting requirements, depending on the quantity of non-aerosol can hazardous waste they generate. The existing universal waste requirements currently applicable to small quantity handlers of universal waste (SQHUWs) and large quantity handlers of universal waste (LQHUWs) would also be applicable to handlers of aerosol can waste. For both SQHUWs and LQHUWs, these requirements include labeling and marking, employee training, response to releases, and export requirements. LQHUWs are also subject to additional notification and tracking requirements.

Respondents/affected entities: The information collection requirements of the proposed rule affect facilities that handle aerosol can waste and vary based on facility generator and handler status.

Respondent's obligation to respond: The recordkeeping and notification requirements are required in order to obtain a benefit under 40 CFR part 273.

Estimated number of respondents: 639.

Frequency of response: One-time notification for LQHUWs, annual training requirements for all universal waste handlers; per-shipment costs for labeling (all handlers) and tracking (LQHUWs).

Total estimated burden: EPA estimates the annual burden to respondents to be *a net reduction in burden of* approximately 39,113 hours. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The total estimated annual cost of this rule is a *cost savings* of approximately $2.0 million. This cost savings is composed of approximately $1.94 million in annualized avoided labor costs and $0.06 million in avoided capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. The OMB Control Number for this proposed rule is 2050–0145. Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than April 16, 2018. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this proposed action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. As documented in the Regulatory Impact Analysis found in the docket for this

proposal, EPA does not expect the rule to result in an adverse impact to a significant number of small entities, since the rule is expected to result in net cost savings for all entities affected by the rule. We have therefore concluded that this proposed action will either relieve regulatory burden or have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

As documented in the Regulatory Impact Analysis found in the docket for this proposal, this proposed action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

As documented in the Regulatory Impact Analysis found in the docket for this proposal, this proposed action does not have federalism implications. It will not have substantial direct effects 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.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications as specified in Executive Order 13175. Because the proposed rule is expected to result in net cost savings, EPA does not expect that it would result in any adverse impacts on tribal entities. Thus, Executive Order 13175 does not apply to this proposed action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this proposed action present a disproportionate risk to children. This proposed action's health and risk assessments are contained in the *Regulatory Impact Analysis of Proposed Rule to Add Aerosol Cans to the Universal Waste Rule,* found in the docket for this proposal.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This proposed action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this proposed action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in *Regulatory Impact Analysis of Proposed Rule to Add Aerosol Cans to the Universal Waste Rule,* found in the docket for this proposal.

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Hazardous waste.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling.

40 CFR Part 264

Environmental protection, Hazardous waste, Packaging and containers.

40 CFR Part 265

Environmental protection, Hazardous waste, Packaging and containers.

40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Hazardous materials transportation, Reporting and recordkeeping requirements.

40 CFR Part 273

Environmental protection, Hazardous materials transportation, Hazardous waste.

Dated: March 5, 2018.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, parts 260, 261, 264, 265, 268, 270, and 273 are proposed to be amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

Subpart B—Definitions

■ 2. Section 260.10 is amended by:
■ a. Adding the definition of ''Aerosol can'' in alphabetical order;
■ b. Amending the definition ''Universal waste'' by:
■ i. Republishing the introductory text;
■ ii. Removing the word ''and'' at the end of paragraph (3);
■ iii. Revising paragraph (4); and
■ iv. Adding paragraph (5); and
■ c. Republishing the introductory text of paragraph (2) and revising paragraph (2)(i) of the definition of ''Universal waste handler''.

The revisions and additions read as follows:

§ 260.10 Definitions.

* * * * *

Aerosol can means an intact container in which gas under pressure is used to aerate and dispense any material through a valve in the form of a spray or foam.

* * * * *

Universal waste means any of the following hazardous wastes that are managed under the universal waste requirements of part 273 of this chapter:

* * * * *

(4) Lamps as described in § 273.5 of this chapter; and

(5) Aerosol cans as described in § 273.6 of this chapter.

Universal waste handler:

* * * * *

(2) Does not mean:

(i) A person who treats (except under the provisions of 40 CFR 273.13(a) or (c), or 40 CFR 273.33(a) or (c)), disposes of, or recycles (except under the provisions of 40 CFR 273.13(e) or 40 CFR 273.33(e)) universal waste; or

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

Subpart A—General

■ 4. Section 261.9 is amended by:
■ a. Removing the word ''and'' at the end of paragraph (c);
■ b. Revising paragraph (d); and
■ c. Adding paragraph (e).

The revisions and additions read as follows:

§ 261.9 Requirements for universal waste.

* * * * *

(d) Lamps as described in § 273.5 of this chapter; and

(e) Aerosol cans as described in § 273.6 of this chapter.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

■ 5. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

Subpart A—General

■ 6. Section 264.1 is amended by:
■ a. Removing the word ''and'' at the end of paragraph (g)(11)(iii);
■ b. Revising paragraph (g)(11)(iv); and
■ c. Adding paragraph (g)(11)(v).

The revision and addition read as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(g) * * *

(11) * * *

(iv) Lamps as described in § 273.5 of this chapter; and

(v) Aerosol cans as described in § 273.6 of this chapter.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 7. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937.

Subpart A—General

■ 8. Section 265.1 is amended by:
■ a. Removing the word ''and'' at the end of paragraph (c)(14)(iii);
■ b. Revising paragraph (c)(14)(iv); and
■ c. Adding paragraph (c)(14)(v).

The revision and addition read as follows:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(14) * * *

(iv) Lamps as described in § 273.5 of this chapter; and

(v) Aerosol cans as described in § 273.6 of this chapter.

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

■ 9. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart A—General

■ 10. Section 268.1 is amended by:
■ a. Removing the word ''and'' at the end of paragraph (f)(3);
■ b. Revising paragraph (f)(4); and
■ c. Adding paragraph (f)(5)

The revision and addition read as follows:

§ 268.1 Purpose, scope, and applicability.

* * * * *

(f) * * *

(4) Lamps as described in § 273.5 of this chapter; and

(5) Aerosol cans as described in § 273.6 of this chapter.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

■ 11. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

Subpart A—General Information

■ 12. Section 270.1 is amended by:
■ a. Removing the word ''and'' at the end of paragraph (c)(2)(viii)(C);
■ b. Revising paragraph (c)(2)(viii)(D); and
■ c. Adding paragraph (c)(2)(viii)(E).

The revision and addition read as follows:

§ 270.1 Purpose and scope of these regulations.

* * * * *

(c) * * *

(2) * * *

(viii) * * *

(D) Lamps as described in § 273.5 of this chapter; and

(E) Aerosol cans as described in § 273.6 of this chapter.

* * * * *

PART 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

■ 13. The authority for part 273 continues to read as follows:

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

Subpart A—General

■ 14. Section 273.1 is amended by:
■ a. Removing the word ''and'' at the end of paragraph (a)(3);
■ b. Revising paragraph (a)(4); and
■ c. Adding paragraph (a)(5).

The revision and addition read as follows:

§ 273.1 Scope.

(a) * * *

(4) Lamps as described in § 273.5 of this chapter; and

(5) Aerosol cans as described in § 273.6 of this chapter.

* * * * *

■ 15. Section 273.6 is added to read as follows:

§ 273.6 Applicability—Aerosol cans.

(a) *Aerosol cans covered under this part 273.* The requirements of this part apply to persons managing aerosol cans, as described in § 273.9, except those listed in paragraph (b) of this section.

(b) *Aerosol cans not covered under this part 273.* The requirements of this part do not apply to persons managing the following aerosol cans:

(1) Aerosol cans that are not yet a waste under part 261 of this chapter. Paragraph (c) of this section describes when an aerosol cans becomes a waste;

(2) Aerosol cans that are not hazardous waste. An aerosol can is a hazardous waste if the aerosol can exhibits one or more of the characteristics identified in part 261, subpart C of this chapter or the aerosol can contains a substance that is listed in part 261, subpart D of this chapter;

(3) Aerosol cans that meet the standard for empty containers under part 261.7 of this chapter, and

(4) Aerosol cans that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) *Generation of waste aerosol cans.*

(1) A used aerosol can become a waste on the date it is discarded.

(2) An unused aerosol can become a waste on the date the handler decides to discard it.

■ 16. Section 273.9 is amended by:
■ a. Adding the definition of ''Aerosol can'' in alphabetical order;
■ b. Revising the definitions of ''Large quantity handler of universal waste'' and ''Small quantity handler of universal waste'';

■ c. In the definition ''Universal waste'':
■ i. Republishing the introductory paragraph;
■ ii. Removing the word ''and'' at the end of paragraph (3);
■ iii. Revising paragraph (4), and adding paragraph (5); and
■ d. Republishing the introductory text of paragraph (b) and revising paragraph (b)(1) of the definition of ''Universal waste handler''.

The revision and addition read as follows to read as follows:

§ 273.9 Definitions.

Aerosol can means an intact container in which gas under pressure is used to aerate and dispense any material through a valve in the form of a spray or foam.

* * * * *

Large Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000-kilogram limit is met or exceeded.

* * * * *

Small Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time.

* * * * *

Universal Waste means any of the following hazardous wastes that are subject to the universal waste requirements of this part 273:

* * * * *

(4) Lamps as described in § 273.5; and

(5) Aerosol cans as described in § 273.6.

Universal Waste Handler:

* * * * *

(b) Does not mean:

(1) A person who treats (except under the provisions of 40 CFR 273.13(a) or (c), or 40 CFR 273.33(a) or (c)), disposes of, or recycles (except under the provisions of 40 CFR 273.13(e) or 40 CFR 273.33(e)) universal waste; or

* * * * *

Subpart B—Standards for Small Quantity Handlers of Universal Waste

■ 17. Section 273.13 is amended by revising paragraphs (c)(2)(iii) and (iv) and adding paragraph (e) to read as follows:

§ 273.13 Waste management.

* * * * *

(c) * * *

(2) * * *

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that meets the requirements of 40 CFR 262.16 or 262.17, as applicable.

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.16 or 262.17, as applicable.

* * * * *

(e) *Aerosol cans.* A small quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, and lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(2) A small quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

(i) Sorting aerosol cans by type;

(ii) Mixing intact cans in one container; and

(iii) Removing actuators to reduce the risk of accidental release.

(3) A small quantity handler of universal waste who punctures and drains their aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining hazardous waste aerosol cans:

(i) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof;

(ii) Establish a written procedure detailing how to safely puncture and drain universal waste aerosol can (including proper assembly, operation and maintenance of the unit; segregation of incompatible wastes; and proper waste management practices to prevent fires or releases), maintain a copy of the manufacturer's specification and instruction onsite, and ensure employees operating the device are trained in the proper procedures;

(iii) Ensure that puncturing of the can is in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment. This includes, but is not limited to, locating the equipment on a solid, flat surface in a well ventilated area;

(iv) Immediately transfer the contents from the waste aerosol can, or puncturing device if applicable, to a container or tank that meets the applicable requirements of § 262.14, 262.15, 262.16, or 262.17;

(v) Conduct a hazardous waste determination on the emptied aerosol can and its contents per 40 CFR 262.11. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the hazardous waste and is subject to 40 CFR part 262;

(vi) If the contents are determined not to be hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations; and

(vii) A written procedure must be in place in the event of a spill or release and a spill clean-up kit must be provided. All spills or leaks of the contents of the aerosol cans must be cleaned up promptly.

■ 18. Section 273.14 is amended by adding paragraph (f) to read as follows:

§ 273.14 Labeling/marking.

* * * * *

(f) Universal waste aerosol cans (*i.e.,* each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: ''Universal Waste—Aerosol Can(s),'' ''Waste Aerosol Can(s),'' or ''Used Aerosol Can(s)''.

Subpart C—Standards for Large Quantity Handlers of Universal Waste

■ 19. Section 273.32 is amended by revising paragraph (b)(4) to read as follows:

§ 273.32 Notification.

* * * * *

(b) * * *

(4) A list of all the types of universal waste managed by the handler (*e.g.,* batteries, pesticides, mercury-containing equipment, lamps, and aerosol cans); and

* * *

* * * * *

■ 20. Section 273.33 is amended by revising paragraphs (c)(2)(iii) and (iv)

and adding paragraph (e) to read as follows:

§ 273.33 Waste management.

* * * * *

(c) * * *

(2) * * *

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that meets the requirements of 40 CFR 262.16 or 262.17, as applicable.

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.16 or 262.17, as applicable.

* * * * *

(e) *Aerosol cans.* A large quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, and lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(2) A large quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

(i) Sorting aerosol cans by type; and

(ii) Mixing intact cans in one container; and (iii) Removing actuators to reduce the risk of accidental release;

(3) A large quantity handler of universal waste who punctures and drains their aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining hazardous waste aerosol cans:

(i) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof;

(ii) Establish a written procedure detailing how to safely puncture and drain universal waste aerosol can (including proper assembly, operation and maintenance of the unit; segregation of incompatible wastes; and proper waste management practices to prevent fires or releases), maintain a copy of the manufacturer's specification and instruction onsite, and ensure employees operating the device are trained in the proper procedures;

(iii) Ensure that puncturing of the can is in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment. This includes, but is not limited to, locating the equipment on a solid, flat surface in a well ventilated area;

(iv) Immediately transfer the contents from the waste aerosol can, or puncturing device if applicable, to a container or tank that meets the applicable requirements of § 262.14, 15, 16, or 17;

(v) Conduct a hazardous waste determination on the emptied aerosol can and its contents per 40 CFR 262.11. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the hazardous waste and is subject to 40 CFR part 262;

(vi) If the contents are determined not to be hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations; and

(vii) A written procedure must be in place in the event of a spill or release and a spill clean-up kit must be provided. All spills or leaks of the contents of the aerosol cans must be cleaned up promptly.

■ 21. Section 273.34 is amended by adding paragraph (f) to read as follows:

§ 273.34 Labeling/marking.

* * * * *

(f) Universal waste aerosol cans (*i.e.,* each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: ''Universal Waste—Aerosol Can(s)'', ''Waste Aerosol Can(s)'', or ''Used Aerosol Can(s)''.

[FR Doc. 2018–05282 Filed 3–15–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Parts 1515, 1520, 1522, 1540, 1542, 1544, and 1550

[Docket No. TSA–2008–0021]

RIN 1652–AA53

Large Aircraft Security Program, Other Aircraft Operator Security Program, and Airport Operator Security Program; Withdrawal

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Transportation Security Administration (TSA) is withdrawing its rulemaking concerning the proposed establishment of a large aircraft security program (LASP). TSA published a notice of proposed rulemaking (NPRM) for LASP on October 30, 2008. In the NPRM, TSA proposed that certain private and corporate aircraft operations should adopt security standards similar to those of commercial aircraft operations, including the use of security programs, crew vetting, and passenger watchlist matching. The NPRM also proposed new requirements for airports that serve the private and corporate operations. TSA held a series of public meetings and reviewed more than 7,000 public comments submitted in response to the NPRM. Based on all of the information received and a re-evaluation of the proposal in light of risk-based principles, TSA has decided not to pursue this rulemaking at this time.

DATES: TSA is withdrawing the proposed rule published in Part III of the **Federal Register** on October 30, 2008 (73 FR 64789) as of March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Alan Paterno, Office of Security Policy and Engagement, TSA–28, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6028; telephone (571) 227–5698; facsimile (571) 227–2928; email *alan.paterno@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Overview of the NPRM

TSA administers an extensive range of regulatory programs that address security for scheduled and charter commercial aviation operations. *See* 49 CFR parts 1544, 1546, 1548, 1550, 1560, and 1562. In the LASP NPRM, TSA

proposed to apply many of the current commercial requirements to private and corporate operations in aircraft with a certificated maximum take-off weight (MTOW) above 12,500 pounds (large aircraft) and airports that serve those aircraft.

TSA proposed to require—

- (1) Non-commercial, large aircraft operators to adopt a security program like the security programs that commercial aviation services must implement;
- (2) Large aircraft operators to contract with TSA-approved auditors to conduct audits of the operators' compliance with their security programs, and with TSA-approved watch-list service providers to verify that their passengers are not on the No Fly and/or Selectee portions of the consolidated terrorist watch-lists maintained by the Federal Government;
- (3) Security measures for large aircraft operators in all-cargo operations and for operators of passenger aircraft with a MTOW of over 45,500 kilograms (100,309.3 pounds), operated for compensation or hire; and
- (4) Certain airports that serve large aircraft to adopt new security programs.

TSA believed the proposed rule would yield benefits in the areas of transportation security and accountability. TSA included a ''break-even'' analysis that showed the tradeoffs between program cost and program benefits that would be required for the LASP to be a cost-beneficial undertaking. TSA estimated that under the NPRM, covered aircraft operators, airport operators, passengers, and TSA would incur approximately $1.4 billion in costs over 10 years to comply with the proposed LASP, discounted at 7 percent in 2006 dollars.

TSA received more than 7,000 comments from pilots, aircraft operators, airports, aviation workers, individuals, members of congress, aviation associations, and civic organizations. TSA also held numerous public meetings to solicit stakeholder input on the NPRM. Many supported some aspects of the LASP NPRM, but the overwhelming majority of commenters objected to it based on their views that it increased costs unnecessarily, created burdensome new processes, and would lead small airport and aircraft operators to go out of business causing widespread loss of employment. These commenters also asserted that there was no need for the LASP NPRM, as evidenced in part by the fact that there was no specific statutory mandate for it.

TSA analyzed the comments carefully and considered issuing a supplemental notice of proposed rulemaking (SNPRM) to incorporate some of the ideas from the commenters into a new proposal. As part of this evaluation, TSA considered separating out some of the requirements into stand-alone rules, because the LASP NPRM covered several different kinds of airport and aircraft operations. Also, TSA considered changing the scope of the large aircraft that would be subject to the new regulations.

II. The Withdrawal

Based on all of the foregoing information and consistent with risk-based principles, TSA has decided to withdraw the LASP rulemaking at this time. In reaching this decision, TSA considered the relative costs and benefits of the NPRM identified through the agency's preliminary analysis. Moreover, TSA has several regulatory initiatives underway that are required by statute and have deadlines.

As part of TSA's ongoing review of existing regulatory programs and to reduce the costs of regulations,[1] TSA evaluated this withdrawal based on the requirements of E.O. 13771. The withdrawal of the NPRM qualifies as a deregulatory action under E.O. 13771. *See* OMB's Memorandum titled ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). However, there are no quantifiable cost savings associated with the withdrawal of this NPRM.

Dated: March 12, 2018.

David P. Pekoske,

Administrator.

[FR Doc. 2018–05401 Filed 3–15–18; 8:45 am]

BILLING CODE 9110–05–P

[1] E.O. 13771 (Jan. 30, 2017), Reducing Regulation and Controlling Regulatory Costs, directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it must repeal two or more existing regulations. Also, any new incremental costs associated with new regulations must, to the extent permitted by law, be offset by the elimination of existing costs. Only rules that are significant under section 3(f) of E.O. 12866 (Sept. 30, 1993), Regulatory Planning and Review, are subject to these requirements.

Notices

Federal Register
Vol. 83, No. 52
Friday, March 16, 2018

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

Office of Advocacy and Outreach

[FOA No.: OAO–012]

Catalog of Federal Domestic Assistance (CFDA) No.: 10.443—Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers Program

AGENCY: Office of Advocacy and Outreach (OAO), USDA.

ACTION: Funding Opportunity Announcement (FOA).

SUMMARY: This notice announces the availability of funds and solicits applications from community-based and non-profit organizations, institutions of higher education, and Tribal entities to compete for financial assistance through the Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers Program (hereinafter known as the ''2501 Program''). Individual applicants do not meet the eligibility criteria.

Funding is being provided to eligible entities who, in partnership with the Office of Advocacy and Outreach (OAO), will conduct outreach initiatives and training to achieve the overall goal of the 2501 Program—to assist socially disadvantaged and veteran farmers and ranchers in owning and operating farms and ranches while increasing their participation in agricultural programs and services provided by the U.S. Department of Agriculture (USDA).

DATES: Only one project proposal may be submitted per eligible entity. Proposals must be submitted through *www.grants.gov* and received by May 15, 2018, at 11:59 p.m. EST. Proposals submitted after this deadline will *not* be considered for funding.

Two (2) teleconferences will be held during the open period of this announcement to answer any clarifying questions on the following dates:

March 28, 2018 at 2:00 p.m. EST
April 25, 2018 at 2:00 p.m. EST

To join each session, please use the following information:

Telephone Number: 1–888–455–1685
Passcode: 7087935

Filing a Complaint of Discrimination

To file a program discrimination complaint, you may obtain a complaint form by sending an email to *Cr-info@ascr.usda.gov*. You or your authorized representative must sign the complaint form. You are not required to use the complaint form. You may write a letter instead. If you write a letter, it must contain all of the information requested in the form and be signed by you or your authorized representative. Incomplete information will delay the processing of your complaint. Employment civil rights complaints will not be accepted through this email address.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410. *Fax:* (202) 690–7442. *E-mail: program.intake@usda.gov.*

FOR FURTHER INFORMATION CONTACT:

U.S. Department of Agriculture, Office of Advocacy and Outreach, Attn: Kenya Nicholas, Program Director, J.L. Whitten Building, Room 520–A, 1400 Independence Avenue SW, Washington, DC 20250, *Phone:* (202) 720–6350. *Fax:* (202) 720–7704. *Email: 2501GRANTS@osec.usda.gov.*

Persons With Disabilities: Persons who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). Additionally, alternative means for submissions due to disability status will be approved on a case-by-case basis.

SUPPLEMENTARY INFORMATION:

Funding/Awards: The total funding potentially available for this competitive opportunity is $8.4 million. The OAO will award new grants from this announcement, subject to availability of funds and the quality of applications received. All applications will be considered new projects and applicants will compete based on their organization's entity type (*e.g.,* nonprofit organization, higher education institution), as described below. The maximum amount of requested federal funding for projects shall not exceed $200,000. The maximum project period is one (1) year. Projects that are part of multi-year initiatives will only be funded for 1 year. Eligible entities may apply each new funding cycle with a new project proposal provided that: (a) Activities and associated costs do not overlap with projects awarded in previous years; and (b) recipients are current and compliant with existing financial and progress reporting. The progress of existing projects, along with the percentage of funds used to date, may impact funding decisions.

Funding will be awarded based on peer competition within the three categories described below along with the amount of anticipated funding for each category. The OAO reserves discretion to allocate funding between the three categories based upon the number and quality of applications received. Funding will be awarded based on peer competition within the three categories. There is no commitment by the OAO to fund any particular application or to select a specific number of recipients within each category.

1. *Category #1:* Eligible entities described in Sections III.A.2, III.A.3, and III.A.4 (1890 Land Grant colleges and universities, 1994 Alaska Native and American Indian Tribal colleges and universities, and Hispanic-Serving Institutions of higher education).

2. *Category #2:* Eligible entities described in Sections III.A.1 and III.A.6 (*i.e.,* nonprofit organizations, community-based organizations, including a network or a coalition of community-based organizations, Indian Tribes (as defined in 25 U.S.C. 450b), and National Tribal organizations).

3. *Category #3:* Eligible entities described in Sections III.A.5 and III.A.7 (*i.e.,* all other institutions of higher education including 1862 colleges, nonprofit organizations without a 501(c)(3) status certification from the IRS, and other organizations or institutions, including those that received funding under this program before January 1, 1996).

Contents of This Announcement

I. Funding Opportunity Description
II. Award Information
III. Eligibility Information
IV. Proposal and Submission Information
V. Application Review Information

VI. Award Administration Information

I. Funding Opportunity Description

A. Background

The OAO is committed to ensuring that socially disadvantaged and veteran farmers and ranchers are able to equitably participate in USDA programs. Differences in demographics, culture, economics, and other factors preclude a single approach to identifying solutions that can benefit our underserved farmers and ranchers. Community-based and non-profit organizations, higher education institutions, and eligible Tribal entities can play a critical role in addressing the unique difficulties they face and can help improve their ability to start and maintain successful agricultural businesses. With 2501 Program funding, organizations can extend our outreach efforts to connect with and assist socially disadvantaged and veteran farmers and ranchers and to provide them with information on available USDA resources.

1. The 2501 Program was authorized by the Food, Agriculture, Conservation, and Trade Act of 1990. The Food, Conservation, and Energy Act of 2008 expanded the authority of the Secretary of Agriculture (the Secretary) to provide awards under the program and transferred the administrative authority to the OAO. The Agricultural Act of 2014 further expanded the program to include outreach and assistance to veterans. The 2501 Program extends USDA's capacity to work with members of farming and ranching communities by funding projects that enhance the equitable participation of socially disadvantaged and veteran farmers and ranchers in USDA programs. It is the OAO's intention to build lasting relationships between USDA, the recipient's organizations, and socially disadvantaged and veteran farmers and ranchers.

2. Only one proposal will be accepted from each organization.

B. Scope of Work

The 2501 Program provides funding to eligible organizations for training and technical assistance projects designed to assist socially disadvantaged and veteran farmers and ranchers in owning and operating viable agricultural enterprises. Proposals must be consistent with requirements stated in 7 U.S.C. 2279(a)(2). Under this statute, the outreach and technical assistance program funds shall be used exclusively:

1. To enhance coordination of the outreach, technical assistance, and education efforts authorized under agriculture programs;

2. To assist the Secretary of Agriculture in:

a. Reaching current and prospective socially disadvantaged farmers or ranchers and veteran farmers or ranchers in a linguistically appropriate manner; and

b. improving the participation of those farmers and ranchers in USDA programs.

Proposals from eligible entities must address two or more of the following priority areas:

1. Assist socially disadvantaged or veteran farmers and ranchers in owning and operating successful farms and ranches;

2. Improve participation among socially disadvantaged or veteran farmers and ranchers in USDA programs;

3. Build relationships between current and prospective farmers and ranchers who are socially disadvantaged or veterans and USDA's local, state, regional, and National offices;

4. Introduce agriculture-related information to socially disadvantaged or veteran farmers and ranchers through innovative training and technical assistance techniques; and

5. Introduce agricultural education targeting socially disadvantaged youth, and/or socially disadvantaged beginning farmers and ranchers, in rural and persistent poverty communities.

To encourage information sharing and to build capacity among recipients, the OAO may require Project Directors to attend an annual training conference that can be expensed with awarded grant funds not to exceed $1,000 per award for up to two authorized entity personnel. The conference will allow recipients, USDA officials, and other agriculture-related guests to share ideas and lessons learned; provide training on performance and financial reporting requirements; and provide information on USDA programs and services. In addition, Project Directors will have an opportunity to make contacts and gather information on best practices.

C. Anticipated Outputs (Activities), Outcomes (Results), and Performance Measures

1. Outputs (Activities). The term ''output'' means an outreach, educational component, or assistance activity, task, or associated work product related to improving the ability of socially disadvantaged and veteran farmers and ranchers to own and operate farms and ranches, assistance with agriculture related activities, or guidance for participation in USDA programs. Outputs may be quantitative or qualitative but must be measurable during the period of performance.

Examples of outputs from the projects to be funded under this announcement may describe an organization's activities and their participants such as: Number of workshops or meetings held and number of participants attending; frequency of services or training delivered; and to whom and/or development of products, curriculum, or resources provided. Other examples include but are not limited to the following:

a. Number of socially disadvantaged and veteran farmers or ranchers served;

b. number of conferences or training sessions held and number of socially disadvantaged and veteran farmers and ranchers who attended;

c. type and topic of educational materials distributed at outreach events;

d. creation of a program to enhance the operational viability of socially disadvantaged and veteran farmers and ranchers;

e. number of completed applications submitted for consideration for USDA programs; or

f. activity that supports increased participation of socially disadvantaged farmers and ranchers and veteran farmers and ranchers in USDA programs.

Progress and Financial Reports will be required, as specified in Section VI, Subsection D, ''Reporting Requirement.''

2. Outcomes (Results). The term ''outcome'' means the difference or effect that has occurred as a result from carrying out an activity, workshop, meeting, or from delivery of services related to a programmatic goal or objective. Outcomes refer to the final impact, change, or result that occurs as a direct result of the activities performed in accomplishing the objectives and goals of your project. Outcomes may refer to results that are agricultural, behavioral, social, or economic in nature. Outcomes may reflect an increase in knowledge or skills, a greater awareness of available resources or programs, or actions taken by stakeholders as a result of learning.

Project Directors will be required to document anticipated outcomes that are funded under this announcement which should include but are not limited to:

a. Increase in participation in USDA programs among socially disadvantaged and veteran farmers and ranchers;

b. increase in receptiveness of socially disadvantaged and veteran farmers and ranchers to outreach efforts through effective communication;

c. increase in economic stability of socially disadvantaged and veteran

farmers and ranchers within a defined geographic area;

d. increase in community marketing and sales opportunities for the products of socially disadvantaged and veteran farmers and ranchers; or

e. increased use of resource conservation and sustainability practices among socially disadvantaged and veteran farmers and ranchers.

3. Performance Measures. Performance measures are tied to the goals or objectives of each activity and ultimately the overall purpose of the project. They provide insight into the effectiveness of proposed activities by indicating areas where a project may need adjustments to ensure success. Applicants must develop performance measure expectations which will occur as a result of their proposed activities. These expectations will be used as a mechanism to track the progress and success of a project. Project performance measures should include statements such as: Whether workshops or technical assistance will meet the needs of farmers or ranchers in the service area and why; how much time will be spent in group training or individual hands-on training of farmers and ranchers in the service area; or whether activities will meet the demands of stakeholders. Project performance measures must include the assumptions used to make those estimates.

Consider the following questions when developing performance measurement statements:

- What is the measurable short-term and long-term impact the project will have on servicing or meeting the needs of stakeholders?
- How will the organization measure the effectiveness and efficiency of their proposed activities to meet their overall goals and objectives?

II. Award Information

A. Statutory Authority

The statutory authority for this action is 7 U.S.C. 2279, as amended, which authorizes award funding for projects designed to provide outreach and assistance to socially disadvantaged and veteran farmers and ranchers.

B. Expected Amount of Funding

The total estimated funding expected to be available for awards under this competitive opportunity is $8.4 million.

C. Project Period

The performance period for projects selected from this solicitation will not begin prior to the effective award date. The maximum project period is one (1) year. Projects that are part of multi-year initiatives will only be funded for 1 year.

D. Award Type

Funding for selected projects will be in the form of a grant which must be fully executed no later than September 30, 2018. The anticipated Federal involvement will be limited to the following activities:

1. Approval of recipients' final budget and statement of work accompanying the grant agreement;
2. Monitoring of recipients' performance through quarterly and final financial and performance reports; and
3. Evaluation of recipients' use of federal funds through desk audits and on-site visits.

III. Eligibility Information

A. Eligible Entities

1. Any community-based organization, network, or coalition of community-based organizations that:

- Demonstrates experience in providing agricultural education or other agricultural-related services to socially disadvantaged and veteran farmers and ranchers;
- provides documentary evidence of work with, and on behalf of, socially disadvantaged and veteran farmers and ranchers during the 3-year period preceding the submission of a proposal for assistance under this program; and
- does not or has not engaged in activities prohibited under Section 501(c)(3) of the Internal Revenue Code of 1986.

2. An 1890 or 1994 institution of higher education (as defined in 7 U.S.C. 7601).
3. An American Indian Tribal community college or an Alaska Native cooperative college.
4. A Hispanic-serving Institution of higher education (as defined in 7 U.S.C. 3103).
5. Any other institution of higher education (as defined in 20 U.S.C. 1001) that has demonstrated experience in providing agricultural education or other agricultural-related services to socially disadvantaged farmers and ranchers.
6. An Indian Tribe (as defined in 25 U.S.C. 5304) or a national tribal organization that has demonstrated experience in providing agricultural education or other agriculturally-related services to socially disadvantaged farmers and ranchers.
7. All other organizations or institutions that received funding under this program before January 1, 1996, but only with respect to projects that the Secretary considers similar to projects previously carried out by the entity under this program.

B. Cost-Sharing or Matching

Matching is not required for this program.

C. Threshold Eligibility Criteria

Applications from eligible entities that meet all criteria will be evaluated as follows:

1. Proposals must comply with the submission instructions and requirements set forth in Section IV of this announcement. Pages in excess of the page limitation will not be considered.
2. Proposals must be received through *www.grants.gov* as specified in Section IV of this announcement on or before the proposal submission deadline. Applicants will receive an electronic confirmation receipt of their proposal from *www.grants.gov.*
3. Proposals received after the submission deadline will not be considered. Please note that in order to submit proposals, organizations must create accounts in *www.grants.gov* and in the System for Awards Management (SAM.gov); both of which could take up to 3 days or longer. Therefore, it is strongly suggested that organizations begin this process immediately. Registering early could prevent unforeseen delays in submitting your proposal.
4. Proposals must address a minimum of two or more of the priority areas that provide outreach and assistance to socially disadvantaged or veteran farmers and ranchers as stated in Section I, Subsection B, Scope of Work.
5. Incomplete or partial applications will not be eligible for consideration.

IV. Proposal and Submission Information

A. System for Award Management (SAM)

It is a requirement to register for SAM (*www.sam.gov).* There is NO fee to register for this site.

Per 2 CFR part 200, applicants are required to: (1) Be registered in SAM prior to submitting an application; (2) provide a valid unique entity identifier in the application; and (3) continue to maintain an active SAM registration with current information at all times during which the organization has an active Federal award or an application or plan under consideration by a Federal awarding agency. The OAO may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements.

If an applicant has not fully complied with the requirements by the time the OAO is ready to make a Federal award, OAO may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

SAM contains the publicly available data for all active exclusion records entered by the Federal Government identifying those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits. All applicant organizations and their key personnel will be vetted through SAM.gov to ensure they are in compliance with this requirement and not on the Excluded Parties List. Organizations identified as having delinquent Federal debt may contact the Treasury Offset Program at (800) 304–3107 for instructions on resolution, but will not be awarded a 2501 Program grant prior to resolution.

B. Obtain Proposal Package From www.grants.gov

Applicants may download individual grant proposal forms from *www.grants.gov.* For assistance with *www.grants.gov,* please consult the Applicant User Guide at *http://grants.gov/assets/Applicant UserGuide.pdf.*

Applicants are required to submit proposals through *www.grants.gov.* Applicants will be required to register through *www.grants.gov* in order to begin the proposal submission process. We strongly suggest you initiate this process immediately to avoid processing delays due to registration requirements.

Federal agencies post funding opportunities on *www.grants.gov.* The OAO is not responsible for submission issues associated with *www.grants.gov.* If you experience submission issues, please contact *www.grants.gov* support staff for assistance.

Proposals must be submitted by May 15, 2018, via *www.grants.gov* at 11:59 p.m. EST. Proposals received after this deadline *will not* be considered.

C. Content of Proposal Package Submission

All submissions must contain completed and electronically signed original application forms, as well as a Project Summary, Project Narrative, and a Budget Narrative as described below:

1. *Forms and documents.* The forms listed below can be found in the proposal package at *www.grants.gov* and must be submitted with all applications. Required forms are provided as fillable PDF templates. Applicants must download and complete these forms and submit them in the application submission portal at *www.grants.gov.* PDF documents listed below are documents the applicant must create in Word format and then submit in PDF format.

- Standard Form (SF) 424, Application for Federal Assistance
- Standard Form (SF) 424A, Budget Information–Non-Construction Programs
- Standard Form (SF) 424B, Assurances—Non-Construction Programs
- Key Contacts Form (please provide first, middle, and last names)
- PDF document of 1-Page Project Summary
- PDF document of Project Narrative
- PDF document of Budget Narrative
- Form AD–3031, Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants

Please note, additional forms will be required from organizations being awarded the 2501 Grant.

2. *Attachments.* The attachments listed below are required for all proposals and must be included in the proposal package at *www.grants.gov.* Attachment 1 will consist of the Project Summary Page and the Project Narrative. Attachment 2 will consist of the Budget Narrative. Please submit the summary and narratives in PDF format to preserve the content and formatting. Attachment 3 will consist of Appendices.

Note: Number each page of each attachment and indicate the total number of pages per attachment (*i.e.,* 1 of 15, 2 of 15, etc.). *DO NOT PASSWORD PROTECT ANY OF YOUR SUBMITTED DOCUMENTS.* Documents that are password protected cannot be viewed by the OAO staff or members of the Independent Review Panel.

- *Attachment 1: Project Summary Page.* The proposal must contain a Project Summary Page, which should not be numbered and must follow immediately after the SF Form 424, Application for Federal Assistance form. The Project Summary Page is limited to 250 words. It should be a synopsis or summary of the project's goals and objectives. It should be written as a CONCISE notice or advertisement about your organization, including your organization's name; name of your project; two or three sentences describing your project; the project's geographic service area; and the Project Director's name, email address, and telephone number. No points will be given or subtracted for the Project Summary Page. This will allow the OAO to quickly glean pertinent information on the project. Organizations can expect that the Project Summary Page may be used in its entirety or in part for media purposes to include press releases, informational emails to potential stakeholders or partners, to provide upper echelons of government with a snapshot of an organization, and for demographic purposes. Please do not restate the objectives of the 2501 Program (*i.e.* ''to provide outreach and assistance for socially disadvantaged farmers and ranchers and veterans farmers and ranchers''); it should reflect the goal of your specific project.
- *Attachment 1: Project Narrative.* In *15 double-spaced pages or less,* using 1-inch margins and 12-point font, indicate the organization that will conduct the project, the geographical area served by the project, and the priority areas that will be addressed by the project. Please be concise. Note: Members of the review panel will not be required to review proposals from organizations that have deviated from these formatting specifications.

○ Discuss the merits of your proposed project. Specifically, proposals must: (1) Define and establish the existence of the needs of socially disadvantaged farmers and ranchers, veteran farmers and ranchers, or both in the defined geographic area; (2) identify the experience of the organization(s) taking part in the project; (3) identify the names of organizations that will be your partners in the project, if any; (4) identify the geographic area of service; and (5) discuss the potential impact of the project.

○ Identify the qualifications, relevant experience, education, and publications of each Project Director or collaborator. Also, specifically address the work to be completed by key personnel and the roles and responsibilities within the scope of the proposed project. This includes past completed projects and financial management experiences.

○ In an organized format, create a timeline for each task to be accomplished during the period of performance timeframe. Relate each task to one of the five priority areas in Section I, Subsection B. The timeline is part of the 15 page limit but can be as simple as a one-page description of tasks.

Attachment 2: Budget Narrative. The Budget Narrative should identify and describe the costs associated with the proposed project, including sub-awards or contracts and indirect costs. An eligible entity that has never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10 percent

maximum of total direct costs in accordance with 2 CFR 200.414(f).

Organizations with previously approved indirect cost rates must submit their Negotiated Indirect Cost Rate Agreement (NICRA) with this application in Attachment 3. All submitted NICRA agreements must be CURRENT. Other funding sources may also be identified in this attachment. Each cost indicated must be reasonable, allocable, necessary, and allowable under the Federal Cost Principles (2 CFR part 200, subpart E–Cost Principles) in order to be funded. The Budget Narrative should not exceed two pages and is *not* part of the Project Narrative.

• *Attachment 3: Appendices.* Organizations may submit abbreviated Articles of Incorporation for recently established organizations (must have been established at least 3 years prior to this application); résumés for key personnel; Letters of Commitment; Letters of Intent, Partnership Agreements, or Memoranda of Understanding with partner organizations; Letters of Support; 501(c)(3) certification from the IRS, or other supporting documentation which is encouraged but not required. Applicants can consolidate all supplemental materials into one additional attachment. Do *not* include sections from other attachments as an Appendix.

Checklist of documents to submit through www.grants.gov:

1. SF–424, Application for Federal Assistance

Note: Ensure this is completed with accuracy; particularly email addresses and phone numbers. The OAO may not be able to reach you if your information is incorrect.

2. Project Summary Page (no more than 250 words)

3. Project Narrative including a timeline (no more than 15 pages, 12 point font, and 1 inch margins only)

Note: To ensure fairness and uniformity for all applicants, Project Narratives not conforming to this stipulation may not be considered.

4. SF–424A, Budget Information–Non-Construction Programs

5. SF 424B, Assurances—Non-Construction Programs

6. Budget Narrative (not to exceed 2 pages)

7. Key Contacts Form (include the Project Director/Manager and Financial Representative). Provide first, middle, and last names.

Note: Please ensure this form is completed with accuracy. Individuals not listed on an applicants' Key Contact Form will not receive information about or access to data that concerns the applicant organization.

8. Résumés of key personnel, current Negotiated Indirect Cost Rate Agreements, Partnership Agreements, Letters of Intent, Support, or Recommendation, proof of 501(c)(3) status (if applicable), etc.

Best practice notes:

• Complete the following as soon as possible:

(1) Obtain a registered DUNs number.

(2) Register and maintain an active System for Award Management (SAMs) account.

(3) Register in *www.grants.gov.*

• Only submit Adobe PDF file format documents to *www.grants.gov* to preserve content and formatting.

• Name your documents with short titles to prevent issues with uploading/downloading documents from *www.grants.gov.* Documents with long names may not always upload/download properly.

• Do not password protect any submitted forms or documents.

• Ensure all the information on your SF–424 Application and Key Contact forms are correct. Include first, middle, and last names on Key Contact forms.

Where to Upload Attachments on Your Application. There are three blocks on the application where you may upload attachments:

• On block 14, click on ''Add Attachment'' to upload your Project Summary and Project Narrative.

• In the section that reads ''Budget Narrative File(s)'', type in the ''Mandatory Budget Narrative Filename''. Just below the file name, click on ''Add Mandatory Budget Narrative'' to upload your Budget Narrative.

• After block 15, click on ''Add Attachments'' to add all your supporting documents (résumés, Partnership Agreements, Letters of Support, etc.).

D. Sub-Awards and Partnerships

Funding may be used to provide sub-awards, which includes using sub-awards to fund partnerships; however, the recipient must utilize at least 50 percent of the total funds awarded, and no more than three subcontracts will be permitted. All sub-awardees must comply with applicable requirements for sub-awards. Applicants must provide documentation of a competitive bidding process for services, contracts, and products, including consultant contracts, and conduct cost and price analyses to the extent required by applicable procurement regulations.

The OAO awards funds to *one eligible applicant* as the recipient. Please indicate a lead applicant as the responsible party if other organizations are named as partners or co-applicants or members of a coalition or consortium. The recipient will be held accountable to the OAO for the proper administrative requirements and expenditure of all funds.

E. Submission Dates and Times

The closing date and time for receipt of proposal submissions is May 15, 2018, at 11:59 p.m., EST, via *www.grants.gov.* Proposals received after the submission deadline will be considered late without further consideration. Proposals must be submitted through *www.grants.gov* without exception. Additionally, organizations must also be registered in the SAM (*www.sam.gov*). Creating an account for both websites can take several days to receive account verification and/or PIN numbers. Please allow sufficient time to complete access requirements for these websites. The proposal submission deadline is firm.

F. Confidential Information

In accordance with 2 CFR part 200, the names of entities submitting proposals, as well as proposal contents and evaluations, will be kept confidential to the extent permissible by law. Any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked as such in the proposal. If an applicant chooses to include confidential or proprietary information in the proposal, it will be kept confidential to the extent permitted by law.

G. Pre-Submission Proposal Assistance

1. The OAO may not assist individual applicants by reviewing draft proposals or providing advice on how to respond to evaluation criteria. However, the OAO will respond to questions from individual applicants regarding eligibility criteria, administrative issues related to the submission of the proposal, and requests for clarification regarding the announcement. Any questions should be submitted to *2501GRANTS@osec.usda.gov.*

2. The OAO will post questions and answers relating to this funding opportunity during its open period on the Frequently Asked Questions (FAQs) section of our website: *http://www.outreach.usda.gov/grants/.* The OAO will update the FAQs on a weekly basis and conduct webinars on an as-needed basis.

3. Please visit our website at: *https://www.outreach.usda.gov/grants/index.htm* to review the most recent Terms and Conditions for receiving an award as it provides additional information pertaining to the OAO

awards. This version is subject to change upon new program requirements.

V. Application Review Information

A. Evaluation Criteria

Only eligible entities whose proposals meet the threshold criteria in Section III of this announcement will be reviewed according to the evaluation criteria set forth below. Applicants should explicitly and fully address these criteria as part of their proposal package. Each proposal will be reviewed under the regulations established under 2 CFR part 200.

A review panel that is independent of OAO will use a point system to rate each proposal, awarding a maximum of 100 points (90 points, plus an additional 10 discretionary points for programmatic priorities). Each proposal will be reviewed by at least two members of the Independent Review Panel who will review and score all applications submitted. The Independent Review Panel will numerically score and rank each application within the three categories and funding decisions will be based on their recommendations to the designated approving official. Final funding decisions will be made by the designated approving official.

B. Evaluation Criteria for New Grants Proposals

Criteria	Points
1. *Project Narrative:* Under this criterion, your proposal will be evaluated to the extent to which the narrative includes a well-conceived strategy for addressing the requirements and objectives stated in Section I, Part B, Scope of Work, (see page 5, Project Narrative, for further clarification) identifying a minimum of two or more of the priority areas	40
In addition, the OAO may award up to 10 discretionary points (two (2) points each) for the following: • Projects assisting beginning farmers and ranchers (as defined in 7 U.S.C. 3319f); • Projects to assist states/communities identified as persistent poverty; • Projects located in rural areas; and • Projects with an emphasis on partnering with other nonprofits, Federal, state, and local entities to maximize areas of coverage for outreach (*i.e.,* research, small and beginning farmers, and feeding programs, etc.) • Projects leveraging funding from other Federal, state, and local entities, to maximize funding for outreach (*i.e.,* research, small and beginning farmers, and feeding programs, etc.)	10
2. *Programmatic Capability:* Under this criterion, applicants will be evaluated based on their ability to successfully complete and manage the proposed project taking into account the applicant's: Organizational experience, its staff's expertise and/or qualifications, and the organization's resources. The organization must also clearly document its historical successes and future plans to continue assisting socially disadvantaged and veteran farmers and ranchers	10
3. *Financial Management Experience:* Under this criterion, applicants will be evaluated based on their demonstrated ability to successfully complete and manage the proposed project taking into account the applicants' past performance in successfully completing and managing prior funding agreements identified, Section I, Part C, Performance Measures (see page 8). Past performance documentation on successfully completed projects may be at the Federal, state, or local community level. Per 2 CFR 200.205, if an applicant is a prior recipient of Federal awards, their record in managing that award will be reviewed, including timeliness of compliance with applicable reporting requirements and conformance to the terms and conditions of previous Federal awards	5
4. *Budget:* Under this criterion, proposed project budget will be evaluated to determine whether costs are reasonable, allowable, allocable, and necessary to accomplish the proposed goals and objectives; and whether the proposed budget provides a detailed breakdown of the approximate funding used for each major activity. Additionally, indirect costs must be appropriately applied (see page 14). For a list of unallowable costs, please see 2 CFR Part 200, subpart E	15
5. *Tracking and Measuring:* Under this criterion, the applicant's proposal will be evaluated based upon clearly documenting a detailed plan for tracking and measuring their progress toward achieving the expected project outputs and outcomes as stated in Section I, Part C, Performance Measures (see page 7). Applicants should indicate how they intend to clearly document the effectiveness of their project in achieving proposed thresholds or benchmarks in relation to stated goals and objectives. For example, state how your organization plans to connect socially disadvantaged and veteran farmers and ranchers with USDA agricultural programs. Applicants must clearly demonstrate how they will ensure timely and successful completion of the project with a reasonable time schedule for execution of the tasks associated with the projects	20

C. Selection of Reviewers

All applications will be reviewed by members of an Independent Review Panel. Panel members are selected based upon training and experience in relevant fields including outreach, technical assistance, cooperative extension services, civil rights, education, statistical, and ethnographic data collection and analysis, and agricultural programs, and are drawn from a diverse group of experts to create a balanced panel.

VI. Award Administration Information

A. Award Notices

Proposal Notifications and Feedback

1. The successful applicant will be notified by the OAO via telephone, email, and/or postal mail. The notification will advise the applicant that its proposed project has been evaluated and recommended for award. The notification will be sent to the *Project Manager* listed on the SF–424, Application for Federal Assistance. Project Managers should be the Authorized Organizational Representative (AOR) and authorized to sign on behalf of the organization. It is imperative that this individual is responsive to notifications by the OAO. If the individual is no longer in the position, please notify the OAO immediately to submit the new contact for the application by updating your organization's Key Contact form and forwarding a résumé of the new key personnel. The award notice will be forwarded to the recipient for execution and must be returned to the OAO Director, who is the authorizing official. Once grant documents are executed by all parties, authorization to begin work will be given. At a minimum, this process can take up to 30 days from the date of notification.

2. The OAO will also send notification to unsuccessful applicants via email or postal mail. The notification will be sent to the *Project Manager* listed on the SF–424, Application for Federal Assistance. Project Managers should be the AOR.

3. Within 10 days of award status notification, unsuccessful applicants may request feedback on their application. Feedback will be provided as expeditiously as possible. Feedback sessions will be scheduled contingent upon the number of requests and in accordance with 7 CFR 2500.026.

B. Administrative and National Policy Requirements

All awards resulting from this solicitation will be administered in accordance with the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards codified at 2 CFR part 200, as supplemented by USDA implementing regulations at 2 CFR parts 400 and 415, and OAO Federal Financial Assistance Programs—General Award Administrative Procedures, 7 CFR part 2500.

In compliance with its obligations under Title VI of the Civil Rights Act of 1964 and Executive Order 13166, it is the policy of the OAO to provide timely and meaningful access for persons with Limited English Proficiency (LEP) to projects, programs, and activities administered by Federal grant recipients. Recipient organizations must comply with these obligations upon acceptance of grant agreements as written in OAO's Terms and Conditions. Following these guidelines is essential to the success of our mission to improve access to USDA programs for socially disadvantaged and veteran farmers and ranchers.

C. Data Universal Numbering System, System for Award Management, and www.grants.gov.

In accordance with the Federal Funding Accountability and Transparency Act (FFATA) and the USDA implementation, all applicants must obtain and provide an identifying number from Dun and Bradstreet's (D&B) Data Universal Numbering System (DUNS). Applicants can receive a DUNS number, at no cost, by calling the toll-free DUNS number request line at (866) 705–5711, or visiting the D&B website at *www.dnb.com.*

In addition, FFATA requires applicants to register with the System for Award Management (SAM). *This registration must be maintained and updated annually.* Applicants can register or update their profile, at no cost, by visiting the SAM website at *www.sam.gov.* This is a requirement to register for *www.grants.gov.*

All applicants must register for an account on *www.grants.gov* in order to submit their application. There is no cost for registration. All applications must be submitted through *www.grants.gov.* This website is managed by the Department of Health and Human Services, not OAO. Many Federal agencies use this website to post Funding Opportunity Announcements (FOA). Please click on the ''Support'' tab to contact their customer support personnel for help with submitting your application.

D. Reporting Requirement

In accordance with 2 CFR part 200, the following reporting requirements will apply to awards provided under this FOA. The OAO reserves the right to revise the schedule and format of reporting requirements as necessary in the award agreement.

1. Quarterly Progress Reports and Financial Reports will be required.

• *Quarterly Progress Reports.* The recipient must submit the most current OMB-approved Performance Progress Report form (SF–PPR). For each report, the recipient must complete fields 1 through 12 of the SF–PPR. To complete field 10, the recipient is required to provide a detailed narrative of project performance and activities as an attachment, as described in the award agreement. Quarterly progress reports must be submitted to the designated OAO official within 30 days after the end of each calendar quarter.

• *Quarterly Financial Reports.* The recipient must submit SF 425, Federal Financial Report. For each report, the recipient *must complete both* the Federal Cash Transaction Report and the Financial Status Report sections of the SF–425. Quarterly financial reports must be submitted to the designated OAO official within 30 days after the end of each calendar quarter.

2. Final Progress and Financial Reports will be required upon project completion. This report should include a summary of the project or activity throughout the funding period, achievements of the project or activity, and a discussion of overall successes and issues experienced in conducting the project or project activities. The final Financial Report should consist of a complete SF–425 indicating the total costs of the project. Final Progress and Financial Reports must be submitted to the designated OAO official within 90 days after the completion of the award period as follows:

3.

Report	Performance period	Due date	Grace period
Form SF–425, Federal Financial Report and Progress Report (*Due Quarterly*).	October thru December	12/30/2018	1/30/2019
	January thru March	3/30/2019	4/30/2019
	April thru June	6/30/2019	7/30/2019
	July thru September	9/30/2019	10/30/2019
Final Progress and Financial Reports (*Due Quarterly*)	Earlier of December 30, 2019, or 90 days after project completion.		

* Dates subject to change at the discretion of OAO.

Signed this 12th day of March 2018.

Christian Obineme,

Acting Director, Office of Advocacy and Outreach.

[FR Doc. 2018–05434 Filed 3–15–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 13, 2018.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 16, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202)

395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program (SNAP) Pre-Screening Tool.

OMB Control Number: 0584–0519.

Summary of Collection: This is a renewal of an existing information collection. Consistent with Section 5 of the Food and Nutrition Act of 2008, as amended, the Food and Nutrition Service (FNS) has developed the Supplemental Nutrition Assistance Program (SNAP) Pre-Screening Tool to enable the public to determine the potential eligibility for benefits in the Supplemental Nutrition Assistance Program (SNAP).

Need and Use of the Information: The pre-screening tool allows users to enter the household size, income, expenses and resource information in order to calculate an estimated range of benefits that the household may be eligible to receive. Since SNAP eligibility and benefit amount may vary based on program options States have implemented, FNS makes it clear that the tool is only an estimator and the household will need to contact the local agency to determine actual eligibility and the associated benefit amount.

Description of Respondents: Individuals or households.

Number of Respondents: 380,283.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 63,507.

Food and Nutrition Service

Title: FNS User Access Request Form.

OMB Control Number: 0584–0532.

Summary of Collection: This is a renewal of an existing information collection. Office of Management and Budget (OMB) Circular A–130, Appendix III, Security of Federal Automated Information Resources, revised November 28, 2000, establishes a minimum set of controls to be included in Federal automated information security programs. Establishing personal controls to screen users to allow access to authorized system is directed in this appendix. The FNS User Access Request Form, FNS–674, is designed for this purpose and will be used in all situations where access to an FNS computer system is required or where current access is required to be modified and can be used where access is no longer required and must be deleted.

Need and Use of the Information: The purpose of this information collection request is to continue the use of the electronic form FNS–674, titled ''User Access Request Form.'' This form will continue to allow user access to current FNS systems, as well as allow modified access or remove user access.

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

Number of Respondents: 2,700.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 870.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–05356 Filed 3–15–18; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Solicitation of Nominations for Members of the USDA Grain Inspection Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice to solicit nominees.

SUMMARY: The Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is seeking nominations for individuals to serve on the USDA Grain Inspection Advisory Committee (Advisory Committee). The Advisory Committee meets twice annually to advise AMS on the programs and services it delivers under the U.S. Grain Standards Act (USGSA). Recommendations by the Advisory Committee help AMS better meet the needs of its customers who operate in a dynamic and changing marketplace. The realignment of offices within the U.S. Department of Agriculture authorized by the Secretary's Memorandum dated November 14, 2017, eliminates the Grain Inspection, Packers and Stockyard Administration (GIPSA) as a standalone agency. The grain inspection activities formerly part of GIPSA are now organized under AMS.

DATES: AMS will consider nominations received by April 30, 2018.

ADDRESSES: Submit nominations for the Advisory Committee by completing form AD–755 and mail to:

- Kendra Kline, U.S. Department of Agriculture, 1400 Independence Ave. SW, Rm. 2043–S, Mail Stop 3614, Washington, DC 20250–3611, or
- *Fax:* 202–690–2333.

Form AD–755 may be obtained via USDA's website: *http://www.gipsa.usda.gov/fgis/forms-fgis/ad755.pdf.*

FOR FURTHER INFORMATION CONTACT: Kendra Kline, telephone (202) 690- 2410 or email *Kendra.C.Kline@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: As required by section 21 of the USGSA (7 U.S.C. 87j), as amended, the Secretary of Agriculture (Secretary) established the Advisory Committee on September 29, 1981, to provide advice to the AMS Administrator on implementation of the USGSA. As specified in the USGSA, each member's term is 3 years and no member may serve successive terms.

The Advisory Committee consists of 15 members, appointed by the Secretary, who represent the interests of grain producers, processors, handlers, merchandisers, consumers, exporters, and scientists with expertise in research related to the policies in section 2 of the USGSA (7 U.S.C. 74). While members of the Advisory Committee serve without compensation, USDA reimburses them for travel expenses, including per diem in lieu of subsistence, for travel away from their homes or regular places of business in performance of Advisory Committee service (see 5 U.S.C. 5703).

A list of current Advisory Committee members and other relevant information are available on web at *https://www.gipsa.usda.gov/fgis/advisory committee.aspx.*

AMS is seeking nominations for individuals to serve on the Advisory Committee. Applications submitted during the previous nomination period, December 06, 2016–January 20, 2017, will be considered unless notification is provided the individual no longer is available for consideration.

Nominations are open to all individuals without regard to race, color, religion, gender, national origin, age, mental or physical disability, marital status, or sexual orientation. To ensure that recommendations of the Advisory Committee take into account the needs of the diverse groups served by the USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The final selection of Advisory Committee members and alternates is made by the Secretary.

Dated: March 12, 2018.

Greg Ibach,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 2018–05314 Filed 3–15–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Helena-Lewis and Clark National Forest; Montana; Stonewall Vegetation Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement.

SUMMARY: The Helena-Lewis and Clark National Forest, Lincoln Ranger District, Montana, intends to prepare a Supplemental Environmental Impact Statement (SEIS) for the Stonewall Vegetation Project. The project area was impacted by wildfire in 2017 and a preliminary analysis of those effects has shown that supplemental analysis should be completed to assess the change in conditions resulting from the Park Creek Fire.

DATES: The Draft SEIS is expected May 2018, and the Final SEIS is expected August 2018.

FOR FURTHER INFORMATION CONTACT: Laura Conway, Team Leader, (406) 791–7739; *lconway@fs.fed.us.* Additional information concerning this project may be obtained at *https://www.fs.usda.gov/helena.*

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

SUPPLEMENTARY INFORMATION: The Stonewall Vegetation Project Record of Decision (ROD) was signed by Helena-Lewis and Clark Forest Supervisor William Avey on August 25, 2016 and with it, the Final Environmental Impact Statement (FEIS) was released to the public. The project was preliminarily enjoined by a court order and therefore implementation had not begun.

In July 2017, two wildfires ignited in the project area, eventually burning 18,000 acres, 13,390 of which were in the Stonewall project area. The fire burned all or portions of 16 treatment units, totaling 2,719 acres. Treatment units possessing viable harvest potential will be carried forward for analysis in this SEIS. The SEIS will supplement the Stonewall Vegetation Project FEIS by providing an updated analysis of environmental effects in light of the acres impacted by the Park Fire in July and August of 2017. Only those resources measurably affected by the changed baseline will be analyzed in the SEIS. These resources include soils, hydrology, fuels, vegetation, economics, fisheries and wildlife habitat.

Purpose and Need for Action

Wildfire affected the project area one year after environmental analysis and before implementation. The original purpose, to improve the mix of vegetation and structure across the landscape to make it more resilient to wildfire, remains on those acres not impacted by the 2017 Park Fire. Fuel reduction treatments can influence fire behavior to enhance community protection and allow fire to function in its natural role.

Proposed Action

The proposed action consists of approximately 1890 acres of treatments included in the selected alternative in the ROD. These treatments include 550 acres of pre-commercial thinning, 19 acres of improvement cuts, 345 acres of shelterwood cuts, 65 acres of clearcut, 25 acres of sanitation cuts, 300 acres of low intensity prescribed fire, and 555 acres of whitebark pine restoration. Less than one mile of temporary road is proposed, and this would be obliterated after implementation. Maintenance would occur on up to 31 miles of road. The proposed action includes the site-specific forest plan amendment for elk habitat as described in the 2016 ROD.

Responsible Official

Helena-Lewis and Clark Forest Supervisor.

Nature of Decision To Be Made

The decision will authorize vegetation treatments remaining under the Selected Alternative based on the updated analysis.

Preliminary Issues

Preliminary issues identified include lynx habitat, elk security, hiding cover, and thermal cover.

Scoping Process

A Notice of Intent (NOI) published on January 13, 2010 initiated the scoping process for the Stonewall Vegetation Project. The start of a 30-day scoping period began on January 16, 2010. In accordance with 40 CFR 1502.9(c)(4), no scoping will be conducted for this SEIS.

The Draft SEIS will be available for public comment as required by 40 CFR 1503.1. The Draft SEIS will be announced for public review and comment in **Federal Register**, on the Forest's website *https://www.fs.usda.gov/projects/helena/landmanagement/projects* and in the Helena Independent Record. The Helena-Lewis and Clark Forest Supervisor will issue a draft modified or new ROD after evalutating the SEIS and public comments. An objection period for the decision will be provided, consistent with 36 CFR part 218.

Authority

This NOI is being published pursuant to regulation (40 CFR 1508.22) implementing the procedural provision of the National Environmental Policy Act fof 1969, as amended (42 U.S.C. 4321 *et seq.).*

Dated: February 22, 2018.

Glenn P. Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2018–05320 Filed 3–15–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–01–2018]

Approval of Subzone Expansion; Lam Research Corporation; Fremont, Livermore and Tracy, California

On January 3, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the City of San Jose, grantee of FTZ 18, requesting an expansion of Subzone 18F, subject to the existing activation limit of FTZ 18, on behalf of Lam Research Corporation, in Fremont, Livermore and Tracy, California.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 2424, January 17, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 18F was approved on March 12, 2018, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 18's 2,000-acre activation limit.

Dated: March 13, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–05369 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839, A–583–833]

Polyester Staple Fiber From the Republic of Korea and Taiwan: Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping Duty Orders in Part

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

SUMMARY: Based upon a request from DAK Americas, LLC, Nan Ya Plastics Corporation, America, Auriga Polymers, and Palmetto Synthetics LLC (*i.e.,* the domestic producers), the Department of Commerce (Commerce) is initiating changed circumstances reviews to consider the possible revocation, in part, of the antidumping duty (AD) orders on polyester staple fiber (PSF) from the Republic of Korea (Korea) and Taiwan with respect to low-melt PSF.

DATES: Applicable March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Emily Halle or Nicholas Czajkowski, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0176 or (202) 482–1395, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2000, Commerce published the AD orders on PSF from Korea and Taiwan.[1] On December 8, 2017, the domestic producers requested that Commerce conduct changed circumstances reviews pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b) with respect to any coarse denier low-melt PSF that may be currently covered by the *Orders* to avoid any potential overlap in coverage between the *Orders* and the pending less-than-fair-value investigations of low-melt polyester staple fiber from Korea and Taiwan.[2] We received no comments from other interested parties.

Scope of the Orders

The product covered by the orders is certain polyester staple fiber (PSF). PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to these orders may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.25 is specifically excluded from these orders. Also specifically excluded from these orders are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to these orders is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65.[3] Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the orders is dispositive.

Proposed Revocation of the Orders

The domestic producers propose that the *Orders* be revoked with respect to coarse denier low-melt PSF. Should Commerce determine to revoke the *Orders,* in part, the domestic producers propose that Commerce replace the language currently in the scope, ''{i}n addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core,'' with the following language: ''{i}n addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component.''

Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Orders, in Part

Pursuant to section 751(b)(1) of the Act, Commerce will conduct a changed circumstances review upon receipt of a request an interested party that shows changed circumstances sufficient to warrant a review of an order.[4] In accordance with 19 CFR 351.216(d), Commerce determines that the information submitted by the domestic producers constitutes sufficient evidence to conduct changed circumstances reviews of the *Orders.*

Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order, in whole or in part. In addition, in the event Commerce determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits Commerce to combine the notices of initiation and preliminary results. In its administrative practice, Commerce has interpreted ''substantially all'' to mean producers accounting for at least 85 percent of the total U.S. production of the domestic like product covered by the order.[5]

The domestic producers did not submit any documentation supporting their claim that they account for substantially all of the domestic production of PSF. We are providing interested parties with the opportunity to address the issue of domestic industry support with respect to this requested partial revocation of the orders, as explained below. After examining comments, if any, concerning domestic industry support, Commerce will issue the preliminary results of these changed circumstances reviews.

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan,* 65 FR 33807 (May 25, 2000) *(Orders).*

[2] *See Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 34277 (July 24, 2017); *see also Low Melt Polyester Staple Fiber from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures,* 83 FR 4906 (February 2, 2018).

[3] These HTSUS numbers have been revised to reflect changes in the HTSUS numbers at the suffix level.

[4] *See* 19 CFR 351.216.

[5] *See, e.g., Certain Cased Pencils from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent To Revoke Order in Part,* 77 FR 42276 (July 18, 2012), unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part,* 77 FR 53176 (August 31, 2012).

Public Comment

Interested parties are invited to provide comments and/or factual information regarding these changed circumstances reviews, including comments concerning industry support. Comments and factual information may be submitted to Commerce no later than ten days after the date of publication of this notice. Rebuttal comments and rebuttal factual information may be filed with Commerce no later than seven days after the comments and/or factual information are filed.[6] All submissions must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[7] An electronically filed document must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time on the due dates set forth in this notice.

Preliminary and Final Results of the Review

Commerce intends to publish in the **Federal Register** a notice of the preliminary results of the antidumping duty changed circumstances review in accordance with 19 CFR 351.221(b)(4) and (c)(3)(i), which will set forth Commerce's preliminary factual and legal conclusions. Commerce will issue its final results of the changed circumstances review in accordance with the time limits set forth in 19 CFR 351.216(e).

Dated: March 12, 2018.

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. 2018–05373 Filed 3–15–18; 8:45 am]

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[6] Submission of rebuttal factual information must comply with 19 CFR 351.301(b)(2).

[7] *See, generally,* 19 CFR 351.303.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–867]

Large Power Transformers From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015–2016

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

SUMMARY: On September 7, 2017, the Department of Commerce (Commerce) published in the **Federal Register** the preliminary results of the fourth administrative review of the antidumping duty order on large power transformers from the Republic of Korea. The period of review is August 1, 2015, through July 31, 2016. Based on our analysis of the comments and information received, we continue to find that the application of facts available with an adverse inference is warranted for Hyosung Corporation (Hyosung) and Hyundai Heavy Industries Co., Ltd. (Hyundai). For the final weighted-average dumping margins, *see* the ''Final Results of Review'' section below.

DATES: Applicable March 16, 2018.

FOR FURTHER INFORMATION CONTACT: John Drury (Hyosung) or Moses Song (Hyundai), AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–5041, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2017, Commerce published the *Preliminary Results.*[1] A summary of the events that occurred since Commerce published these results, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now March 9, 2018.[3]

Scope of the Order

The scope of this order covers large liquid dielectric power transformers (LPTs) having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States at subheadings 8504.23.0040, 8504.23.0080, and 8504.90.9540. For a complete description of the scope of the order, *see* Appendix I to this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. For a list of the issues raised by parties, *see* Appendix II to this notice.

Changes Since the Preliminary Results

Commerce has made no changes to the *Preliminary Results.* As stated in the *Preliminary Results,* we found that the application of total facts otherwise available with adverse inferences, for Hyosung's and Hyundai's weighted-average dumping margin, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended, (the Act), was warranted. Further, we continue to find that a reasonable method for determining the rate for the three companies not selected for individual examination is to use the rate applied to the mandatory respondents (*i.e.,* Hyosung and Hyundai) in this administrative review.

Final Results of the Review

The final weighted-average dumping margins are as follows:

[1] *See Large Power Transformers from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 42289 (September 7, 2017) (*Preliminary Results*).

[2] *See* Memorandum to 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, entitled ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea; 2015–2016'', dated concurrently with this notice (Issues and Decision Memorandum).

[3] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

Producer or exporter	Weighted-average dumping margin (percent)
Hyosung Corporation	60.81
Hyundai Heavy Industries Co., Ltd	60.81
Iljin Electric Co., Ltd	60.81
Iljin	60.81
LSIS Co., Ltd	60.81

Disclosure

The final weighted-average dumping margins assigned to Hyosung and Hyundai for the final results in this review are based on total facts available with adverse inferences. Accordingly, no disclosure of calculations is necessary for these final results.

Assessment Rate

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce shall instruct CBP to apply an *ad valorem* assessment rate of 60.81 percent to all entries of subject merchandise during the POR which were produced and/or exported by Hyosung, Hyundai, Iljin, Iljin Electric, and LSIS.

We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of these final results, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for respondents noted above will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 22.00 percent, the all-others rate established in the less-than-fair-value investigation.[4] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the period of review. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties did occur and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

March 9, 2018.

Gary Taverman,

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

Appendix I

Scope of the Order

The scope of this order covers LPTs having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete.

Incomplete LPTs are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of LPTs. The ''active part'' of the transformer consists of one or more of the following when attached to or otherwise assembled with one another: The steel core or shell, the windings, electrical insulation between the windings, the mechanical frame for an LPT.

The product definition encompasses all such LPTs regardless of name designation, including but not limited to step-up transformers, step-down transformers, autotransformers, interconnection transformers, voltage regulator transformers, rectifier transformers, and power rectifier transformers.

The LPTs subject to this order are currently classifiable under subheadings 8504.23.0040, 8504.23.0080 and 8504.90.9540 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. List of Issues
III. Background
IV. Scope of the Order
V. Application of Total Adverse Facts Available With Regard to Hyundai and Hyosung
VI. Discussion of the Issues

A. Hyundai-Specific Issues

Comment 1: Application of Total AFA
(A) Hyundai's Reporting of Accessories
(B) Hyundai's Understatement of Its Home Market Gross Unit Prices
(C) Hyundai's Undisclosed Affiliated Sales Agent
(D) Moot Issues
Comment 2: Selection of AFA Rate
Comment 3: Application of Hyundai's Margin to New Entity

B. Hyosung-Specific Issues

Comment 4: Application of Total AFA
(A) Hyosung's Reporting of Service-Related Revenue
(B) Invoice for Certain SEQUs Covering Multiple Sales Over Multiple Review Periods
(C) Hyosung Failed To Report All Relevant Discounts and Price Adjustments
(D) Moot Issues

C. General Issues

Comment 5: Non-Selected Respondents
(A) Application of Total Facts Available
(B) Commerce Should Request Information Needed To Calculate Dumping Margins for Unexamined Companies
VII. Recommendation

[4] *See Large Power Transformers from the Republic of Korea: Antidumping Duty Order,* 77 FR 53177 (August 31, 2012).

[FR Doc. 2018–05375 Filed 3–15–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–061, C–533–876]

Fine Denier Polyester Staple Fiber From the People's Republic of China and India: Amended Final Affirmative Countervailing Duty Determination for the People's Republic of China and Countervailing Duty Orders for the People's Republic of China and India

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing countervailing duty orders on fine denier polyester staple fiber (fine denier PSF) from the People's Republic of China (China) and India. Also, as explained in this notice, Commerce is amending its final affirmative determination with respect to China to correct the rates assigned to Jiangyin Hailun Chemical Fiber Co. Ltd. (Hailun Chemical) and All-Others.

DATES: Applicable March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas at (202) 482–3813 and Davina Friedmann at (202) 482–0698 (China); Trisha Tran at (202) 482–4852 and Eli Lovely at (202) 482–1593 (India); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on January 23, 2018, Commerce published its affirmative final determinations in the countervailing duty investigations of fine denier PSF from China and India.[1] On January 30, 2018, Commerce received a timely allegation from Hailun Chemical that Commerce made ministerial errors in the final determination of fine denier PSF from China.[2] Commerce analyzed Hailun Chemical's allegation and determined that ministerial errors exist, as defined by section 705(e) of the Act and 19 CFR 351.224(f). *See* ''Amendment to China PSF Final Determination'' section below for further discussion.

On March 7, 2018, the ITC notified Commerce of its final affirmative determination, pursuant to section 705(d) of the Act, that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of fine denier PSF from China and India.[3]

Scope of the Orders

The product covered by these orders is fine denier PSF from China and India. For a complete description of the scope of these orders, *see* the Appendix to this notice.

Amendment to the China PSF Final Determination

As discussed above, after analyzing Hailun Chemical's allegation, we determined, in accordance with section 705(e) of the Act and 19 CFR 351.224(f), that ministerial errors were made in certain calculations for the *China Final Determination.*[4] This amended final CVD determination corrects these errors and revises the *ad valorem* subsidy rate for Hailun Chemical. The amended *ad valorem* subsidy rate for Hailun Chemical is 37.75 percent.[5] The *ad valorem* subsidy rate for Hailun Chemical was used to calculate the subsidy rate for all-other producers/exporters from China, and, as such, the amended *ad valorem* subsidy rate for all-other producers/exporters in the PRC is 42.66 percent.[6] All other countervailing duty rates remain unchanged from the *China Final Determination.*

Countervailing Duty Orders

As stated above, on March 7, 2018, in accordance with section 705(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured by reason of subsidized imports of fine denier PSF from China and India.[7] Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing these countervailing duty orders. Because the ITC determined that an industry in the United States is materially injured by reason of imports of such merchandise that are subsidized by the governments of China and India, unliquidated entries of such merchandise from China and India, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

As a result of the ITC's final determination, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties on unliquidated entries of fine denier PSF from China and India entered, or withdrawn from warehouse, for consumption on or after November 6, 2017, the date of publication of the *Preliminary Determinations,*[8] but will not include entries occurring after the expiration of the provisional measures period and before publication in the **Federal Register** of the ITC's final injury determination.

Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute liquidation on all entries of subject merchandise from China and India, applicable the date of publication of the ITC's notice of final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. We will also instruct CBP to require cash deposits for each entry of subject merchandise as indicated below. These instructions suspending liquidation will remain in effect until

[1] *See Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from the People's Republic of China: Final Affirmative Determination,* 83 FR 3120 (January 23, 2018) (*China Final Determination*); and *Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Final Affirmative Determination,* 83 FR 3122 (January 23, 2018) (*India Final Determination*).

[2] *See* Letter from Hailun Chemical, ''Fine Denier Polyester Staple Fiber from the People's Republic of China—Ministerial Error Allegation,'' dated January 30, 2018 (Hailun Chemical's Ministerial Error Allegation).

[3] *See* Letter from the ITC concerning imports of fine denier PSF from China and India (Investigation Nos. 701–TA–579–580 (Final)), dated March 7, 2018 (ITC Notification Letter).

[4] *See* Hailun Chemical's Ministerial Error Allegation.

[5] *See* Memorandum from Davina Friedmann to James Maeder, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations regarding, ''Fine Denier Polyester Staple Fiber from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value Pursuant to Ministerial Error Allegation, and Countervailing Duty Order (Amended Final Determination and Order Memorandum).''

[6] *Id.*

[7] *See* ITC Notification Letter.

[8] *See Fine Denier Polyester Staple Fiber from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 82 FR 51396 (November 6, 2017); *see also Fine Denier Polyester Staple Fiber from India: Preliminary Affirmative Countervailing Duty Determination,* 82 FR 51387 (November 6, 2017) (collectively, *Preliminary Determinations*).

further notice. The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

Exporter/producer from China	Subsidy rate (percent)
Jiangyin Hailun Chemical Fiber Co. Ltd	37.75
Jiangyin Huahong Chemical Fiber Co. Ltd	47.57
All-Others	42.66

Exporter/producer from China	Subsidy rate (percent)
Bombay Dyeing & Mfg. Co. Ltd	13.38
Reliance Industries Limited	27.36
All-Others	24.80

Provisional Measures

Section 703(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigations, Commerce published the *Preliminary Determinations* on November 6, 2017. As such, the four-month period beginning on the date of the publication of the *Preliminary Determinations* ended on March 5, 2018. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 703(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of fine denier PSF from China and India entered, or withdrawn from warehouse, for consumption, after March 5, 2018, the date the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Notification to Interested Parties

This notice constitutes the countervailing duty orders with respect to fine denier PSF from China and India pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: March 12, 2018.

Gary Taverman,

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

Appendix

Scope of the Orders

The merchandise covered by these orders is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

(1) PSF equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.

(2) Low-melt PSF defined as a bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently classifiable under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

[FR Doc. 2018–05371 Filed 3–15–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–912]

Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review; 2016–2017

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

SUMMARY: On November 13, 2017, the Department of Commerce (Commerce) initiated an administrative review of the antidumping duty order on certain new pneumatic off-the-road tires (OTR Tires) from the People's Republic of China (China) for three companies. Based on timely withdrawal of requests for review, we are now rescinding this administrative review with respect to two of these companies: Maxon Int'l Co., Limited (Maxon); and Tianjin Leviathan International Trade Co., Ltd. (Leviathan).

DATES: Applicable March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Alex Rosen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7814.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2017, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on OTR Tires from China.[1] In September and October of 2017, Commerce received timely requests to conduct an administrative review of the antidumping duty order on OTR Tires from China.[2] Based on these requests, on November 13, 2017, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), Commerce published in the **Federal Register** a notice of initiation of an administrative review covering the period September 1, 2016, through August 31, 2017, with respect to three companies: Zhongwei, Maxon, and Leviathan.[3] On January 12, 2018, and January 19, 2018, respectively, Leviathan[4] and Maxon[5] timely withdrew their requests for an administrative review.

Partial Rescission

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 the notice of initiation of the requested review. Leviathan and Maxon timely withdrew their respective requests for an administrative review; no other party requested a review of

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[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 41595 (September 1, 2017).

[2] *See* Maxon's letter, ''Certain New Pneumatic Off-the-Road Tires from the People's Republic of China Request for Administrative Review,'' dated September 25, 2017; Leviathan's letter, ''New Pneumatic Off-the-Road Tires from the PRC: Request for Antidumping Administrative Review,'' dated September 26, 2017; Zhongwei Rubber Co, Ltd.'s (Zhongwei), ''New Pneumatic Off-the-Road Tires from the People s Republic of China: Request for Administrative Review,'' dated October 2, 2017; and a letter from Super Grip Corporation, a U.S. importer of Zhongwei's subject merchandise, ''New Pneumatic Off-The-Road Tires People s Republic of China Request for Administrative Review,'' dated October 2, 2017, in which it requested an administrative review of Zhongwei.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 52272 (November 13, 2017).

[4] *See* Letter from Leviathan, ''New Pneumatic Off-the-Road Tires from the PRC: Withdrawal of Request for Review for Tianjin Leviathan International Trade Co., Ltd.'' dated January 12, 2018.

[5] *See* Letter from Maxon, ''Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Withdrawal of Request for Administrative Review'' dated January 19, 2018.

these companies. Accordingly, we are rescinding this review, in part, with respect to these companies, pursuant to 19 CFR 351.213(d)(1).

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For Leviathan and Maxon, the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: March 12, 2018.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018–05374 Filed 3–15–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016

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

SUMMARY: The Department of Commerce (Commerce) determines that The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively, Stanley), a manufacturer/exporter of certain steel nails from the People's Republic of China (China), sold subject merchandise in the United States at prices below normal value during the period of review (POR), August 1, 2015, through July 31, 2016. We are also not granting a separate rate to Tianjin Lianda Group Co., Ltd. (Tianjin Lianda).

DATES: Applicable March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Courtney Canales, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–2312 or (202) 482–4997, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* on September 7, 2017.[1] From November 29, 2017, through December 1, 2017, Commerce officials verified the questionnaire responses of Stanley in North Kingstown, Rhode Island.[2] Also, from December 11 through 15, 2017, Commerce officials verified the questionnaire responses of Stanley in Langfang, Hebei Province, China.[3] On December 20, 2017, Commerce extended the deadline in this proceeding by 60 days.[4] On January 23, 2018, we tolled the deadline by three days due to the shutdown of the federal government.[5] The revised deadline for the final results of this review is now March 9, 2018.

In accordance with 19 CFR 351.309, we invited parties to comment on our *Preliminary Results.* On February 15, 2018, Hebei Minmetals Co., Ltd.,[6] Hillman Group, Inc.,[7] Mid Continent Steel & Wire, Inc. (the petitioner),[8] The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker Inc.,[9] Building Material Distributors, Inc. (BMD), and Tianjin Jinghai County Hongli Industry & Business Co., Ltd., Tianjin Jinchi Metal Products Co., Ltd., Shandong Dinglong Import & Export Co., Ltd., Tianjin Zhonglian Metals Ware Co., Ltd., Shanghai Yueda Nails Industry Co., Ltd. and Shanxi Tianli Industries Co., Ltd.,[10] submitted timely filed case briefs, pursuant to our regulations.[11] Additionally, on February 21, 2018, the petitioner and Stanley submitted timely-filed rebuttal briefs.[12] On February 28, 2018, in response to Commerce's instructions, Stanley re-filed it case brief with untimely new factual information redacted, and the petitioner re-filed its rebuttal brief with an untimely new affirmative argument redacted.[13]

[1] *See Certain Steel Nails from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015–2016,* 82 FR 42291 (September 7, 2017) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] See Memorandum to the file ''Sales Verification Report for The Stanley Works (Langfang) Fastening Systems Co., Ltd. (Stanley Langfang), and Stanley Black & Decker, Inc. (SBD) (collectively, Stanley) in the Antidumping Duty Administrative Review of Certain Steel Nails from the People's Republic of China (China),'' dated February 6, 2018 (Stanley Sales Verification Report).

[3] See Memorandum to the file ''Sales Verification Report for The Stanley Works (Langfang) Fastening Systems Co., Ltd. (Stanley Langfang), and Stanley Black & Decker, Inc. (SBD) (collectively, Stanley) in the Antidumping Duty Administrative Review of Certain Steel Nails from the People's Republic of China (China),'' dated February 6, 2018 (Stanley Langfang Verification Report).

[4] See Memorandum to James Maeder, ''Eighth Antidumping Duty Administrative Review of Certain Steel Nails from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' (December 20, 2017).

[5] See Memorandum to The Record, from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018.

[6] Hebei Minmetals Co., Ltd. (Hebei Minmetals).

[7] Hillman Group, Inc. (Hillman).

[8] Mid Continent Steel & Wire, Inc. (the petitioner).

[9] The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker Inc. (Stanley).

[10] Tianjin Jinghai County Hongli Industry & Business Co., Ltd., Tianjin Jinchi Metal Products Co., Ltd., Shandong Dinglong Import & Export Co., Ltd., Tianjin Zhonglian Metals Ware Co., Ltd., Shanghai Yueda Nails Industry Co., Ltd. and Shanxi Tianli Industries Co., Ltd. (GDLSK Respondents).

[11] *See e.g.,* Letter to the Secretary, from Hebei Minmetals regarding ''Certain Steel Nails from the People's Republic of China: Case Brief,'' dated February 15, 2018.

[12] *See e.g.,* Letter to the Secretary, from the petitioner, regarding ''Certain Steel Nails from the People's Republic of China: Rebuttal Brief,'' dated February 21, 2018.

[13] *See* Letter to the Secretary, from Stanley regarding ''Certain Steel Nails from the People's

Continued

Scope of the Order

The merchandise covered by the *Order* includes certain steel nails having a shaft length up to 12 inches. Certain steel nails subject to the *Order* are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.[14] While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order,* which is contained in the accompanying Issues and Decision Memorandum (I&D Memo), is dispositive.[15]

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs by parties to this review in the I&D Memo. Attached to this notice, as an Appendix, is a list of the issues which parties raised. The I&D Memo is a public document and is on file in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the CRU. In addition, a complete version of the I&D Memo can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the I&D Memo, we revised the margin calculation for Stanley. Accordingly, for the final results, Commerce has updated the margin to be assigned to companies eligible for a separate rate as the revised margins for the sole mandatory respondent, Stanley, whose margin is not zero, *de minimis,* or based on facts available. The Surrogate Values Memo contains further explanation of our changes to the surrogate values selected for Stanley's factors of production.[16] For a list of all issues addressed in these final results, please refer to the Appendix accompanying this notice.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that two companies, Mingguan Ruifeng Hardware Products Co., Ltd. (Mingguan Ruifeng) and Shandong Oriental Cherry Hardware Import & Export Co., Ltd. (Cherry Hardware Import & Export), did not have any reviewable transactions during the POR. Consistent with Commerce's assessment practice in non-market economy (NME) cases, we completed the review with respect to Mingguan Ruifeng and Cherry Hardware Import & Export. Based on the certifications submitted by the aforementioned companies, and our analysis of CBP information, we continue to determine that these companies did not have any reviewable transactions during the POR. As noted in the ''Assessment Rates'' section below, Commerce intends to issue appropriate instructions to CBP for the above-named companies based on the final results of this review.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(B) of the Act. In the *Preliminary Results,* the Department calculated constructed export prices in accordance with section 772 of the Act. Because China is a nonmarket economy (NME) within the meaning of section 771(18) of the Act, normal value is calculated in accordance with section 773(c) of the Act. We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsidering this determination. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, available at *http://enforcement.trade.gov/frn/.*

Final Results of Administrative Review

The weighted-average dumping margins for the administrative review are as follows:

Exporter	Weighted-average margin (percent)
Stanley	5.98
Dezhou Hualude Hardware Products Co., Ltd	5.98
Hebei Cangzhou New Century Foreign Trade Co., Ltd	5.98
Hebei Minmetals Co., Ltd	5.98
Nanjing CAIQING Hardware Co., Ltd	5.98
Nanjing Toua Hardware & Tools Co., Ltd	5.98
Qingdao D&L Group Ltd	5.98
SDC International Aust. PTY. LTD	5.98
Shandong Dinglong Import & Export Co., Ltd	5.98
Shandong Oriental Cherry Hardware Group Co., Ltd	5.98
Shandong Qingyun Hongyi Hardware Products Co., Ltd	5.98
Shanghai Curvet Hardware Products Co., Ltd	5.98
Shanghai Yueda Nails Industry Co., Ltd. a.k.a. Shanghai Yueda Nails Co., Ltd	5.98
Shanxi Hairui Trade Co., Ltd	5.98
Shanxi Pioneer Hardware Industrial Co., Ltd	5.98
Shanxi Tianli Industries Co., Ltd	5.98
Suntec Industries Co., Ltd	5.98
S-Mart (Tianjin) Technology Development Co., Ltd	5.98
Tianjin Jinchi Metal Products Co., Ltd	5.98
Tianjin Jinghai County Hongli Industry & Business Co., Ltd	5.98
Tianjin Universal Machinery Imp. & Exp. Corporation	5.98
Tianjin Zhonglian Metals Ware Co., Ltd	5.98
Xi'an Metals & Minerals Import & Export Co., Ltd	5.98

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication

Republic of China: Redacted Version Case Brief,'' dated February 28, 2018; *see also* Letter to the Secretary, from the petitioner regarding ''Certain Steel Nails from the People's Republic of China: Revised Rebuttal Brief,'' dated February 28, 2018.

[14] Commerce added the Harmonized Tariff Schedule category 7907.00.6000, ''Other articles of zinc: Other,'' to the language of the *Order. See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, regarding ''Certain Steel Nails from the People's Republic of China: Cobra Anchors Co. Ltd. Final Scope Ruling,'' (September 19, 2013).

[15] For a full description of the scope of the *Order, see* Memorandum from James Maeder, Associate Deputy Assistant Secretary performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Christopher Marsh, Deputy Assistant Secretary for Enforcement and Compliance, ''Certain Steel Nails from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Eighth Antidumping Duty Administrative Review'' (March 9, 2018) (I&D Memo) which is adopted by this notice.

[16] *See* Memorandum to the File, through Paul Walker, Program Manager, Office V, Enforcement and Compliance, from Courtney Canales, International Trade Analyst, Office V, Enforcement and Compliance, regarding Eighth Antidumping Administrative Review of Certain Steel Nails from the People's Republic of China: Surrogate Values for the Final Results, dated concurrently with and hereby adopted by this notice (Surrogate Values Memo).

of the final results of this administrative review.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[17] Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.[18] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (*i.e.,* 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[19] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[20] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the China-wide entity at the China-wide rate.

For respondents that were not selected for individual examination in this administrative review and which qualified for a separate rate, the assessment rate is equal to the weighted-average dumping margin assigned to Stanley, 5.98 percent.

Pursuant to Commerce's assessment practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, Commerce will instruct CBP to liquidate such entries at the China-wide entity rate. Additionally, if Commerce determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the China-wide entity rate.[21]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis,* a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed China and non-China exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all China exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 118.04 percent; and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporters that supplied that non-China exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed regarding these final results within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also 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), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: March 9, 2018.

Gary Taverman,

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

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
- Comment 1: Low Carbon Steel Wire Rod Surrogate Value
- Comment 2: Medium Carbon Steel Wire Rod Surrogate Value
- Comment 3: Differential Pricing Methodology
- Comment 4A: Tianjin Lianda's Status for the Final Results
- Comment 4B: Calculation of a Margin for Tianjin Lianda Based on Incomplete Data
- Comment 4C: Whether Commerce Should Include Tianjin Lianda's Margin in the Calculation of the Separate Rate
- Comment 5: Correction of Errors in Tianjin Lianda's Margin Calculation
- Comment 6: Plastic Granules Surrogate Value
- Comment 7: Sealing Tape Surrogate Value
- Comment 8: Thermal Transfer Ribbon Surrogate Value
- Comment 9: Orthophosphoric Acid Surrogate Value
- Comment 10: Treatment of Stanley's Wiredrawing Toller's Scrap
- Comment 11: Correction of a Transposition Error for the Corrosion Resistant Coating and Paint Thinner Surrogate Values

V. Recommendation

[FR Doc. 2018–05370 Filed 3–15–18; 8:45 a.m.]

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[17] *See* 19 CFR 351.212(b)(1).

[18] *Id.*

[19] *Id.*

[20] *See* 19 CFR 351.106(c)(2).

[21] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with January anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with January anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, except for the administrative review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China (China), Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*e.g.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Respondent Selection—Wooden Bedroom Furniture From China

In the event that Commerce limits the number of respondents for individual examination in the antidumping duty administrative review of wooden bedroom furniture from China, for the purposes of this segment of the proceeding, *i.e.,* the 2017 review period, Commerce intends to select respondents based on volume data contained in responses to a Q&V questionnaire. All parties are hereby notified that they must timely respond to the Q&V questionnaire. Commerce's Q&V questionnaire along with certain additional questions will be available in a document package on Commerce's website at *http://enforcement.trade.gov/download/prc-wbf/index.html* on the date this notice is published. The responses to the Q&V questionnaire should be filed with the respondents' Separate Rate Application or Separate Rate Certification (see the 'Separate Rates' section below) and their response to the additional questions and must be received by Commerce by no later than 30 days after publication of this notice. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, Commerce does not intend to grant any extensions for the submission of responses to the Q&V questionnaire.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when Commerce will exercise its discretion to extend this 90-day deadline, interested parties are advised that Commerce does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. In addition, all firms that wish to qualify for separate-rate status in the antidumping duty administrative review of wooden bedroom furniture from China must complete, as appropriate, either a separate-rate certification or application, as described below, and respond to the additional questions and the Q&V questionnaire on Commerce's website at *https://enforcement.trade.gov/download/prc-wbf/index.html.* For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. For the antidumping duty administrative review of wooden bedroom furniture from China, Separate Rate Certifications, as well as a response to the Q&V questionnaire and the additional questions in the document package, are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to Commerce no later than 30 calendar days of publication of this **Federal Register** notice. For the antidumping duty administrative review of wooden bedroom furniture from China, Separate Rate Status Applications, as well as a response to the Q&V questionnaire and the additional questions in the document package, are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Furthermore, this notice constitutes public notification to all firms for which an antidumping duty administrative review of wooden bedroom furniture from China has been requested, and that are seeking separate rate status in the review, that they must submit a timely separate rate application or certification (as appropriate) as described above, and a timely response to the Q&V questionnaire and the additional questions in the document package on Commerce's website in order to receive consideration for separate-rate status. In other words, Commerce will not give consideration to any timely separate rate certification or application made by parties who failed to respond in a timely manner to the Q&V questionnaire and the additional questions. All information submitted by respondents in the antidumping duty administrative review of wooden bedroom furniture from China is subject to verification. As noted above, the separate rate certification, the separate rate application, the Q&V questionnaire, and the additional questions will be available on Commerce's website on the date of publication of this notice in the **Federal Register**.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than January 31, 2019.

Antidumping duty proceedings	Period to be reviewed
INDIA: Welded Stainless Pressure Pipe,[4] A–533–867	5/10/16–10/31/17
Quality Stainless Pvt. Ltd.	
REPUBLIC OF KOREA: Welded Line Pipe, A–580–876	12/1/16–11/30/17
BDP International, Inc.[5]	

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

[4] The company name listed above was inadvertently misspelled in the initiation notice that published on January 11, 2018 (83 FR 1329). The correct spelling of the company is listed in this notice.

[5] In the initiation notice that published on February 23, 2018 (83 FR 8058) the company name listed above was incorrectly spelled as ''BDP Interntional, Inc.'' The company name listed above reflects the correct spelling.

Antidumping duty proceedings	Period to be reviewed
THE PEOPLE'S REPUBLIC OF CHINA: Potassium Permanganate, A–570–001	1/1/17–12/31/17
Chongqing Changyuan Group Limited.	
Pacific Accelerator Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Wooden Bedroom Furniture, A–570–890	1/1/17–12/31/17
Decca Furniture Ltd.	
Dongguan Chengcheng Furniture Co., Ltd.	
Dongguan Kingstone Furniture Co., Ltd., Kingstone Furniture Co., Ltd.	
Dongguan Mu Si Furniture Co., Ltd.	
Dongguan Nova Furniture Co., Ltd.	
Dongguan Singways Furniture Co., Ltd.	
Dongguan Sunrise Furniture Co., Ltd., Taicang Sunrise Wood Industry Co., Ltd., Taicang	
Fairmount Designs Furniture Co., Ltd., Meizhou Sunrise Furniture Co., Ltd.	
Dongguan Sunrise Furniture Co., Taicang Sunrise Wood Industry Co., Ltd.	
Shanghai Sunrise Furniture Co. Ltd., Fairmont Designs.	
Dongguan Sunshine Furniture Co., Ltd.	
Dongguan Yujia Furniture Co., Ltd.	
Dongguan Zhisheng Furniture Co., Ltd.	
Dorbest Ltd., Rui Feng Woodwork Co., Ltd. AKA Rui Feng Woodwork (Dongguan) Co., Ltd., Rui Feng Lumber Development Co., Ltd. AKA Rui Feng Lumber Development (Shenzhen) Co., Ltd.	
Dream Rooms Furniture (Shanghai) Co. Ltd.	
Eurosa (Kunshan) Co., Ltd., Eurosa Furniture Co., (PTE) Ltd.	
Fleetwood Fine Furniture LP.	
Fortune Furniture Ltd., Dongguan Fortune Furniture Ltd.	
Fujian Lianfu Forestry Co., Ltd. (Aka Fujian Wonder Pacific, Inc.).	
Fuzhou Huan Mei Furniture Co., Ltd.	
Golden Well International (HK) Ltd.	
Guangdong New Four Seas Furniture Manufacturing Ltd.	
Guangzhou Lucky Furniture Co., Ltd.	
Guangzhou Maria Yee Furnishings Ltd., Pyla Hk Ltd., Maria Yee, Inc.	
Hang Hai Woodcrafts Art Factory.	
Jiangmen Kinwai Furniture Decoration Co., Ltd.	
Jiangmen Kinwai International Furniture Co., Ltd.	
Jiangsu Dare Furniture Co., Ltd.	
Jiangsu Xiangsheng Bedtime Furniture Co., Ltd.	
Jiangsu Yuexing Furniture Group Co., Ltd.	
Jiashan Zhenxuan Furniture Co., Ltd.	
Jiedong Lehouse Furniture Co., Ltd.	
King's Way Furniture Industries Co., Ltd., Kingsyear Ltd.	
Kunshan Summit Furniture Co., Ltd.	
Nanhai Jiantai Woodwork Co., Ltd., Fortune Glory Industrial Ltd. (H.K. Ltd.).	
Nantong Wangzhuang Furniture Co. Ltd.	
Nantong Yangzi Furniture Co., Ltd.	
Nathan International Ltd., Nathan Rattan Factory.	
Perfect Line Furniture Co., Ltd.	
Putian Jinggong Furniture Co., Ltd.	
Qingdao Beiyuan Shengli Furniture Co., Ltd., Qingdao Beiyuan Industry Trading Co., Ltd.	
Qingdao Liangmu Co., Ltd.	
Restonic (Dongguan) Furniture Ltd., Restonic Far East (Samoa) Ltd.	
Rizhao Sanmu Woodworking Co., Ltd.	
Shanghai Jian Pu Export & Import Co., Ltd.	
Shanghai Maoji Imp and Exp Co., Ltd.	
Shenyang Shining Dongxing Furniture Co., Ltd.	
Shenzhen Diamond Furniture Co., Ltd.	
Shenzhen Forest Furniture Co., Ltd.	
Shenzhen Jiafa High Grade Furniture Co., Ltd., Golden Lion International Trading Ltd.	
Shenzhen New Fudu Furniture Co., Ltd.	
Shenzhen Wonderful Furniture Co., Ltd.	
Shenzhen Xingli Furniture Co., Ltd.	
Shing Mark Enterprise Co., Ltd., Carven Industries Ltd. (BVI), Carven Industries Ltd. (HK), Dongguan Zhenxin Furniture Co., Ltd., Dongguan Yongpeng Furniture Co., Ltd.	
Songgang Jasonwood Furniture Factory, Jasonwood Industrial Co., Ltd. S.A.	
Sunforce Furniture (Hui-Yang) Co., Ltd., Sun Fung Wooden Factory, Sun Fung Company, Shin Feng Furniture Co., Ltd., Stupendous International Co., Ltd.	
Superwood Co., Ltd., Lianjiang Zongyu Art Products Co., Ltd.	
Techniwood Industries Ltd., Ningbo Furniture Industries Ltd., Ningbo Hengrun Furniture Co., Ltd.	
Tradewinds Furniture Ltd., Fortune Glory Industrial Ltd. (H.K. Ltd.).	
Tube-Smith Enterprise (Zhangzhou) Co., Ltd., Tube-Smith Enterprise (Haimen) Co., Ltd., Billonworth Enterprises Ltd.	
Weimei Furniture Co., Ltd.	
Wuxi Yushea Furniture Co., Ltd.	
Xiamen Yongquan Sci-Tech Development Co., Ltd.	
Xilinmen Group Co. Ltd.	
Yeh Brothers World Trade Inc.	
Yihua Lifestyle Technology Co., Ltd.	

Antidumping duty proceedings	Period to be reviewed
Yihua Timber Industry Co., Ltd., Guangdong Yihua Timber Industry Co., Ltd.	
Zhangjiagang Daye Hotel Furniture Co., Ltd.	
Zhangjiagang Zheng Yan Decoration Co., Ltd.	
Zhangzhou Guohui Industrial & Trade Co., Ltd.	
Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd.	
Zhong Shan Fullwin Furniture Co., Ltd.	
Zhongshan Fookyik Furniture Co., Ltd.	
Zhongshan Golden King Furniture Industrial Co., Ltd.	
Zhoushan For-Strong Wood Co., Ltd.	
Countervailing Duty Proceedings	
INDIA: Welded Stainless Pressure Pipe,[6] C–533–868	3/11/16–12/31/16
Hindustan Inox Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Oil Country Tubular Goods, C–570–944	1/1/17–12/31/17
Anhui Tianda Oil Pipe Company Limited.	
Doright Co., Ltd.	
DSC Pipes and Tubes Private Limited.	
Hainan Standard Stone Co., Ltd.	
Hengyang Hongda Special Steel Tube Co. Ltd.	
Hengyang Steel Tube Group International Trading Inc.	
Hubei Xingegang Steel Co., Ltd.	
Jiangsu Chengde Steel Tube Co., Ltd.	
Jiangyi City Changlongde.	
Shanghai Jianeng Luggage Co., Ltd.	
Tianjn Pipe International Economic & Trading Corporation.	
Wuxi Seamless Oil Pipe Co., Ltd.	
Wuxi Zhenda Special Steel Tube Manufacturing Co., Ltd.	
Yangzhou Chengde Steel Pipe Co., Ltd.	
Yangzhou Lontrin Steel Tube Co., Ltd.	
Zhejiang Gross Seamless Tube Co., Ltd.	
Zhejiang Xinghe Group.	
Suspension Agreements	
MEXICO: Sugar,[7] C–201–846	1/1/17–12/31/17

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

[6] This company was inadvertently omitted from the initiation notice that published on January 11, 2018 (83 FR 1329). Further, the initiation notice that published on February 23, 2018 (83 FR 8058) incorrectly listed Quality Stainless Pvt. Ltd. under this case number.

[7] In the initiation notice that published on February 23, 2018 (83 FR 8058) the POR for the above referenced case was incorrect. The period listed above is the correct POR for this case.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt*, prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness

of that information.[8] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[9] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: March 12, 2018.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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[8] *See* section 782(b) of the Act.

[9] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–016]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016

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

SUMMARY: The Department of Commerce (Commerce) determines that Giti Tire Global Trading Pte. Ltd. (Giti) and its affiliates as well as Qingdao Sentury Tire Co., Ltd. (Sentury) and its affiliates, manufacturers/exporters of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (China), sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) January 27, 2015, through July 31, 2016.

DATES: Applicable March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Toni Page, Lingjun Wang, or Jun Jack Zhao, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1398, (202) 482–2316, or (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the preliminary results of this administrative review of passenger tires from China on September 7, 2017.[1] We verified Sentury and its U.S. affiliate from December 11 through 15, 2017, and December 20 through 22, 2017. We invited interested parties to comment on the *Preliminary Results.* On January 3, 2017, Commerce postponed the final results of review until March 6, 2018. Between February 5 and 12, 2018, Commerce received timely filed briefs and rebuttal briefs from various interested parties. Based on an analysis of the comments received, Commerce has made changes to the weighted-average dumping margins determined for respondents. The weighted-average dumping margins are listed in the ''Final Results of Administrative Review'' section below.

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now March 9, 2018.[2]

Scope of the Order

The scope of the order is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation.[3] Merchandise covered by this order is classifiable under subheadings 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, 4011.20.50.10, 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45,

[1] *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission, in Part; 2015–2016,* 82 FR 42281, (September 7, 2017) and accompanying preliminary decision memorandum (Preliminary Decision Memorandum) (*Preliminary Results*).

[2] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[3] For a complete description of the scope of the order, *see* ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2015–2016 Antidumping Administrative Review,'' (dated concurrently with, and hereby adopted by, this notice) (Issues and Decision Memorandum).

8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum.[4] The issues are identified in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

Affiliation and Single Entity Determination

In the *Preliminary Results* Commerce continued to find, based on its finding in the investigation of this proceeding, that Giti, Giti Tire (USA) Ltd. (Giti USA); Giti Radial Tire (Anhui) Company Ltd. (Giti Radial Anhui); Giti Tire (Fujian) Company Ltd. (Giti Fujian); and Giti Tire (Hualin) Company Ltd. (Giti Hualin) are affiliated exporters/manufacturers of subject merchandise and should be treated as a single entity (the Giti Entity) for purposes of this review.[5] No interested party has disputed this treatment, and so these findings remain unchanged for these final results. Commerce stated in the *Preliminary Results* that we would analyze whether to collapse (*i.e.,* treat as a single entity) Giti with its other affiliated producers Giti Tire Greatwall Company, Ltd. (Giti Greatwall), Giti Tire (Anhui) Company, Ltd. (Giti Anhui), Giti Tire (Yinchuan) Company, Ltd. (Giti Yinchuan), and Giti Tire (Chongqing) Company, Ltd. (Giti Chongqing) after the preliminary results.[6] For these final results, Commerce finds that Giti is also affiliated with Giti Greatwall, Giti Anhui, Giti Yinchuan, and Giti Chongqing pursuant to section 771(33)(E) of the Act, and that the four producers are affiliated with each other, pursuant to section 771(33)(F) of the Act. Additionally, Commerce finds that it is appropriate to collapse these entities with the Giti Entity, pursuant to 19 CFR 351.401(f). The proprietary discussion of Commerce's decision is included in a separate memorandum.[7]

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined Highpoint Trading, Ltd.; Federal Tire (Jiangxi), Ltd.; Federal Corporation; Weihai Ping'an Tyre Co., Ltd.; Qingdao Free Trade Zone Full-World International Trading Co., Ltd.; Seatex PTE. Ltd.; Wendeng Sanfeng Tyre Co., Ltd.; Shandong Hawk International Rubber Industry Co., Ltd.; Qingdao Honghua Tyre Factory (Honghua); and Zenith Holding (HK) Limited each had no shipments during the POR.[8] As we have not received any information to contradict our preliminary finding, we determine that these entities did not have any shipments of subject merchandise during the POR. We will issue appropriate instructions that are consistent with our ''automatic assessment'' clarification, for these final results.[9]

Separate Rates

In the *Preliminary Results,* we found that evidence provided by Giti, Sentury, and 63 other exporters supported finding an absence of both *de jure* and *de facto* government control, and, therefore, we preliminarily granted a separate rate to each of these companies.[10] We received no information since the issuance of the *Preliminary Results* that provides a basis for reconsidering these determinations with respect to the separate rate status of the 65 entities. Therefore, for the final results, we continue to find that these entities are eligible for separate rates.

In addition, Commerce inadvertently listed Haohua Orient International Trade Ltd. and Nankang (Zhangjiagang Free Trade Zone) Rubber Industrial Co., Ltd as both qualifying for and not qualifying for separate rate status.[11] We clarify that we find both companies are eligible for separate rates and Appendix II below has been corrected for these final results.

Further, Commerce continues to find that the remaining entities listed as not qualifying for separate rates have failed to demonstrate an absence of *de jure* and/or *de facto* government control, and, thus, are not eligible for separate rates. A list of entities that are not entitled to separate rate status for this administrative review are included in Appendix II of this notice.

Adjustments for Export Subsidies and Double-Remedies

Pursuant to section 772(c)(1)(C) of the Act, Commerce has granted an export subsidy adjustment to Giti and Sentury. In addition, pursuant to sections 777A(f)(1)(A)–(C) of the Act, Commerce has granted a double-remedy adjustment to Giti and Sentury for these final results. The antidumping duty rate assigned to the non-examined exporters which qualify for a separate rate reflects the export subsidy and double-remedy adjustments granted to the mandatory respondents.

Final Results of Review

Commerce finds that the following weighted-average dumping margins exist for the POR:

[4] *See* Issues and Decision Memorandum at ''Scope of the Order'' section.

[5] *See Preliminary Results* PDM at 11–12.

[6] *Id.* at 12.

[7] *See* Commerce Memorandum, ''Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Collapsing of Giti Tire Global Trading Pte. Ltd. and Affiliated Producers,'' (dated concurrently with the instant notice).

[8] *See Preliminary Results* at 82 FR 42282.

[9] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) (*Assessment Notice*); *see also* ''Assessment Rates'' section of this notice.

[10] *Id.* at 42283–42284; *see also Preliminary Results* PDM at Appendix 1.

[11] *See Preliminary Results* at 82 FR 42283–42284 and Appendix 1; *see also Preliminary Results* PDM at Appendices 1 and 2.

Exporter	Weighted-average dumping margin (percent)
Giti Tire Global Trading Pte. Ltd./Giti Tire (USA) Ltd./Giti Radial Tire (Anhui) Company Ltd./[12] Giti Tire (Fujian) Company Ltd./Giti Tire (Hualin) Company Ltd./Giti Tire Greatwall Company, Ltd./Giti Tire (Anhui) Company, Ltd./Giti Tire (Yinchuan) Company, Ltd./Giti Tire (Chongqing) Company, Ltd	1.50
Qingdao Sentury Tire Co., Ltd/Sentury Tire USA Inc./Sentury (Hong Kong) Trading Co., Limited	4.41
Actyon Tyre Resources Co., Limited	2.96
Shandong Anchi Tyres Co., Ltd	2.96
Briway Tire Co., Ltd	2.96
Shandong Changfeng Tyres Co., Ltd	2.96
Qingdao Crown Chemical Co., Ltd	2.96
Crown International Corporation	2.96
Qingzhou Detai International Trading Co., Ltd	2.96
Shandong Duratti Rubber Corporation Co. Ltd	2.96
Shouguang Firemax Tyre Co., Ltd	2.96
Fleming Limited	2.96
Qingdao Fullrun Tyre Corp., Ltd	2.96
Qingdao Fullrun Tyre Tech Corp., Ltd	2.96
Guangrao Taihua International Trade Co., Ltd	2.96
Shandong Guofeng Rubber Plastics Co., Ltd	2.96
Hankook Tire China Co., Ltd	2.96
Haohua Orient International Trade Ltd	2.96
Shandong Hengyu Science & Technology Co., Ltd	2.96
Hongkong Tiancheng Investment & Trading Co., Limited	2.96
Hongtyre Group Co	2.96
Jiangsu Hankook Tire Co., Ltd	2.96
Jinyu International Holding Co., Limited	2.96
Qingdao Jinhaoyang International Co., Ltd	2.96
Jilin Jixing Tire Co., Ltd	2.96
Kenda Rubber (China) Co., Ltd	2.96
Qingdao Keter International Co., Limited	2.96
Koryo International Industrial Limited	2.96
Kumho Tire Co., Inc	2.96
Qingdao Lakesea Tyre Co., Ltd	2.96
Liaoning Permanent Tyre Co., Ltd	2.96
Shandong Longyue Rubber Co., Ltd	2.96
Macho Tire Corporation Limited	2.96
Maxon Int'l Co., Limited	2.96
Mayrun Tyre (Hong Kong) Limited	2.96
Qingdao Nama Industrial Co., Ltd	2.96
Nankang (Zhangjiagang Free Trade Zone) Rubber Industrial Co., Ltd	2.96
Shandong New Continent Tire Co., Ltd	2.96
Qingdao Odyking Tyre Co., Ltd	2.96
Prinx Chengshan (Shandong) Tire Co., Ltd	2.96
Riversun Industry Limited	2.96
Roadclaw Tyre (Hong Kong) Limited	2.96
Safe & Well (HK) International Trading Limited	2.96
Sailun Jinyu Group Co., Ltd	2.96
Sailun Jinyu Group (Hong Kong) Co., Limited	2.96
Shandong Jinyu Industrial Co., Ltd	2.96
Sailun Tire International Corp	2.96
Seatex International Inc	2.96
Dynamic Tire Corp	2.96
Husky Tire Corp	2.96
Shandong Province Sanli Tire Manufactured Co., Ltd	2.96
Shandong Linglong Tyre Co., Ltd	2.96
Shandong Yonking Rubber Co., Ltd	2.96
Shandong Shuangwang Rubber Co., Ltd	2.96
Shengtai Group Co., Ltd	2.96
Techking Tires Limited	2.96
Triangle Tyre Co., Ltd	2.96
Tyrechamp Group Co., Limited	2.96
Shandong Wanda Boto Tyre Co., Ltd	2.96
Windforce Tyre Co., Limited	2.96
Winrun Tyre Co., Ltd	2.96
Shandong Yongtai Group Co., Ltd	2.96
Weihai Zhongwei Rubber Co., Ltd	2.96
Shandong Zhongyi Rubber Co., Ltd	2.96
Zhaoqing Junhong Co., Ltd	2.96

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise, where applicable, in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.[13] For each individually examined respondent in this review whose weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce calculated importer-specific assessment rates, in accordance with 19

[12] In the *Preliminary Results,* Commerce inadvertently listed ''Giti Radial Tire (Anhui) Company Ltd.'' as ''Giti Tire (Anhui) Company Ltd.'' The name is corrected for these final results.

[13] *See* 19 CFR 351.212(b)(1).

CFR 351.212(b)(1).[14] Where the respondent reported reliable entered values, Commerce calculated importer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer, and dividing this amount by the total entered value of the sales to the importer.[15] Where the importer did not report entered values, Commerce calculated an importer-specific assessment rate by dividing the amount of dumping for reviewed sales to the importer by the total sales quantity associated with those transactions. Where an importer-specific *ad valorem* assessment rate is not zero or *de minimis,* Commerce will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* assessment rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[16] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

Pursuant to Commerce practice, for entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, Commerce will instruct CBP to liquidate such entries at the rate for the PRC-wide entity.[17] Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's CBP case number will be liquidated at the rate for the PRC-wide entity.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on POR entries, and for future deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

Commerce will instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average amount by which NV exceeds U.S. price. The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis* (*i.e.,* less than 0.5 percent), then the cash deposit rate will be zero for that exporter), adjusted, where appropriate, for export subsidies and domestic subsidies passed through; (2) for previously investigated or reviewed China and non-China exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all China exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.,* 76.46 percent)[18] and (4) for all non-China exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties and/or countervailing duties has occurred, and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notifications to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 9, 2018.

Gary Taverman,

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

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues:
- Comment 1: Whether To Apply Adverse Facts Available (AFA) to Sentury
- Comment 2: Whether Commerce Should Grant Sentury a Double-Remedies Adjustment
- Comment 3: Whether Commerce Should Revise how It Implements Any Double-Remedy Adjustment
- Comment 4: Whether Commerce Should Revise Its Calculation of the Irrecoverable Value Added Tax (VAT) Adjustment to U.S. Price
- Comment 5: Whether Commerce Should Correct Sentury's Reporting of Early Payments (EARLPYU)
- Comment 6: Whether Commerce Should Re-Calculate Giti's Market Economy Purchase (MEP) Values and Volumes
- Comment 7: Whether Commerce Should Change the Thai Harmonized Tariff Schedule (HTS) Codes Used for Two Giti Compound Rubber Inputs
- Comment 8: Whether Commerce Should Re-Calculate Certain Surrogate Values Used for Giti in the Preliminary Results
- Comment 9: Whether Commerce Should Correct Giti's Packing Labor Calculation
- Comment 10: Whether Commerce Should Value Truck Freight Based on the World Bank's Doing Business Report
- Comment 11: Whether Commerce Should Grant Separate Rate Status to Shandong Hongsheng Rubber Co. Ltd. (Hongsheng), Qingdao Yongdao, International Trade Co. Ltd. (Yongdao), and Poplar Tire International Co. Ltd. (Poplar)
- Comment 12: Whether Commerce Should Grant Separate Rate Status to Shandong Yongtai Group Co., Ltd. (Yongtai Group) and Shandong Yongtai Chemical Co., Ltd. (Yongtai Chemical)
- Comment 13: Whether Commerce Should Grant Separate Rate Status to Pirelli Tyre Co., Ltd. (Pirelli)

V. Conclusion

Appendix II

List of Companies Not Receiving Separate Rate Status

1. American Pacific Industries, Inc.

[14] *See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification*).

[15] *See* 19 CFR 351.212(b)(1).

[16] *See Final Modification,* 77 FR at 8103.

[17] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

[18] *See Order,* 80 FR 47904.

2. BC Tyre Group Limited
3. Best Choice International Trade Co., Limited
4. Cheng Shin Tire & Rubber (China) Co., Ltd.
5. Guangzhou Pearl River Rubber Tyre Ltd.
6. Hebei Tianrui Rubber Co., Ltd.
7. Hong Kong Tri-Ace Tire Co., Limited
8. Hwa Fong Rubber (Hong Kong) Ltd.
9. ITG Voma Corporation
10. Nankang International Co., Ltd.
11. Nankang Rubber Tire Corp., Ltd.
12. Pirelli Tyre Co., Ltd.
13. Qingdao Goalstar Tire Co., Ltd.
14. Qingdao Nexen Tire Corporation
15. Qingdao Qianzhen Tyre Co., Ltd.
16. Qingdao Qihang Tyre Co., Ltd.
17. Qingdao Qizhou Rubber Co., Ltd.
18. Shandong Changhong Rubber Tech
19. Shandong Good Forged Alum Wheel
20. Shandong Haohua Tire Co., Ltd.
21. Shandong Haolong Rubber Tire Co., Ltd.
22. Shandong Huitong Tyre Co., Ltd.
23. Shandong Sangong Rubber Co., Ltd.
24. Shangong Ogreen International Trade Co., Ltd.
25. Shifeng Juxing Tire Co., Ltd.
26. Southeast Mariner International Co., Ltd.
27. Toyo Tire (Zhangjiagang) Co., Ltd.
28. Wanli Group Trade Limited
29. Xiamen Sunrise Wheel Group Co., Ltd.
30. Xiamen Topu Import
31. Zhejiang Jingu Company Limited
32. Zhejiang Qingda Rubber Co., Ltd.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–017]

Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2014–2015

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

SUMMARY: The Department of Commerce (Commerce) determines that the mandatory respondents GITI Tire Global Trading Pte. Ltd./GITI Tire (USA) Ltd./GITI Radial Tire (Anhui) Company Ltd. (GITI Anhui Radial)/GITI Tire (Fujian) Company Ltd (GITI Fujian)/GITI Tire (Hualin) Company Ltd. (GITI Hualin) (collectively, GITI) and Cooper (Kunshan) Tire Co., Ltd. (Cooper), exporters of passenger vehicle and light truck tires from the People's Republic of China (China) received countervailable subsidies during the period of review (POR) December 1, 2014, through December 31, 2015. We also find that Zhongce Rubber Group Company Limited (Zhongce) received countervailable subsidies during the POR, based on adverse facts available.

DATES: Applicable March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–4261.

Background

Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** on September 7, 2017.[1] On September 22, 2017, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (the petitioner) submitted comments regarding alleged deficiencies in the record. In response to the petitioner's deficiency comments letter, on September 28, 2017, Commerce issued supplemental questionnaires to GITI and Cooper. GITI and Cooper submitted timely responses to the September 28, 2017, supplemental questionnaires on October 13, 2017.

We invited interested parties to comment on the *Preliminary Results.* On November 22, 2017, we received case briefs from the following interested parties: Cooper; GITI; the petitioner; and the Government of China (GOC). On December 4, 2017, the Commerce received timely rebuttal comments from GITI, and on December 5, 2017, we received timely rebuttal comments from Cooper, the petitioner and the GOC. On December 13, 2017, Commerce rejected the case brief submitted by GITI because we determined the brief contained untimely new factual information. GITI timely resubmitted its case brief on December 15, 2017.

On December 8, 2017, in accordance with section 751(a)(3)(A) of the Act, Commerce extended the period for issuing the final results of this review by 60 days, to March 6, 2018.[2] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now March 9, 2018.[3]

Scope of the Order

The products covered by the order are certain passenger vehicle and light truck tires from China. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[4]

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues raised by interested parties and to which we responded in the Issues and Decision Memorandum is provided in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be access directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on case briefs, rebuttal briefs, and all supporting documentation, we made changes from the *Preliminary Results.* Commerce has adjusted the AFA rate applied to Zhongce, modified its attribution of subsidies received by various Cooper affiliates to Cooper, adjusted the denominators for both respondents, adjusted the synthetic rubber and butadiene benchmarks for GITI, adjusted the inland freight rates used to construct the benchmark for carbon black for both respondents, and corrected various ministerial errors for both respondents.

[1] *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission, in Part; 2014–2015,* 82 FR 42287 (September 7, 2017) (*Preliminary Results*).

[2] *See* Commerce Memorandum, ''Administrative Review of the Countervailing Duty Order on Passenger Vehicle and Light Truck Tires from the People's Republic of China: Extension of Deadline for Final Results,'' (December 8, 2017).

[3] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[4] *See* ''Decision Memorandum for the Final Results of the Administrative Review of the Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China; 2014–2015,'' dated concurrently with this notice (Issues and Decision Memorandum) and hereby adopted by this notice.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we find that there is a subsidy, *i.e.,* a financial contribution from a government or public entity that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a full description of the methodology underlying all of Commerce's conclusions, including any determination that relied upon the use of adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

Final Results of Administrative Review

In accordance with 19 CFR 351.221(b)(5), we calculated a countervailable subsidy rate for the mandatory respondents, Cooper and GITI, and a rate based on facts available for Zhongce. For the non-selected companies subject to this review,[6] we followed Commerce's practice, which is to base the subsidy rates on an average of the subsidy rates calculated for those companies selected for individual review, excluding *de minimis* rates or rates based entirely on adverse facts available.[7] In this case, for the non-selected companies, we have calculated a rate by weight-averaging the calculated subsidy rates of Cooper and GITI using their publicly-ranged sales data for exports of subject merchandise to the United States during the POR. We find the countervailable subsidy rates for the producers/exporters under review to be as follows:

Company	Subsidy rate (percent)
GITI Tire Global Trading Pte. Ltd./GITI Tire (USA) Ltd./GITI Radial Tire (Anhui) Company Ltd. (GITI Anhui Radial)/GITI Tire (Fujian) Company Ltd (GITI Fujian)/GITI Tire (Hualin) Company Ltd. (GITI Hualin) (collectively, GITI)	20.68
Cooper (Kunshan) Tire Co., Ltd. (Cooper)	16.16
Zhongce Rubber Group Company Limited	119.46
Non-Selected Companies Under Review	19.13

Disclosure

We will disclose to the parties in this proceeding the calculations performed for these final results within five days of the date of publication of this notice in the **Federal Register.**[8]

Assessment Rates

Consistent with 19 CFR 351.212(b)(2), we intend to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results of review, to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption, on or after December 1, 2014, through December 31, 2015, at the *ad valorem* rates listed above.

Cash Deposit Instructions

In accordance with section 751(a)(1) of the Act, we intend to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the respective companies listed above. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the 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 conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 9, 2018.

Gary Taverman,

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

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

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Appendix II

Non-Selected Companies Under Review

1. American Pacific Industries, Inc.
2. BC Tyre Group Limited
3. Crown International Corporation
4. Fleming Limited
5. Guangrao Taihua International Trade Co.,

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[6] *See* Appendix II.

[7] *See, e.g., Certain Pasta from Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review,* 75 FR 18806, 18811 (April 13, 2010), unchanged in *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review,* 75 FR 37386 (June 29, 2010).

[8] *See* 19 CFR 351.224(b).

Ltd.
6. Haohua Orient International Trade Ltd.
7. Hong Kong Tiancheng Investment & Trading Co., Limited
8. Jilin Jixing Tire Co., Ltd.
9. Kenda Rubber (China) Co., Ltd.
10. Liaoning Permanent Tyre Co., Ltd.
11. Macho Tire Corporation Limited
12. Maxon Int'l Co., Limited
13. Qingdao Crown Chemical Co., Ltd.
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15. Qingdao Keter International Co., Limited
16. Qingdao Lakesea Tyre Co., Ltd.
17. Qingdao Nama Industrial Co., Ltd.
18. Qingdao Odyking Tyre Co., Ltd.
19. Qingdao Sentury Tire Co., Ltd.
20. Qingzhou Detai International Trading Co., Ltd.
21. Riversun Industry Limited
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23. Shandong Anchi Tyres Co., Ltd.
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28. Shandong Hengyu Science & Technology Co., Ltd.
29. Shandong Linglong Tyre Co., Ltd.
30. Shandong Longyue Rubber Co., Ltd.
31. Shandong New Continent Tire Co., Ltd.
32. Shandong Province Sanli Tire Manufactured Co., Ltd.
33. Shandong Yongtai Group Co., Ltd. (formerly known as Shandong Yongtai Chemical Co., Ltd.)
34. Shandong Zhongyi Rubber Co., Ltd.
35. Shangong Shuangwang Rubber Co., Ltd.
36. Shengtai Group Co., Ltd.
37. Shouguang Firemax Tyre Co., Ltd.
38. Southeast Mariner International Co., Ltd.
39. Tyrechamp Group Co., Limited
40. Windforce Tyre Co., Limited
41. Zhaoqing Junhong Co., Ltd.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF869

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys Along the Oregon and California Coasts

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Partnership for Interdisciplinary Study of Coastal Oceans (PISCO) at the University of California Santa Cruz (UCSC) to incidentally harass, by Level B harassment only, marine mammals during rocky intertidal monitoring surveys.

DATES: This Authorization is effective from March 12, 2018, through March 11, 2019.

FOR FURTHER INFORMATION CONTACT: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (CE B4) (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Summary of Request

On September 26, 2017, NMFS received a request from PISCO for an IHA to take marine mammals incidental to rocky intertidal monitoring surveys along the Oregon and California coasts. PISCO's request is for take of California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina richardii*), and northern elephant seals (*Mirounga angustirostris*). Take is anticipated to result from the specified activity by Level B harassment only. Neither PISCO nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

This IHA would cover one year of a larger project for which PISCO obtained prior IHAs. This multiyear annual survey involves surveying rocky intertidal zones in a number of locations in Oregon and California. NMFS has previously issued five IHAs for this ongoing survey project (77 FR 72327, December 5, 2012; 78 FR 79403, December 30, 2013; 79 FR 73048, December 9, 2014; 81 FR 7319, February 2, 2016; 82 FR 12568, March 6, 2017). PISCO complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the

previous IHAs and information regarding the most recent monitoring results may be found in the Monitoring and Reporting section.

Description of Activity

Overview

PISCO requested an IHA to continue rocky intertidal monitoring work that has been ongoing for 20 years. PISCO focuses on understanding the nearshore ecosystems of the U.S. west coast through a number of interdisciplinary collaborations. The program integrates long-term monitoring of ecological and oceanographic processes at dozens of sites with experimental work in the lab and field. A short description of project components is found below. A detailed description of the planned intertidal monitoring project was provided in the **Federal Register** notice for the proposed IHA (83 FR 3308; January 24, 2018). Since that time, no changes have been made to the planned monitoring activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Dates and Duration

PISCO's research is conducted throughout the year, but will begin no sooner than March 12, 2018 and end on March 11, 2019. Most sites are sampled one to two times per year over a 1-day period (4–6 hours per site) during a negative low tide series. Due to the large number of research sites, scheduling constraints, the necessity for negative low tides and favorable weather/ocean conditions, exact survey dates are variable and difficult to predict. Some sampling may occur in all months.

Specific Geographic Region

Sampling sites occur along the California and Oregon coasts. Community Structure Monitoring sites range from Ecola State Park near Cannon Beach, Oregon to Government Point located northwest of Santa Barbara, California. Biodiversity Survey sites extend from Ecola State Park south to Cabrillo National Monument in San Diego County, California. Exact locations of sampling sites can be found in Tables 1 and 2 of PISCO's application.

Detailed Description of Specific Activity

Community Structure Monitoring involves the use of permanent photoplot quadrats, which target specific algal and invertebrate assemblages (*e.g.* mussels, rockweeds, barnacles). Each photoplot is photographed and scored for percent cover. The Community Structure Monitoring approach is based largely on surveys that quantify the percent cover and distribution of algae and invertebrates that constitute these communities. This approach allows researchers to quantify both the patterns of abundance of targeted species, as well as characterize changes in the communities in which they reside. Such information provides managers with insight into the causes and consequences of changes in species abundance. There are a total of 48 Community Structure sites, each of which will be visited in 2018 under the IHA and surveyed over a 1-day period during a low tide series one to two times a year.

Biodiversity Surveys are part of a long-term monitoring project and are conducted every 3–5 years across 142 established sites. Nineteen Biodiversity Survey sites will be visited in 2018. These Biodiversity Surveys involve point contact identification along permanent transects, mobile invertebrate quadrat counts, sea star band counts, and tidal height topographic measurements. Five of the Biodiversity Survey sites are also Community Structure sites, leaving 14 sites that are only Biodiversity Survey sites. As such, a total of 62 unique sites would be visited under the IHA.

The intertidal zones where PISCO conducts intertidal monitoring are also areas where pinnipeds can be found hauled out on the shore at or adjacent to some research sites. Pinnipeds have been recorded at 17 out of the 62 survey sites. Accessing portions of the intertidal habitat at these locations may cause incidental Level B (behavioral) harassment of pinnipeds through some unavoidable approaches if pinnipeds are hauled out directly in the study plots or while biologists walk from one location to another. No motorized equipment is involved in conducting these surveys.

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on January 24, 2018 (83 FR 3308). During the 30-day public comment period, the Marine Mammal Commission (Commission) submitted a letter on February 5, 2018. The Commission provided comments as described below and concurred with NMFS's finding that recommended the issuance of an IHA to PISCO, subject to the inclusion of the mitigation, monitoring, and reporting measures.

Comment: The Commission requested clarification of certain issues associated with NMFS's notice that one-year renewals could be issued in certain limited circumstances and expressed concern that the process would bypass the public notice and comment requirements. The Commission also suggested that NMFS should discuss the possibility of renewals through a more general route, such as a rulemaking, instead of notice in a specific authorization. The Commission further recommended that if NMFS did not pursue a more general route, that the agency provide the Commission and the public with a legal analysis supporting our conclusion that this process is consistent with the requirements of section 101(a)(5)(D) of the MMPA.

Response: The process of issuing a renewal IHA does not bypass the public notice and comment requirements of the MMPA. The notice of the proposed IHA expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Importantly, such renewals would be limited to where the activities are identical or nearly identical to those analyzed in the proposed IHA, monitoring does not indicate impacts that were not previously analyzed and authorized, and the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency would consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA would be published in the **Federal Register**, as are all IHAs.

The option for issuing renewal IHAs has been in NMFS's incidental take regulations since 1996. Nonetheless, NMFS will provide additional information to the Commission as well as consider the best way to provide addition information to the public on the renewal process.

Description of Marine Mammals in the Area of Specified Activities

A detailed description of the species likely to be affected by the monitoring project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (83 FR

3308; January 24, 2018). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions as well as to NMFS' website (*www.nmfs.noaa.gov/pr/species/mammals/*) for generalized species accounts.

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF THE STUDY AREAS

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 Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California sea lion	*Zalophus californianus*	U.S	-; N	296,750 (n/a; 153,337; 2011).	9,200	389
Steller sea lion	*Eumetopias jubatus*	Eastern U.S	-; N	41,638 (n/a; 41,638; 2015).	2,498	108
Family Phocidae (earless seals)						
Harbor seal	*Phoca vitulina richardii*	California/Oregon/Washington	-; N	30,968 (0.157; 27,348; 2012 [CA])/24,732 (n/a; n/a [OR/WA] [4].	1,641	43
Northern elephant seal	*Mirounga angustirostris*	California	-; N	179,000 (n/a; 81,368; 2010).	4,882	8.8

[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.

[4] The most recent abundance estimate is >8 years old, there is no current estimate of abundance available for this stock.

Note—Italicized species are not expected or authorized to be taken.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effect of stressors associated with the specified activity (*e.g.,* pedestrian researchers) has the potential to result in behavioral harassment of marine mammals in the vicinity of the action areas. The **Federal Register** notice for the proposed IHA (83 FR 3308; January 24, 2018) included a discussion of the effects of such disturbance on marine mammals, therefore that information is not repeated here.

NMFS described potential impacts to marine mammal habitat in detail in our **Federal Register** notice of proposed authorization (83 FR 3308; January 24, 2018). In summary, the project activities would not modify existing marine mammal habitat. Because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences for individual marine mammals or their populations

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to researchers. Based on the nature of the activity, Level A harassment is neither anticipated nor authorized.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Take estimates are based on historical marine mammal observations at each site from previous PISCO survey activities. Marine mammal observations are done as part of PISCO site observations, which include notes on physical and biological conditions at the site. The maximum number of marine mammals, by species, seen at any given time throughout the sampling day is recorded at the conclusion of sampling. A marine mammal is counted if it is seen on access ways to the site, at the site, or immediately up-coast or down-coast of the site. Marine mammals in the water immediately offshore are also recorded. Any other relevant information, including the location of a marine mammal relevant to the site, any unusual behavior, and the presence of pups is also noted.

Take Calculation and Estimation

The observations described above formed the basis from which researchers with extensive knowledge and experience at each site estimated the actual number of marine mammals that may be subject to take. Take estimates for each species for which take is authorized were based on the following equation:

Take estimate per survey site = (number of expected animals per site *

number of survey days per survey site)

For take estimates, PISCO looked at sites that have consistently had a marine mammal presence and used the maximum number of marine mammals previously observed at these sites that could be subject to take (*e.g.* pinnipeds on the site, nearby, or along access ways and not including any pinnipeds in the water or on offshore rocks). At many sites, the number of marine mammals is quite variable and PISCO may observe fewer than the number used for take estimates. There are also limited occasions where PISCO observes pinnipeds at sites where they had not previously seen any.

Individual species' totals for each survey site were summed to arrive at a total estimated take number. Numbers are rounded up to the nearest value of 5 (*e.g.,* a maximum of 7 observed animals would be rounded up to 10). Section 6 in PISCO's application outlines the number of visits per year for each sampling site and the potential number of pinnipeds anticipated to be encountered at each site. Tables 2, 3, 4 in PISCO's application outlines the number of potential takes per site.

Harbor seals are expected to occur at 15 locations with expected taken numbers ranging from 5 to 25 animals per visit (Table 2 in PISCO's application). These locations will be subject to 21 site visits under the IHA. It is anticipated that there will be 230 exposures of adult harbor seals and 25 exposures of weaned pups. Therefore, NMFS has authorized 255 harbor seal takes. This is an increase over the proposed number of 203 takes included in the notice for the proposed IHA (83 FR 3308; January 24, 2018). The increase is due to draft 2017 monitoring plan data which showed increased take of adult seals at several locations (*i.e.,* Fogarty Creek, Shelter Cove, Bodega, Franklin Point, and Cayucos) which was not included in the application resulting in a total of 230 adult seal expsoures. Also, the number of pup exposures was increased from 13 to 25 as the takes at several sites listed in the application were rounded up to the nearest 5 (*i.e.,* Fogarty Creek, Stillwater, Point Pinos, and Carmel Point).

California sea lions are expected to be present at five sites with eight scheduled visits as shown in Table 3 in the application. Eighty-five adult and five pup exposures are expected to be taken. Therefore, NMFS has authorized 90 California sea lion takes.

Northern elephant seals are only expected to occur at one site this year, Piedras Blancs, which will experience two separate visits (See Table 4 in application). Up to 10 adult and 40 weaned pup exposures are anticipated. Therefore, NMFS has authorized 50 Northern elephant seal takes.

NMFS has authorized the take, by Level B harassment only, of 255 harbor seals, 90 California sea lions, and 50 northern elephant seals. These numbers are considered to be maximum take estimates; therefore, actual take may be less if animals decide to haul out at a different location for the day or animals are out foraging at the time of the survey activities.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

PISCO will implement several mitigation measures to reduce potential take by Level B (behavioral disturbance) harassment. Measures are listed below.

- Researchers will observe a site from a distance, using binoculars if necessary, to detect any marine mammals prior to approach to determine if mitigation is required *(i.e.,* site surveys will not be conducted if Steller sea lions, northern fur seals, or Guadalupe fur seals are present; if other pinnipeds are present, researchers will approach with caution, walking slowly, quietly, and close to the ground to avoid surprising any hauled-out individuals and to reduce flushing/stampeding of individuals).
- Researchers will avoid pinnipeds along access ways to sites by locating and taking a different access way. Researchers will keep a safe distance from and not approach any marine mammal while conducting research, unless it is absolutely necessary to flush a marine mammal in order to continue conducting research (*i.e.,* if a site cannot be accessed or sampled due to the presence of pinnipeds).
- Researchers will avoid making loud noises (*i.e.,* using hushed voices) and keep bodies low to the ground in the visual presence of pinnipeds.
- Researches will monitor the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters. Note that PISCO has never observed an offshore predator while researchers were present at any of the survey sites.
- Intentional flushing will not occur if dependent pups are present to avoid mother/pup separation and trampling of pups. Staff shall reschedule work at sites where pups are present, unless other means of accomplishing the work can be done without causing disturbance to mothers and dependent pups.
- To avoid take of Steller sea lions, northern fur seals, or Guadalupe fur seals, any site where they are present will not be approached and will be sampled at a later date.
- Researchers will promptly vacate sites at the conclusion of sampling.

The primary method of mitigating the risk of disturbance to pinnipeds, which will be in use at all times, is the selection of judicious routes of approach to study sites, avoiding close contact with pinnipeds hauled out on shore, and the use of extreme caution upon approach. Each visit to a given study site will last for approximately 4–6

hours, after which the site is vacated and can be re-occupied by any marine mammals that may have been disturbed by the presence of researchers. Also, by arriving before low tide, worker presence will tend to encourage pinnipeds to move to other areas for the day before they haul out and settle onto rocks at low tide.

Based on our evaluation of the applicant's measures, NMFS has determined that the required 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.

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 action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

PISCO will contribute to the knowledge of pinnipeds in California and Oregon by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Monitoring requirements in relation to PISCO's rocky intertidal monitoring will include observations made by the applicant. Information recorded will include species counts (with numbers of pups/juveniles when possible) of animals present before approaching, numbers of observed disturbances, and descriptions of the disturbance behaviors during the monitoring surveys, including location, date, and time of the event. For consistency, any reactions by pinnipeds to researchers will be recorded according to a three-point scale shown in Table 2. Note that only observations of disturbance Levels 2 and 3 should be recorded as takes.

TABLE 2—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3	Flush	All retreats (flushes) to the water.

In addition, observations regarding the number and species of any marine mammals observed, either in the water or hauled-out, at or adjacent to a site, are recorded as part of field observations during research activities. Information regarding physical and biological conditions pertaining to a site, as well as the date and time that research was conducted are also noted. This information will be incorporated into a monitoring report for NMFS.

If at any time the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, PISCO shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the following information:

(1) Time and date of the incident;

(2) Description of the incident;

(3) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(4) Description of all marine mammal observations in the 24 hours preceding the incident;

(5) Species identification or description of the animal(s) involved;

(6) Fate of the animal(s); and

(7) Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with PISCO to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. PISCO may not resume the activities until notified by NMFS.

In the event that an injured or dead marine mammal is discovered and it is determined that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), PISCO shall immediately report the

incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the same information identified in the paragraph above IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with PISCO to determine whether additional mitigation measures or modifications to the activities are appropriate.

In the event that an injured or dead marine mammal is discovered and it is determined that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), PISCO shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. PISCO shall provide photographs, video footage or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

A draft final report must be submitted to NMFS Office of Protected Resources within 60 days after the conclusion of the 2018 field season or 60 days prior to the start of the next field season if a new IHA will be requested. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. A final report must be submitted to the Director of the NMFS Office of Protected Resources and to the NMFS West Coast Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered the final report.

Monitoring Results From Previously Authorized Activities

PISCO complied with the mitigation and monitoring that were required under the IHA issued in February 2016. In compliance with the IHA, PISCO submitted a report detailing the activities and marine mammal monitoring they conducted. The IHA required PISCO to conduct counts of pinnipeds present at study sites prior to approaching the sites and to record species counts and any observed reactions to the presence of the researchers.

From December 3, 2016, through February 2, 2017 researchers conducted rocky intertidal sampling at numerous sites in California and Oregon (see Table 12 in PISCO's 2016 monitoring report). Tables 7, 8, and 9 in PISCO's monitoring report outline marine mammal observations and reactions. During this period there were 96 takes of harbor seals, 1 take of California sea lions, and 22 takes of northern elephant seals. NMFS had authorized the take of 203 harbor seals, 720 California sea lions, and 40 Northern Elephant seals under that IHA. PISCO also submitted a preliminary monitoring report associated with the existing IHA for the period covering February 21, 2017 through November 30, 2017. PISCO recorded 63 takes of harbor seals and 3 takes of California sea lions. There were no takes of northern elephant seals. NMFS had authorized the take of 233 harbor seals, 90 California sea lions, and 60 northern elephant seals under the existing IHA.

Based on the results from the monitoring report, we conclude that these results support our original findings that the mitigation measures set forth in the 2016 and 2017 IHAs effected the least practicable impact on the species or stocks. There were no stampede events during these years and most disturbances were Level 1 and 2 from the disturbance scale meaning the animal did not fully flush but observed or moved slightly in response to researchers. Those that did fully flush to the water did so slowly. Most of these animals tended to observe researchers from the water and then re-haulout farther up-coast or down-coast of the site within approximately 30 minutes of the disturbance.

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).

No injuries or mortalities are anticipated to occur as a result of PISCO's rocky intertidal monitoring surveys and none are authorized. The risk of marine mammal injury, serious injury, or mortality associated with rocky intertidal monitoring increases somewhat if disturbances occur during breeding season. These situations present increased potential for mothers and dependent pups to become separated and, if separated pairs do not quickly reunite, the risk of mortality to pups (*e.g.,* through starvation) may increase. Separately, adult male elephant seals may trample elephant seal pups if disturbed, which could potentially result in the injury, serious injury, or mortality of the pups. Few pups are anticipated to be encountered during the planned surveys. As shown in previous monitoring reports, however, limited numbers of harbor seal, northern elephant seal, and California sea lion pups have been observed at several sites during past years. Harbor seals are very precocious with only a short period of time in which separation of a mother from a pup could occur. Although elephant seal pups are occasionally present when researchers visit survey sites, risk of pup mortalities is very low because elephant seals are far less reactive to researcher presence compared to the other two species. Further, elephant seal pups are typically found on sand beaches, while study sites are located in the rocky intertidal zone, meaning that there is typically a buffer between researchers and pups. The caution used by researchers in approaching sites generally precludes the possibility of behavior, such as stampeding, that could result in extended separation of mothers and dependent pups or trampling of pups. Finally, no research would occur where separation of mother and her nursing pup or crushing of pups can become a concern.

Typically, even those reactions constituting Level B harassment would result at most in temporary, short-term behavioral disturbance. In any given study season, researchers will visit select sites one to two times per year for

4–6 hours per visit. Therefore, disturbance of pinnipeds resulting from the presence of researchers lasts only for short periods. These short periods of disturbance lasting less than a day are separated by months or years. Community structure sites are visited at most twice per year and the visits occur in different seasons. Biodiversity surveys take place at a given location once every 3–5 years.

Of the marine mammal species anticipated to occur in the planned activity areas, none are listed under the ESA. Taking into account the planned mitigation measures, effects to marine mammals are generally expected to be restricted to short-term changes in behavior or temporary abandonment of haulout sites, pinnipeds are not expected to permanently abandon any area that is surveyed by researchers, as is evidenced by continued presence of pinnipeds at the sites during annual monitoring counts. No adverse effects to prey species are anticipated and habitat impacts are limited and highly localized, consisting of the placement of permanent bolts in the intertidal zone. 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 requied mitigation and monitoring measures, NMFS finds that the total marine mammal take from PISCO's rocky intertidal monitoring program will not adversely affect annual rates of recruitment or survival and, therefore, will have a negligible impact on the affected species or stocks.

In summary and as described above, the following factors primarily support our 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 pinniped mortality is anticipated or authorized;
- Only a small number of pups are expected to be disturbed;
- Effects of the survey activities would be limited to short-term, localized behavioral changes;
- Nominal impacts to pinniped habitat; and
- Effectiveness of mitigation measures.

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 monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

TABLE 3—POPULATION ABUNDANCE ESTIMATES, TOTAL AUTHORIZED LEVEL B TAKE, AND PERCENTAGE OF POPULATION THAT MAY BE TAKEN FOR THE POTENTIALLY AFFECTED SPECIES DURING THE PLANNED ROCKY INTERTIDAL MONITORING PROGRAM

Species	Abundance *	Authorized Level B take	Percentage of stock or population
Harbor seal	[1] 30,968 [2] 24,732	255	<0.82–1.03
California sea lion	296,750	90	<0.01
Northern elephant seal	179,000	50	<0.01

* Abundance estimates are taken from the 2016 U.S. Pacific Marine Mammal Stock Assessments (Carretta *et al.,* 2016).
[1] California stock abundance estimate.
[2] Oregon/Washington stock abundance estimate from 1999–Most recent surveys.

Table 3 presents the abundance of each species or stock, the authorized take estimates, and the percentage of the affected populations or stocks that may be taken by Level B harassment. The numbers of animals authorized to be taken would be considered small relative to the relevant stocks or populations (0.82–1.03 percent for harbor seals, and <0.01 percent for California sea lions and northern elephant seals).

Based on the analysis contained herein of the planned activity (including the required mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the ESA Interagency Cooperation Division whenever we authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized 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.

Authorization

As a result of these determinations, we have issued an IHA to PISCO for conducting the described activities related to rocky intertidal monitoring

surveys along the Oregon and Washington coasts from March 12, 2018 through March 11, 2019 provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

On a case-by-case basis, NMFS may issue a second one-year IHA without additional notice when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:

• A request for renewal is received no later than 60 days prior to expiration of the current IHA.

• The request for renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements.

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

• Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the original findings remain valid.

Dated: March 13, 2018.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–05380 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Meeting of the Advisory Committee on Commercial Remote Sensing

ACTION: Notice of meeting.

SUMMARY: The Advisory Committee on Commercial Remote Sensing (''ACCRES'' or ''the Committee'') will meet April 3, 2018.

DATES: The meeting is scheduled as follows: April 3, 2018, 9:00 a.m.–4:00 p.m. There will be a one hour lunch break from 12:15 p.m.–1:15 p.m.

ADDRESSES: The meeting will be held at the Silver Spring Civic Center—The Spring Room, 1 Veterans Place, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Samira Patel, NOAA/NESDIS/CRSRA, 1335 East West Highway, G–101, Silver Spring, Maryland 20910; (301) 713–7077 or *samira.patel@noaa.gov.*

SUPPLEMENTARY INFORMATION: As required by Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 (FACA) and its implementing regulations, *see* 41 CFR 102–3.150, notice is hereby given of the meeting of ACCRES. ACCRES was established by the Secretary of Commerce (Secretary) on May 21, 2002, to advise the Secretary of Commerce through the Under Secretary of Commerce for Oceans and Atmosphere on matters relating to the U.S. commercial remote sensing space industry and on the National Oceanic and Atmospheric Administration's activities to carry out the responsibilities of the Department of Commerce set forth in the National and Commercial Space Programs Act of 2010 (51 U.S.C. 60101 *et seq.*).

Purpose of the Meeting and Matters To Be Considered

The meeting will be open to the public pursuant to Section 10(a)(1) of the FACA. During the meeting, the Committee will receive updates on NOAA's Commercial Remote Sensing Regulatory Affairs activities and discuss updates to the commercial remote sensing regulatory regime. The Committee will also discuss updates in the regulations and new technological activities in space. The Committee will be available to receive public comments on its activities.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for special accommodations may be directed to Samira Patel, NOAA/NESDIS/CRSRA, 1335 East West Highway, G–101, Silver Spring, Maryland 20910; (301) 713–7077 or *samira.patel@noaa.gov.*

Additional Information and Public Comments

Any member of the public who plans to attend the open meeting should RSVP to Samira Patel at (301) 713–7077, or *samira.patel@noaa.gov* by March 27, 2018. Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Tahara Dawkins, Designated Federal Officer for ACCRES, NOAA/NESDIS/CRSRA, 1335 East West Highway, G–101, Silver Spring, Maryland 20910; (301) 713–3385 or *tahara.dawkins@noaa.gov.* Copies of the draft meeting agenda can be obtained from Samira Patel at (301) 713–7077, or *samira.patel@noaa.gov.*

ACCRES expects that public statements presented at its meetings will not be repetitive of previously-submitted oral or written statements. In general, each individual or group making an oral presentation may be limited to a total time of five minutes. Written comments sent to NOAA/NESDIS/CRSRA on or before March 27, 2018 will be provided to Committee members in advance of the meeting. Comments received too close to the meeting date will normally be provided to Committee members at the meeting.

Tahara Dawkins,

Director, Commercial Remote Sensing Regulatory Affairs.

[FR Doc. 2018–05360 Filed 3–15–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF538

[[Docket No. 170706630–8209–02]

Fish and Fish Product Import Provisions of the Marine Mammal Protection Act List of Foreign Fisheries

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

ACTION: Notice of availability.

SUMMARY: NMFS is publishing its final 2017 List of Foreign Fisheries (LOFF), as required by the regulations implementing the Fish and Fish Product Import Provisions of the Marine Mammal Protection Act (MMPA). The final LOFF reflects new information received during the comment period on interactions between commercial fisheries exporting fish and fish products to the United States and marine mammals, and updates and revisions to the draft LOFF. NMFS has classified each commercial fishery on the final LOFF into one of two categories, either ''export'' or ''exempt'', based upon frequency and likelihood of

incidental mortality and serious injury of marine mammals likely to occur incidental to each fishery. The classification of a fishery on the final LOFF determines which regulatory requirements will be applicable to that fishery for it to receive a comparability finding necessary to export fish and fish products to the United States from that fishery. The final LOFF can be found at: *https://www.fisheries.noaa.gov/foreign/international-affairs/list-foreign-fisheries*

FOR FURTHER INFORMATION CONTACT: Nina Young, NMFS F/IASI at *Nina.Young@noaa.gov, mmpa.loff@noaa.gov,* or 301–427–8383.

SUPPLEMENTARY INFORMATION: In August 2016, NMFS published a final rule (81 FR 54390; August 15, 2016) implementing the fish and fish product import provisions (section 101(a)(2)) of the MMPA. This rule established conditions for evaluating a harvesting nation's regulatory programs to address incidental and intentional mortality and serious injury of marine mammals in its fisheries producing fish and fish products exported to the United States.

Under this rule, fish or fish products cannot be imported into the United States from commercial fishing operations that result in the incidental mortality or serious injury of marine mammals in excess of United States standards. Fish and fish products from export and exempt fisheries identified by the Assistant Administrator for Fisheries in the LOFF can only be imported into the United States if the harvesting nation has applied for and received a comparability finding from NMFS. The rule established procedures that a harvesting nation must follow and conditions it must meet to receive a comparability finding for a fishery. The rule also established provisions for intermediary nations to ensure that such nations do not import and re-export to the United States fish or fish products that are subject to an import prohibition.

What is the List of Foreign Fisheries?

Based on information provided by nations, industry, the public, and other readily available sources, NMFS identified nations with commercial fishing operations that export fish and fish products to the United States and classified each of those fisheries based on their frequency of marine mammal interactions as either ''exempt'' or ''export'' fisheries (see definitions below). The entire list of these export and exempt fisheries, organized by nation (or economy), constitutes the LOFF.

Why is the LOFF important?

Under the MMPA, the United States prohibits imports of commercial fish or fish products caught in commercial fishing operations resulting in the incidental killing or serious injury (bycatch) of marine mammals in excess of United States standards (16 U.S.C. 1371(a)(2)). NMFS published regulations implementing these MMPA import provisions in August 2016 (81 FR 54390; August 15, 2016). The regulations apply to any foreign nation with fisheries exporting fish and fish products to the United States, either directly or through an intermediary nation. [1]

The LOFF is integral to the implementation of the MMPA import provisions. As described below, the LOFF lists foreign commercial fisheries that export fish and fish products to the United States and that have been classified as either ''export'' or ''exempt'' based on the frequency and likelihood of interactions or incidental mortality and serious injury of a marine mammal. A harvesting nation must apply for and receive a comparability finding for each of its export and exempt fisheries to continue to export fish and fish products from those fisheries to the United States. For all fisheries, to receive a comparability finding under this program, the harvesting nation must prohibit intentional killing of marine mammals in the course of commercial fishing operations in the fishery or demonstrate that it has procedures to reliably certify that exports of fish and fish products to the United States were not harvested in association with the intentional killing or serious injury of marine mammals.

What do the classifications of ''exempt fishery'' and ''export fishery'' mean?

The classifications of ''exempt fishery'' or ''export fishery'' determine the criteria that a nation's fishery must meet to receive a comparability finding for that fishery. A comparability finding is required for both exempt and export fisheries, but the criteria for exempt and export fisheries differ.

For an exempt fishery, the criteria to receive a comparability finding are limited only to conditions related to the prohibition of intentional killing or injury of marine mammals (see 50 CFR 216.24(h)(6)(iii)(A)). For an export fishery, the criteria to receive a comparability finding include the conditions related to the prohibition of intentional killing or injury of marine mammals (see 50 CFR 216.24(h)(6)(iii)(A)) and the requirement to develop and maintain regulatory programs comparable in effectiveness to the U.S. regulatory program for reducing incidental marine mammal bycatch (see 50 CFR 216.24(h)(6)). The definitions of ''exempt'' and ''export'' fishery are below.

What is the five-year exemption period?

NMFS included a five-year exemption period (which began 1 January 2017) in this process to allow foreign harvesting nations time to develop, as appropriate, regulatory programs comparable in effectiveness to U.S. programs at reducing marine mammal bycatch. During this exemption period, NMFS, based on the final LOFF, and in consultation with the Secretary of State, will consult with harvesting nations with commercial fishing operations identified as export or exempt fisheries for purposes of notifying the harvesting nation of the requirements of the MMPA. NMFS will continue to urge harvesting nations to gather information about marine mammal bycatch in their commercial fisheries to inform the next draft and final LOFF (slated for 2020). NMFS will re-evaluate foreign commercial fishing operations and publish a notice of availability of the draft for public comment, and a notice of availability of the final revised LOFF in the **Federal Register** the year prior to the expiration of the exemption period (2020).

Based on the information in this final LOFF, in 2019, nations must provide a progress report to NMFS on their efforts to develop monitoring and regulatory programs comparable to the U.S. regulatory program.

If, during the five-year exemption period, the United States determines that a marine mammal stock is immediately and significantly adversely affected by an export fishery, NMFS may use its emergency rulemaking authority to institute an import ban on products from that fishery.

How did NMFS classify a fishery if a harvesting nation did not provide information?

Information on the frequency or likelihood of interactions or bycatch in most foreign fisheries was lacking or incomplete. Absent such information, NMFS used readily available

[1] With respect to all references to ''nation'' or ''nations'' in the rule, it should be noted that the Taiwan Relations Act of 1979, Pub. L. 96–8, Section 4(b)(1), provides that [w]henever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan. 22 U.S.C. 3303(b)(1). This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

information, noted below, to classify fisheries, which included drawing analogies to similar U.S. fisheries and gear types interacting with similar marine mammal stocks. Where no analogous fishery or fishery information exists, NMFS classified the commercial fishing operation as an export fishery until information becomes available to properly classify the fishery. While preparing a revised LOFF, NMFS may reclassify a fishery if a harvesting nation provides, during the comment period, reliable information to reclassify the fishery or such information is readily available to NMFS.

Definitions

What is a ''comparability finding?''

A comparability finding is a finding by NMFS that the harvesting nation for an export or exempt fishery has met the applicable conditions specified in the regulations (see 50 CFR 216.24(h)) subject to the additional considerations for comparability findings set out in the regulations. A comparability finding is required for a nation to export fish and fish products to the United States. To receive a comparability finding for an export fishery, the harvesting nation must maintain a regulatory program with respect to that fishery that is comparable in effectiveness to the U.S. regulatory program for reducing incidental marine mammal bycatch. This requirement may be met by developing, implementing and maintaining a regulatory program that includes measures that are comparable, or that effectively achieve comparable results, to the regulatory program under which the analogous U.S. fishery operates.

What is the definition of an ''export fishery?''

The definition of export fishery can be found in the implementing regulations for section 101(a)(2) of the MMPA (see 50 CFR 216.3). NMFS considers ''export'' fisheries to be functionally equivalent to Category I and II fisheries under the U.S. regulatory program (see definitions at 50 CFR 229.2). The definition of an export fishery is summarized below.

NMFS defines ''export fishery'' as a foreign commercial fishing operation determined by the Assistant Administrator to be the source of exports of commercial fish and fish products to the United States that have more than a remote likelihood of incidental mortality and serious injury of marine mammals in the course of its commercial fishing operations.

Where reliable information on the frequency of incidental mortality and serious injury of marine mammals caused by the commercial fishing operation is not provided by the harvesting nation, the Assistant Administrator may determine the likelihood of incidental mortality and serious injury as more than remote by evaluating information concerning factors such as fishing techniques, gear used, methods used to deter marine mammals, target fish species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, the species and distribution of marine mammals in the area, or other factors.

Commercial fishing operations not specifically identified in the current LOFF as either exempt or export fisheries are deemed to be export fisheries until a revised LOFF is posted, unless the harvesting nation provides the Assistant Administrator with information to properly classify a foreign commercial fishing operation not on the LOFF. The Assistant Administrator may also request additional information from the harvesting nation, as well as consider other relevant information about such commercial fishing operations and the frequency of incidental mortality and serious injury of marine mammals, to properly classify the foreign commercial fishing operation.

What is the definition of an ''exempt fishery?''

The definition of exempt fishery can be found in the implementing regulations for section 101(a)(2) of the MMPA (see 50 CFR 216.3). NMFS considers ''exempt'' fisheries to be functionally equivalent to Category III fisheries under the U.S. regulatory program (see definitions at 50 CFR 229.2).

NMFS defines an exempt fishery as a foreign commercial fishing operation determined by the Assistant Administrator to be the source of exports of commercial fish and fish products to the United States that have a remote likelihood of, or no known, incidental mortality and serious injury of marine mammals in the course of commercial fishing operations. A commercial fishing operation that has a remote likelihood of causing incidental mortality and serious injury of marine mammals is one that, collectively with other foreign fisheries exporting fish and fish products to the United States, causes the annual removal of:

(1) Ten percent or less of any marine mammal stock's bycatch limit, or

(2) More than ten percent of any marine mammal stock's bycatch limit, yet that fishery by itself removes one percent or less of that stock's bycatch limit annually, or

(3) Where reliable information has not been provided by the harvesting nation on the frequency of incidental mortality and serious injury of marine mammals caused by the commercial fishing operation, the Assistant Administrator may determine whether the likelihood of incidental mortality and serious injury is ''remote'' by evaluating information such as fishing techniques, gear used, methods to deter marine mammals, target fish species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, the species and distribution of marine mammals in the area, or other factors at the discretion of the Assistant Administrator.

A foreign fishery will not be classified as an exempt fishery unless the Assistant Administrator has reliable information from the harvesting nation, or other information, to support such a finding.

Developing the 2017 List of Foreign Fisheries

How is the List of Foreign Fisheries organized?

NMFS organized the LOFF by harvesting nation (or economy). Each harvesting nation's LOFF may include ''exempt fisheries,'' ''export fisheries,'' and ''export fisheries with no information''. The fisheries listing includes defining factors including geographic location of harvest, gear-type, target species, or a combination thereof. Where known, the LOFF also includes a list of the marine mammals that interact with each commercial fishing operation, and, when available, indicates the level of incidental mortality and serious injury of marine mammals in each commercial fishing operation.

What sources of information did NMFS use to classify the commercial fisheries included in the LOFF?

NMFS reviewed and considered documentation provided by nations; the public; and other sources of information, where available, including fishing vessel records; reports of on-board fishery observers; information from off-loading facilities, port-side government officials, enforcement entities and documents, transshipment vessel workers and fish importers; government vessel registries; regional fisheries management organization (RFMO) or intergovernmental agreement

documents, reports, national reports, and statistical document programs; appropriate catch certification programs; Food and Agricultural Organization (FAO) documents and profiles; and published literature and reports on commercial fishing operations with intentional or incidental mortality and serious injury of marine mammals. NMFS has used these sources of information and any other readily available information to classify the fisheries as ''export'' or ''exempt'' fisheries to develop the LOFF.

How did NMFS obtain the information used to classify fisheries in the LOFF?

First, NMFS identified imports of fish and fish products by nation using the U.S. foreign trade database for commercial fisheries imports found at: *http://www.st.nmfs.noaa.gov/commercial-fisheries/foreign-trade/*. Second, in December 2016, NMFS notified in writing each nation with commercial fishing or processing operations that export fish or fish products to the United States to request that within 90 days of notification, by April 1, 2017, the nation submit information about commercial fishing or processing operations. NMFS included in that notification a list of fish and fish products imported into the United States from that nation during the past several years.

For commercial fishing operations, NMFS requested information on the number of participants, number of vessels, gear type, target species, area of operation, fishing season, and any information regarding the frequency of marine mammal incidental mortality and serious injury, including programs to assess marine mammal populations or bycatch. NMFS also requested that nations submit copies of any laws, decrees, regulations, or measures to reduce incidental mortality and serious injury of marine mammals in their commercial fishing operations or prohibit the intentional killing or injury of marine mammals.

NMFS also evaluated information submitted by the nations and the public in response to the **Federal Register** Notice (82 FR 2961; January 10, 2017) seeking information on foreign commercial fishing operations that export fish and fish products to the United States and the frequency of incidental and intentional mortality and serious injury of marine mammals in those fisheries.

Based on these information sources, NMFS developed and published a draft LOFF in the **Federal Register** for public comment (82 FR 39762; August 22, 2017). NMFS revised the draft LOFF based on public comments and information nations submitted during the comment period.

How did NMFS determine which species or stocks are included as incidentally or intentionally killed or seriously injured in a fishery?

The LOFF includes a list of marine mammal species and/or stocks incidentally or intentionally killed or injured in a commercial fishing operation. The list of species and/or stocks incidentally or intentionally killed or injured includes ''serious'' and ''non-serious'' documented injuries and interactions with fishing gear, including interactions such as depredation.

NMFS reviewed information submitted by nations and readily available scientific information including co-occurrence models demonstrating distributional overlap of commercial fishing operations and marine mammals to determine which species or stocks to include as incidentally or intentionally killed or injured in or interacting with a fishery. NMFS also reviewed, when available, injury determination reports, bycatch estimation reports, observer data, logbook data, disentanglement network data, fisher self-reports, and the information referenced in the definition of exempt and export fishery (see above or 50 CFR 216.3).

How often will NMFS revise the List of Foreign Fisheries?

NMFS will re-evaluate foreign commercial fishing operations and publish in the **Federal Register** the year prior to the expiration of the exemption period (2020), a notice of availability of the draft for public comment and a notice of availability of the final revised LOFF. NMFS will revise the final LOFF, as appropriate, and publish a notice of availability in the **Federal Register** every four years thereafter. In revising the list, NMFS may reclassify a fishery if new, substantive information indicates the need to re-examine and possibly reclassify a fishery. After publication of the LOFF, if a nation wishes to commence exporting fish and fish products to the United States from a fishery not currently included in the LOFF, that fishery will be classified as an export fishery until the next LOFF is published and will be provided a provisional comparability finding for a period not to exceed twelve months. If a harvesting nation can provide the reliable information necessary to classify the commercial fishing operation at the time of the request for a provisional comparability finding or prior to the expiration of the provisional comparability finding, NMFS will classify the fishery in accordance with the definitions. The provisions for new entrants are discussed in the regulations implementing section 101(a)(2) of the MMPA (see 50 CFR 216.24(h)(8)(vi)).

How can a classification be changed?

To change a fishery's classification, nations or other interested stakeholders must provide observer data, logbook summaries (preferably over a five-year period), or reports that specifically indicate the presence or absence of marine mammal interactions, quantify such interactions wherever possible, provide additional information on the location and operation of the fishery, details about the gear type and how it is used, maps showing the distribution of marine mammals and the operational area of the fishery; information regarding marine mammal populations and the biological impact of that fishery on those populations, and/or any other documentation that clearly demonstrates that a fishery is either an export or exempt fishery. Data from independent onboard observer programs documenting marine mammal interaction and bycatch is preferable. Such data can be summarized and averaged over at least a five-year period and include information on the observer program including the percent coverage, number of vessels and sets or hauls observed. Nations should also indicate whether bycatch estimates from observer data are observed minimum counts or extrapolated estimates for the entire fishery. Nations submitting logbook information should include details about the reporting system, including examples of forms and requirements for reporting.

The Intersection of the LOFF and Other Statutes Certifying Bycatch

What is the relationship between the MMPA import rule, the LOFF, and the affirmative finding process for yellowfin tuna purse seine fisheries in the eastern tropical Pacific Ocean?

Dolphin (family *Delphinidae*) incidental mortality and serious injury in eastern tropical Pacific yellowfin tuna purse seine fisheries are covered by section 101(a)(2)(B) and Title III of the MMPA (16 U.S.C. 1371(a)(2)(B) and 16 U.S.C. 1411–1417), implemented at 50 CFR 216.24(a)–(g). Nations must still comply with those provisions and receive an affirmative finding in order to export tuna to the United States. Tuna purse seine fishing vessels fishing for tuna with a carrying capacity of 400 short tons or greater that are governed by the Agreement for the International

Dolphin Conservation Program (AIDCP) are not included in the LOFF, and are not required to apply for and receive a comparability finding. Purse seine vessels under 400 short tons and vessels using all other gear types operating in the eastern tropical Pacific must comply with the MMPA import rule. These fisheries are included in the LOFF and must apply for and receive a comparability finding.

What is the intersection of the U.S. shrimp certification program (Section 609 of Pub. L. 101–162) with the MMPA import rule?

Section 609 of Public Law 101–162 (''Sec. 609'') prohibits imports of certain categories of shrimp unless the President certifies to the Congress by May 1, 1991, and annually thereafter, that either: (1) The harvesting nation has adopted a program governing the incidental taking of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States and has an incidental take rate comparable to that of the United States; or (2) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of sea turtles. On May 1, 2017, the Department of State certified that 13 shrimp-harvesting nations and 4fisheries have a regulatory program comparable to that of the United States governing the incidental taking of the relevant species of sea turtles in the course of commercial shrimp harvesting and that the particular fishing environments of 26 shrimp-harvesting nations, one economy, and three fisheries do not pose a threat of the incidental taking of covered sea turtles in the course of such harvesting (83 FR 21295 May 5, 2017). All nations exporting wild-caught shrimp and shrimp products to the United States, regardless of whether they are certified under this provision, must also comply with the MMPA import rule, be included on the LOFF, and have a comparability finding. Nations in compliance with the MMPA import rule, but not certified under Public Law 101–162, cannot export wild-caught shrimp to the United States.

Classification Criteria, Rationale, and Process Used To Classify Fisheries

Process When Incidental Mortality and Serious Injury Estimates and Bycatch Limits Are Available

If estimates of the total incidental mortality and serious injury were available and a bycatch limit calculated for a marine mammal stock, NMFS used the quantitative and tiered analysis to classify foreign commercial fishing operations as export or exempt fisheries under the category definition within 50 CFR 229.2 and the procedures used to categorize U.S. fisheries as Category I, II, or III, at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries.*

Process When Only Incidental Mortality and Serious Injury Estimates Were Available

In most cases, however, NMFS either did not receive any information or found that the information provided was incomplete, lacking detail regarding marine mammal interactions, and/or lacking quantitative information on the frequency of interactions. Where nations provided estimates of bycatch or NMFS found estimates of bycatch in published literature, national reports, or through other readily available sources, NMFS classified the fishery as an export fishery if the information indicated that there was a likelihood that the mortality and serious injury was more than remote. The code or designation in the LOFF for the determination ''presence of bycatch'' is recorded as ''*P*'' in the LOFF.

Alternative Approaches When Estimates of Marine Mammal Bycatch Are Unavailable

Because bycatch estimates are lacking for most fisheries, NMFS relied on three considerations to assess the likelihood of bycatch or interaction with marine mammals, including: (1) Co-occurrence, the spatial and seasonal distribution and overlap of marine mammals and fishing operations; (2) analogous gear, evaluation of records of bycatch and assessment of risk, where such information exists, in analogous U.S. and international fisheries or gear types; and (3) overarching classifications, evaluation of gears and fishing operations and their risk of marine mammal bycatch (see section below for further discussion). Published scientific literature provides numerous risk assessments of marine mammal bycatch in fisheries, routinely using these approaches to estimate marine mammal mortality rates, identify information gaps, set priorities for conservation, and transfer technology for deterring marine mammals from gear and catch. Findings from the most recent publications cited in this **Federal Register** notice, often demonstrate level of risk by location, season, fishery, and gear. A summary of the information used to support the designations described below is available in the annotated bibliography and the expanded LOFF with references and comments, at *www.nmfs.noaa.gov/ia/species/marine_mammals/mmpaloff.html.*

Co-Occurrence Evaluation

The co-occurrence of marine mammal populations with a commercial fishing operation can be a measure of risk. NMFS evaluated, when available, the distribution and spatial overlap of marine mammal populations and commercial fishing operations to determine whether the probability for marine mammal interactions or bycatch in that fishery is more than remote. Resources that NMFS used to consider co-occurrence include OBIS–SEAMAP *http://seamap.env.duke.edu/, http://www.hsi.org/assets/pdfs/mapping_marine_mammals.pdf* and *http://www.conservationecologylab.com/uploads/1/9/7/6/19763887/lewison_et_al_2014.pdf.* Additional sources in peer reviewed literature that document co-occurrence are Komoroske & Lewison 2015; FAO 2010; Watson *et al.,* 2006; Read *et al.,* 2006; Reeves *et al.,* 2004. The code or designation for ''co-occurrence'' is recorded as ''*C/O*'' in the LOFF.

Analogous Gear Evaluation

Where a nation did not provide documentation or information was not readily available on the amount of marine mammal bycatch in a fishery or the co-occurrence, NMFS classified a fishery as exempt or export by analogy to similar U.S. or international fisheries and gear types interacting with similar marine mammal stocks. NMFS consulted the United States' domestic MMPA List of Fisheries found at: *http://www.nmfs.noaa.gov/pr/interactions/fisheries/2017_list_of_fisheries_lof.html* when classifying international fisheries by analogy. NMFS also evaluated other relevant information including, but not limited to fishing techniques, gear used, methods used to deter marine mammals, target fish species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, the species and distribution of marine mammals in the area, or other factors. The code or designation for the determination ''analogous gear'' is recorded as ''*A/G*'' in the LOFF. Gear types commonly used in U.S. fisheries, such as longline, gillnet, purse seine, trawl, and pot/trap, were identified as ''analogous gear'' in the justification section of the LOFF. Gear types not commonly used in U.S. waters, such as Danish seine, ring nets, lift nets or large pound nets off Southeast Asia, however, could not be compared to an analogous gear or fishery in the United States.

Classification in the Absence of Information

When no analogous gear, fishery, or fishery information existed, or insufficient information was provided by the nation, and information was not readily available, NMFS classified the commercial fishing operation as an export fishery per the definition of ''export fishery'' at 50 CFR 216.3. These fishing operations will remain classified as export fisheries until the harvesting nation provides the reliable information necessary to classify properly the fishery or, in the course of revising the LOFF, such information becomes readily available to NMFS. The code or designation for the determination ''no information'' is recorded as ''*N/I*'' in the LOFF.

Multiple Codes and Additional Terms in the LOFF

In some cases, NMFS recorded multiple codes as the rationale for a fishery classification. For example, NMFS may have received insufficient information from a nation, still lacks information in some columns, yet classified the fishery by analogy. In that instance, the codes used to classify the fishery would be: ''*N/I, A/G.*''

Additional terms in the LOFF include ''none provided,'' ''no information,'' and ''none documented.'' ''None provided'' indicates the nation did not provide information and no information could be found through research and literature searches. ''None documented'' indicates that neither the nation nor reference material have documented interactions with marine mammals either through observers or logbooks. ''No information'' indicates that though the nation provided relevant information about the fishery, it did not provide specific information and documentation on the marine mammal species interactions for that fishery or estimates of marine mammal bycatch.

Global Classifications for Some Fishing Gear Types

Due to a lack of information about marine mammal bycatch, NMFS used gear types to classify fisheries as either export or exempt. Based on this information, NMFS reclassified some fisheries in the final LOFF. The detailed rationale for these classifications by gear type were provide in the **Federal Register** Notice for the draft LOFF (82 FR 39762; August 22, 2017) and are summarized here. In the absence of specific information showing a remote likelihood of marine mammal bycatch in a particular fishery, NMFS classified fisheries using these gear types as export, exceptions to those classifications are included in the discussion below.

NMFS classified as export all trap and pot fisheries because the risk of entanglement in float/buoy lines and groundlines is more than remote, especially in areas of co-occurrence with large whales. However, NMFS classified as exempt trap and pot fisheries operating in the Gulf of Mexico and Caribbean due to the low co-occurrence with large whales in this region and an analogous U.S. Category III mixed species and lobster trap/pot fishery operating in the Gulf of Mexico and Caribbean. NMFS classifies as exempt small-scale fish, crab, and lobster pot fisheries using mitigation strategies to prevent large whale entanglements, including seasonal closures during migration periods, ropeless fishing, and vertical line acoustic release technology.

NMFS has classified as export longline gear and troll line fisheries because the likelihood of marine mammal bycatch is more than remote. However, NMFS classified as exempt longline and troll fisheries with demonstrated bycatch rates that are less than remote or an analogous U.S. Category III fishery operating in the area where the fishery occurs. The entanglement rates from marine mammals depredating on longline fisheries is largely unknown. NMFS classifies as exempt snapper/grouper bottom-set longline fisheries operating in the Gulf of Mexico and the Caribbean because they are analogous to U.S. Category III bottom-set longline gear operating in these areas. NMFS also classifies as exempt longline fisheries using a cachalotera system which prevents and, in some cases, eliminates marine mammal hook depredation and entanglement.

NMFS uniformly classified as export all gillnet, driftnet, set net, and pound net fisheries because the likelihood of marine mammal bycatch in this gear type is more than remote. No nation provided evidence that the likelihood of marine mammal bycatch in a gillnet fishery was less than remote.

NMFS classified as export purse seine fisheries unless the fishery is operating under an RFMO that has implemented conservation and management measures prohibiting the intentional encirclement of marine mammals by a purse seine. In those instances, NMFS classifies the purse seine fisheries as exempt because the evidence suggests that, where purse seine vessels do not intentionally set on marine mammals, the likelihood of marine mammal bycatch is generally remote. However, if there is documentary evidence that a nation's purse seine fishery continues to incidentally kill or injure marine mammals despite such a prohibition, NMFS classified the fishery as an export fishery. Similarly, if any nation demonstrated that it had implemented a measure prohibiting the intentional encirclement of marine mammals by a purse seine vessel, that fishery would be designated as exempt, absent evidence that it continued to incidentally kill or injure marine mammals.

NMFS has classified as export all trawl fisheries, including bream trawls and otter trawls, because the marine mammal bycatch in this gear type is more than remote, and this gear type often co-occurs with marine mammal stocks. However, the krill trawl fishery operating under changes to Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) in subareas 48.1–4 of CCAMLR is classified as exempt due to the conservation and management measure requiring marine mammal excluding devices and levels of marine mammal mortalities that are less than ten percent of the bycatch limit/PBR for marine mammal stocks that interact with that fishery.

There are several gear types that NMFS classified as exempt because they are highly selective, have a remote likelihood of marine mammal bycatch, and have analogous U.S. Category III fisheries. These gear types are: Hand collection, diving, manual extraction, hand lines, hook and line, jigs, dredges, clam rakes, beach-operated hauling nets, ring nets beach seines, lift nets, cast nets, bamboo weir, and floating mats for roe collection.

NMFS classified Danish seine fisheries as exempt based on the remote likelihood of marine mammal bycatch because of a lack of documented interactions with marine mammals. The exception are Danish seine fisheries with documentary evidence of marine mammal interactions, which NMFS classified as export.

Finally, NMFS classified as exempt most forms of aquaculture, including lines and floating cages, unless documentary evidence indicates marine mammal interactions or entanglement, particularly of large whale entanglement in aquaculture seaweed or shellfish lines, or nations that permit aquaculture facilities to intentionally kill or injure marine mammals.

Summary

NMFS reviewed information from or related to more than 160 trading partners. NMFS eliminated 25 nations from the LOFF (see Table 1 in the **Federal Register** notice—Fish and Fish

Product Import Provisions of the Marine Mammal Protection Act List of Foreign Fisheries 82 FR 39762; August 22, 2017). The final LOFF is composed of 910 exempt and 2,386 export fisheries from 138 nations (or economies). The LOFF, an expanded LOFF containing references, a list of Intermediary nations (or economies) and their associated products, and a list of fisheries and nations where the rule does not apply can found at: *www.nmfs.noaa.gov/ia/species/marine_mammals/mmpaloff.html.* An annotated bibliography with supporting references can be found at: *www.nmfs.noaa.gov/ia/species/marine_mammals/mmpaloff.html.*

General Trends in the LOFF

Gillnets represent the vast majority of the export fisheries with documented marine mammal bycatch. Mitigation measures for gillnets are few. Active sound emitters such as ''pingers'' are used in gillnet fisheries to reduce small cetacean bycatch. However, pingers are not effective for all small cetacean species and may be less effective in operational fisheries than research programs (Dawson *et al.,* 2013). Given the limited mitigation options, nations should consider swapping gillnets for other non-entangling gear, where there is overlap between the fishery and marine mammal populations.

The LOFF highlighted the clear need for bycatch monitoring programs to better estimate marine mammal bycatch and to identify where mitigation efforts are most needed. For example, several nations recommended that longline and purse seine fisheries be classified as exempt fisheries because there are few interactions with marine mammals. However, the logbook and observer data NMFS received did not substantiate that the likelihood of bycatch in these fisheries is remote.

NMFS believes accurate classification of longline fisheries, especially for tuna, and purse seine fisheries for pelagic species would benefit from monitoring programs (*e.g.,* observer programs) or analyses of observer and logbook programs to assess the bycatch rates associated with these gear types. RFMOs are well-situated to evaluate marine mammal bycatch rates in tuna and swordfish longline fisheries. Information from these sources could be used to determine whether the likelihood of marine mammal bycatch is remote. Nations should strongly consider bycatch monitoring programs as a core element in any regulatory program and a key to the appropriate classification of their fisheries.

Impact of the LOFF on Largest Trading Partners by Volume and Value

Table 1 contains the twenty largest exporters to the United States by volume and value, an assessment of their data quality, and their risk of marine mammal bycatch. NMFS based its assessment of data quality on the completeness and detail of the information each nation provided. The number of export and exempt fisheries is the tally in the final LOFF. The overall risk of marine mammal bycatch is based on the type of gear most prevalent in the nation's fisheries and available information on marine mammal fisheries interactions.

Chile, Peru, Argentina, and Ecuador have large numbers of small gillnet, purse seine, and trawl vessels with marine mammal bycatch. Canada's pot fisheries for lobster and snow crab have high levels of large whale bycatch. Canada also has bycatch in its gillnet fisheries and permits the intentional killing of marine mammals in aquaculture operations. Indonesia, Thailand, and Vietnam have large processing and aquaculture sectors. These nations also have gillnet fisheries; however, their fisheries are poorly monitored, making accurate bycatch estimates and the development of mitigation measures for marine mammal bycatch difficult. NMFS may be able to reclassify these fisheries as exempt in the next iteration of the LOFF if these nations estimate their marine mammal bycatch or provide detailed information about their fishery operations.

Japan's marine mammal bycatch is particularly large in its pound net fisheries, whereas the Russia's bycatch is likely in its pot and trawl fisheries. Mexico's marine mammal bycatch includes its gillnet and trawl fisheries in the Gulf of Mexico and the Gulf of California. India's fishery bycatch is predominantly in its coastal gillnet fisheries, which include thousands of vessels. Taiwan has bycatch in its longline fisheries and drift gillnet fisheries. The United Kingdom has bycatch of harbor porpoise and common dolphins in gillnet and trawl fisheries. Russia and China provided little to no information to enable a full assessment of their fisheries and level of marine mammal risk.

Nations, some not included in this table, with high levels of documented marine mammal bycatch include South Korea (pound nets and gillnets); New Zealand (all gear types, especially trawl); and Australia (trawl and longline). However, NMFS recognizes that this evaluation may be influenced by the advanced assessment capabilities of these nations. New Zealand, Norway, and South Korea may be the only nations to have currently calculated a bycatch limit. Norway's information demonstrates that bycatch in its gillnet fisheries of harbor porpoise, gray seal, and harbor seal exceed the bycatch limits calculated for these species. South Korea, also has bycatch of several species of marine mammals in gillnet fisheries that exceed the bycatch limit.

TABLE 1—LIST OF THE TWENTY LARGEST EXPORTING NATIONS BY VOLUME AND VALUE AND AN ASSESSMENT OF THE DATA THEY PROVIDED AND THEIR RISK OF MARINE MAMMAL BYCATCH

Nation	Quality of data supplied	Number of export/exempt fisheries	Overall risk of marine mammal bycatch
Canada	Excellent	227/122	Average/High.
China	Poor	107/4	Unknown.
Indonesia	Fair	11/25	Low.
Thailand	Fair	15/18	Average.
Chile	Good	40/43	Average/High.
India	Poor	13/3	High.
Vietnam	Fair	20/14	Low/Average.
Ecuador	Good	18/6	High.
Mexico	Fair	31/29	Average.
Russia	Poor	109/1	Average/High.
Japan	Poor	89/83	High.
Philippines	Good	14/6	Low.

TABLE 1—LIST OF THE TWENTY LARGEST EXPORTING NATIONS BY VOLUME AND VALUE AND AN ASSESSMENT OF THE DATA THEY PROVIDED AND THEIR RISK OF MARINE MAMMAL BYCATCH—Continued

Nation	Quality of data supplied	Number of export/ exempt fisheries	Overall risk of marine mammal bycatch
Peru	Good	69/26	Average/High.
Argentina	Good	20/13	Average.
Iceland	Excellent	27/5	Average.
Honduras	Poor	4/6	Unknown.
Taiwan	Good	13/4	Average/High.
South Korea	Excellent	94/58	High.
New Zealand	Excellent	77/25	Average/High.
United Kingdom	Good	44/10	Average/High.

Response to Comments and Changes From the Draft LOFF

NMFS received more than 35 comment letters on the draft LOFF for 2017 (82 FR 39762; August 22, 2017). Most of the comments were submitted by nations. Several non-governmental organizations (NGO) and industry groups also submitted comments (see general comments below), all of which are summarized below.

Several comments received were not germane to the draft LOFF and are not addressed in this section. These comments include references to actions outside the scope of the statutory mandate or actions covered under other rulemakings. Comments received are available on the internet at *http://www.regulations.gov* under Docket ID NOAA–NMFS–2017–0084.

In the following section, NMFS summarizes and responds to the comments applicable to the LOFF. NMFS organized the summary and response to comments as follows: (1) Changes to the LOFF and observations that apply to all nations (or economies), (2) comments and changes to the LOFF by nation (or economy), (3) general comments not associated with a nation (*e.g.,* public, NGOs, industry), and (4) responses to questions posed in the draft LOFF (see 82 FR 39762, August 22, 2017).

(1) Overview of Comments Received and Changes Made to the LOFF

Nations Failing To Respond

More than 64 nations (or economies) did not respond to the request for public comment on the draft LOFF. These nations (or economies) include: The Bahamas, Bahrain, Bangladesh, Barbados, Benin, Brazil, British Virgin Islands, Brunei, Cameroon, Cape Verde, China, Croatia, Dominican Republic, Ecuador, Egypt, El Salvador, Federated States of Micronesia, Fiji, French Polynesia, The Gambia, Ghana, Grenada, Guinea, Guyana, Haiti, Honduras, Iran, Israel, Ivory Coast, Kenya, Kiribati, Liberia, Libya, Maldives Islands, Marshall Islands, Mauritania, Mozambique, Namibia, Nicaragua, Nigeria, Palau, Papua New Guinea, Peru, Reunion, Russia, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sri Lanka, Saint Kitts Nevis, Saint Lucia, Saint Pierre Miquelon, Saint Vincent Grenadine, Tanzania, Tonga, Turkey, Turks and Caicos Islands, Ukraine, United Arab Emirates, Vanuatu, Venezuela, and Western Samoa. As a result, the fishery classifications for these nations (or economies) remain unchanged. Failure of these nations (or economies) to provide information regarding fisheries for which NMFS has none may result in a relatively high percentage of export fisheries among this group. This is also the case for several other nations (or economies) that did respond to the request for comment but did not provide information on fisheries under the category ''export fishery with no information.'' The category ''export fishery with no information'' includes products exported by nations (or economies) for which NMFS has been unable to find information (*e.g.,* gear type and area of operation), and fisheries with documented marine mammal bycatch associated with a nation and gear type but for which no target species of fish or fish products was identified. NMFS urges nations to provide the information that is lacking and as much detail as possible about the fishery, its operational characteristics, and its interactions with marine mammals, including applicable references. It is in the interest of nations (or economies) to provide the requested information because it allows NMFS to determine whether the MMPA import rule applies to all of the fish and fish products exported to the United States or only to a particular fishery or fisheries, whether the nation is only a processor of that fish or fish product, and, if a harvester of that fish or fish product, what fishery classification is appropriate.

Changes to CCAMLR Fisheries

For fisheries operating in the CCAMLR Convention Area, NMFS made the following changes: Fisheries for krill in the Antarctic Peninsula region have been combined into a single fishery pursuant to CCAMLR Conservation Measure 51–01, which manages krill fisheries in Subareas 48.1–4. This consolidation applies to the following nations fishing for krill in the CCAMLR Convention Area: Chile, China, Japan, Norway, Poland, Russia, Republic of Korea, and Ukraine. NMFS changed the classification for these fisheries from export to exempt because all trawl fisheries operating in CCAMLR are required to use marine mammal excluding devices (for krill fisheries: CM 51–01, paragraph 7: ''Mitigation''). Additionally, the bycatch limit for seals in this region has been calculated at 88,200 individuals (see comments from Norway below) and the estimated incidental mortality and serious injury for all krill fisheries operating in CCAMLR is less than ten percent of the bycatch limit, making these fisheries exempt.

For nations with toothfish longline fisheries operating in both Subarea 88.1 and 88.2, NMFS combined these fisheries into one fishery. Toothfish longline fisheries operating in the CCAMLR convention area are required to carry one observer appointed in accordance with the CCAMLR Scheme of International Scientific Observation and, where possible, one additional scientific observer. Based on the observer and logbook information in the working group and Secretariat reports, toothfish longline fisheries with no documented interactions in CCAMLR were classified as exempt. NMFS classified as export toothfish longline fisheries with documented interactions, including bycatch and depredation.

Icefish and toothfish trawl fisheries operating in the CCAMLR convention area are subject to the same observer requirements. Therefore, NMFS classified as exempt icefish and toothfish trawl fisheries with no document marine mammal bycatch.

(2) Summary of Changes to LOFF Based on Information From Nations (or Economies) and Comments and Responses

Antigua and Barbuda

Upon further review of fish and fish product imports to the United States from Antigua and Barbuda over the last 17 years, NMFS removed squid and scallops from the category ''export fisheries with no information.'' Each product was imported only once, squid in 2000, and scallops in 2009. Additionally, NMFS could not find recognized commercial fisheries in the available literature, management plans for these products, or any evidence this product is processed by this nation. Therefore, these products are likely re-exports and have been removed from the final LOFF.

Argentina

Changes to the Argentine export fisheries based on the information Argentina provided include combining into one export fishery: Toothfish longline fisheries operating in CCAMLR subareas 88.1 and 88.2; and toothfish longline and trawl fisheries operating off the coast of Tierra del Fuego, the Isla de los Estados and off the province of Buenos Aires; and all Argentine hake bottom trawl vessels (35 coastal, 183 freezer, and 98 refrigerated high-seas vessels) operating in the provinces of Chubut, Santa Cruz, and Rio Negro.

Additionally, NMFS removed from the LOFF the following export fisheries: The Argentine hake gillnet fishery; the tadpole lingcod (Patagonian cod) bottom trawl fishery; Patagonian blenny gillnet, trammel net, and purse seine fisheries; silver warehou and Argentine goatfish trawl fisheries; and Sao Paolo squid and Penaeid shrimp trammel nets and bottom trawl and squid bottom trawl, because these fisheries are artisanal fisheries for domestic consumption.

NMFS also changed the midwater and bottom trawl fisheries and surrounding net fisheries for blue grenadier to bottom trawl fishery for Patagonia grenadier; added Atlantic bonito, Argentine short-fin squid, and silversides trawl fisheries to the demersal coastal trawl fisheries; and combined all Argentine red shrimp bottom net outrigger vessel types into one fishery. NMFS removed from the LOFF the artisanal trammel net, as the gear type is not used for this species.

Australia

Changes made to Australian fisheries include clarification of multispecies fisheries and their associated gear types and vessel numbers. NMFS changed the multispecies and garfish hauling net fishery operating in New South Wales from export to exempt because this fishery is analogous to the Category III, U.S. beach seine fishery. The gear is deployed solely from beaches limiting the probability of co-occurrence with and bycatch of marine mammals.

NMFS changed the New South Wales eastern rock lobster trap from export to exempt; this fishery uses an at-call acoustic release system (Galvanic Time Release (GTR)) that submerges the head-gear of the trap and has been effective in eliminating marine mammal entanglements. NMFS also changed the giant crab pot fishery and the rock lobster pot fishery in Southern Australia from export to exempt because these fisheries operate solely during the summer months and close during the winter months when whales migrate through the region, significantly reducing the likelihood of entanglement.

Finally, NMFS changed from export to exempt the South Australian sardine purse seine fishery. In this fishery, Australia requires, as part of the mandatory Code of Practice, the delayed setting of nets if marine mammals are present in the area, and immediate release and safe handling practices if a mammal is detected in the net. A fisheries-independent observer program monitors the effectiveness of this practice and an annual report is generated on bycatch levels for the fishery. This practice is comparable to the RFMO conservation and management measure prohibiting the intentional encirclement of marine mammals by tuna purse seine fisheries; for this reason this fishery has been changed to exempt.

Under the category ''Export Fisheries with No Information'' NMFS removed the fishery for grouper because further analysis of imports from Australia for the preceding 17 years indicates only 2 years of small-scale and intermittent trade of grouper with the last import being 770 kg in 2015. Likewise, lobster (Homerus spp.) was also removed as this was likely a reporting error. Live lobsters received from Australia are rock lobster and would not be North Atlantic lobster species.

Australia Comment 1: Australia recommended removing humpback whale and southern right whale entanglements from the Western Australia rock lobster pot fishery.

Response: NMFS cross-checked these numbers against what was reported to the International Whaling Commission (IWC) for 2012 and 2015. The entanglement numbers were corrected against what was reported to the IWC for 25 humpback whales (23 individuals in 2012 and 3 individuals in 2015) and two southern right in 2012. Absent documentary evidence that these entanglements were not the result of this fishery, best available information indicates that these bycatch estimates remain associated with the Western Australia rock lobster pot fishery.

Australia Comment 2: Australia commented on reported bycatch from the Geelong Star, a midwater trawling vessel for small pelagics. Australia asserted that the bycatch associated with this vessel was incorrectly applied to the southern bluefin tuna purse seine fishery. Australia further asserted that reports from the fishing actions of the Geelong Star, a ship flagged to another nation, should not have been included in the draft LOFF.

Response: NMFS agrees because Australia has corrected the administrative record associated with the LOFF.

Australia Comment 3: Australia maintains that all Australian fisheries that export product must meet the rigorous legislative requirements set out under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The EPBC Act assessment process means that all export fisheries must meet minimum requirements for ecologically sustainable management before they are accredited to export under Australian law. The effect of the EPBC Act is to pursue a policy on marine mammal bycatch that seeks to eliminate, to the furthest practicable extent, marine mammal interactions in Australian export fisheries through monitoring, reporting and mitigation measures to avoid killing or injuring marine mammals. The EPBC Act applies to all Australian export fisheries, whether they are a Commonwealth, state or a Northern Territory fishery. The Australian Government believes that an alternative to the United States assessing each Australian export fishery individually could be to assess whether the requirements of the EPBC Act are sufficient to meet the requirements of the U.S. MMPA import rule to determine whether the two systems are comparable in effectiveness.

Response: NMFS is amenable to working with Australia in determining the most appropriate method for Australia's fisheries to achieve a

comparability finding determination under the MMPA import rule.

Australia Comment 4: Australia commented on the use of co-occurrence and analogous gear type as a basis for classifying fisheries as ''export.'' Australia does not agree with this classification system. Australia indicated fisheries with no or low levels of reported marine mammal interactions and that the gear types used, in conjunction with the locations of these fisheries, justifies finding a remote likelihood of interaction; therefore, Australia asserted these fisheries should be classified exempt.

Response: NMFS appreciates Australia's viewpoint and the information it provided on its fisheries. Without more detailed information, including summaries of logbook or observer data for these fisheries, rationale for why the gear cannot or does not interact with marine mammals, or information on the lack of co-occurrence, NMFS does not find adequate rationale to reclassify these fisheries.

Australia Comment 5: Australia commented that they were unclear why the CCAMLR toothfish fisheries were split and questioned from where additional interactions data was obtained.

Response: The toothfish fisheries are split by fishing area and by gear type. Based on public comment, NMFS has now combined the fisheries for toothfish operating in subareas 88.1 and 88.2. The data on marine mammal interactions in these fisheries before 2012 was obtained from published CCAMLR reports of fishery bycatch.

Australia Comment 6: For the Commonwealth prawn fishery and tuna longline fishery, Australia considers the number of reported marine mammal interactions over the reported five-year period to indicate a remote likelihood of interaction and therefore exempt status.

Response: NMFS classified these fisheries based on analogous gear types in U.S. fisheries and historic interactions in these Australian fisheries. Several prawn fisheries have documented interactions with marine mammals such that the likelihood of incidental mortality and serious injury is more than remote. Marine mammals interact with and predate on bait and catch in the tuna longline fishery. Absence sufficient documentary evidence, NMFS determined, based on the predation rate, the likelihood of marine mammal mortality and serious injury is more than remote. Also, NMFS is unaware of best practice guidance or mitigation measures to reduce marine mammal interactions or bycatch in tuna longline fisheries. NMFS welcomes further analyses of the bycatch rates associated with these fisheries, and an analysis of the bycatch compared to the bycatch limits for the species interacting with these fisheries. Moreover, NMFS looks forward to working with Australia to achieve a bycatch risk assessment of marine mammal interactions in tuna longline fisheries in the Indian Ocean and Western and Central Pacific Ocean.

The Bahamas

Changes made to Bahamian fisheries include combining all hand collection exempt fisheries for conch, coral, and sponge into one fishery. No further changes were made.

Belgium

Based on the European Union's information, three export fisheries were added: Northern prawn beam trawl, sole otter trawl, and a northern prawn otter trawl. All fisheries operate in the southern and central North Sea and interact with harbor porpoise. Thirteen fisheries are listed as export fisheries with no information.

Belize

No fishery was reclassified, and information is lacking for several fisheries including the snapper, grouper, finfish gillnet fishery; shrimp trawl fishery, tuna longline and purse seine fisheries operating under Inter-American Tropical Tunas Commission (IATTC) and International Commission for the Conservation of Atlantic Tunas (ICCAT), and the mackerel and sardine trawl fishery.

Belize Comment 1: Belize stated that the humpback whale reported by *Breakingnewsbelize.com* was observed stranded for approximately two weeks in the waters off Puerto Barrios, Guatemala. The whale floated to Belizean waters where it eventually died. At its death, the whale was not entangled in gillnet; consequently, Belize asserts the cause of death was likely starvation, exhaustion or sickness. Belize maintains there are no records of humpback whales entangled in shark gillnets and the presence of large cetaceans in Belizean water is uncommon because Belizean waters are not a migratory, feeding or breeding area due to the shallow Belize Barrier Reef System. Belize further notes that over the last decade, no dolphin or West Indian manatee has reportedly died as a result of interactions with the shark gillnet fishery.

Response: NMFS notes Belize's comments; however, gillnets have, across a global ranges of fisheries, documented interactions with marine mammals, including whales, dolphins, and manatees. NMFS also has data indicating a co-occurrence of marine mammals and gillnet fisheries within Belize's Exclusive Economic Zone (EEZ). Without more substantial documentation about the Belize shark gillnet fishery, including logbook or observer data summaries, NMFS cannot reclassify this fishery as exempt.

Belize Comment 2: Belize suggests that the shark longline fishery occurs in waters outside West Indian manatee habitat, so interactions with the fishery are likely negligible. Also, Belize stated there are no documented cases of dolphin bycatch in shark longlines in Belize. Therefore, Belize recommended the removal of dolphins and West Indian manatee from the list of species interacting with the shark longline fishery.

Response: NMFS notes Belize's comments. Absent more substantial documentation about the Belize shark longline fishery and marine mammal habitat utilization, NMFS cannot reclassify this fishery as exempt or change the list of marine mammals interacting with this fishery.

Canada

Based on analysis of Canada's information, the following fisheries were reclassified as exempt fisheries as these fisheries operate in inland waters and have no documented marine mammal interactions or co-occurrence: Eel drift gillnet fishery operating in the gulf region, shad set gillnet fisheries operating in the gulf and Maritimes region, and smelt gillnet fishery operating in the gulf region. All chinook salmon troll fisheries operating in the Pacific region were reclassified as exempt as this gear type and fishery is analogous to the Alaska, California, Oregon, and Washington salmon troll fisheries which are listed as Category III fisheries. Kelp aquaculture in New Brunswick was reclassified as exempt as there are no documented marine mammal interactions. NMFS also reclassified as exempt several beach seine, Danish seine, jig and handline fisheries because this gear type has a remote likelihood of marine mammal bycatch. However, cunner, haddock, halibut, and cod aquaculture operations in New Brunswick maintained an export classified due to pinniped interactions.

Additionally, Canada added more than 46 new export fisheries and more than 17 exempt fisheries across all species, gear types, and areas. These fisheries were not included in the original draft LOFF. No marine mammal bycatch estimates were provided for the newly added export fisheries.

Chile

Based on the information provided by Chile, where appropriate, NMFS updated the numbers of vessels participating in various fisheries, and consolidated fisheries by fishing area.

Chile Comment 1: Chile requested that the Atlantic, salmon, coho salmon, and rainbow trout cage aquaculture operations be reclassified as exempt. The rationale includes Chile's estimate that the population of South American sea lions is 197,000 animals and increasing. Chile requires the use of multifilament, 10-inch mesh, nylon antipredator nets (this mesh size prevents sea lion entanglement) that envelop the entire box-type salmon cage, creating a physical barrier that prevents sea lion depredation of stocked fish. Chile noted that Supreme Decree DS320/2002: Environmental regulation for aquaculture, regulates sonic devices that may be used to deter wildlife from approaching farm sites. To further support its argument for reclassification, Chile stated that a large percentage of salmon farms are certified by international standards, including voluntary standards requiring information about how aquaculture products are produced.

Response: Chile provided no bycatch estimates. Without estimates of the number of sea lions either entangled or lethally removed in its aquaculture operations, NMFS cannot determine if the incidental mortality and serious injury of sea lions in aquaculture operations is remote. Chile did not provide a peer-reviewed study citation or other empirical research to support the claim that 10-inch mesh nets never entangle pinnipeds. Also, Chile did not provide the details of regulations governing the use of sonic deterrence devices at salmon farms. Finally, NMFS does not accept third-party certifications as the basis for classifying fisheries as either exempt or export or as the sole basis for a comparability finding. To continue exporting fish or fish products to the United States, Chile must adopt regulations that reduce marine mammal incidental bycatch and prohibit intentional mortality and serious injury at aquaculture facilities or demonstrate that it has procedures to reliably certify that exports of fish and fish products to the United States are not the product of a commercial fishing operation that permits the intentional killing or serious injury of a marine mammal unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger. The voluntary standards Chile references are insufficient evidence for reclassifying this fishery as exempt as those standards permit the lethal removal of predators. Atlantic salmon, coho salmon, and rainbow trout cage aquaculture operations remain classified as an export fishery.

Chile Comment 2: Chile requested that the ''Patagonian toothfish—Southern crane eel, industrial longline fishery'' be separated into two fisheries and listed as exempt. The Fisheries Development Institute, main national research institution of fishing and aquaculture, has implemented onboard observer programs in these fisheries for more than five years. The reports of these scientific observation programs indicate that although there is interaction with killer whales and sperm whales, there is no mortality of these mammals in either the Patagonian toothfish, southern hake, and pink cusk eel industrial longline fishery or the Patagonian toothfish industrial longline fishery.

Response: NMFS has reviewed the observer data and agrees. The Patagonian toothfish—Southern hake—Pink cusk eel, industrial longline and Patagonian toothfish, industrial longline fisheries have been re-classified as exempt fisheries.

Chile Comment 3: Chile requested that NMFS reclassify as exempt the Patagonian toothfish, artisanal bottom longline, XI Region (South of 47° S) to XII Region fishery, and Patagonian toothfish, artisanal bottom longline, XV to XI Regions (North of 47° S)' fishery because there are no recorded marine mammal interactions in these fisheries and, these fisheries use the same fishing gear, and operate in the same area, as the industrial fleet which has zero marine mammal mortality.

Response: Absent observer summary data NMFS finds no rationale to change the export classification. Also, these fisheries interact with southern sea lions as opposed to sperm and killer whales that interact with the industrial fleet.

Chile Comment 4: Chile asked why the southern king crab artisanal trap, southern king crab industrial trap and false king crab artisanal traps fisheries are classified as export. Chile requested these fisheries be reclassified as exempt because traps are unlikely to kill or injure marine mammals and, since the early 1990s, Chile has not permitted the use of marine mammals as bait but instead officially supplies fish bait for these fisheries (see Memorandum of Understanding between the U.S. National Marine Fisheries Service (NMFS) and the Chilean Servicio Nacional de Pesca (Sernapesca), signed in 1995 and extended in 2004 and in 2015 at *http://www.nmfs.noaa.gov/ia/agreements/bilateral_arrangements/chilebilat.pdf*).

Response: NMFS is not classifying these fisheries as export based on their historic use of marine mammals as bait. Rather, NMFS has classified these fisheries as export fisheries because the risk of incidental mortality or serious injury in vertical buoy lines and groundlines is more than remote for small cetaceans and large whales.

Costa Rica

Based on the information Costa Rica provided NMFS added to the list of export fisheries a bonito gillnet fishery and a flatfish, sole gillnet and trawl fishery. NMFS also combined the operating areas of the Eastern Tropical Pacific and Tropical Atlantic into one area for the following fisheries: The dolphinfish longline fishery; the shark, swordfish longline fishery; the shrimp trawl fishery; and the shrimp gillnet fishery.

Costa Rica Comment: Costa Rica stated there is no marine mammal mortality in their sole, sardine, squid and shrimp trawl fisheries. Costa Rica further stated that during more than 100 inspections of shrimp trawl vessels no dolphins have been found. Likewise, Costa Rica stated that no dolphins have been found in sardine purse seine nets operating in the Gulf of Nicoya, near Puntarenas.

Response: Absent detailed information about Costa Rica's inspection program, observer program or logbook requirements, NMFS did not have any basis to change the classification of these fisheries. NMFS urges Costa Rica to provide additional details on the percentage of the fleet that is either observed or inspected, total average annual estimates of mortality and serious injury of marine mammals over the last five years for each fleet with observer, inspection, or logbook requirements, and whether such estimates are extrapolated to the entire fleet or are only for observed vessels or those reporting. Using such information, NMFS can re-evaluate these fisheries.

Cyprus

Based on the information Cyprus provided through the European Union, NMFS added an Atlantic Bluefin tuna purse seine fishery operating in the Eastern Mediterranean Sea, Levant area (FAO division 37.3.2) to the list of export fisheries for Cyprus.

Denmark

Based on the information Denmark provided through the European Union, NMFS updated the numbers of vessels

participating in various fisheries, and consolidated fisheries by fishing area for fisheries for which there is no information.

In analyzing Denmark's export data, NMFS removed the rock lobster fishery from the ''export fisheries with no information'' category as this product was only imported once in the past 17 years, in 2015, and in very small quantities. The predominant lobster export from Denmark to the United States is Norwegian lobster. NMFS also removed the cuttlefish fishery as this product was imported only once in the past 17 years, in 2016, and in very small quantities. The cuttlefish was imported as ''preserved'' indicating this is likely a re-exported product.

Also under ''export fisheries with no information'' Denmark provided fishery information for their Marine Stewardship Council (MSC) certified fisheries but, upon further analysis, NMFS removed the following fisheries from the LOFF because Denmark does not export these products to the United States; whiting and blue whiting, cusk eel, lingcod, smelt, monkfish, skates, capelin, pollock, hake, oyster, and clams.

NMFS changed the mussel dredge fishery from ''export fishery with no information'' to an exempt fishery as this coastal gear type is unlikely to interact with marine mammal stocks.

Estonia

Based on the information Estonia provided through the European Union, NMFS updated the numbers of vessels participating in various fisheries, and the area of operation of fishing vessels. NMFS also added an exempt fishery for cod and other species operating in the Northeast Atlantic and added two export fisheries, one for perch, herring and pike-perch, and one for herring and sprat, operating in the International Council for the Exploration of the Sea (ICES) Area IIId of the Northeast Atlantic.

Additionally, NMFS removed from the LOFF the fisheries for Greenland halibut as the United States has not imported Greenland halibut from Estonia in the past 17 years.

Falkland Islands

Falkland Islands Comment 1: The Falkland Islands noted it concurs with the classification of its fisheries as exempt. The Falkland Islands further noted that with respect to ''Marine Mammal Bycatch Estimates'' the entry in the LOFF is 'None Documented.' In its original submission, the Falkland Islands referenced its observer program, which includes significant coverage of its fisheries on the LOFF. The observer program records the presence of marine mammals and any interactions. No harmful interactions or incidental mortality or serious injury have been recorded during the last five years.

Response: ''None Documented'' is the correct reference based on the information the Falkland Islands provided. ''None documented'' indicates that through observer programs or logbooks neither the nation nor additional reference material have documented interactions with marine mammals.

Faroe Islands

Faroe Islands Comment 1: The Faroe Islands noted that in the draft LOFF only the Faroese scallop fishery is categorized as exempt while all other fisheries, including aquaculture, are categorized as export fisheries. The Faroe Islands asserts all its fisheries should be categorized as exempt because there are no interactions with or bycatch of marine mammals in their fisheries. Specifically, there are no marine mammal interactions or bycatch in the flatfish, sole, plaice, halibut trawl fishery, groundfish, cod, haddock, pollock trawl and longline fisheries, herring mid-water trawl fishery, and smelt trawl fishery. Further, according to logbooks, the mackerel mid-water trawl fishery catches zero to two pilot whales annually.

Response: NMFS did not reclassify these fisheries. The Faroe Islands' rationale for reclassifying its fisheries is that there is no reported marine mammal interactions or bycatch in the logbooks for Faroese fisheries. NMFS understands that all Faroese fishing vessels must maintain a log of their fishing activities for each set or haul, and that this catch logbook is sent to the Fisheries Inspection. NMFS understands that fishing vessels are also instructed to report interference or bycatch of marine mammals in a special column (''viðmerkingar'', meaning remarks) in the catch logbook. Evidence suggest that bycatch may not be properly and consistently recorded or analyzed without a specific entry. By relegating marine mammal bycatch data recording to remarks, fishermen may overlook recording their marine mammal bycatch. Additionally, NMFS is concerned that data found only in the remarks may not be consistently entered into a database. While the Faroe Islands describes that pilot whale bycatch by the 50 vessels operating in the mackerel mid-water trawl fishery is ''rare,'' this cannot be substantiated without additional information on whether the reported bycatch of 2 animals annually is unextrapolated vessel reports or an extrapolated bycatch estimate for the entire fleet. North Atlantic Marine Mammal Commission (NAMMCO) (2016) lists fisheries in the Faroe Islands with marine mammal bycatch including pelagic pair trawling for mackerel, blue whiting and herring trawls; purse-seines; and shallow-water gillnets set for herring. According to NAMMCO (2016) the reliability of the reported bycatch data has never been assessed and bycatch data are missing for all fisheries. NMFS suggests that the Faroe Islands provide additional information about its logbook system, historic marine mammal bycatch estimates for each fishery, detailed bycatch estimates (including reported vs extrapolated estimates) for the mackerel mid-water trawl fishery, and further detail about the reliability of its bycatch data and the co-occurrence of marine mammals in all its fisheries.

Faroe Islands Comment 2: The Faroe Islands recommended that all trap fisheries be classified exempt. The Faroe Islands claim that the lobster and snow crab trap fisheries have no reported marine mammal bycatch in logbooks. The lobster trap fishery's trap opening size is 25 centimeters, which prevents marine mammals from entering traps. The snow crab trap fishery is conducted in water depths of less than 270 meters outside 12 nautical miles in the Svalbard zone.

Response: NMFS did not reclassify these fisheries. Bycatch of marine mammals does not occur from animals entering the trap but from animals becoming entangled in buoylines and groundlines. Snow crab fisheries in several nations (*e.g.,* Canada) have documented bycatch of large whales in snow crab traps and lines. On this basis, NMFS retained the classification of these fisheries as export.

Faroe Islands Comment 3: The Faroe Islands stated that Faroese authorities—ministries together with natural research institutes—are establishing legislation and management plans to secure a sustainable development of the grey seal stock, the only coastal seal species in the Faroe Islands. Aquaculture companies have taken measures to reduce the removals of grey seals to accomplish international accreditation for the farms, and in the past three to four years the number of grey seals removed from aquaculture farms was significantly reduced. The Ministry of Foreign Affairs and Trade will inform the United States once its seal management laws come into force.

Response: According to the MMPA import rule, to continue exporting fish and fish products to the United States,

the Faroe Islands must adopt regulations to reduce incidental marine mammal bycatch and prohibit intentional mortality and serious injury at aquaculture facilities or demonstrate that it has procedures to reliably certify that exports of fish and fish products to the United States are not the product of a commercial fishing operation that permits the intentional killing or serious injury of a marine mammal unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger. NMFS looks forward to receiving information on such regulations related to seal management at Faroese aquaculture operations; however, since the Faroe Islands currently permits the lethal removal of seals, Atlantic salmon aquaculture operations will remain an export fishery.

France

Based on the information France provided through the European Union, NMFS removed swordfish from the purse seine tuna fishery in Indian Ocean Tuna Commission (IOTC) convention area and added a separate swordfish longline fishery in IOTC. NMFS added as an ''export fishery with no information'' an Acoupa Rouge (*e.g.,* croaker) (C*ynoscion acoupa*) fishery operating in the Guyana EEZ, because information about this fishery lacked detail including the absence of marine mammal bycatch information.

Although France provided fisheries information indicating marine mammal interactions as ''zero interactions reported'' for select fisheries, France failed to provide summaries of vessel logbooks or observer reports to substantiate this estimate. NMFS therefore did not reclassify these fisheries and recorded the information as ''no information.''

Germany

Based on the information Germany provided through the European Union, NMFS combined multispecies fisheries based on gear type and area of operation. NMFS updated gear types for fisheries to correctly classify Germany's fisheries.

Greece

Based on the information Greece provided through the European Union, NMFS combined multispecies fisheries based on gear type and area of operation. Under ''export fisheries with no information,'' NMFS removed crab from the LOFF as this product is inconsistently exported to the United States and is likely a re-export from Greece. The mullet indicated in the U.S. trade database is exclusively roe so NMFS combined this product with caviar.

Greenland

Based on Greenland's information, NMFS deleted the following export fisheries: Atlantic salmon gillnet, Atlantic salmon open boat, and redfish trawl fisheries. The operational areas for the halibut trawl, longline, and gillnet fisheries have been combined into one fishery as have the cod poundnet, longline, and gillnet fishery (see response to Greenland comment 1). The shrimp trawl fishery was reclassified from export to exempt (see response to Greenland comment 1).

Greenland Comment 1: Greenland maintains that only 8 fisheries produce fish and fish products for export to the United States, yet the draft LOFF contains 32 Greenlandic fisheries. Greenland further maintains none of the eight fisheries should be classified as export as there are no or few encounters with marine mammals.

Response: As noted in the LOFF, NMFS developed the draft LOFF based on information provided by Greenland. Based on Greenland's comments, it is inappropriate for NMFS to split gear types into small and separate areas of operations as doing so results in more export fisheries being designated than operate in Greenland waters. NMFS therefore combined the areas of operation for the Greenland halibut trawl, gillnet, and longline fisheries, and the cod poundnet, longline, and gillnet fisheries. Further, NMFS reclassified the shrimp trawl fishery as exempt because of the remote likelihood of incidental mortality and serious injury of marine mammals and the lack of co-occurrence of marine mammals with this fishery. NMFS did not reclassify any other fishery. NMFS recognizes that there may still be uncertainty around the registration of marine mammal bycatch in its fisheries and that data from its 2016 regulatory requirement making it compulsory for the fishermen and buyers to report all catches, including by-catches, is still being evaluated. NMFS encourages Greenland to evaluate its bycatch data under its new regulatory regime, consider placing observers on its larger trawl vessels, and revise its analysis of marine mammal bycatch in its fisheries because such analysis may identify pot and gillnet fisheries as priority fisheries for bycatch mitigation.

Greenland Comment 2: Since 1998, Greenland, through the North Atlantic Salmon Conservation Organization, committed to ban commercial fishing and export of salmon. Greenland carries out a permitted, internal subsistence salmon fishery. Greenland maintains Atlantic salmon is not an export species and should not appear on the LOFF.

Response: NMFS agrees, and the U.S. trade database has no record of salmon imports dating back to 2000. NMFS removed these fisheries. Likewise, the U.S. trade database has no records of redfish exports to the United States, dating back to 2000. NMFS removed from the LOFF the redfish trawl fishery.

Greenland Comment 3: Greenland believed that the LOFF would only describe foreign fisheries that produce fish or fish products exported to the United States. However, Greenland's understanding now is the LOFF includes all fisheries with the potential for export to the United States (*e.g.,* now and in the future).

Response: Greenland's current understanding is correct; but NMFS urges nations to err on the side of including all fisheries which may now, or in the future, export to the United States. By including all such fisheries, nations will have ample time to develop the monitoring or regulatory programs required for comparability findings for these fisheries. Delaying such action until exports begin will give these fisheries less time to comply (see 50 CFR 216.24 (h)(8)(vi)).

Guatemala

Guatemala Comment 1: Guatemala challenged the information for the snapper, grouper, shark longline fishery, stating the information in the 2011 report is dated and there are no interactions with or capture of marine mammals in their fisheries. Guatemala also referenced its understanding that the affirmative finding process under the MMPA provides it with its current authorization to export to the United States.

Response: In the absence of evidence to substantiate the claim that its fisheries do not interact with or capture marine mammals, NMFS did not reclassify any Guatemalan fisheries. With regard to the affirmative finding, this finding is only applicable to tuna captured in the eastern tropical Pacific Ocean by purse seine vessels. Specifically, dolphin (family *Delphinidae*) incidental mortality and serious injury in eastern tropical Pacific yellowfin tuna purse seine fisheries are covered by section 101(a)(2)(B) and Title III of the MMPA (16 U.S.C. 1371(a)(2)(B) and 16 U.S.C. 1411–1417), implemented at 50 CFR 216.24(a)–(g). Nations must still comply with those provisions and receive an affirmative finding to export tuna to the United States. Tuna purse

seine fishing vessels fishing for tuna with a carrying capacity of 400 short tons or greater that are governed by the AIDCP are not included in the LOFF and are not required to apply for and receive a comparability finding. Purse seine vessels under 400 short tons and vessels using all other gear types operating in the eastern tropical Pacific must comply with the MMPA import rule. All other fisheries operating within the nation's EEZ or in any other ocean and exporting fish and fish products to the United States must be included in the LOFF and must apply for and receive a comparability finding.

Iceland

Based on information provided by Iceland, NMFS reclassified as exempt: Multispecies finfish and shellfish dredge and fishing rod fisheries, and seaweed and sea cucumber fisheries based on their gear analogy to U.S. fisheries and the remote likelihood of marine mammal bycatch. Iceland provided area(s) of operation for each gear type, the list of target species landed by each gear type, and the marine mammal interactions associated with each gear type. NMFS updated the LOFF to consolidate target fisheries based on gear type and area of operation and their associated marine mammal interactions accordingly.

NMFS moved salmon and trout aquaculture from ''export fisheries with no information'' to ''export fishery'' based on Iceland's lack of a legal requirement for documenting marine mammal interactions and lack of provisions outlawing intentional mortality or injury to marine mammals that interact with aquaculture facilities. NMFS also removed from the list of export fisheries with no information, the ''other gear types'' fishery as Iceland accounted for additional fisheries, specifically different types of seines and specific species gillnet fisheries. NMFS moved the Arctic char aquaculture fishery to the list of fisheries to which the ''rule does not apply'' since this fish is solely produced by inland aquaculture farms.

Upon further analysis of U.S. trade data, NMFS removed the rock lobster fishery as this product was only exported to the United States once in the preceding seven years in low quantities and is likely a reporting error as the United States typically imports only Norwegian and Homarus spp. lobster.

Iceland Comment 1: Iceland utilizes an individual catch share quota system. Individual landings of species can be traced back to the gear type that caught that species but a single gear type will target and catch many different commercial species, all of which are landed and sold. Because of this system, Iceland stated it is difficult to reduce a single species to a single gear type as all gear types are multispecies fisheries. Iceland further noted that its Marine and Freshwater Institute assesses bycatches of marine mammals in Icelandic fisheries by fishing gear, a report of which has been provided to NAMMCO.

Response: NMFS acknowledges that Iceland's multispecies fisheries do not easily fit the ''target species'' column of the LOFF. In consultation with Iceland, NMFS updated the target species for each gear type to indicate the multispecies nature of these finfish fisheries.

Iceland Comment 2: Iceland provided number of vessels associated with landings of species by gear type but noted that the sum total of the vessels in the list is much higher than the total number of vessels in the Icelandic fishing fleet as some vessels change gear during the year and some vessels fish in multiple fishing areas.

Response: NMFS notes that Iceland's total fishing fleet is less than 1,700 vessels and that a single vessel can fish multiple gear types in multiple areas during the course of the year. As such, NMFS has listed ''vessel numbers'' for Iceland's fisheries as ''not applicable'' noting this frequency of gear change, with the exception of one registered vessel fishing for bluefin tuna in Iceland's EEZ and the ICCAT Convention Area and one mussel aquaculture farm.

India

Based on the information India provided, NMFS updated vessel numbers, area of operation, bycatch species and estimates. NMFS added a multi-species handline fishery to the exempt fisheries category.

India Comment 1: India collected and analyzed records of marine mammal entanglement in fishing gears from 1950 to 2015. Gillnets are responsible for 98.8 percent of marine mammal mortalities. Occasional reports of marine mammal bycatch in trawl, purse seine, shore seine and longline also exist. India provided marine mammal bycatch estimates by state and gear type and requested that most of their export fisheries be reclassified as exempt given the low rate of interaction and bycatch.

Response: NMFS appreciates India's submission; however, NMFS could not reclassify any of India's export fisheries because: (1) Much of the data dates to the 1970s and 1980s; (2) it is unclear whether the estimates are for one year or the entire period listed in India's submission; and (3) it is unclear whether the numbers provided in India's table are unextrapolated counts from vessels or observer reports or extrapolated bycatch estimates for the entire fishery. Without such clarifications, NMFS cannot evaluate whether the likelihood of marine mammal bycatch in these fisheries is remote.

Indonesia

Indonesia Comment 1: Indonesia stated that shark is not a target species exported to the United States; therefore, Indonesia suggested removing shark from the LOFF. Indonesia also noted that swordfish is not a target species, but a bycatch species during tuna fishing.

Response: Since 2000, Indonesia has consistently exported shark, shark fins, and swordfish to the United States. Whether a species is targeted or bycaught is inconsequential; what matters is whether it is exported to the United States. Indonesia should identify the fisheries in which these species are taken to ensure that those fisheries are accurately identified and described in the LOFF. All exports to the United States must be included in the LOFF. NMFS made no change to these fisheries.

Indonesia Comment 2: Indonesia noted that all cetacean species are included in the Convention on International Trade of Endangered Species of Flora and Fauna (CITES), which prevents the trade of such species or any of their parts. Indonesia has a National Plan for Marine Mammal Protection and has designated two marine mammal protection areas (Lovina and Savu Sea). Additional national laws and regulations govern the tuna fishing industry and marine mammal protection. Based on this information, Indonesia requested that NMFS reclassify its export fisheries as exempt fisheries.

Response: Indonesia's information does not provide evidence that the frequency of marine mammal bycatch in its fisheries currently listed as export is less than remote. In fact, available reports indicate that marine mammal bycatch may exist in both tuna purse seine and longline fisheries. Additionally, there are still seven fisheries classified as export fisheries because Indonesia has not provided the information necessary to classify these fisheries. NMFS recommends that Indonesia develop and implement a consistent marine mammal bycatch monitoring scheme, especially for its tuna fisheries, and fully implement the

conservation and management measures of the IOTC and the Western and Central Pacific Fisheries Commission (WCPFC), which prohibit the intentional encirclement of cetaceans with purse seine nets.

Ireland

Upon further analysis of U.S. trade data, NMFS combined the fisheries for hake and lobster into the multispecies gillnet fishery for pollock, lobster and hake. NMFS removed the fisheries for tuna and turbot as Ireland has not exported either of these species to the United States during the preceding seven years. Under the category of export fisheries with no information, NMFS removed rock lobster as this species is included in the export multispecies fishery for pollock, lobster, and hake. Also under this category, NMFS removed salmon as it is included in the driftnet fishery operating in Ireland's EEZ. NMFS also removed the gillnet fishery operating in the northeast Atlantic with no specified target fishery as this fishery and its associated bycatch are included in the export fisheries for crawfish and lobster.

Italy

Based on Italy's information submitted by the European Union, NMFS updated vessel numbers; changed the gear type for the anchovy, pilchard, and sardine fishery from ''seine'' to ''purse seine''; and removed the swordfish driftnet fishery from the LOFF based on national legislation and EU regulation banning the use of largescale driftnets.

NMFS also reclassified the clam, mussel, mollusk dredge fishery from export to exempt based on analogous gear from other dredge fisheries without marine mammal bycatch and the coastal operational area of the fishery. NMFS noted in the ''detailed information'' that the swordfish longline fishery appears to be operating in accordance with the National Observer Program under ICCAT.

Italy noted that most of its seabream and seabass products are from aquaculture; however, Italy did not provide the area of operation for these aquaculture facilities or details on how these species are cultured. Italy previously declared a fishery for seabass and sea bream with a gear type of ''small-scale fisheries.'' This fishery is lacking information on the specific gear types involved in fishing these species.

Italy Comment 1: Italy noted that their prior submission to the draft LOFF provided information indicating marine mammal interactions as ''zero'' for select fisheries and asked why this information was not reflected in the LOFF.

Response: Italy did not provide any information such as vessel logbooks, or observer reports to substantiate the bycatch estimates of zero; therefore, no changes were made to the fishery classifications.

Jamaica

Jamaica Comment 1: The Jamaican wild marine penaeid shrimp fishery is a small-scale fishery for local consumption. In the past, exports of marine shrimp were produced by inland aquaculture facilities. Recent and current marine shrimp exports are all re-exports. Future marine shrimp production will be through aquaculture. All current ornamental fish production is produced through freshwater culture. Current Jamaican policies discourage wild caught marine ornamental fish fisheries. Notwithstanding, sustainable wild caught marine ornamental fish fisheries may be considered in the future.

Response: Based on the information provided, NMFS removed the marine Penaeid shrimp fishery and the ornamental fish fishery from the LOFF.

Jamaica Comment 2: Jamaica is actively pursuing the development of the following fisheries: (a) Artisanal and semi-industrial pelagic longline fisheries; (b) marine crab trap fishery; and (c) freshwater aquaculture of Pangasius spp., Carps, and Collasoma spp. Jamaica is developing a comprehensive management plan for its pelagic fishery. Jamaica envisions these plans and their related legislation will include provisions to ensure minimal interaction with or minimal mortality or injury of marine mammals.

Response: NMFS will revise the LOFF in 2020. At that time, NMFS encourages Jamaica to provide detailed information about these fisheries, including all marine mammal bycatch estimates. NMFS encourages Jamaica to include provisions to monitor and evaluate the marine mammal bycatch in these fisheries. Additionally, if Jamaica resumes its ornamental fish fisheries, it must provide information so NMFS can classify the fishery and, if determined to be either an exempt or export fishery, apply for a comparability finding.

Japan

Based on Japan's revised information, NMFS updated target species, gear type, vessel number, area of operation, marine mammal interactions, marine mammal bycatch estimates, and comments for all Japan's commercial fisheries. NMFS compared bycatch and interaction estimates provided by Japan with IWC reported interactions where possible to reconcile differences. As described in the **Federal Register** Notice publication of the draft LOFF (82 FR 39762; August 22, 2017), NMFS designated all gillnet, longline, non-tuna purse seine, fish pots and trap fisheries not operating in the Caribbean region, and trawl fisheries as export fisheries. NMFS retained the export classification for these fisheries in Japan's LOFF with the rationale of A/G (analogous gear) and N/I (no information). In order to reclassify these fisheries as exempt, NMFS looks to Japan to provide sufficient documentation to justify re-classification. Sufficient documentation includes: Summary information from logbooks or other fisher reports, observer records or programs, recent strandings data, and details on the species and distribution of marine mammals in the area where fishing operations are occurring.

Latvia

Based on Latvia's information provided by the European Union, NMFS updated: The target species in the multispecies trapnet fisheries; fishing season for all fisheries; and marine mammal presence and interactions for fisheries to indicate harbor porpoise presence but no recorded interactions.

Lithuania

NMFS updated fishing season for all fisheries based on Lithuania's information provided by the European Union.

Madagascar

Based on the information provided by Madagascar, NMFS updated the numbers of vessels participating in the export tuna and shrimp fisheries. NMFS also added company names for seaweed and shrimp aquaculture operations.

In analyzing the U.S. trade data for Madagascar, NMFS removed the fisheries for molluscs from ''export fisheries with no information'' as this product was imported only three times in the past 17 years, in 2001, 2002, and 2004, and in small quantities. NMFS also removed the fisheries for marine fish and grouper, as these products were imported only once in the past 17 years, in 2016, and again in small quantities.

Malta

Upon further analysis of U.S. trade data, NMFS removed the swordfish fishery as Malta has not exported this species to the United States at any point in the preceding seven years. NMFS updated fishing seasons for all fisheries.

Mauritius

Based on the information Mauritius provided, NMFS added a pelagic swordfish, tuna (albacore, yellowfin, bigeye, billfishes, shortfin mako shark) vertical longline fishery. NMFS removed the swordfish, tuna (albacore, yellowfin, bigeye, billfishes, shortfin mako and shark) mid-water trawl fishery because, according to Mauritius, these species are fished using surface longline and purse seines rather than trawl gear.

Mauritius Comment 1: Mauritius clarified that for most pelagic species (swordfish, tuna albacore, yellowfin, bigeye, billfishes and some shark species), the gears used are vertical longline (artisanal fishermen), surface longline (semi-industrial longliners) and purse seines. Mauritius claims in these fisheries there are chance encounters with marine mammals. Mauritius further noted at present there are approximately 350 artisanal fishers that fish for pelagic species on Fish Aggregating Devices (FADs) placed around the island of Mauritius. The semi-industrial longline fleet consists of eight vessels targeting pelagic species.

Response: NMFS notes Mauritius's comments but, without observer or logbook information substantiating its claim that marine mammal encounters are ''chance'' in longline and purse seine gears, NMFS cannot reclassify these fisheries.

Mexico

Based on information provided by Mexico, NMFS updated gear type, vessel numbers, areas of operation, marine mammal interactions, and comments for select fisheries. NMFS reclassified from export to exempt the red snapper and grouper longline fisheries operating in the Gulf of Mexico because they are analogous to the U.S. Category III Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line fisheries. Similarly, NMFS reclassified, from export to exempt, the shark longline fishery operating in the Gulf of Mexico because it is analogous to the U.S. Category III Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line fishery. NMFS also reclassified the lobster trap fishery operating in the Gulf of Mexico because it is analogous to the U.S. Category III Caribbean mixed species and lobster trap/pot fisheries and has no documented marine mammal interactions.

Based on Mexico's submission, NMFS added to export fisheries, the trap, longline, and gillnet fisheries for sole, white corvina, and verdillo operating on the west coast of the Baja California Peninsula. NMFS also removed the red snapper gillnet fishery as there is no authorized gillnet fishing for snapper in the Gulf of Mexico. NMFS added herring to the sardine/mackerel purse seine and gillnet fisheries operating on the west coast of the Baja California Peninsula. Finally, NMFS changed the Gulf of California lobster fishery gear type from tangle net to trap.

Based on Mexico's information, NMFS added a cobia hand line fishery and a conch diving fishery to exempt fisheries.

Based on Mexico's submission and further analysis of U.S. trade data, in the category ''export fisheries with no information,'' NMFS removed the fishery for lobster (Homarus spp.) as this was likely a reporting error. Lobsters received from Mexico are rock/spiny lobster and would likely not be North Atlantic lobster species. NMFS also removed the silverside (pike, blacknose, longjaw, bigmouth, shortfin) fishery since the United States has not imported products from this fishery for over seven years. NMFS removed the eel fishery because this is a freshwater species that does not occur in marine mammal habitat and has no marine mammal interactions so the MMPA import rule does not apply.

Based on Mexico's submission and NMFS's further review, NMFS removed the Gulf weakfish/corvina trawl fishery because there is no authorized trawl fishery in the Upper Gulf of California. NMFS notes, however, if Mexico develops a finfish trawl fishery in the Upper Gulf of California, Mexico must provide the information necessary to classify the fishery and, if an export fishery, apply for a comparability finding.

Mexico Comment 1: Mexico maintains there are no longline fishing permits granted for tunas (yellowfin, bluefin, skipjack, others) in the IATTC Convention Area. Mexico further notes that pursuant to the National Fisheries Charter 2012 tuna catches are not allowed to be caught using gillnets.

Response: The IATTC vessel register lists 159 longline vessels and 1 gillnet vessel under the Mexican flag. While Mexico may not be currently longline or gillnet fishing for tuna in the IATTC Convention Area, NMFS retained these fisheries as export given the number of vessels registered in IATTC.

Mexico Comment 2: Mexico claims its lobster, octopus, and squid trap/pot fisheries are highly selective fishing gear types and as such should be classified as exempt.

Response: While NMFS reclassified as exempt the lobster trap fishery in the Gulf of Mexico because it is analogous to the U.S. Category III Caribbean mixed species and lobster trap/pot fisheries, trap/pot fisheries for lobster, octopus, or squid operating in all other areas (other than the Gulf of Mexico), have no analogous U.S. fishery nor can they demonstrate no interaction. In the lower Gulf of California and west coast of Mexico, marine mammals, such as large whales using and migrating through the area, can become entangled in trap/pot buoy (vertical) lines and groundlines (lines between traps). Mexico provided no evidence that the likelihood of marine mammal bycatch in octopus, lobster traps/pots is remote; therefore, NMFS retained the export classification for these fisheries.

Mexico Comment 3: Mexico noted that there are no gillnet fisheries for shrimp and finfish in the upper Gulf of California because of its permanent ban on gillnet fishing. Further, Mexico maintains that the gillnets used as ''encircling nets'' in the corvina fishery in the upper Gulf of California are selective and have no evidence of vaquita interaction.

Response: NMFS applauds Mexico's announcement of the gillnet ban in the upper Gulf of California. Although this ban affects several historically gillnet-fished species in the area (including gulf weakfish/corvina, sardines, mackerel, herring, shark, shrimp and other finfish), NMFS retained these fisheries as export because of evidence of continued illegal fishing and vaquita mortality. NMFS believes it is important that Mexico report on the implementation and enforcement of its gillnet ban. Further, NMFS still maintains that the gillnet exemptions for corvina and sierra are unwarranted. Scientific data run contrary to Mexico's assertion that corvina and sierra fisheries do not interact with vaquita, specifically the sierra fishery has observed vaquita bycatch (D'agrosa *et. al.,* 2000). NMFS has retained the export classification for the corvina and sierra gillnet fisheries. Finally, Mexico must provide information on any new gear types that it authorizes to fish in the upper Gulf of California for shrimp and finfish so these fisheries can be classified and receive a comparability finding.

Mexico Comment 4: Mexico included AIDCP tuna vessels in their submission for the LOFF.

Response: Mexico is a party to the AIDCP. NMFS refers Mexico to the above section titled ''The Intersection of the LOFF and Other Statutes Certifying Bycatch,'' noting that AIDCP tunas

under this category are exempted from this rule.

Morocco

Based on Morocco's information, NMFS updated gear type, vessel numbers, areas of operation, and comments for select fisheries. NMFS also combined the sardine, anchovy, and mackerel fisheries based on gear type, to indicate a trawl fishery and a purse seine fishery. NMFS also separated tuna and swordfish fisheries to more accurately characterize gear type, area of operation, and vessel numbers. Whereas previously NMFS had combined tuna and swordfish into the same fishery under each gear type, Morocco provided additional detail meriting splitting into hook and line, trap, and purse seine fisheries for tuna, and hook and line and longline fisheries for swordfish. NMFS removed the octopus pot fishery because this gear type is not used to catch octopus in Morocco. Finally, NMFS added hand collection and diving seaweed fisheries to exempt fisheries.

Morocco Comment 1: Morocco submitted information on marine mammal stranding monitoring efforts; two projects to assess interactions between cetaceans and fishing activities in the Mediterranean and Strait of Gibraltar; and its participation in the Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and contiguous Atlantic area (ACCOBAMS) Survey Initiative.

Response: NMFS applauds these efforts and looks forward to the findings; however, Morocco did not offer the detail necessary for NMFS to evaluate the frequency of marine mammal bycatch to reclassify Morocco's fisheries. NMFS encourages Morocco to develop a marine mammal bycatch monitoring program so, in the future, Morocco may provide detailed marine mammal bycatch estimates for its fisheries.

Morocco Comment 2: Morocco noted that fishermen sever the fins of incidentally caught dolphins to facilitate removal of the marine mammal from the net.

Response: NMFS does not condone this practice; severing the fins of incidentally caught dolphins to facilitate their removal from the net would be considered a serious injury and would be counted against the bycatch limit for that species. This practice could also be considered an intentional injury of the dolphin and could possibly jeopardize the issuance of a comparability finding for that fishery. NMFS urges Morocco to develop safe handling and release guidelines or requirements that prohibit the intentional severing of fins to release a marine mammal from a net entanglement.

Netherlands

Based on the Netherland's information submitted by the European Union, NMFS updated fisheries to indicate where there is marine mammal co-occurrence, and the fishing season for all fisheries. NMFS also removed the sinking gillnet fishery with no specific target species because this is a recreational fishery that does not export product to the United States (see *http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2016/2016/Protected_species_bycatch.pdf*).

New Zealand

Based on the information New Zealand provided, NMFS removed the hake (hoki, ling, white warehou) bottom longline fishery from the LOFF as it does not exist; hake is taken almost entirely by trawl. NMFS also removed shark fins (all gear types) from the LOFF as fins are a product of sharks captured in the spotted dogfish (rig), mixed inshore trawl fisheries, and surface longline fisheries for tuna, not a separate target fishery.

New Zealand Comment 1: New Zealand is currently finalizing models that use a PBR-like approach to quantify the extent of fisheries interactions with marine mammals, and the subsequent impacts to marine mammal populations. New Zealand anticipates finalizing this work within the next two years and will use this information to support its application for a comparability finding. Following completion of this work, New Zealand plans to apply for a comparability finding in 2019 or 2020.

Response: While the regulations do not require nations to apply for a comparability finding until March 2021, NMFS will accept and evaluate comparability finding applications submitted prior to the application deadline.

New Zealand Comment 2: New Zealand asked if it would be acceptable under the MMPA Import Rule to aggregate all New Zealand fisheries into a single assessment, including those not currently exporting to the United States. The proposed aggregated approach would estimate total marine mammal interactions across all fisheries within New Zealand's EEZ (species/gear types/areas) and compare those to an estimate of fishing-related mortalities that each marine mammal population can sustain without significantly impacting the population. New Zealand believes this approach, instead of considering each fishery in isolation, would account for all fishing-related mortalities on a given marine mammal population. This approach would also reduce the need for future comparability finding applications if it is demonstrated that bycatch is below sustainable levels for all fisheries. New Zealand noted that if it cannot aggregate all New Zealand fisheries into one assessment, it will need to reconsider the current fishery groupings, and its modelling approach, to ensure that model outputs and the fisheries listed are consistent and accurately reflect a 'fishery' from an operational perspective.

Response: The MMPA Import Rule requires a nation to submit an application for each export fishery. That said, the MMPA Import Rule also requires that for those fisheries, a nation undertake a comparison of the incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery in relation to the bycatch limit for each stock; and comparison of the cumulative incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery and any other export fisheries of the harvesting nation showing that these export fisheries: (*i*) Do not exceed the bycatch limit for that stock or stocks; or (*ii*) exceed the bycatch limit for that stock or stocks, but the portion of incidental marine mammal mortality or serious injury for which the export fishery is responsible is at a level that, if the other export fisheries interacting with the same marine mammal stock or stocks were at the same level, would not result in cumulative incidental mortality and serious injury in excess of the bycatch limit for that stock or stocks (see 50 CFR 216.24(h)(6)(iii)(C)(6)). While this may not be the same aggregation New Zealand envisions, it does require that all marine mammal mortality and serious injury across all gear types be evaluated against the bycatch limit for that marine mammal population. The impact of all fisheries and each fishery interacting with a marine mammal population is evaluated against the bycatch limit for that marine mammal stock, allowing for the greatest flexibility and likelihood of issuing a comparability finding, especially for those fisheries with little bycatch.

New Zealand Comment 3: New Zealand requested information about how often the LOFF will be reviewed or updated.

Response: In 2020, the year prior to the expiration of the exemption period, NMFS will re-evaluate foreign commercial fishing operations and

publish a notice of availability in the **Federal Register** of the draft LOFF for public comment, followed by notice of availability of the final revised LOFF in the **Federal Register**. NMFS will revise the final LOFF, as appropriate, and publish a notice of availability in the **Federal Register** and update the LOFF every four years thereafter.

Norway

Based on the information Norway provided, NMFS reclassified the Norwegian krill fishery as exempt.

The largest population of fur seals is on the island of South Georgia, which supports about 95 percent of all Antarctic fur seals (IUCN 2008). In 1999/2000, when the last survey occurred, the total population was estimated between 4.5 and 6.2 million seals, and is believed to have increased by 6 percent—14 percent since the 1990/1991 season (IUCN 2008). In 2004, all populations of fur seals are believed to be either increasing or stable (SCAR EGS 2004). Assessments of fur seal population size in Area 48, where the krill fishery occurs, are not currently available. Mortalities of fur seals in the krill fishery have declined over time, but were sometimes substantial before the mandatory deployment of seal exclusion devices. In 2005, CCAMLR implemented rules requiring the use of seal exclusion devices by each vessel. Between 2008 and 2014, no fur seal mortalities were reported, only two were reported in 2015. Using a minimum stock size which includes a 30 percent reduction in the overall stock size from the last available estimate, the stock is estimated at 2.94 million individuals. A recovery factor of 0.5 results in a PBR of 88,200 individuals. Based on these calculations and the bycatch mitigation requirements the krill fishery has a remote likelihood of having bycatch levels in excess of 10 percent of the PBR-level. Based on these calculations NMFS reclassified this krill fishery as an exempt fishery.

Based on information Norway submitted to ICCAT, from 2014 through 2017 there was no reported or observed bycatch of marine mammals in the tuna longline/purse seine fisheries. Therefore, NMFS reclassified the Norwegian longline and purse seine tuna fisheries as exempt.

NMFS also reclassified the demersal fish (cod, haddock, angler fish, and tuna, saithe Danish seine fishery as exempt as this gear type has a remote likelihood of marine mammal bycatch.

Norway Comment 1: Norway requested that longline, trawl, and purse seine fisheries be reclassified as exempt. Fisheries conducted with longline, and trawl are mainly for demersal fish. Purse seine fisheries are mainly for pelagic fish, such as herring, capelin, tuna and saithe. Norway has no reported or observed marine mammal bycatch in these fisheries, in logbooks, by observers, in landing reports, or in other sources of information (detailed information about Norwegian observer programs is provided in a report to the North Atlantic Marine Mammals Commission (NAMCCO), ''Observed and Reported Bycatches of Marine Mammals in the Norwegian Shelf and Offshore Fisheries'' (NAMMCO/15/MC/BC/7). Norway asserted that because there is no information on marine mammal bycatch in these fisheries, they have a remote likelihood of marine mammal bycatch in excess of ten percent of PBR level.

Response: Norway has only observed this fishery once in 2005 and lacks more recent observer data for these fisheries. We understand that Norway intends to resume its observer program in 2018; and NMFS looks forward to Norway submitting the revised observer data and bycatch estimates when the LOFF is revised in 2020. NMFS uses more recent bycatch estimates taken over a series of several years. Absent more recent observer information, NMFS lacks justification for reclassifying the trawl, longline, and purse seine fisheries from export to exempt fisheries.

Norway Comment 2: Norway noted that ''Co-occurrence Evaluation'' and an ''Analogous Gear Evaluation'' do not include information on biology, spatial distribution, marine mammal abundance and other factors critical to assess whether marine mammal bycatch occurs in a fishery. Norway also stated NMFS should not assume that a marine mammal caught by a trawl fishery in one geographical area will automatically be caught using the same gear in another geographical area.

Response: In the draft LOFF **Federal Register** notice, NMFS published the scientific basis for its co-occurrence evaluation. This evaluation is based on the best available scientific information, and absent information documenting the presence or absence of marine mammal bycatch, NMFS will use this and other available scientific information for its evaluations. Likewise, absent documented information on bycatch or co-occurrence, NMFS believes use of analogous gear is a legitimate rationale for classifying fisheries. In some instances, NMFS classifies its domestic fisheries based on analogous gear types.

Norway Comment 3: Norway noted that the definition of an ''export fishery'' includes fisheries having marine mammal bycatch in excess of 10 percent of PBR for that marine mammal stock and that bycatches in such fishery must be reduced to obtain a comparability finding. Norway cannot understand the basis for this threshold. Further, Norway stated that if they accepted as a premise that fish import into the United States must be harvested in a sustainable manner for bycatch species such as marine mammals, to equate this to not exceeding the level of PBR, a ten-fold ''extra insurance,'' seems without any scientific and biological justification.

Response: NMFS disagrees; the MMPA import rule is based on sound science and follows the same standards as the U.S. regulatory program for its fisheries. Exempt fisheries are equivalent to Category III fisheries in the U.S. regulatory program because the impact of these fisheries on marine mammals is negligible and the likelihood of bycatch is remote. Export fisheries are functionally equivalent to Category I or II fisheries under the U.S. regulatory program (see definitions at 50 CFR 229.2). Fisheries that NMFS determines have more than a remote likelihood of incidental mortality and serious injury of marine mammals, or for which there is a lack of reliable information that they have no or a remote likelihood of incidental mortality and serious injury to marine mammals, will be classified as export fisheries. Because the United States focuses its incidental mortality and serious injury assessment efforts and regulatory requirements on Category I and II fisheries (which are domestic fisheries where the likelihood of incidental mortality and serious injury is more than remote), NMFS has adopted the same approach in the MMPA import rule for export fisheries (see *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries*).

Oman

Oman's fisheries remain unchanged. While Oman submitted information, the submission lacked the detail necessary for NMFS to further evaluate the frequency of marine mammal bycatch or reclassify Oman's fisheries. NMFS notes that Oman prohibits the catch of whales or marine mammals and in 2014 and 2015 Oman conducted surveys to assess the status of its marine mammal stocks, the report of which will be provided to the International Whaling Commission. NMFS further notes Oman has initiated the adoption of regulations to limit the length of driftnets and purse seines to less than 1 kilometer (km) for artisanal boats and up to 2.5 km for artisanal/

industrial coastal fleets. NMFS encourages Oman to develop a marine mammal bycatch monitoring program, so it may provide more detailed information about marine mammal bycatch estimates in its fisheries.

Pakistan

Based on Pakistan's information, NMFS removed the coral, shells, and cuttlebone fishery because it no longer exists and there have not been exports of these products since 2009. Per Pakistan's recommendations, NMFS modified the number of vessels and area of operation for nearly all Pakistan's fisheries. NMFS encourages Pakistan to further develop its marine mammal bycatch monitoring program so it can provide detailed information about marine mammal bycatch in its fisheries. NMFS also urges Pakistan to diligently look for ways to mitigate marine mammal bycatch in its gillnet fisheries or consider switching to non-entangling gear given the magnitude of the bycatch and the co-occurrence of marine mammals and gillnet fisheries.

Panama

Based on Panama's information, NMFS added three export fisheries: Forage fish purse seine fishery in the Pacific Panamanian EEZ; shrimp gillnet fishery in the Pacific Panamanian EEZ; and a large pelagics surface longline fishery outside the Panamanian EEZ within the IATTC convention area (eastern central and southeast Pacific). In addition, NMFS updated target species, number of vessels, and area of operation for the vast majority of Panamanian fisheries. Panama did not provide information on the frequency of marine mammal mortality and serious injury in any of its export fisheries.

Philippines

For exempt fisheries, NMFS changed the area of operation from none provided to coastal area/EEZ. For export fisheries, NMFS changed the area of operation for several export fisheries based on the Philippines' information. NMFS reclassified sardine, herring and squid bag net and scoop nets as exempt given the small size of the gear, its operation, and the determination that the likelihood of marine mammal bycatch is remote. Also, based on the Philippines' information, NMFS added a tuna longline fishery operating in the EEZ and international waters under the WCPFC, IOTC, and ICCAT.

Philippines Comment 1: The Philippines challenged the export fishery classification for the blue swimming crab, noting the species is caught in coastal areas nationwide (including the Visayan Sea, Palawan, Sorsogon Bay and the Bicol area) by crab pots or traps with no reported or a remote possibility of marine mammal interactions.

Response: Marine mammals can become entangled in the buoy (vertical) line and groundlines (lines between traps) of crab traps. Because the Philippines did not provide evidence that the likelihood of marine mammal bycatch in blue swimming crab pots is remote, NMFS could not reclassify the blue swimming crab pot fishery as exempt.

Poland

Based on Poland's information submitted through the European Union, NMFS updated vessel number and gear type for each fishery, and marine mammal species where co-occurrence is present. NMFS split into individual target species fisheries, fisheries that NMFS had recorded as multispecies fisheries. NMFS reclassified from ''export fishery with no information'' to export, the Atlantic salmon trap, gillnet, and longline fisheries, and sardine pelagic trawl fisheries. Finally, upon further analysis of U.S. trade data, NMFS removed the fishery for tuna because this species has not been exported to the United States in the preceding four years and was inconsistently exported prior to 2014.

Portugal

Based on Portugal's information submitted by the European Union, NMFS updated fishing seasons for all fisheries, and combined fisheries into multispecies fisheries based on gear type and area of operation.

NMFS also changed the bluefin tuna fixed weir/trap fishery from ''export fishery with no information'' to export fishery, because NMFS is uncertain whether dolphins could become entangled in the net that funnels tuna to the final area where they are harvested.

Additionally, NMFS reclassified eel, crab, cuttlefish, and lobster trap fisheries from ''export fisheries with no information'' to export.

Based on Portugal's information, NMFS reclassified from ''export fisheries with no information'' to exempt fisheries the mussel raft and line aquaculture fishery, the hand collection fisheries for seaweed and snails, the handline fishery for skipjack tuna, and the coastal aquaculture fishery for clams based on the highly selective nature of the gear types used to fish these products and the remote likelihood of marine mammal bycatch.

NMFS removed from the LOFF fisheries for turbot, sea bass, and sea bream and placed them on list of foreign fisheries for which the rule does not apply as these fisheries are produced by inland aquaculture. Likewise, NMFS moved salmon to the intermediary nations list as this is a re-exported, processed product.

Seychelles

NMFS did not reclassify any Seychelles fisheries. Based on Seychelles' information, NMFS removed the tuna and large pelagics trawl fishery from the list of export fisheries, because this fishery is no longer permitted. NMFS added a spanner crab pot fishery to the list of export fisheries because no information was provided about this fishery.

Seychelles Comment 1: For the grouper, seabass, snapper set bottom fishing, ball bottom fishing and bottom drift fishing, Seychelles stated these are artisanal fisheries for mixed demersal species commonly found in association with reefs and banks with limited marine mammal interactions; therefore, these fisheries should be exempted.

Response: NMFS did not reclassify these fisheries because the Seychelles did not provide detailed information about the gear type, how it is fished, or any evidence from logbook or observer data indicating the entanglement rate associated with these fisheries. Without additional information, NMFS cannot evaluate whether these fisheries have a remote likelihood of marine mammal bycatch.

Seychelles Comment 2: Regarding the semi-industrial longline fishery, Seychelles stated that predation is the primary marine mammal interaction with this fishery. False killer whales depredate tuna and swordfish from the semi-industrial longliners. The Seychelles claims depredation occurs while the lines are set and to date there has been no marine mammal entanglement on semi-industrial longline gear. Seychelles stated it plans to include longliners in the scientific and compliance observer programs to monitor catches and ensure that non-targeted species (such as turtles) are avoided.

Response: NMFS did not reclassify this fishery as exempt. Marine mammal depredation on longlines poses a risk of entanglement that is more than remote. NMFS will revise the LOFF in 2020, and looks forward to receiving summaries from the Seychelles' scientific and compliance observer program documenting the frequency of marine mammal depredation and bycatch in the semi-industrial longline fishery.

Seychelles Comment 3: Seychelles commented that the industrial longline

fishery is regulated as a purse seine fishery under the IOTC, targeting mainly tuna and tuna-like species. The Seychelles asserted that this fishery should be reclassified as exempt because the gear is selective and has minimal interactions with marine mammals. The fishery is monitored and regulated through onboard inspection of catches, vessel monitoring systems, and catch logbooks. The Seychelles stated marine mammal interactions are mitigated by utilizing circle hooks, which minimize the risks of accidental catches of non-targeted species including marine mammals.

Response: NMFS did not reclassify this fishery as exempt. For NMFS to evaluate the bycatch rate in this fishery the Seychelles must provide information on marine mammal depredation and entanglement from logbooks or observer programs. Additionally, while circle hooks may be an effective mitigation measure for sea turtles, research has not yet demonstrated that they effectively reduce marine mammal bycatch. Without more information demonstrating that the likelihood of bycatch is remote, NMFS cannot reclassify this fishery as exempt.

Slovenia

Based on Slovenia's information submitted by the European Union, NMFS removed seaweed and albacore from the LOFF fisheries and placed them on the intermediary nations list as these are re-exported, processed products.

Upon further analysis of U.S. trade data, NMFS removed mullet, sole, hake, and whiting from the LOFF fisheries as Slovenia indicated that these are domestic fisheries for domestic consumption and are not exported to the United States. Further, the United States has not imported these products in the preceding seven years. Because Slovenia did not provide information about its mackerel fishery, which is a product exported to the United States, NMFS retained this fishery as an ''export fishery with no information.''

South Korea

Based on the information South Korea provided, NMFS consolidated individual fishing provinces into a broader region designation; consolidated fisheries into appropriate multispecies fisheries; and consolidated the number of vessels operating in a region. NMFS also updated marine mammal bycatch estimates for the individual fisheries.

NMFS removed yellowtail, bass, octopus, and aquacultured mussel, and mullet from the category ''export fisheries with no information,'' as additional information provided by South Korea indicated that mullet and bass are captured in the multispecies gillnet, longline fishery, and set net fisheries, octopus are caught in pots and traps as well as in the longline fisheries, and yellowtail are caught in the multispecies gillnet, set net, stationary net and purse seine fisheries. NMFS moved aquaculture mud loach from the LOFF to the category of ''Rule Does Not Apply'' as this is a freshwater species.

NMFS removed gear types of ''illegal catch,'' ''strand,'' and ''driftnet'' from fisheries listed under the category of export fisheries with no information because South Korea clarified these as instances of marine mammal stranding events and drifting carcasses for which the cause of death could not be attributed to a specific fishery. South Korea originally listed these marine mammal interactions as ''strand'' and ''drift,'' which NMFS incorrectly interpreted to mean lines and driftnets. The marine mammal deaths attributed to illegal catch were also removed because a specific fishery could not be identified as the cause of the interaction.

Finally, South Korea provided gear information for gear types ''bamboo weir,'' ''anchovy lift net,'' and ''mosquito net.'' NMFS reclassified these fisheries as exempt fisheries because NMFS review of the information of these practices indicated that the likelihood of marine mammal bycatch is remote.

Upon further review of U.S. trade data encompassing the last 17 years, NMFS removed haddock and hake from the category ''export fisheries with no information.'' Haddock have never been imported into the United States from South Korea, and hake was received intermittently and not since 2013. Additionally, NMFS removed from this category turbot that is caught in the multispecies stow net and stationary net fisheries, cusk that is caught in the multispecies trawl fishery, sardine that is caught in the multispecies trawl and purse seine fisheries, and shad which is caught in the multispecies purse seine, set net, and gillnet fisheries. All of these fisheries were reclassified as export.

Saint Helena

Based on the information Saint Helena provided, NMFS reclassified from an ''export fishery with no information'' to an exempt fishery the Tristan rock lobster trap and hoop net fishery. The basis for this reclassification is this fishery has no documented marine mammal interaction and is analogous to the Category III Caribbean mixed species and lobster trap/pot fisheries.

Spain

Based on Spain's information submitted by the European Union, NMFS updated fishing areas for species, particularly where no information had been previously provided. NMFS added longline and purse seine fisheries for tuna and swordfish in FAO Areas 21, 31, 61, and 67. Spain's purse seine fisheries for tuna in areas 61 and 67 are operating under WCPFC conservation and management measures prohibiting the intentional encirclement of cetaceans and as such have been classified as exempt. NMFS separated into two fisheries the shark and swordfish fishery. Spain conducts a directed shark fishery with longlines within the ICCAT convention area, but NMFS does not know what additional areas shark fishing may be occurring in, or how many vessels are participating in this fishery. NMFS moved the lobster trap fishery, the anchovy and sardine purse seine fishery, and the bonito troll fishery from ''export fisheries with no information'' to export. NMFS classified the sea cucumber trawl fishery as export.

NMFS classified as exempt the bonito handline fishery, sea cucumber hand collection/dive fishery, the sea urchin diving fishery, and the scallop, mussel, oyster coastal aquaculture fisheries, and the gilthead bream, bass, turbot, and bluefin tuna aquaculture because the likelihood of marine mammal bycatch is remote. NMFS removed caviar from the LOFF and added it to the category ''rule does not apply'' because the caviar is sourced from inland aquacultured sturgeon.

Finally, NMFS reclassified the dolphinfish fishery as ''export fishery with no information'' because Spain provided no details on this fishery or its marine mammal bycatch.

Suriname

Based on information provided by Suriname, NMFS updated vessel number, area of operation, marine mammal species interactions, and comments for select fisheries. Suriname listed additional export fisheries: Seabob shrimp trawl; deep water shrimp trawl for orange and deep water rose shrimp; bottom trawl for weakfish, grunt, croaker, snapper, catfish, hairtail, Barracuda and other demersal fish; bottom trawl for weakfish, hairtail or cutlass, drum, croaker or butterfish, sea catfish and moonfish (prosecuted by five China flagged vessels); gillnet, longline, driftnet and fyke net fishery

for catfish, Atlantic tripletail, seabob, shrimp and tarpon; setnet and pin seine for bang-bang, dagou tifi, kandratiki koepila, pani, snook and botrofisie; and a driftnet fishery for croaker, dagou tifi or bangamary. Suriname clarified gear type information on an exempt fishery, noting that 139 Venezuelan-flagged vessels prosecute snapper, grouper, dolphinfish, mackerel etc. using hook and line and handlines, while six Venezuelan-flagged vessels utilize longline gear. The longline fishery was added to the export fisheries list, and the hook and line and handline fishery remained classified as exempt. No marine mammal bycatch information was provided for these added fisheries.

Sweden

Based on Sweden's information submitted by the European Union, NMFS updated vessel numbers and gear types. NMFS also removed salmon from the list of export fisheries with no information as it was already accounted for in the export fisheries list.

Upon further analysis of U.S. trade data, NMFS removed pollock from the LOFF as pollock has not been imported from Sweden in the preceding seven years. NMFS also removed sardine from the list of export fisheries with no information as most imports were already accounted for under the sardine and sprat fisheries. The United States imported sardines just twice in the preceding seven years, in 2014 and 2015, and in low quantities. Sardines have not been imported since 2015.

Taiwan

Based on Taiwan's information, NMFS modified the squid driftnet fishery to a squid dipnet fishery and reclassified that fishery as exempt, as the gear type is too small to catch marine mammals. Also, the mullet, marine fish, seabass aquaculture fishery was removed from the LOFF as it is an inland pond aquaculture fishery. NMFS updated the number of vessels and area of operation for several exempt and export fisheries.

Based on Taiwan's information, NMFS also removed from the LOFF (under ''export fisheries with no information'') the fisheries listed as operating in FAO area 71 and in Indonesia because Taiwan claims these fisheries no longer operate in those areas. From this same category, NMFS added as an export fishery the cephalopod and benthic species trawl fishery.

Taiwan Comment 1: Taiwan claimed that the mackerel and bonito Taiwan seine fishery, the multi-species mackerel, snappers, crab, shark, and mullet gillnet, trammel net, and trawl fisheries, multi-species mackerel, tuna, mahi-mahi trap fishery and the Japanese and oceanic anchovy and eel larvae stow net fishery do not export to the United States.

Response: NMFS retained these fisheries as export fisheries on the LOFF as the U.S. trade data indicate either these specific species or large quantities of unspecified ''marine fish'' or ''fish.'' Until Taiwan can provide information on the species and origin of these unspecified fish imports, NMFS will continue to include these fisheries on the LOFF.

Thailand

Thailand's fisheries are permitted and managed as multi-species pelagic or demersal fisheries. Based on Thailand's information NMFS created gillnet, longline, pot, and trawl fisheries aggregating individual species into multi-species pelagic and demersal fishes. By separating these fisheries by individual species, NMFS was duplicating fisheries; therefore, aggregating these fisheries according to how Thailand manages and permits them, while significantly reducing the number of export fisheries, provides a realistic estimate of the actual number of export fisheries. NMFS added exempt fisheries including: Whitespotted conger hand collection; whitespotted conger aquaculture; cobia aquaculture, seabass aquaculture, grouper aquaculture, demersal fish handline, and pomfret lift net fishery.

Trinidad & Tobago

Based on information provided by Trinidad & Tobago, NMFS updated target species, gear type, vessel number, area of operation, marine mammal interactions, marine mammal bycatch estimates, and comments for select fisheries. Trinidad & Tobago listed additional fisheries. Trinidad & Tobago clarified and expanded the gear types used to prosecute tuna as dive/spear, longline, gillnet, and pelagic line. Those fisheries were added by gear type to the Trinidad & Tobago export list, with the exception of the dive/spear fishery, which was added to the exempt list due to that gear type having a remote likelihood of marine mammal mortality or serious injury.

NMFS added the following export fisheries based on information submitted by Trinidad & Tobago regarding the draft LOFF a gillnet fishery and a pelagic longline fishery for tuna, bonito, flying fish, wahoo, and dolphinfish; a banking/troll/tow/other gears fishery for croaker, salmon, weakfish, snapper, groundfish, carite, kingfish, cavali and shark; an artisanal bait seine/beach seine/Italian seine fishery for carite, kingfish, cavali, snapper, herring, weakfish, and groundfish; four artisanal multi-gear fisheries—gillnet, driftline/pelagic line, beach/land seine, and demersal longline—for tuna, bonito, flying fish, wahoo, dolphinfish, snapper and grouper.

Tunisia

Based on information provided by Tunisia, NMFS updated gear type, vessel number, and information for select fisheries. NMFS updated information for fisheries classified as ''export fisheries with no information'' and moved these fisheries to export. NMFS retained all fisheries on the exempt list except for lobster caught with gillnets. This fishery was moved to the export list because gillnets are known have more than remote likelihood of marine mammal bycatch.

Tunisia provided a list of seafood products known to be exported to the United States NMFS noted that several of these products were not on the draft LOFF, so those products were added. However, Tunisia provided no additional information for those products; therefore, they were added under ''export fisheries with no information.''

United Kingdom

Based on the United Kingdom's (UK) information submitted by the European Union, NMFS updated the fishing season for each fishery. NMFS reclassified from export to exempt lift net and dredge fisheries because of their remote likelihood of marine mammal bycatch.

Upon further analysis of U.S. trade data, NMFS removed the conch fishery as the UK only exported this product to the United States once in the preceding seven years. NMFS also removed the fisheries for sprat, skate, and hake as these fisheries did not export to the United States in the preceding seven years. The UK should consider if removing these products is merited. If the UK wishes to export these products it must provide information about these fisheries and their marine mammal bycatch.

Uruguay

Uruguay noted that the fishery for black hake is a common name for toothfish fished in the CCAMLR Convention Area. As their toothfish longline fisheries are already noted, the fishery for black hake is redundant. As a result, NMFS has removed this fishery. Uruguay did not provide any

other updates or information on their fisheries.

Vietnam

In response to information submitted by Vietnam, NMFS combined fisheries utilizing the same gear type targeting multiple species, including cuttlefish, grouper, mullet, snapper, demersal fisheries, and flatfish/sole. NMFS also updated vessel numbers.

NMFS reclassified to exempt the anchovy and sardine lift net fishery because it has a remote likelihood of marine mammal bycatch. NMFS moved the mud crab and shrimp aquaculture fishery from the LOFF to the ''rule does not apply'' list as these species are cultured at inland aquaculture facilities.

Vietnam Comment 1: Vietnam recommended that NMFS remove the fixed gillnet fishery for swimming crabs from the LOFF because this fishery operates in coastal areas without marine mammal bycatch. Moreover, this fishing gear has small net size (net height of 0.8–1.0 meters) which does not affect marine mammals.

Response: NMFS retained this fishery as export. Gillnet gear, even when used in coastal or nearshore areas, likely interacts with marine mammals that co-occur in these fishing areas. NMFS needs additional information supporting Vietnam's claim that fixed gillnet gear for swimming crabs should be classified as exempt.

Vietnam Comment 2: Vietnam requested NMFS remove from the LOFF the fishery for octopus by demersal longline and the deep-sea pelagic fishery for orange roughy.

Response: Vietnam has regularly exported orange roughy and octopus to the United States in the preceding seven years. NMFS requests that Vietnam provide information on whether these products are harvested or the result of intermediary processing.

Vietnam Comment 3: Vietnam proposed removal of ''logistic vessel'' fisheries from the list of ''export fisheries with no information'' stating these fisheries are traditional fisheries, operating in coastal areas without marine mammal interactions.

Response: NMFS cannot reclassify these fisheries because Vietnam did not identify the species targeted by these logistic vessels nor the gear type used in this fishery.

(3) Comments Not Attributed to Specific Nations

Comment 1: Several nations recommended that NMFS consider third-party certifications of foreign fisheries as the basis to classify fisheries as exempt. Specifically, Greenland recommended NMFS consider MSC certifications in support of program efficiencies, towards establishing exempt fisheries classifications under the proposed LOFF because, amongst other criteria, the MSC certification considers marine mammal bycatch.

Response: NMFS disagrees as nothing in the MMPA authorizes NMFS to abrogate its responsibility to determine whether a fishery has bycatch in excess of U.S. standards to a third party issuing certifications for other commercial or ecological purposes. While NMFS cannot directly rely on third-party certifications to show that an export fishery is meeting the conditions of a comparability finding or for classification of a fishery, it can consider such information as part of the documentary evidence that a harvesting nation submits to receive a comparability finding. Currently, NMFS does not recognize MSC certification in its management of protected species because the criteria for obtaining MSC certification do not comport with all requirements of the MMPA. Therefore, NMFS cannot base determinations to issue comparability findings or classify fisheries solely on MSC certification.

Comment 2: One commenter claimed that in most EU waters, fisheries bycatch estimates should be considered minimum estimates of marine mammal bycatch and that reliable monitoring is lacking in most fisheries. The basis for such assertions include that: Fishermen are not required to record marine mammal bycatch in all EU nations; under EU council regulation 812/2004, only vessels greater than 15 meters are required to use onboard observers; and most cetacean bycatch is undocumented in high-bycatch fisheries such as gillnets, trammel nets, and other entangling nets used by small vessels.

The commenter further asserted that the LOFF does not fully assess the consequences of ''thousands'' of bycaught marine mammals and critically-endangered harbor porpoise (which number only 500 animals) in the Eastern Baltic Sea. Bycatch ''in the thousands'' for other populations or species sounds dramatic, but even a seemingly very low number of annual bycatches of this population occurring in ICES 27.3 subdivisions 24, 25, 26, 27, 28–2, 29 (and possibly in 28–1, 30 and 32) could drive this population to extinction. The commenter noted that even the bycatch of one harbor porpoise annually is too much and the list should reflect this. The commenter urged NMFS to take into account bycatch information on gray seals in the Baltic sea gillnet, fyke net and trap fisheries provided by Vanhatalo *et al.* 2014.

Response: NMFS recognizes the importance of the scale of bycatch in relation to the population size for the marine mammals affected. The first step of this process was to identify the scope and scale of fisheries exporting fish and fish product to the United States and the marine mammal stocks impacted by these fisheries. As outlined in the final rule for the MMPA Import Rule, nations will then need to address their export fisheries domestically and submit a progress report on their mitigation efforts. One way to assess fishery impact of marine mammal stocks is by calculating PBR for the stock and determining whether mortality and serious injury levels exceed PBR. As noted in the comment, the PBR could be a large number of animals, or, as noted for small, declining stocks, a single mortality or serious injury may exceed PBR. NMFS acknowledges the scale of marine mammal interaction may differ based on location of the fishery and the marine mammal stocks with which that the fishery interacts.

Comment 3: One commenter noted the discrepancy between Germany's reported bycatch and stranded animals with net marks. The German cod and flatfish fisheries in the Baltic (ICES 27.3.c and 27.3.d), report only 10 harbor porpoises as bycatch; whereas more than 150 dead harbor porpoises strand on German beaches annually, at least 50 percent of them with net marks.

Response: NMFS appreciates this information, but notes it is difficult to attribute a stranded harbor porpoise with visible evidence of entanglement to a specific fishery. NMFS classified as export all gillnet fisheries on the LOFF, meaning export of products from these fisheries to the United States require nations to adopt mitigation measures or a regulatory program comparable in effectiveness to U.S. standards for those fisheries.

Comment 4: One commenter noted that marine mammal bycatch occurs in the German herring set net fishery operating in the Baltic Sea ICES division IIId (TV documentary showing harbor porpoise bycatch *https://www.youtube.com/watch?v=bMkq9qfQnVg*)

Response: In the LOFF, NMFS indicates for the herring set net fishery that ''harbor porpoise interaction likely'' and classified this fishery as export.

Comment 5: One commenter questioned the gear type and bycatch of 61 harbor porpoise in the German ''fish pods'' fishery operating in the Baltic Sea. The commenter suggests that NMFS review this information as pot fisheries for cod in the Baltic Sea (fished by Sweden and Denmark) are an

alternative gear preventing bycatch of marine mammals.

Response: The target species for ''fish pods'' is unknown; consequently, NMFS classified this fishery as ''export fishery with no information''. NMFS is still seeking information on whether ''fish pods'' and fish pots are the same gear type. The estimate of 61 harbor porpoise bycaught originates in IWC reports spanning 2009–2011. Upon further review of those reports NMFS noted only 4 interactions of harbor porpoise with fish pods. NMFS has revised the bycatch estimate in the LOFF. The status report also notes 212 harbor porpoise strandings in 2010; but, as previously noted in the response to comment 3, NMFS cannot attribute these strandings to a specific fishery.

Comment 6: The commenter noted harbor porpoise bycatch occurs in the cod, sea trout, and salmon Polish gillnet and entangling net fisheries in the Baltic Sea. Many of these bycaught harbor porpoise are likely from the critically endangered populations, especially if bycatches occur during winter (Skora, K.E., Kuklik, I. (2003)). The commenter further noted that bottlenose dolphins are not bycaught in these fisheries because they are infrequent visitors to the Baltic Sea.

Response: NMFS has information indicating that harbor porpoises interact with the entangling net fishery operating in the Baltic Sea; however, the EU did not provide bycatch estimates. See response to Comment 3 for regulatory requirements.

Comment 7: The commenter noted that in Danish gillnet fisheries ''harbor porpoise mortality in the thousands'' is recorded for every target species, including gadoids, lumpfish, flatfish and herring. Some fisheries have high bycatch while others such as the herring gillnet catch fewer harbor porpoises. Vinther (1999) lists a number of Danish North Sea fisheries with harbor porpoise bycatch. Some conclusions can also be drawn for similar Baltic Sea fisheries although this information has not been provided in the study. For the Kattegat and Belt Sea ICES Working Group on Bycatch of Protected Species (WGBYC) 2015 and 2016 provide the first estimates of harbor porpoise bycatch. However, uncertainty is quite high due to extrapolation of electronic monitoring data to incomplete effort data.

Response: Regarding the high levels of marine mammal mortality noted for all Danish gillnet fisheries, NMFS refers the commenter to the draft LOFF ''Assumptions Made in the Development of the LOFF,'' subsection ''Duplication of Marine Mammal Interactions Based on Gear Type with No Associated Target Fishery Species'' (82 FR 3976;, August 22, 2017). NMFS applied available estimates of marine mammal bycatch to similar fisheries operating within an area, especially when bycatch estimates were unavailable and bycatch was suspected. NMFS believes this approach is in keeping with the MMPA import rule. Without nations or other sources providing documentary evidence to illuminate the exact gillnet fisheries responsible for high bycatch levels, NMFS based its determination on the best available information.

Comment 8: Several commenters expressed concern about gillnets and urged NMFS to prohibit imports from gillnet fisheries. One commenter stated that gillnets should be banned worldwide. Turtle Island Restoration Network further noted and strongly agreed with the classification of drift gillnets and longlines as export fisheries, because the likelihood of mortality and serious injury caused by these fisheries is more than remote. Several commenters agreed that gillnets consistently pose a significant risk to marine mammals.

Response: NMFS agrees that gillnets pose a significant bycatch risk to marine mammals. The final LOFF is replete with gillnet fisheries with marine mammal bycatch. This rule requires that, to continue exporting products of these fisheries to the United States, nations with gillnet export fisheries with incidental mortality and serious injury of marine mammals, take significant steps to mitigate that mortality or serious injury, such steps could include switching to non-entangling gear (*e.g.,* hook and line) to ensure achievement of a comparability finding.

Comment 9: The Pacific Coast Federation of Fishermen's Associations requested that net pen tuna aquaculture and net and cage finfish aquaculture be considered export fisheries because of the use of fishmeal in these aquaculture operations. The Pacific Coast Federation of Fishermen's Associations cited that because 60 percent of fishmeal is exported from its production country and used as feed in a different country, fishmeal should be treated as a fish product entering a separate nation. The Pacific Coast Federation of Fishermen's Associations commented further that if fishmeal is fed to aquaculture species and then the species consuming that fishmeal are exported to the United States, NMFS should consider this a form of processing. The Pacific Coast Federation of Fishermen's Associations stated that because the likelihood of incidental mortality and serious injury of marine mammals in foreign trawl and seine fisheries used to capture species used in fishmeal is more than remote, NMFS should classify all aquaculture operations that use or may use fish meal as export fisheries.

Response: NMFS notes that the LOFF is linked to fish that are caught or harvested in a specific fishery, not the level of processing that occurs downstream of the harvest event. That said, section 101(a)(2) of the MMPA states that the Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. This provision makes clear the MMPA import rule regulates the bycatch of marine mammals when the animal is killed or injured during a commercial fishing operation. The law does not extend to a product that is once or twice removed from that fishery, in this case fishmeal consumed by aquaculture fish. Classifying aquaculture fisheries based on the fishery classification that is the source of fishmeal runs contrary to the MMPA.

Comment 10: The Natural Resources Defense Council (NRDC), on behalf of itself, the Center for Biological Diversity, The Humane Society of the United States, the Humane Society Legislative Fund, and Whale and Dolphin Conservation stated that New Zealand's Danish seine fisheries likely have underreported and unmonitored interactions with marine mammals and should not be categorized as exempt without more information.

Response: NMFS notes that New Zealand's Danish seine fishery, as is the case with Danish seine fisheries generally, has a remote likelihood of marine mammal bycatch and, as indicated above in the list of gear types and classifications, Danish seine fisheries are classified as exempt except where documentary evidence indicates marine mammal interactions are occurring. If NRDC believes marine mammal interactions are underreported in these fisheries, it must provide documentary evidence for these assertions.

Comment 11: Unless affirmative information supports an exempt classification, NRDC *et al.* recommended that all of Canada's aquaculture fisheries be categorized as export, given the well-documented instances of intentional killings at numerous aquaculture facilities.

Response: NMFS evaluates aquaculture operations on a case-by-

case basis, considering the operation's measures to reduce interactions, prohibit intentional mortality, and reduce incidental mortality and serious injury of marine mammals. NMFS classified aquaculture operations as exempt fisheries, unless there was a record of entanglement or intentional killing in such aquaculture operations. As a result, Canadian aquaculture operations for mussels, clams, scallops, oysters, marine plants, quahogs, sea urchin, sea cucumber, and kelp are classified as exempt, as are two aquaculture operations for trout and salmon, which have no documented marine mammal interactions (incidental or intentional). NMFS classified as export all other finfish aquaculture with documented marine mammal interaction and/or which permit the intentional killing or injury of marine mammals.

Comment 12: NRDC *et al.* recommended NMFS review the siting of aquaculture facilities and consider designating fish from facilities overlapping with whale habitat as ''export'' fisheries.

Response: When classifying aquaculture operations NMFS takes into consideration the co-occurrence of marine mammal and aquaculture operations.

Comment 13: NRDC *et al.* recommended that any fishery with any history of gillnet use, including the shrimp fishery, must be categorized as export fisheries.

Response: NMFS agrees and in the absence of documentary evidence to the contrary has designated these gillnet fisheries as export.

Comment 14: NRDC *et al.,* recommended that NMFS designate trap pot and other fixed gear fisheries as export when they co-occur with baleen and sperm whales, including migration routes. NRDC *et al.,* recommended that NMFS classify the Dominican Republic lobster fishery and other exporting fisheries in the Caribbean as ''export'' fisheries.

Response: In developing the LOFF NMFS considers co-occurrence, including fisheries operating in marine mammal breeding, feeding, and migratory areas, and will continue to evaluate foreign fisheries with respect to co-occurrence of marine mammal habitat and, where possible, include in that evaluation marine mammal migration routes.

Comment 15: The International Fund for Animal Welfare, International Animal Rescue, OneKind, and Seal Protection Action Group are concerned about the intentional killing of seals in and around aquaculture facilities and fisheries for Atlantic salmon (*Salmo salar*) in Scotland. While recognizing that the United States is a major export market for Scottish farmed salmon, Scotland still permits the killing of seals around aquaculture facilities. The organizations noted that under Part 6 of the Marine (Scotland) Act 2010 it is an offence to kill or injure a seal except under license. In 2017, Marine Scotland issued 28 licenses to shoot seals at fish farms mainly ''for protection of health and welfare [of farmed fish]'' and one issued for ''prevention of serious damage.'' These licenses covered a total of 175 individual fish farms, permitted killing of up to 245 grey seals and 113 common seals (*Phoca vitulina*), and required quarterly returns showing the actual numbers shot. Given that the licenses are issued to 11–16 companies, encompassing between 214 and 254 farms, over a vast geographic area, it is unlikely that major processors will be able to demonstrate that they are not handling some fish that have come from farms where seals have been shot. This is especially true given Atlantic salmon are usually held in marine facilities for between 14 and 24 months from smolt to adult phase.

Response: NMFS acknowledges the challenge that salmon aquaculture operations face with either prohibiting the intentional mortality or serious injury of marine mammals in the course of commercial fishing operations in the fishery; or demonstrating that it has procedures to reliably certify that exports of fish and fish products to the United States are not the product of an intentional killing or serious injury of a marine mammal.

If nations fail to establish an outright prohibition of intentional killing or to reliably certify that the product is not associated with intentional killing, NMFS will impose import restrictions under the MMPA Import Rule. NMFS expects that procedures for producing a reliable certification that the product is not associated with intentional killing would include certification programs and tracking and verification schemes. For NMFS to consider that such a scheme can ''reliably'' certify their claims, the documentary evidence submitted by a harvesting nation must include tracking, verification, and chain of custody procedures ensuring, throughout the entire chain of custody from the farms, to the packers, to the distributers, and finally to the importer—the ability to consistently segregate fish caught without intentional mortality and serious injury of marine mammals.

Comment 16: The World Wildlife Fund (WWF) provided a full report with nation-by-nation analysis of marine mammal interactions in commercial fisheries.

Response: NMFS welcomes WWF's submission. In revising the LOFF, NMFS reviewed and considered the nation-by-nation analysis and, where applicable, included the information and necessary citations in the revised LOFF.

(4) Responses to Questions From the Draft LOFF

In the draft LOFF **Federal Register** notice (82 FR 39762; August 22, 2017), NMFS requested public comment and supporting documentation on a list of questions. NMFS summarizes the responses to these questions below:

1. *Should all marine aquaculture involving lines, such as seaweed, mussels, oysters, and other shellfish be considered an exempt fishery? Why or why not?*

Comments: NRDC *et al.,* recommended that all marine aquaculture involving lines, such as seaweed, mussels, oysters, and other shellfish be considered an export fishery. WWF stated there is no reason to exempt all such marine aquaculture. Marine mammal bycatch does occur in association with such aquaculture facilities, mainly through entanglement in lines. Large whales may be at risk and there would be particular concerns about this type of aquaculture expanding into whale habitat. India commented that line aquaculture for mussels in India is practiced mainly in inland estuarine systems/shallow bays, limiting the chance of interactions with marine mammals. Similarly, the lines kept for seaweed culture are in shallow coastal waters. Such aquaculture activities are limited to few villages where the production is quite meagre, posing no threat or injury to the marine mammal populations. In India's opinion these fisheries should be classified as exempt.

Response: At this juncture, NMFS does not have sufficient documentation indicating that there is more than a remote likelihood of bycatch associated with aquaculture line operations. NMFS is retaining these fisheries as exempt unless they have a documented bycatch of marine mammals.

2. *Should net pen aquaculture for tuna be considered an exempt fishery? Why or why not?*

Comment: NRDC *et al.,* recommended that net pen aquaculture for tuna should be considered an export fishery based on literature regarding lethal predator control and entanglement. WWF stated that well managed and properly sited aquaculture facilities should not be

associated with marine mammal bycatch. However, it would be a mistake to make a blanket exemption for all net pen aquaculture because it does have the potential for entanglement in lines and other associated gear such as anti-predator nets.

Response: Again, NMFS does not have sufficient documentation indicating that there is more than a remote likelihood of bycatch associated with tuna aquaculture net pen operations. NMFS is retaining these fisheries as exempt unless they have a documented bycatch of marine mammals.

3. *Should net cage aquaculture for finfish be considered an exempt fishery? Why or why not?*

Comment: NRDC *et al.,* recommended that net cage aquaculture for finfish should be considered an export fishery based on literature regarding lethal predator control and entanglement. WWF stated that well-managed and properly sited aquaculture facilities should not be associated with marine mammal bycatch. However, it would be a mistake to make a blanket exemption for all net pen aquaculture because it does have the potential for entanglement in lines and other associated gear such as predator nets. India had no comments to offer as cage aquaculture of finfish is not commercially practiced in the marine environment in India.

Response: NMFS does not have sufficient documentation indicating that there is more than a remote likelihood of bycatch associated with finfish aquaculture net pen operations. NMFS is retaining these fisheries as exempt unless they have a documented bycatch of marine mammals or engage in the intentional killing or serious injury of marine mammals.

4. *Should lift net or other such nets be considered an exempt fishery? Why or why not?*

Comment: WWF stated that most lift net fisheries do not appear to be associated with marine mammal bycatch but there is nevertheless potential for bycatch. Specifying exactly what a lift net fishery involved would make a general exemption very difficult. India stated that lift nets are passive gears and mostly operated from land in India (*e.g.,* Chinese dip net). Such nets are operated in shallow backwater areas where mostly low saline environments prevail. The numbers are quite minimal and the nets are small in size, operated by traditional small scale fishermen, posing no threat or injury to the marine mammal populations. Hence they should be considered an exempt fishery.

Response: NMFS agrees. While it does not have sufficient documentation indicating that there is more than a remote likelihood of bycatch associated with finfish aquaculture net pen operations, the size, scale, and operational characteristics of lift nets do not appear capable of capturing marine mammals. NMFS is retaining these fisheries as exempt unless they have a documented bycatch of marine mammals.

5. *Would nations prefer to submit their information in the form of a database?*

Comment: Few nations commented on those questions, but those that did indicated that they prefer to submit their information using a streamlined and consistent format.

Response: NMFS agrees and is open to developing databases that facilitate the submission of information needed to maintain the LOFF.

6. *Should nations with only exempt fisheries be allowed to apply for a comparability finding every eight years rather than every four years*?

Comment: NRDC *et al.,* recommended that nations with only exempt fisheries should have to apply for a comparability finding at least every four years to ensure compliance with the import provisions of the MMPA. WWF noted that fisheries practices can change very quickly in response to changes in stocks, quotas or markets. An eight-year option may well miss emerging fisheries with a high bycatch risk. Four years is a good compromise between being too onerous but still allowing for emerging fisheries to be evaluated.

Response: NMFS notes these comments and will continue to consider mechanisms to streamline this process, reduce unnecessary work, while still meeting the mandate of the MMPA.

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Dated: March 12, 2018.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2018–05348 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG083

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of change of times of public meeting webinar.

SUMMARY: The New England Fishery Management Council's is convening an ad-hoc sub-panel of its Scientific and Statistical Committee to peer review two reports.

DATES: This webinar will be held on Friday, March 30, 2018, at 1 p.m. and will end at 4 p.m.

ADDRESSES: Webinar registration URL information: *https://attendee.gotowebinar.com/register/7860925786623688961.* Call in information: +1 (951) 384–3421, Attendee Access Code: 937–123–775.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The meeting was previously scheduled for 1:30 to 4 p.m. It will now begin at 1 p.m. and end at 4 p.m. The original notice published in the **Federal Register** on March 12, 2018 (83 FR 10678). All other previously published information remains unchanged.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 13, 2018.

Jeffrey N. Lonergan,

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

[FR Doc. 2018–05397 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG091

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

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application submitted by the Northeast Fisheries Science Center contains all of the required information and warrants further consideration. This Exempted Fishing Permit would exempt participating vessels from the following types of fishery regulations: Minimum fish size restrictions; fish possession limits; and, in limited situations for research purposes only, retaining and landing prohibited fish species. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notice to provide interested parties the opportunity to comment on Exempted Fishing Permit applications.

DATES: Comments must be received on or before *April 2, 2018.*

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

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''Comments on NEFSC Study Fleet EFP.''
- *Mail:* Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on NEFSC Study Fleet EFP.''

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, 978–281–9232, *Spencer.Talmage@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Northeast Fisheries Science Center submitted a complete application for an Exempted Fishing Permit (EFP) on February 9, 2018, for the 2018 Study Fleet Program. The EFP would exempt 31 commercial fishing vessels from the minimum size and possession limits for species of interest, as well as allow temporary retention of species that will be discarded.

The Center established the Study Fleet Program in 2002 to more fully characterize commercial fishing operations and provide sampling opportunities to augment NOAA's National Marine Fisheries Service's data collection programs. Partnership with the commercial fishing industry allows the Center to provide samples for stock assessment and fish biology research when traditional sampling sources might otherwise be unavailable. Table 1 includes all of the regulations specified at 50 CFR part 648 that participating vessels would be exempt from for at-sea sampling, or when retaining and landing fish for research purposes. The exemptions listed in Table 1 are necessary for contracted vessels to acquire the biological samples needed to meet Center research objectives.

TABLE 1—SPECIFIC REGULATIONS COVERED BY THE PROPOSED EXEMPTED FISHING PERMIT

	NEFSC Study Fleet Program EFP
Number of Vessels	31.
Exempted regulations in 50 CFR part 648	*Size limits:* § 648.83 NE multispecies minimum sizes. § 648.93 Monkfish minimum fish size. § 648.147 Black sea bass minimum fish size. *Possession restrictions:* § 648.86(a) Haddock. § 648.86(b) Atlantic cod. § 648.86(c) Atlantic halibut. § 648.86(d) Small-mesh multispecies. § 648.86(l) Zero retention of Atlantic wolffish and windowpane flounder. § 648.86(o) Possession limits implemented by Regional Administrator. § 648.94 Monkfish possession limit. § 648.322 Skate possession and landing restrictions. § 648.145 Black sea bass possession limits. § 648.92(b)(2)(i) Prohibition from landing NE multispecies on monkfish-only day-at-sea. § 648.293 Golden tilefish.

Any fish retained under the EFP would be delivered to Center staff upon landing. Additionally, prior to landing, the Center would issue a formal Biological Sampling Request to the vessel to retain fish for the Study Fleet

Program. This would ensure that the landed fish do not exceed any collection needs of the Study Fleet Program, as detailed below in Table 2.

All catch would be attributed to the appropriate commercial fishing quota. For a vessel fishing on a groundfish sector trip, all catch of groundfish stocks allocated to sectors would be deducted from its sector's Annual Catch Entitlement (ACE). Once the ACE for a stock has been reached in a sector, vessels would no longer be allowed to fish in that stock area unless the sector acquires additional ACE for the stock in question. For common pool vessels, all groundfish catch would be counted toward the appropriate trimester total allowable catch (TAC). Common pool vessels would be exempt from possession and trip limits, but would still be subject to trimester TAC closures.

Vessels fishing under this EFP would be required to report via their Vessel Monitoring System (VMS) or the Interactive Voice Response (IVR) system to identify trips that would be landing species below minimum size limits and/or in excess of possession limits. Vessels not landing fish for the Center but temporarily possessing fish for at-sea sampling would not be required to call into the IVR system or report via VMS.

TABLE 2—STUDY FLEET PROGRAM'S BIOLOGICAL SAMPLE COLLECTION NEEDS

Species	Stock area *	Gear types #	Collection frequency	Individual fish per collection period	Maximum weight allowed per trip (lb)	Maximum allowance (lb)
Windowpane flounder.	GOM, GB	OTF, DRS	Monthly	40 ea./mo	30	360
Monkfish	GOM, GB, SNE	OTF, GNS, DRS	Monthly	15 ea./mo. SNE 15 ea./mo. GOM	750	9,000
Haddock	GOM, GB, SNE	OTF, LLB, GNS, DRS.	Monthly/Seasonal	40 ea./mo	320	1600
Atlantic cod	GOM, GB, SNE	OTF, LLB, GNS, DRS.	Monthly	120 ea./mo	270	7,200
Barndoor skate	GOM, GB, SNE	OTF, GNS, DRS	Quarterly	20 ea./qtr	150	600
Thorny skate	GOM, GB, SNE	OTF, GNS, DRS	Quarterly	20 ea./qtr	150	600
Black sea bass	GB, SNE	PTF, OTF	Monthly	30 ea./mo	180	2,160
Atlantic wolffish	GOM, GB	OTF,GNS, LLB	Monthly	40 ea./mo	160	3,500
Cusk	GOM, GB	OTF,GNS, LLB	Monthly	40 ea./mo	140	3,600
Atlantic halibut	GOM, GB	OTF, GNS, LLB	Monthly	20 ea./mo	500	6,000
Butterfish	SNE, MA	OTM	Monthly	150 ea./mo	75	900
Blueline tilefish	SNE, MA	LLB	Monthly	20 ea./mo	100	1,200
Golden tilefish	SNE, MA	LLB	Monthly	20 ea./mo	150	1,800
Atlantic herring	Any Area	OTM, OTF, PTM, PUR.	Monthly	100 ea./mo	100	1,200
River herring/shad	Any Area	OTM, OTF, PTM, PUR.	Monthly	100 ea./mo of ea. species.	100 of ea. species	1,200 of ea. species
Round herring	Any Area	OTM, OTF, PTM, PUR.	Monthly	100 ea./mo	100	1,200
Silver hake	Any Area	OTM, OTF, PTM, PUR.	Monthly	100 ea./mo	260	3,120
Atlantic mackerel	Any Area	OTM, OTF, PTM, HND, PUR.	Monthly	100 ea./mo	260	3,120
Shortfin squid	Any Area	OTM, OTF	Monthly	100 ea./mo	75	900
Sand lance	Any Area	OTM, OTF, PTM, PUR.	Monthly	100 ea./mo	25	300
Longfin squid	Any Area	OTM, OTF	Monthly	100 ea./mo	75	900

* Stock area abbreviations: Gulf of Maine (GOM), Georges Bank (GB), Southern New England (SNE).
# Gear abbreviations: Otter trawl (OTF), bottom longline (LLB), sink gillnet (GNS), sea scallop dredge (DRS), fish pot (PTF), hand lines, auto jig (HND), purse seine (PUR), otter trawl midwater (OTM), pair trawl midwater (PTM).

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

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

Dated: March 12, 2018.

Emily H. Menashes,

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

[FR Doc. 2018–05334 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG002

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Exempted Fishing Permits

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

ACTION: Notice of receipt of an application for exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Salty Bones Fisheries, Inc. If granted, the EFP would authorize the deployment of modified wood and wire spiny lobster traps and non-containment purse traps in the Federal waters of the Gulf of Mexico (Gulf) and South Atlantic. The project would seek to determine the effectiveness of these gear types, as applicable, for attracting and collecting invasive lionfish while avoiding impacts to non-target species, protected species, and habitats.

DATES: Written comments must be received on or before April 2, 2018.

ADDRESSES: You may submit comments on the application, identified by ''NOAA–NMFS–2018–0013'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0013,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Kelli O'Donnell, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the applications may be obtained from the Southeast Regional Office website at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/LOA_and_EFP/index.html.*

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, 727–824–5305; email: *kelli.odonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

Lionfish is an invasive marine species that occurs in both the Gulf and South Atlantic. The harvest of lionfish in the Federal waters of the Gulf and South Atlantic is not currently managed by NMFS. The EFP application submitted to NMFS involves the use of prohibited gear types in Federal waters. Federal regulations prohibit the use or possession of a fish trap in Federal waters in the Gulf and South Atlantic (50 CFR 622.9(c)). In Gulf Federal waters, the term ''fish trap'' refers to traps capable of taking finfish, except for a trap historically used in the directed fishery for crustaceans (that is, blue crab, stone crab, and spiny lobster) (50 CFR 622.2). In South Atlantic Federal waters, the term ''fish trap'' refers to a trap capable of taking fish, except for a seabass pot, a golden crab trap, or a crustacean trap (that is, a type of trap historically used in the directed fishery for blue crab, stone crab, red crab, jonah crab, or spiny lobster) (50 CFR 622.2). The EFP would exempt these research activities from the regulation prohibiting the use or possession of a fish trap in Federal waters of the Gulf and South Atlantic at 50 CFR 622.9(c), and would allow the applicant to use spiny lobster traps and other traps capable of taking fish to target lionfish.

The applicant seeks an EFP to test the effectiveness of different trap designs in capturing lionfish in the Gulf and South Atlantic while avoiding impacts to non-target species, protected species, and habitats. One of the goals of the project is to determine the performance of traps as part of a lionfish population control program. Information gathered by the EFP could be used to increase efforts to control the spread of the population. The applicant also intends to sell harvested lionfish in partial support of the testing and also to explore the commercial viability of utilizing traps to harvest lionfish.

NMFS is currently analyzing the effects of testing traps to target lionfish on the environment, including on Endangered Species Act (ESA)-listed species and designated critical habitat, and other non-target species and habitat, in the Gulf and South Atlantic regions through a programmatic environmental assessment (PEA). The PEA includes alternatives that incorporate the proposed effort in this submitted EFP application and others that have been submitted, and accounts for additional expected effort associated with potential future EFP requests. NMFS expects to receive additional EFP requests to test the effectiveness of traps at targeting lionfish in the future and may authorize additional trap testing. The PEA will guide NMFS in developing permit conditions to minimize impacts to the environment, including any affected fisheries and ESA-listed species and designated critical habitat. NMFS also is consulting on the effects of authorizing trap testing under EFPs on ESA-listed species and designated critical habitat in accordance with Section 7 of the ESA.

The specific EFP request noticed here is further described and summarized below.

Salty Bones Fisheries, Inc.

Salty Bones Fisheries requests an EFP to deploy spiny lobster traps with a modified funnel and prototype non-containment purse traps developed by NOAA's National Ocean Service at reef sites in the Federal waters of the Gulf and South Atlantic to target lionfish. Two vessels would conduct trap testing trips in the Gulf and one vessel in the South Atlantic. Trap deployment in the Gulf would be off southwest Florida and generally between the latitudes of 24° 28′ N to 25°21′ N and between longitudes 83°00′ W to 84°00′ W. In the South Atlantic, trap deployment would generally be off the Florida Keys between latitudes 24°22.7′ N to 24°24′ N and between longitudes 82°07′ W to 82°34′ W. These locations are current spiny lobster fishing grounds and are known areas of lionfish abundance to lobster trap fishers.

As described in the application, the trap designs to be tested would be a wire basket spiny lobster trap with a modified funnel, a wood and wire spiny lobster trap with a modified funnel, and an experimental fish aggregation device based, non-containment purse trap. The two modified spiny lobster trap designs would have biodegradable trap panels and modified funnels of 3 by 6 inches (8 by 15 cm) that are slightly smaller in dimension than the funnel in a regular (non-modified) lobster trap. Current project plans would deploy up to 3,000 total modified spiny lobster traps at one time on the seafloor during the 2-year period of the project. Three vessels would each deploy approximately 500 of each of the two modified spiny lobster traps (1,000 total per vessel per trip) and up to 15 purse traps per trip in the project's first year and up to 40 total per vessel per trip the project's second year. The applicant expects to take up to four trips per vessel each month from April through July, weather permitting. Traps would be deployed via a trawl system with up to 40 traps being part of each trawl. Each trawl would use one buoyed vertical line to the surface. The applicant intends to deploy the purse traps by integrating them into the spiny lobster trawls. If the purse traps are proven functional and effective in catching lionfish with

minimal environmental impact in a mixed trap trawl configuration in the first year of the project, then the applicant may also test the practicality of deploying trawls with only the purse trap type in the following year. The depth of trap deployments is expected to be between 150 to 300 ft (46 to 91 m). Trap soak time would range from 3 to 10 days depending on trap type and location. Setting and hauling of the traps is expected to occur during daylight hours. Bait would only be used in the modified spiny lobster traps and would include cowhide and fish heads.

Vessels to be used in the proposed study would be three federally permitted commercial fishing vessels. Vessel crew would be responsible for collecting detailed records during the sampling trips. Data to be collected per trip would include: Gear configuration and fishing effort data (*e.g.,* date and time of deployment and retrieval, latitude, longitude, and water depth of each deployed trawl, bait type used); soak time per area for each trawl; alternative weight and trawl configurations used in different sea states and conditions; trap loss and movement from original set position; protected species interactions; bycatch species, amount, and disposition; and lionfish catch data for each trap type. Any fish species other than lionfish caught in the traps would be released once the traps are onboard the project vessels; only lionfish would be retained as part of the project. Retained lionfish would be sold on return to port.

The applicant has requested the EFP be effective for a 2-year period from the date the EFP is issued.

NMFS finds the application warrants further consideration based on a preliminary review. Possible conditions the agency may impose on the permit, if granted, include but are not limited to, a prohibition of conducting research within marine protected areas, marine sanctuaries, special management zones, or areas where they might interfere with managed fisheries without additional authorization. Additionally, NMFS may require special protections for ESA-listed species and designated critical habitat, and may require particular gear markings. A final decision on issuance of the EFP will depend on NMFS' review of public comments received on the application, consultations with the appropriate fishery management agencies of the affected states, Councils, the U.S. Coast Guard, and a determination that they are consistent with all applicable laws.

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

Dated: March 12, 2018.

Emily H. Menashes,

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

[FR Doc. 2018–05335 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF995

Initiation of 5-Year Review for the Endangered New York Bight, Chesapeake Bay, Carolina and South Atlantic Distinct Population Segments of Atlantic Sturgeon and the Threatened Gulf of Maine Distinct Population Segment of Atlantic Sturgeon

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

ACTION: Notice of initiation of 5-year review; request for information.

SUMMARY: We, NMFS, announce our intent to conduct a 5-year review for the threatened Gulf of Maine distinct population segment (DPS) of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), the endangered New York Bight DPS of Atlantic sturgeon, the endangered Chesapeake Bay DPS of Atlantic sturgeon, the endangered Carolina DPS of Atlantic sturgeon and the endangered South Atlantic DPS of Atlantic sturgeon under the Endangered Species Act of 1973, as amended (ESA). We are required by the ESA to conduct 5-year reviews to ensure that the listing classification of the species remains accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of such information on the status of each DPS, particularly information on population trends, distribution, abundance, habitat amount and suitability, threats, and conservation measures for any DPS that has become available since their original listings under the ESA in 2012. Based on the results of this 5-year review, we will make the requisite findings under the ESA.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than May 15, 2018. While we will continue to accept new information about any listed species at any time, failure to timely submit the information in accordance with the deadline above may preclude the information from being included in this review.

ADDRESSES: Submit your comments by including NOAA–NMFS–2018–0041, by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/document?D=[NOAA-NMFS-2018-0041],*
2. Click the ''Comment Now!'' icon, complete the required fields
3. Enter or attach your comments.

- *Mail:* Submit written comments to Lynn Lankshear, NMFS, Greater Atlantic Region Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930 or Andrew Herndon, NMFS, Southeast Regional Office, 263 13th Avenue South, Saint Petersburg, FL 33701.

Instructions: We may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the specified period. 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. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lynn Lankshear at the above address, by phone at 978–282–8473 or *Lynn.Lankshear@noaa.gov* or Andrew Herndon at the above address, by phone at 727–824–5312 or *Andrew.Herndon@noaa.gov.*

SUPPLEMENTARY INFORMATION: On February 6, 2012, we listed the Gulf of Maine DPS of Atlantic sturgeon as threatened and the New York Bight, Chesapeake Bay, Carolina and South Atlantic DPSs as endangered (77 FR 5880 and 77 FR 5914). Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews, under section 4(c)(2)(B), we determine whether a species should be delisted or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is

considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error (see 50 CFR 424.11(d)). A 5-year review ends with a determination of whether the species should be delisted or the listing status changed. A 5-year review does not change the listing status of the species. Changes to the listing status of a species can only be made following publication of a proposed rule with an opportunity for public comment and our consideration of the comments before making a final determination to reclassify or delist the species.

The ESA implementing regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Gulf of Maine DPS of Atlantic sturgeon currently listed as threatened, and the active review of the New York Bight, Chesapeake Bay, Carolina, and South Atlantic DPSs of Atlantic sturgeon that are currently listed as endangered.

Background information for the Gulf of Maine, New York Bight, and Chesapeake Bay DPSs of Atlantic sturgeon is available on the NMFS GARFO website: *https://www.greateratlantic.fisheries.noaa.gov/protected/atlsturgeon/index.html.* Background information for the Carolina and South Atlantic DPSs of Atlantic sturgeon is available on the NMFS SERO website at: *http://sero.nmfs.noaa.gov/protected_resources/sturgeon/index.html.*

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting information that has become available since the 2012 listing determination from the public, concerned governmental agencies, tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of each of the five DPSs of Atlantic sturgeon. For example, we are aware that the Atlantic States Marine Fisheries Commission has just completed an Atlantic Sturgeon Benchmark Stock Assessment. This is an example of new information we will consider during our review. Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and suitability; (3) status and trends of identified limiting factors or threats; (4) conservation measures that have been implemented that benefit the species; and (5) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the list of endangered and threatened species, and improved analytical methods for evaluating extinction risk.

Since there are no recovery plans for any of the DPSs, we will analyze the available information for the 5-year review relative to the ESA definitions of endangered and threatened and in the context of the five listing factors. The five factors are: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or, (5) other natural or manmade factors affecting its continued existence.

During the 5-year review, we are also required to consider whether the 1996 DPS policy (61 FR 4722; February 7, 1996) is appropriately applied to the species. The DPS Policy specifies that we consider the available information with respect to three elements. These elements are: (1) The discreteness of the population segment in relation to the remainder of the of the species to which it belongs; (2) the significance of the population segment to the species to which it belong; and (3) the population segment's conservation status in relation to the ESA's standards for listing (*i.e.,* is the population segment endangered or threatened?). Because the five DPSs of Atlantic sturgeon have already been classified as DPSs following the 1996 DPS policy, a re-evaluation of the DPSs will not be necessary, unless there is new information specific to these DPSs relevant to the application of the policy.

If you wish to provide information for this 5-year review, you may submit your information and materials electronically at *www.regulations.gov* or via mail (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 12, 2018.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–05306 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG092

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet April 2 through April 10, 2018, in Anchorage, AK.

DATES: The meetings will be held Monday, April 2 through Tuesday, April 10, 2018. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Anchorage Hilton Hotel, 500 W 3rd Ave., Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

The Council will begin its plenary session at 8 a.m. in the Aleutian Room on Wednesday, April 4, continuing through Tuesday, April 10, 2018. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the King Salmon/Iliamna Room on Monday, April 2, and continue through Wednesday, April 4, 2018. The Council's Advisory Panel (AP) will begin at 8 a.m. in the Dillingham/Katmai Room on Tuesday, April 3 and continue through Friday April 6, 2018. The Enforcement Committee will meet on Tuesday, April 3, 2018 in the Birch/Willow Room from 1 p.m. to 4 p.m.

Monday, April 2, 2018 Through Tuesday, April 10, 2018

Council Plenary Session: The agenda for the Council's plenary session will

include the following issues. The Council may take appropriate action on any of the issues identified.

(1) Executive Director's Report (including CCC update, Northern Edge 2017 report (T), and outreach and community engagement discussion)
(2) NMFS Management Report (including Pacific cod fishery management update, and report on pollock trip limit overages(T))
(3) ADF&G Report
(4) NOAA GC Report
(5) NIOSH Report
(6) USCG Report
(7) USFWS Report
(8) Protected Species Report (including seabird conservation working group update)
(9) Salmon FMP Amendment for Cook Inlet
(10) Scallop SAFE and Plan Team Report—Set OFL/ABC Catch Specifications
(11) Charter Halibut Annual Permit Registration
(12) Mixing of guided and unguided halibut
(13) Salmon bycatch: Pollock ICA/IPA Reports; Update on Salmon Genetics and BSAI salmon Adult Equivalency (AEQ)
(14) GOA CV Chinook PSC limit adjustments
(15) Co-op Reports (AFA, AM 80, GOA Rockfish, BSAI Crab)
(16) Halibut retention in BSAI sablefish pots
(17) Halibut Abundance-based PSC limits
(18) Regulatory Reform Review
(19) Committees and Tasking

The Advisory Panel will address most of the same agenda issues as the Council except B reports.

The SSC agenda will include the following issues:

(1) Salmon bycatch: Update on Salmon Genetics and BSAI salmon Adult Equivalency (AEQ)
(2) Scallop SAFE and Plan Team Report—Set OFL/ABC Catch Specifications
(3) GOA CV Chinook PSC limit adjustments
(4) Halibut retention in BSAI sablefish pots
(5) Seabird Conservation Update
(6) Halibut Abundance-based PSC limits

The Enforcement Committee agenda will include review of the Mixing of Guided and Unguided Halibut analysis.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

The Agendas are subject to change, and the latest versions will be posted at *http://www.npfmc.org/.*

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: March 13, 2018.

Jeffrey N. Lonergan,

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

[FR Doc. 2018–05396 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG027

Marine Mammals; File No. 21348

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Northwest Fisheries Science Center (NWFSC), 2725 Montlake Boulevard East, Seattle, WA 98112–2097, (Responsible Party: M. Bradley Hanson, Ph.D.) has applied in due form for a permit to conduct research on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before April 16, 2018.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21348 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to take marine mammals in the North Pacific Ocean in the U.S. waters of Washington, Oregon, California, Alaska, and Hawaii, and international waters, to assess the biology and ecology of marine mammals in the study area, in particular endangered Southern Resident killer whales (*Orcinus orca*). Up to 47 species of marine mammals may be taken during research including the following ESA-listed cetaceans: Blue (*Balaenoptera musculus*), fin (*B. physalus*), humpback (*Megaptera novaeangliae;* Western North Pacific, Central America, and Mexico distinct population segments), North Pacific right (*Eubalaena japonica),* Main Hawaiian Islands insular DPS of false killer (*Pseudorca crassidens*), sei (*B.*

borealis), sperm (*Physeter macrocephalus*), and Western North Pacific gray (*Eschrichtius robustus*) whales; and ESA-listed pinnipeds including Guadalupe fur seals (*Arctocephalus townsendi*), Hawaiian monk seals (*Neomonachus schauinslandi*), and the U.S. Western stock of Steller sea lions (*Eumetopias jubatus*). The applicant proposes to take marine mammals during vessel and aerial surveys, including unmanned aircraft systems for photo-identification, photogrammetry, thermal imaging, above and underwater photography and videography, behavioral observations, active acoustic playbacks, passive acoustic recordings, prey mapping with echosounders, remote ultrasound, biological sampling (exhaled air, feces, sloughed skin, predation samples, and skin and blubber biopsies), and tagging (suction-cup and dart/barb). Annual take numbers for aerial and vessel surveys include a maximum of 6,000 takes per species, and Level A harassment procedures include a maximum of 25 remote ultrasound, 50 biopsy samples, 30 suction-cup tags, and 25 dart/barb tags, per species. The duration of the requested permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 13, 2018.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–05352 Filed 3–15–18; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to the Procurement List:* April 15, 2018.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 2/2/2018 (83 FR 23) and 2/9/2018 (83 FR 28), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the Government.

2. The action will result in authorizing small entities to provide the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type: Grounds Maintenance Service
Mandatory for: US Army Garrison Miami, US Special Operations Command South, 29401 SW 125th Avenue, Bldg. 600, Homestead Air Reserve Base, FL, US Army Garrison Miami, 3501 Granada Blvd., Coral Gables, FL
Mandatory Source of Supply: Goodwill Industries of South Florida, Inc., Miami, FL
Contracting Activity: DEPT OF THE ARMY, 0410 AQ HQ

Service Type: Base Supply Center Service
Mandatory for: US Air Force, Air Education and Training Command Sheppard Air Force Base, 206 J Avenue, Sheppard AFB, TX
Mandatory Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: Dept of the Air Force, FA3020 82 CONS LGC

Service Type: Custodial Service
Mandatory for: National Park Service, Colonial National Historical Park, 10815 George Washington Memorial Highway, Yorktown, VA
Mandatory Source of Supply: VersAbility Resources, Inc., Hampton, VA
Contracting Activity: National Park Service, NER Construction/IA/AE MABO (42000)

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2018–05379 Filed 3–15–18; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

DATES: Comments must be received on or before: April 15, 2018.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the

products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN(s)—Product Name(s): MR 3200—3599—Perimeter Merchandising Program, Hair Care Products, MR Series 3200—3599
MR 11300—Water Bottle, Travel, Addison, 24 oz.
MR 11305—Water Bottle, Travel, Cortland, 24 oz.
MR 11308—Tumbler, Travel, Shake and Go, 20 oz.
MR 11312—Mug, Travel, Stainless Steel, West Loop 2.0, 20 oz.
MR 11314—Mug, Travel, Stainless Steel, West Loop 2.0, 16 oz.
MR 11319—Mug, Travel, Stainless Steel, Classic, 20 oz.
Mandatory for: The requirements of military commissaries and exchanges in accordance with the Code of Federal Regulations 41 CFR 51–6.4.
Mandatory Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
Contracting Activity: Defense Commissary Agency

Service

Service Type: Warehouse Support Service
Mandatory for: NAVSUP Fleet Logistics Center Norfolk, NDW, Supply Management Division, NAVSUP Warehouse, Building 234, 234 Halligan Rd., Annapolis, MD
Mandatory Source of Supply: Richmond Area Association for Retarded Citizens, Richmond, VA
Contracting Activity: Dept of the Navy, NAVSUP FLT LOG CTR NORFOLK

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s): 5340–01–365–1043—Strap, Mail Tray
Mandatory Source of Supply: Work, Incorporated, Dorchester, MA
Contracting Activity: U.S. Postal Service, Eagan, Eagan, MN
NSN(s)—Product Name(s):
8415–01–476–6346—Shirt, Underwear, Lightweight, SPEAR, Army, Black, LL
8415–01–476–6350—Shirt, Underwear, Lightweight, SPEAR, Army, Black, MR
8415–01–476–6359—Shirt, Underwear, Lightweight, SPEAR, Army, Green, MR
8415–01–476–6555—Shirt, Underwear, Lightweight, SPEAR, Army, Black, SR
8415–01–476–6556—Shirt, Underwear, Lightweight, SPEAR, Army, Black, XLL
8415–01–476–6557—Shirt, Underwear, Lightweight, SPEAR, Army, Black, XLR
Mandatory Source of Supply: Peckham Vocational Industries, Inc., Lansing, MI
Contracting Activity: Army Contracting Command—Aberdeen Proving Ground, Natick Contracting Division

Amy B. Jensen,
Director, Business Operations.

[FR Doc. 2018–05378 Filed 3–15–18; 8:45 am]
BILLING CODE 6353–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Consumer Advisory Board and Councils Solicitation of Applications for Membership

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice.

SUMMARY: Pursuant to the authorities given to the Director of the Consumer Financial Protection Bureau (Bureau) under the Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) Acting Director Mick Mulvaney invites the public to apply for membership for appointment to its Consumer Advisory Board (Board), Community Bank Advisory Council, and Credit Union Advisory Council (collectively, Advisory Councils). Membership of the Board and Councils includes representatives of consumers, communities, the financial services industry and academics. Appointments to the Board are typically for three years and appointments to the Councils are typically for two years. However, the Director may amend the respective Board and Council charters from time to time during the charter terms, as the Director deems necessary to accomplish the purpose of the Board and Councils. The Bureau expects to announce the selection of new members in September 2018.

DATES: The application will be available on March 19, 2018 here: *https://goo.gl/u23ClY.* Complete application packets received on or before April 23, 2018, will be given consideration for membership on the Board and Councils.

ADDRESSES: If electronic submission is not feasible, the completed application packet can be mailed to Julian Alcazar, Outreach and Engagement Specialist, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

All applications for membership on the Board and Councils should be sent:

• *Electronically: https://goo.gl/u23ClY.* We strongly encourage electronic submissions.

Mail:

• Julian Alcazar, Outreach and Engagement Specialist, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Submissions must be postmarked on or before March 1, 2017.

• *Hand Delivery/Courier in Lieu of Mail:* Julian Alcazar, Outreach and Engagement Specialist, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Submissions must be received on or before 5 p.m. eastern standard time on April 23, 2018.

FOR FURTHER INFORMATION CONTACT: Julian Alcazar, Outreach and Engagement Specialist, Consumer Financial Protection Bureau, at (202) 435–9885. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau is charged with regulating ''the offering and provision of consumer financial products or services under the Federal consumer financial laws,'' so as to ensure that ''all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.'' Pursuant to section 1021(c) of the Wall Street Reform and Consumer Protection Act, Public Law 111–203, Dodd-Frank Act, the Bureau's primary functions are:

1. Conducting financial education programs;
2. Collecting, investigating, and responding to consumer complaints;
3. Collecting, researching, monitoring, and publishing information relevant to the function of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets;
4. Supervising persons covered under the Dodd-Frank Act for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law;
5. Issuing rules, orders, and guidance implementing Federal consumer financial law; and
6. Performing such support activities as may be needed or useful to facilitate the other functions of the Bureau.

As described in more detail below, section 1014 of the Dodd-Frank Act calls for the Director of the Bureau to establish a Consumer Advisory Board to advise and consult with the Bureau regarding its functions, and to provide information on emerging trends and practices in the consumer financial markets.

II. Qualifications

Pursuant to section 1014(b) of the Dodd-Frank Act, in appointing members to the Board, ''the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of depository institutions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and seek representation of the interests of covered persons and consumers, without regard to party affiliation.'' The determinants of ''expertise'' shall depend, in part, on the constituency, interests, or industry sector the nominee seeks to represent, and where appropriate, shall include significant experience as a direct service provider to consumers.

Pursuant to section 5 of the Community Bank Advisory Council Charter, in appointing members to the Council the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of community banks that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and shall strive to have diversity in terms of points of view. Only current bank or thrift employees (CEOs, compliance officers, government relations officials, etc.) will be considered for membership. Membership is limited to employees of banks and thrifts with total assets of $10 billion or less that are not affiliates of depository institutions or credit unions with total assets of more than $10 billion.

Pursuant to section 12 of the Credit Union Advisory Council Charter, in appointing members to the Council the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of credit unions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and shall strive to have diversity in terms of points of view. Only current credit union employees (CEOs, compliance officers, government relations officials, etc.) will be considered for membership. Membership is limited to employees of credit unions with total assets of $10 billion or less that are not affiliates of depository institutions or credit unions with total assets of more than $10 billion.

The Bureau has a special interest in ensuring that the perspectives of women and men, all racial and ethnic groups, and individuals with disabilities are adequately represented on the Board and Councils, and therefore, encourages applications from qualified candidates from these groups. The Bureau also has a special interest in establishing a Board that is represented by a diversity of viewpoints and constituencies, and therefore encourages applications from qualified candidates who:

1. Represent the United States' geographic diversity; and
2. Represent the interests of special populations identified in the Dodd-Frank Act, including service members, older Americans, students, and traditionally underserved consumers and communities.

III. Application Procedures

Any interested person may apply for membership on the Board or Council.

A complete application packet must include:

1. A recommendation letter from a third party describing the applicant's interests and qualifications to serve on the Board or Council;
2. A complete résumé or curriculum vitae for the applicant; and
3. A one-page cover letter, which summarizes the applicant's expertise and provides reason(s) why he or she would like to join the Board or Council.
4. A complete application. *https://goo.gl/u23ClY*.

To evaluate potential sources of conflicts of interest, the Bureau will ask potential candidates to provide information related to financial holdings and/or professional affiliations, and to allow the Bureau to perform a background check. The Bureau will not review applications and will not answer questions from internal or external parties regarding applications until the application period has closed.

The Bureau will not entertain applications of federally registered lobbyists for a position on the Board and Councils.

Only complete applications will be given consideration for review of membership on the Board and Councils.

Dated: March 13, 2018.

Kirsten Sutton,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2018–05421 Filed 3–15–18; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Navy

Board of Advisors to the Presidents of the Naval Postgraduate School and the Naval War College; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Navy, Board of Advisors to the Presidents of the Naval Postgraduate School and the Naval War College, Department of Defense.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Board of Advisors to the Presidents of the Naval Postgraduate School and the Naval War College, Board of Advisors (BOA) to The President of the Naval War College (NWC) Subcommittee will take place.

DATES: Day 1—Open to the public Thursday April 5, 2018 from 8:00 a.m. to 4:00 p.m. Day 2—Open to the public Friday April 6, 2018 from 8:30 a.m. to 11:00 a.m.

ADDRESSES: The meeting will be held at the U.S. Naval War College, 686 Cushing Road, Newport, RI 02841.

FOR FURTHER INFORMATION CONTACT: Jacquelyn (Jaye) Panza, (831) 656–2514 (Voice), (831) 656–2789 (Facsimile), *jpanza@nps.edu* (Email). Mailing address is Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5001. Website: *https://my.nps.edu/web/board-of-advisors/home.*The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the Board is to advise and assist the President, NWC, in educational and support areas, providing independent advice and recommendations on items such as, but not limited to, organizational management, curricula, methods of instruction, facilities, student and faculty morale, and other matters of interest.

Agenda: The agenda for Thursday is as follows: 8:00 a.m.–11:45 a.m. Board Discussion with NWC President, 11:45 a.m.–1:15 p.m. Meet with NWC students, 1:15 p.m.–2:45 p.m. Attend Elective Classes, 2:45 p.m.–3:45 p.m.

Meet with NWC Faculty Members, 3:45 p.m.–4:15 p.m. NWC Foundation Discussion, 4:15 p.m.–4:45 p.m. Annual FACA Board Member Ethics Training. The agenda for Friday is as follows: 8:30 a.m.–10 a.m. Board Business and Discussion, 11 a.m. Meeting Adjourn. Meeting Accessibility: The meeting room is accessibility to persons with disabilities. To coordinate access contact Dr. Thomas Gibbons, Professor of Professional or (401) 841–4008 by March 30, 2018.

Written Statements: To send written statements for consideration at the committee meeting contact the Designated Federal Official, Ms. Jaye Panza, 1 University Circle, Monterey, CA 93943 or by fax (831) 656–3238 by March 30, 2018.

Dated: March 12, 2018.

E.K. Baldini,

Lieutenant Commander, Judge Advocate General's Coms, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2018–05351 Filed 3–15–18; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on March 20, 2018, at OECD Conference Centre, Room CC 7, 2 Rue André Pascal, 75016 Paris, France, in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on March 21, 2018, in connection with a meeting of the SEQ on that day.

DATES: March 20–21, 2018.

ADDRESSES: 2 Rue André Pascal, 75016 Paris, France.

FOR FURTHER INFORMATION CONTACT: Thomas Reilly, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, 202–586–5000.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the OECD Conference Centre, Room CC 7, 2 Rue André Pascal, 75016 Paris, France, commencing at 09:30 a.m. on March 20, 2018. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM), which is scheduled to be held at the same location and time.

The IAB will also hold a preparatory meeting among company representatives at the same location at 8:30 a.m. on March 21, 2018. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting.

The agenda of the meeting is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

Start meeting/Introduction.

1. Adoption of the Agenda
2. Approval of Summary Record of 14 September 2017
3. Reports on Recent Oil Market and Policy Developments in IEA Countries
4. Update on the Current Oil Market Situation: followed by Q&A
5. Presentation: ''The ongoing transformation of the oil and gas industry'' followed by Q&A
6. Presentation: ''Midstream infrastructure: is North America building enough pipelines to accommodate its growing oil production?'' followed by Q&A
7. Presentation: ''Long term oil demand and supply under divergent scenarios'' followed by Q&A
8. Presentation: ''Uncertainty looms on Russia's oil market horizon'' followed by Q&A
9. Presentation: ''World Energy Outlook 2017—Long-term outlook for oil markets'' followed by Q&A
10. Presentation on: ''TBD Maritime Issues'' followed by Q&A
11. Other Business
    —Tentative schedule of the next SOM meeting:
    26 June 2018, Location TBC

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the OECD Conference Centre, Room CC 7, 2 Rue André Pascal, 75016 Paris, France, commencing at 9:30 a.m. on March 21, 2018. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the same location and time. The IAB will also hold a preparatory meeting among company representatives at the same location at 8:30 a.m. on March 21. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting.

The agenda of the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

Closed SEQ Session—IEA Member Countries Only

1. Adoption of the Agenda
2. Approval of the Summary Record of the 152nd Meeting
3. Status of Compliance with IEP Agreement Stockholding Obligations
4. Implementation of the 2017 Ministerial Mandate on Oil Security

Open SEQ Session—Open to Association Countries

5. Update of the 2013 Cost-benefit of Stockholding Study
6. Mid-term Review of Denmark
7. Secretariat study of Stock Ticketing Practices among IEA Members
8. Industry Advisory Board Update
9. Emergency Response Review of Turkey
10. Update of ASEAN+6 Energy Security Study
11. Mid-term Review of Greece
12. ERE9: Discussion of EXCAP and EXMAIN Planning Efforts
13. Outreach
    —Overview of recent activities
    —Recent APERC meeting
    —Recent JOGMEC training for ASEAN
14. Oral Reports by Administrations
    —New Zealand
    —Austria & Italy (Baumgarten Incident)
    —Netherlands (Groningen Update)
    —UK (Forties & Gas)
    —Mexico (Stockholding Policy)
15. Other Business
    —ERR Programme
    —Joint Questionnaire

Schedule of SEQ & SOM Meetings

—26–27 June 2018
—28–29 June 2018 (ERE9)
—27–29 November 2018

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, March 12, 2018.

Thomas Reilly,

Assistant General Counsel for International and National Security Programs.

[FR Doc. 2018–05361 Filed 3–15–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Numbers EPS–001, EPS–002, EPS–003, and EPS–004]

Notice of Decision and Order Granting Individual Waivers to Apple Inc., Microsoft Corporation, Poin2 Lab and Hefei Bitland Information Technology Co., From the Department of Energy External Power Supplies Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of decision and order.

SUMMARY: This notice announces a Decision and Order granting Apple, Inc. (''Apple''), Microsoft Corporation (''Microsoft''), Poin2 Lab (''Poin2'') and Hefei Bitland Information Technology Co. Ltd. (''Bitland'') individual waivers from specified portions of the DOE test procedure for determining the energy efficiency of external power supplies. The petitioners are required to test and rate specifically identified external power supply basic models in accordance with the alternate test procedure described in the Decision and Order.

DATES: The Decision and Order is applicable as of March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *AS_Waiver_Requests@ee.doe.gov*.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On June 8, 2017 and June 22, 2017, the Information Technology Industry Council (''ITI''), on behalf of four petitioners Apple, Microsoft, Poin2, and Bitland—filed individual petitions for waiver under 10 CFR 430.27 from the current DOE test procedure for EPSs for several basic models of adaptive EPSs. On July 24, 2017, DOE published a notice announcing its receipt of the petitions for waiver, which also granted the petitioners interim waivers.

In that notice, DOE also solicited comments from interested parties on all aspects of the petition and specified an alternate test procedure that must be followed for testing and certifying the specific basic models for which the petitioners requested a waiver. 82 FR 34294. On March 16, 2018, DOE publishes the notice announcing a Decision and Order granting a waiver to the petitioners.

Issued in Washington, DC, on March 9, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Case #EPS–001, EPS–002, EPS–003, EPS–004

Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act of 1975, as amended (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes external power supplies (''EPSs''), which are the subject of this Order. (42 U.S.C. 6291(36); 42 U.S.C. 6295(u)) Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures.

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether a product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of covered products during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for external power supplies is contained in the Code of Federal Regulations (''CFR'') at 10 CFR part 430, subpart B, appendix Z, ''*Uniform Test Method for Measuring the Energy Consumption of External Power Supplies*'' (''Appendix Z'').

Under 10 CFR 430.27, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id*.

II. Petition for Waiver: Assertions and Determinations

On June 8, 2017 and June 22, 2017, the Information Technology Industry Council (''ITI''), on behalf of four petitioners—Apple, Microsoft, Poin2, and Bitland—filed individual petitions for waiver under 10 CFR 430.27 from the current DOE test procedure for EPSs for several basic models of adaptive EPSs.[3] The petitioners stated that the specified basic models meet the provisions of the International Electrotechincal Commission's ''Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery'' (''IEC 62680–1–2:2017'') specification.[4] All four waiver petitions were nearly

[1] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (April 30, 2015).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

[3] The following are the basic models for which the petitioners seeks a waiver: Apple—A1718, A1719, A1540; Microsoft—AC–100; Poin2—A16–045N1A; Bitland—A045R053L.

[4] International Electrotechnical Commission Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery specification, available at *https://webstore.iec.ch/publication/26174/*.

identical in that they focused on each company's respective basic models of adaptive EPSs that utilize the IEC 62680–1–2:2017 specification and provided the same rationale for why the waiver and the suggested alternative test method detailed in each petition is necessary.[5] The IEC specification describes the particular architecture, protocols, power supply behavior, connectors, and cabling necessary for managing power delivery over a universal serial bus (''USB'') connection at power levels of up to 100 watts (''W''). The purpose behind this specification is to help provide a standardized approach for power supply and peripheral developers to ensure backward compatibility while retaining product design and marketing flexibility. See generally, IEC 62680–1–2:2017 (Abstract) (describing the standard's general provisions and purpose).

In the view of the petitioners, applying the DOE test procedure to the adaptive EPS basic models identified in their individual petitions would yield results that would be unrepresentative of the active-mode efficiency of those products. The DOE test procedure requires that the average active-mode efficiency for adaptive EPSs[6] be measured by testing the unit twice—once at the highest achievable output voltage (''V'') and once at the lowest. The test procedure requires that active-mode efficiency be measured at four loading conditions relative to the nameplate output current of the EPS. See generally 10 CFR 430.23(bb) and Appendix Z. The lowest achievable output voltage supported by the IEC 62680–1–2:2017 specification is 5V and the nameplate current at this voltage output is 3 amps (''A''), resulting in a power output of 15W. The petitioners contend that while the IEC 62680–1–2:2017 specification requires the tested EPS to support this power output, the 15W at 5V condition will be rarely used and only for brief periods of time. Accordingly, the petitioners assert that the DOE test procedure's measurement of efficiency at this power level is unrepresentative of the true energy consumption of these EPSs.

Consequently, the petitioners seek a waiver from DOE to permit them to use an alternative test procedure to measure the energy efficiency of the specified adaptive EPSs by testing these devices at the lowest voltage, 5V, at an output power of 10W instead of 15W.

Under the current test procedure, when testing an adaptive EPS at the lowest achievable output voltage, the measured average active mode efficiency is equal to the average efficiency of the EPS tested at 100%, 75%, 50%, and 25% of the nameplate output current of the EPS at that voltage. Appendix Z, sections 2.f and 4(a)(i)(E), and Table 1. Thus, for an adaptive EPS with a lowest output voltage of 5V and a nameplate output current of 3A (resulting in a 15W output at 100% of the nameplate output current), the average active mode efficiency at the lowest output voltage would be equal to the average of the efficiencies when testing at 15W, 11.25W, 7.5W, and 3.75W. The petitioners suggested that these requirements be modified for their products when calculating the average active mode efficiency—namely, by using the average of four loading conditions representing the same respective percentages of an output current of 2A. Doing so would mean that the average active mode efficiency would equal the average of the efficiencies when testing at 10W, 7.5W, 5W, and 2.5W. The petitioners suggested taking the results from this alternative approach and comparing them against the DOE efficiency requirements at 10W.

The petitioners assert that the test procedure for the lowest voltage level does not reflect actual field usage of these products. The IEC 62680–1–2:2017 specification requires USB-compliant products to support 15W at 5V but, according to the petitioners, adaptive EPSs operating at 5V do not exceed 10W for almost all usage conditions. Petitioners state that when charging a product that supports the USB power delivery requirements and is sold or intended to be used with the EPS, the IEC 62680–1–2:2017-compliant EPS charges at 5V only with a dead battery or fully charged battery (and then at 0.5A or less). At other times when more power is needed, petitioners state that the EPS will use a higher voltage rail (greater than 5V). (A ''voltage rail'' refers to a single voltage provided by the relevant power supply unit through a dedicated circuit/wire used for that voltage.) The petitioners also state that the same holds true for other end-use products that support the USB power delivery requirements manufactured by each of the respective manufacturers. The petitioners provided data to demonstrate that when using an adaptive EPS that supports the IEC 62680–1–2:2017 specification to charge an end-use product of a manufacturer different from the one who manufactured the EPS, it is likely that the product would charge at less than 10W at 5V, or may even be capable of exploiting the ability of an adaptive EPS to provide higher voltages for faster charging. The only occurrence where the adaptive EPS would be used at the full 15W at 5V is in the rare instance when used with an end-use product that does not support the USB power delivery requirements, but instead supports the ability to draw 3.0A at 5V. Accordingly, the petitioners assert that the current DOE test procedure, which requires that efficiency be measured above 10W at the lowest voltage condition, results in a measurement that is grossly unrepresentative of the actual energy consumption characteristics of the adaptive EPS being tested.

On July 24, 2017, DOE published a notice announcing its receipt of the petitions for waiver, which also granted the petitioners interim waivers, solicited comments from interested parties on all aspects of the petition and specified an alternate test procedure that must be followed for testing and certifying the specific basic models for which the petitioners requested a waiver. 82 FR 34294. DOE did not receive any comments on the notice of petitions for waiver.

Based on the information provided by the petitioners, DOE has determined that the current test procedure at Appendix Z would evaluate the specified adaptive EPS basic models in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data. This Decision and Order specifies that each petitioner test and rate these basic models in a manner identical to that which was provided in the interim waiver.

Each petitioner sought a test procedure waiver for certain basic models. This Decision and Order applies only to the basic models listed within this document and does not extend to any other basic models.

Consistent with 10 CFR 430.27(j), not later than 60 days after March 16, 2018 any manufacturer currently distributing in commerce in the United States a product employing a technology or characteristic that results in the same need for a waiver from the applicable test procedure must submit a petition for waiver.

Manufacturers not currently distributing such a product in commerce in the United States must petition for and be granted a waiver prior to the distribution in commerce of that product in the United States.

[5] The petitions are available at *https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0043*.

[6] An adaptive EPS is an EPS that can alter its output voltage during active-mode based on an established digital communication protocol with the end-use application without user-generated action. 10 CFR 430.2.

Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

III. Consultations With Other Agencies

In accordance with 10 CFR 430.27(f)(2), DOE consulted with the Federal Trade Commission (''FTC'') staff concerning the petitioners' petition for waiver. The FTC staff did not have any objections to granting waivers to petitioners.

IV. Order

After careful consideration of all the material that was submitted by and on behalf of Apple, Inc. (''Apple''), Microsoft Corporation (''Microsoft''), Poin2 Lab (''Poin2''), and Hefei Bitland Information Technology Co. Ltd. (''Bitland'') in this matter, DOE grants a waiver regarding the below specified basic models. Therefore, in accordance with 10 CFR 430.27, it is **ORDERED** that:

(1) Apple, Microsoft, Poin2, and Bitland must test and rate the external power supply basic models listed in paragraphs (1)(A) through (1)(D) of this section in accordance with the alternate test procedure set forth in paragraph (2) of this section.

(A) Apple must test and rate the EPSs of Apple brand basic models A1718, A1719, A1540 as set forth in paragraph (2) of this section.

(B) Microsoft must test and rate the EPSs of Microsoft brand basic model AC–100 as set forth in paragraph (2) of this section.

(C) Poin2 must test and rate the EPSs of Chicony brand basic model A16–045N1A as set forth in paragraph (2) of this section.

(D) Bitland must test and rate the EPSs of Chicony brand basic model A045R053L as set forth in paragraph (2) of this section.

(2) The alternate test procedure for the basic models listed in paragraphs (1)(A) through (1)(D) of this section is the test procedure for EPSs prescribed by DOE at 10 CFR part 430, subpart B, appendix Z, except that under section 4(a)(i)(E) and Table 1 of Appendix Z, the adaptive EPSs must be tested such that when testing at the lowest achievable output voltage (i.e., 5V), the Nameplate Output Current shall be 2A (which corresponds to an output power of 10W at the 100% loading condition). The 75%, 50%, and 25% loading conditions shall be scaled accordingly and the nameplate output power of such an EPS, at the lowest output voltage, shall be equal to 10W.

(3) Representations. Apple, Microsoft, Poin2, and Bitland must make representations about the energy use of the adaptive external power supply basic models identified in paragraph (1) of this section for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing in accordance with 10 CFR part 430, subpart B, appendix Z and 10 CFR 429.37.

(4) These waivers shall remain in effect consistent with the provisions of 10 CFR 430.27.

(5) These waivers are issued on the condition that the statements, representations, and documentation provided on behalf of and by the petitioners are valid. DOE may revoke or modify these waivers at any time if it determines the factual basis underlying the petitions for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, any of the petitioners may request that DOE rescind or modify the waiver if the petitioner discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2)

(6) Granting of these waivers does not release Apple, Microsoft, Poin2, or Bitland from the certification requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on March 9, 2018.

Kathleen B. Hogan, Ph.D.

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2018–05364 Filed 3–15–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number IES–001]

Notice of Decision and Order Granting a Waiver to Acuity Brands Lighting, Inc. From the Department of Energy Illuminated Exit Signs Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of decision and order.

SUMMARY: The U.S. Department of Energy (''DOE'') announces a Decision and Order granting Acuity Brands Lighting, Inc. (Acuity) a waiver from specified portions of the DOE test procedure for determining the energy consumption of specified combination illuminated exit signs basic models. Acuity is required to test and rate the specified basic models of its combination illuminated exit signs in accordance with the alternate test procedure described in the Decision and Order.

DATES: The Decision and Order is effective on March 16, 2018.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *AS_Waiver_Requests@ee.doe.gov.*

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SUPPLEMENTARY INFORMATION: On April 17, 2013, Acuity filed a petition for waiver from the applicable illuminated exit sign test procedure set forth in 10 CFR 431.204. Acuity submitted an updated petition for waiver in a letter dated March 22, 2016 and further supplemented its filing in an email submitted May 1, 2017. On June 7, 2017, DOE published a notice announcing its receipt of the petition for waiver. 82 FR 26469. In that notice, DOE also solicited comments from interested parties on all aspects of the petition and specified an alternate test procedure that must be followed for testing and certifying the specific basic models for which Acuity requested a waiver. *Id.* On March 16, 2018, DOE publishes this notice announcing a Decision and Order granting a waiver to Acuity. The notice includes a copy of the Decision and Order DOE issued to Acuity.

Issued in Washington, DC, on March 9, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Case #IES–001 Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes the U.S. Department of

[1] All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115–115 (January 12, 2018).

Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes illuminated exit signs, which are the subject of this Order. (42 U.S.C. 6295(w)) Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures.

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered product EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))) The test procedure for illuminated exit signs is contained in 10 CFR part 431, subpart L.[3]

Under 10 CFR 431.401, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

II. Petition for Waiver: Assertions and Determinations

By letter dated March 22, 2016, Acuity submitted an updated petition for waiver (the initial petition was submitted on April 17, 2013) for certain basic models of illuminated exit signs that are required to be tested according to test procedures detailed in 10 CFR 431.204. Acuity supplemented its filing with an email submitted to DOE on May 1, 2017, that further clarified the specific basic models for which the waiver was being requested.

In its petition Acuity requested a waiver for basic models that provide the dual function of exit signage and lighting for emergency egress (combination illuminated exit signs), stating that the battery used in combination illuminated exit signs requires a substantially larger capacity to provide a minimum of 90 minutes of egress lighting, as required by safety codes. Acuity further stated that it is not feasible to separate the power measurement associated with the exit signage and the egress lighting because a single battery and charging circuit supplies power for both functions. As an alternative to the test procedure currently in place at 10 CFR part 431, subpart L, Acuity recommended that, for combination illuminated exit signs, the power should be determined by applying a battery proration factor to the total battery power of the combination illuminated exit sign. The battery proration factor would be a ratio of the rated wattage of the exit sign face light sources over the combined rated wattages of the egress and exit sign face light sources. The total battery power would be the measured input power minus the rated wattages of the exit sign face light sources.

On June 7, 2017, DOE published a notice announcing receipt of Acuity's petition for waiver (hereafter ''notice of petition for waiver''). 82 FR 26469. In the notice of petition for waiver, DOE proposed an alternate test procedure that provides methods to test and rate the basic models at issue. 82 FR 26469, 26470. In that notice, DOE also solicited comments from interested parties on all aspects of the petition and required Acuity to follow an alternate test procedure for testing and certifying the specific basic models for which Acuity requested a waiver. *Id.*

DOE received comments from Philips Lighting (Philips) in support of granting the petition for waiver submitted by Acuity. Philips also supported the alternative test method proposed by DOE to determine the energy consumption of combination illuminated exit signs. (Philips; No. 7 at p. 1) [4] An anonymous commenter stated that if DOE has determined that Acuity did not provide adequate documentation, DOE should not allow Acuity to test its own products, nor grant the company a waiver from DOE's test procedure. (Anonymous; No. 8)

Based on the information provided by Acuity, DOE has determined that the test procedure at 10 CFR part 431, subpart L produces results in a manner so unrepresentative of the true energy consumption as to provide materially inaccurate comparative data for the combination illuminated exit signs listed in Acuity's petition for waiver and therefore is granting a waiver for the specified basic models (see footnote).[5] As stated in the notice of petition for waiver, the alternate test procedure submitted by Acuity requires ''rated wattage of light source(s)'' associated with the face and egress light source(s) to calculate the input power demand of the combination exit signs. DOE found that these rated wattages are not always well documented in Acuity's product literature for the basic models under consideration. Therefore, DOE proposed an alternate test procedure that provides methods to test and rate the basic models at issue without the rated wattage of the light source(s). 82 FR

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

[3] Although illuminated exit signs are covered products pursuant to EPCA, as a matter of administrative convenience and to minimize confusion among interested parties, DOE adopted illuminated exit sign provisions into subpart L of 10 CFR part 431 (the portion of DOE's regulations dealing with commercial and industrial equipment) because typically businesses, rather than individuals, purchase them. 70 FR 60407, 60409 (Oct. 18, 2005).

[4] A notation in this form provides a reference for information that is in the docket of DOE's review of the notice of petition for waiver for Acuity from DOE's illuminated exit sign test procedure (Docket No. EERE–2017–BT–WAV–0033–0008). This notation indicates that the statement preceding the reference was made by Philips, is included in document number 7 in the docket, and appears at page 1 of that document.

[5] The following are the basic models for which DOE grants a waiver: ECG 1F, ECG 1F HO, ECG 2F, ECG 2F HO, ECR 1F, ECR 1F HO, ECR 2F, ECR 2F HO, ECG LED 1F HO, ECG LED 2F HO, ECR LED 1F HO, ECR LED 2F HO, ECG LED 1F, ECG LED 2F, ECR LED 1F, ECR LED 2F, ECBG LED 1F, ECBG LED 2F, ECBR LED 1F, ECBR LED 2F, LHD2D18G, LHD2D18R, LHD2D36G, LHD2D36R, LHD2D72G, LHD2D72R, LHD2S18G, LHD2S18R, LHD2S36G, LHD2S36R, LHD2S72G, LHD2S72R, LHQM LED 1F HO GREEN, LHQM LED 1F HO RED, LHQM LED 2F HO GREEN, LHQM LED 2F HO RED, LHQM LED 1F GREEN, LHQM LED 1F RED, LHQM LED 2F GREEN, LHQM LED 2F RED, LHXNY W 1 R, LHXC W 1 RW, LHXC W 2 RW, LHZ618 GREEN, LHZ618 RED, LHZ636 GREEN, LHZ636 RED, LHZ672 GREEN, LHZ672 RED, QM LED 1F GREEN, QM LED 1F HO GREEN, QM LED 1F RED, QM LED 1F HO RED, QM LED 2F GREEN, QM LED 2F HO GREEN, QM LED 2F RED, QM LED 2F HO RED, NXPCL 1F, and NXPCL 2F.

26469, 26470. DOE is requiring Acuity to use this alternate test procedure to test and rate the combination illuminated exit signs for which it has requested a waiver. In response to the anonymous commenter, Acuity has made available sufficient documentation with respect to its product lines to allow the company to test its basic models according to this alternate test procedure.

In addition to requesting a test procedure waiver for specified basic models in its petition, Acuity also requested that any new products introduced by the company into commerce that provide the dual function of exit signage and emergency egress lighting be covered by the waiver. DOE regulations at 10 CFR 431.401(f)(2) provide that DOE may grant a waiver, including adherence to alternate test procedures, only for ''the basic model(s) for which the waiver was requested.'' The Decision and Order is applicable only to the basic models listed within it and does not extend to any other basic models. Acuity may request that the scope of this waiver be extended to include additional basic models that employ the same technology as those basic models listed in this waiver using the expedited process established at 10 CFR 431.401(g). Alternatively, Acuity may submit another petition for waiver from the test procedure for additional basic models. 10 CFR 431.401(a)(1).

In its petition, Acuity sought a test procedure waiver for certain basic models. The Decision and Order is applicable only to the basic models listed within it and does not extend to any other basic models.

Consistent with 10 CFR 431.401(j), not later than 60 days after March 16, 2018 any manufacturer currently distributing in commerce in the United States equipment employing a technology or characteristic that results in the same need for a waiver from the applicable test procedure must submit a petition for waiver.

Manufacturers not currently distributing such equipment in commerce in the United States must petition for and be granted a waiver prior to the distribution in commerce of that equipment in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 431.401.

This Decision and Order will terminate in conjunction with any future updates to the test procedure for illuminated exit signs located in 10 CFR part 431, subpart L, that address the issue presented in the waiver. At such time, testing to demonstrate compliance with standards, and any other representations of energy use, will require manufacturers to use the relevant test procedure for this equipment.

III. Consultations With Other Agencies

In accordance with 10 CFR 430.27(f)(2), DOE consulted with the Federal Trade Commission (FTC) staff concerning the Acuity petition for waiver. The FTC staff did not have any objections to granting a waiver to Acuity.

IV. Order

After careful consideration of all the material that was submitted by Acuity in this matter, DOE grants a waiver regarding the basic models specified in paragraphs (2) and (3). Therefore, in accordance with 10 CFR 431.401, it is *ordered* that:

(1) The petition for waiver submitted by Acuity (Case No. IES–001) is hereby granted as set forth in this Order.

(2) For the following basic models:

Lithonia Lighting brand basic models: ECG LED 1F, ECG LED 2F, ECR LED 1F, ECR LED 2F, LHQM LED 1F HO GREEN, LHQM LED 1F HO RED, LHQM LED 2F HO GREEN, LHQM LED 2F HO RED, LHZ618 GREEN, LHZ618 RED, LHZ636 GREEN, LHZ636 RED, LHZ672 GREEN, and LHZ672 RED.

Holophane brand basic models: QM LED 1F GREEN, QM LED 1F HO GREEN, QM LED 1F RED, QM LED 1F HO RED, QM LED 2F GREEN, QM LED 2F HO GREEN, QM LED 2F RED, and QM LED 2F HO RED.

Navilite brand basic models: NXPCL 1F and NXPCL 2F.

Acuity must:

(a) Identify a non-combination illuminated exit sign equivalent to the combination illuminated exit sign basic model under test. A unit is an equivalent non-combination substitute only if it consists entirely of components identical to all of those of the unit whose input power demand is being determined, but does not include any auxiliary features, and contains an electrically connected battery. The equivalent unit must also have the same manufacturer and number of faces as the unit whose input power demand is being determined.

(b) Assign the input power demand of the equivalent non-combination illuminated exit sign as the input power demand of the combination illuminated exit sign basic model.

(3) For the following basic models:

Lithonia Lighting brand basic models: ECG 1F, ECG 1F HO, ECG 2F, ECG 2F HO, ECR 1F, ECR 1F HO, ECR 2F, ECR 2F HO, ECG LED 1F HO, ECG LED 2F HO, ECR LED 1F HO, ECR LED 2F HO, ECBG LED 1F, ECBG LED 2F, ECBR LED 1F, ECBR LED 2F, LHQM LED 1F GREEN, LHQM LED 1F RED, LHQM LED 2F GREEN, LHQM LED 2F RED, LHXNY W 1 R, LHXC W 1 RW, and LHXC W 2 RW.

Holophane brand basic models: LHD2D18G, LHD2D18R, LHD2D36G, LHD2D36R, LHD2D72G, LHD2D72R, LHD2S18G, LHD2S18R, LHD2S36G, LHD2S36R, LHD2S72G, and LHD2S72R.

Acuity must:

(a) For a combination illuminated exit sign basic model under test that uses only LEDs to illuminate all face(s) of the unit and does not have an equivalent unit as described in (2)(a), assign an input power demand according to the following formula:

$$\text{input power demand} = 5 \times \text{numbers of faces}$$

This method requires determination of the number of faces for each basic model. Face count is the number of faces (no fewer than one) with which an illuminated exit sign basic model can be configured by an end user when all electric light sources are connected and energized.

(4) Representations. Acuity may make representations about the energy use of the specified basic models of its combination illuminated exit sign for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 431.401.

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, Acuity may request that DOE rescind or modify the waiver if Acuity discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2). As set forth above, the test procedure specified in this Decision and Order is not the identical to the test procedure offered by Acuity. If Acuity believes that its preferred test method provides representative results and is less burdensome than the test method required by this Decision and Order,

Acuity may submit a request for modification under 10 CFR 431.401(k)(2) that explains why DOE should adopt the test procedure submitted by Acuity and addresses the reasons for DOE's modifications provided in this Decision and Order. Acuity also may submit another less burdensome alternative test procedure not expressly considered in this notice under the same provision.

(7) Granting of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on March 9, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2018–05365 Filed 3–15–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case No. RF–044]

Notice of Decision and Order Granting a Waiver to New Shunxiang Electrical Appliance Co., Ltd., From the Department of Energy Refrigerator, Refrigerator-Freezer, Freezer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of decision and order.

SUMMARY: This notice announces a Decision and Order granting to New Shunxiang Electrical Appliance Co., Ltd., (''New Shunxiang'') a waiver from specified portions of the DOE test procedure for determining the energy consumption of specified refrigerator and refrigerator-freezer basic models. New Shunxiang is required to test and rate the specified basic model of its combination cooler refrigeration product in accordance with the alternate test procedure described in the Decision and Order.

DATES: This Decision and Order is effective on March 16, 2018.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *AS_Waiver_Requests@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On October 14, 2015, New Shunxiang submitted a petition for waiver from the applicable refrigerator and refrigerator-freezer test procedure set forth in 10 CFR part 430, subpart B, appendix A (''Appendix A''). On July 19, 2017, DOE published a notice announcing its receipt of the petition for waiver from New Shunxiang. 82 FR 33099. In that notice, DOE also solicited comments from interested parties on all aspects of the petition and specified an alternate test procedure that DOE was considering to require New Shunxiang to follow for testing and certifying the specific basic models for which New Shunxiang requested a waiver. *Id.* (New Shunxiang did not seek an interim waiver from the test procedure.) On March 16, 2018, DOE publishes the notice announcing a Decision and Order granting a waiver to New Shunxiang.

Issued in Washington, DC, on March 9, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Case #RF–044

Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes consumer refrigerators and refrigerator-freezers. (42 U.S.C. 6292(a)(1)) Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures.

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for consumer refrigerators and refrigerator-freezers is contained in 10 CFR part 430, subpart B, appendix A (''Appendix A'').

Under 10 CFR 430.27, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

II. New Shunxiang's Petition for Waiver: Assertions and Determinations

By email with attachment sent to DOE on October 14, 2015, New Shunxiang submitted a petition for waiver for its combination cooler refrigeration product basic model JG50–2D1. In its petition, New Shunxiang stated that it was unclear to it as to how this product would be classified under DOE's regulations. As indicated in New Shunxiang's submitted data, the product includes both a cooler (which can reach temperatures down to 40.2 degrees Fahrenheit (°F)) and a refrigerator (which can reach temperatures down to 35 °F). Such a basic model is subject to the existing refrigerator energy conservation standards for the product

[1] All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115–115 (January 12, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

class that would apply if the model did not include a cooler compartment.[3]

Subsequent to the submission of New Shunxiang's petition, DOE issued a final rule that, among other things, established test procedures for miscellaneous refrigeration products (''MREFs''), which includes coolers and combination cooler refrigeration products. 81 FR 46768 (July 18, 2016); 81 FR 49868 (July 29, 2016). The final rule also added new definitions to DOE's regulations, including for cooler-refrigerator and combination cooler refrigeration products, and amended the definition of refrigerator. 81 FR 46791–46792. Under the new and amended definitions, the basic model for which New Shunxiang seeks a waiver currently meets the definition of both combination cooler refrigeration product and refrigerator, and the basic model will continue to meet the definition of refrigerator until October 28, 2019, the compliance date of standards for MREFs, including combination cooler refrigeration products. *Id.*

The amended test procedure adopted in the final rule contains provisions specific to combination cooler refrigeration products, including a standardized cooler compartment temperature of 55 °F and a correction factor of 0.55. However, a prefatory note to Appendix A states that use of these provisions for representations of energy use for combination cooler refrigeration products is not required until the compliance date of any energy conservation standards for these products, October 28, 2019. 81 FR 46795. As explained in the July 2016 final rule, prior to the compliance date of the MREF energy conservation standards, combination cooler refrigeration products, including the product identified in New Shunxiang's petition, are subject to the energy conservation standards for refrigerators based on testing according to relevant test procedure waivers. 81 FR 46771.

DOE granted a waiver for products similar to those identified in New Shunxiang's petition for wavier—products combining a high-temperature compartment (a cooler) with a refrigerator—to Panasonic Appliances Refrigeration Systems Corporation of America (''PAPRSA'') in 2012 (under PAPRSA's previous corporate name, Sanyo E&E Corporation) (Case No. RF–022, 77 FR 49443 (August 16, 2012)), in 2013 (Case No. RF–031, 78 FR 57139; September 17, 2013)), and 2014 (Case No. RF–041, 79 FR 55769; September 17, 2014)). On October 4, 2012, DOE issued a notice of correction to its Decision and Order in Case No. RF–022 by incorporating a K-factor (correction factor) value of 0.85 when calculating the energy consumption of the affected models. 77 FR 60688. On January 26, 2016, due to issues with the equations detailed in the prior waiver decisions, DOE issued a proposed modification of its prior waivers and granted PAPRSA an interim waiver (81 FR 4270) under Case No. RF–043 to correct these known issues. In May 2017, DOE issued a Decision and Order granting PAPRSA with a waiver. See 82 FR 21209 (May 5, 2017). DOE also previously granted a similar waiver to Sub-Zero Group Inc. through an interim waiver (79 FR 55772; September 17, 2014) and a subsequent Decision and Order (80 FR 7854; February 12, 2015) under Case No. RF–040. More recently, DOE granted a similar waiver to AGA Marvel through an interim waiver (81 FR 41531; June 27, 2016) and a subsequent Decision and Order (82 FR 21211; May 5, 2017) under case RF–045.

While the recent amendments to Appendix A include provisions designed to test for compliance with the combination cooler refrigeration product standards, such compliance is not yet required. The basic models for which DOE most recently granted waivers to PAPRSA and AGA Marvel are still required to comply with the energy conservation standards for refrigerators. DOE determined in previous waivers that a correction factor of 0.85 is appropriate to account for the thermal load from loading warm items and from door openings in these products when subject to the current refrigerator energy conservation standards. Thus, the PAPRSA and AGA Marvel waivers effectively required that the manufacturers test the basic models using the test procedure specified for combination cooler refrigeration products,[4] with one exception. The waivers required that the manufacturers apply a correction factor of 0.85 rather than the 0.55 established in the MREF test procedure for combination cooler refrigeration products.

DOE published a notice on July 19, 2017, announcing receipt of New Shunxiang's petition for waiver (hereafter ''notice of petition for waiver''). 82 FR 33099. DOE received no comments in response to the notice of petition for waiver. DOE has determined that applying the DOE test procedure to the basic model of combination cooler refrigeration product listed in New Shunxiang's petition for waiver (*i.e.,* basic model JG50–2D1) would yield results unrepresentative of the efficiency of that product in use.

In this Decision and Order, DOE is requiring that New Shunxiang test and rate the combination cooler refrigeration product for which it has requested a waiver according to the alternate test procedure specified in this Decision and Order, which is identical to that proposed in the notice of petition for waiver.

In its petition, New Shunxiang sought a test procedure waiver for a single basic model. This Decision and Order is applicable only to the basic model listed and does not extend to any other basic models.

Consistent with 10 CFR 430.27(j), not later than 60 days after March 16, 2018 any manufacturer currently distributing in commerce in the United States a product employing a technology or characteristic that results in the same need for a waiver from the applicable test procedure must submit a petition for waiver.

Manufacturers not currently distributing such a product in commerce in the United States must petition for and be granted a waiver prior to the distribution in commerce of that product in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

III. Consultations With Other Agencies

In accordance with 10 CFR 430.27(f)(2), DOE consulted with the Federal Trade Commission (''FTC'') staff concerning the New Shunxiang petition for waiver. The FTC staff did not have any objections to granting a waiver to New Shunxiang.

IV. Order

After careful consideration of all the material that was submitted by New Shunxiang, DOE grants a waiver regarding the basic model specified below. Therefore, in accordance with 10 CFR 430.2, *it is ordered* that:

(1) New Shunxiang must test and rate the following New Shunxiang basic model as set forth in paragraph (2) of this section: JG50–2D1.

(2) The alternate test procedure for the basic model specified in paragraph (1) of this section is the test procedure for

[3] See the relevant 2011 guidance documents for consumer refrigerators and freezers available at *https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/hybridwinechiller_faq3_2011-02-10.pdf* and *https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/hybridwinechiller_faq_2011-02-10.pdf.*

[4] Waivers granted prior to the effective date of recent amendments to Appendix A specified a standardized temperature of 55 °F for cooler compartments. The more recent waivers do not specify this, as it is included in the amended test procedure as applied to combination cooler refrigeration products.

combination cooler refrigeration products specified in 10 CFR part 430, subpart B, appendix A, with the exception that New Shunxiang must calculate energy consumption using a correction factor (''K-factor'') of 0.85, instead of the prescribed 0.55.

(3) Representations. New Shunxiang must make representations about the energy use of the specified basic model identified in paragraph (1) of this section for compliance, marketing, or other purposes only to the extent that such product has been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing in accordance with 10 CFR part 430, subpart B, appendix A and 10 CFR 429.14.

(4) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27. This Decision and Order will terminate on October 28, 2019, in conjunction with the compliance date of the recently published standards for MREFs. Testing to demonstrate compliance with those standards, and any other representations of energy use made on or after October 28, 2019, will require manufacturers to use the relevant test procedure for these products.

(5) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic model's true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, New Shunxiang may request that DOE rescind or modify the waiver if New Shunxiang discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2). If New Shunxiang believes that a test method other than that specified in this Decision and Order provides representative results and is less burdensome, New Shunxiang may submit a request for modification under 10 CFR 430.27(k)(2) that explains why DOE should adopt the test procedure submitted by New Shunxiang and addresses the reasons for DOE's modifications provided in this Decision and Order.

(6) Granting of this waiver does not release New Shunxiang from the certification requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on March 9, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2018–05366 Filed 3–15–18; 8:45 am]

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DEPARTMENT OF ENERGY

[FE Docket Nos. 14–209–LNG, 15–19–LNG, and 16–33–LNG]

American LNG Marketing, LLC

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of change in control.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of a Notice of Change in Control (Notice) filed January 9, 2018, by American LNG Marketing, LLC (ALM) in the above-referenced dockets. The Notice describes a change in control of Fortress Investment Group LLC (Fortress), the ultimate parent company of ALM. The Notice was filed under section 3 of the Natural Gas Act (NGA).

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, April 2, 2018.

ADDRESSES:

Electronic Filing by Email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9478; (202) 586–2627.

Cassandra Bernstein or Ronald (R.J.) Colwell, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–8499.

SUPPLEMENTARY INFORMATION:

Summary of Change in Control

As noted, ALM filed a Notice of Change in Control in the above-referenced dockets.[1] In the Notice, ALM asserts that the change in control results from the acquisition of its ultimate parent company, Fortress, by an indirect, wholly-owned subsidiary of SoftBank Group Corp. (SoftBank). ALM states that SoftBank is a global holding company headquartered in Tokyo, Japan.[2] According to ALM, this acquisition was consummated on December 27, 2017 (Transaction). As a result of this Transaction, SoftBank—through Fortress—ultimately controls the manager of investment funds that indirectly own the equity interests in ALM. ALM further states that: (i) The Transaction has no effect on ALM's day-to-day management or operation; (ii) ALM retains its current form and domicile as a Delaware limited liability company with its principal place of business in New York, New York; and (iii) ALM continues to be the holder of the DOE/FE authorizations issued in the above-referenced dockets.[3]

Additional details can be found in ALM's Notice, posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2018/01/f46/AmericanLNGMktgCIC01_09_18.pdf* (Jan. 9, 2018).

DOE/FE Evaluation

DOE/FE will review ALM's Notice in accordance with its Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas (CIC Revised Procedures).[4] Consistent with

[1] American LNG Marketing, LLC, FE Docket Nos. 14–209–LNG, 15–19–LNG, and 16–33–LNG, Notice of Change in Control (Jan. 9, 2018) [hereinafter ALM Notice].

[2] ALM states that SoftBank holds ownership interests in a wide range of telecommunications and technology ventures, including broadband, fixed-line and wireless telecommunications, e-commerce, technology services, advanced energy technology, finance, and semiconductor design. SoftBank conducts its business through various subsidiaries and partnerships with companies located in Japan and other countries, including the United States. *See* ALM Notice at 1–2.

[3] ALM is advised that its described change in control may also require the approval of the Committee on Foreign Investment in the United States (CFIUS). DOE expresses no opinion regarding the need for review by CFIUS. Additional information may be obtained at: *http://www.treasury.gov/resource-center/international/Pages/Committee-on-Foreign-Investment-in-US.aspx.*

[4] 79 FR 65541 (Nov. 5, 2014).

the CIC Revised Procedures, this notice addresses only the authorizations granted to ALM to export liquefied natural gas (LNG) to non-free trade agreement (non-FTA) countries in DOE/FE Order Nos. 3690 and 3877 (FE Docket Nos. 14–209–LNG and 16–33–LNG, respectively). If no interested person protests the change in control and DOE takes no action on its own motion, the change in control will be deemed granted 30 days after publication in the **Federal Register**. If one or more protests are submitted, DOE will review any motions to intervene, protests, and answers, and will issue a determination as to whether the proposed change in control has been demonstrated to render the underlying authorization inconsistent with the public interest.

Public Comment Procedures

Interested persons will be provided 15 days from the date of publication of this notice in the **Federal Register** in order to move to intervene, protest, and answer ALM's Notice. Protests, motions to intervene, notices of intervention, and written comments are invited in response to this notice only as to the change in control described in ALM's Notice, and only with respect to ALM's non-FTA authorizations in DOE/FE Order Nos. 3690 and 3877.[5] All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by DOE's regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Preferred method: Emailing the filing to *fergas@hq.doe.gov,* with the individual FE Docket Number(s) in the title line, or American LNG Marketing Change in Control in the title line to include all applicable dockets in this notice; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to the individual FE Docket Number(s) in the title line, or American LNG Marketing Change in Control in the title line to include all applicable dockets in this notice. **Please Note:** If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

ALM's Notice and any filed protests, motions to intervene, notices of intervention, and comments are available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The Notice and any filed protests, motions to intervene, notices of intervention, and comments will also be available electronically by going to the following DOE/FE web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on March 13, 2018.

Robert J. Smith,

Deputy Assistant Secretary for Oil and Natural Gas (Acting), Office of Fossil Energy.

[FR Doc. 2018–05392 Filed 3–15–18; 8:45 am]

BILLING CODE 6450–01–P

[5] Intervention, if granted, would constitute intervention only in the change in control portion of this proceeding, as described herein.

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9038–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7156 or *http://www2.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements

Filed 03/05/2018 Through 03/09/2018

Pursuant to 40 CFR 1506.9

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20180036, Draft, FAA, GA, Draft EIS Spaceport Camden, Comment Period Ends: 05/16/2018, Contact: Stacey M Zee 202–267–9305

EIS No. 20180037, Final, NPS, ND, Knife River Indian Villages National Historic Site Archeological Resources Management Plan, Review Period Ends: 04/16/2018, Contact: Brenda Todd 701–745–3300

EIS No. 20180038, Final, NPS, MI, FEIS to Address the Presence of Wolves at Isle Royale National Park, Review Period Ends: 04/16/2018, Contact: Kelly Daigle 303–987–6897

EIS No. 20180039, Final, FHWA, AK, Sterling Highway Milepost 45–60, Review Period Ends: 04/16/2018, Contact: John Lohrey 907–586–7418

EIS No. 20180040, Final, USFS, CA, Craggy Vegetation Management, Review Period Ends: 04/23/2018, Contact: Danika Carlson 530–468–1225

EIS No. 20180041, Draft, USFS, MT, Castle Mountains Restoration Project, Comment Period Ends: 04/30/2018, Contact: John Casselli 406–791–7723

EIS No. 20180042, Draft Supplement, BLM, CA, West Route Network Project Draft Supplemental Environmental Impact Statement WMRNP DSEIS, Comment Period Ends: 06/14/2018, Contact: Matthew Toedtli 404–426–1854

EIS No. 20130018, Final, BIA, WA, ADOPTION—Spokane Tribe of Indians West Plains Casino and Mixed-Use Development Project Approval of Gaming Development and Management Spokane County WA, Contact: Esther Dittler 202–632–7003

The National Indian Gaming Commission (NIGC) has adopted the Bureau of Indian Affairs' (BIA) Spokane Tribe of Indians West Plains Casino and Mixed-Use Development Project Approval of Gaming Development and Management Spokane County WA EIS. BIA filed its Final EIS with EPA on January 25, 2013; it was published in the **Federal Register** on February 1, 2013. The comment period was extended from March 4, 2013 to May 1, 2013. The NIGC was a cooperating agency on the project and recirculation of the document is not necessary under Section 1506.3(c) of the Council of Environmental Quality National Environmental Policy Act (NEPA) Regulations.

Dated: March 13, 2018.

Kelly Knight,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2018–05393 Filed 3–15–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2018–0081; FRL–9975–15–OLEM]

Agency Information Collection Activities: Proposed Collection; Comment Request; Application for Reimbursement to Local Governments for Emergency Response to Hazardous Substance Releases Under CERCLA Section 123, EPA ICR Number 1425.06, OMB Control Number 2050–0077

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on June 30, 2018. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 15, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2018–0081 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Boynton.Lisa@epa.gov.*
- *Fax:* 202–564–8729.
- *Mail ICR Renewal for Local Goverments Reimbursement Application, Environmental Protection Agency, Mailcode:* 5104A, 1200 Pennsylvania Ave. NW, Washington, DC.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OLEM–2018–0081.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. {For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*}

FOR FURTHER INFORMATION CONTACT: Lisa Boynton, Office of Land and Emergency Management, Office of Emergency Management, (5104A) Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–2487; fax number: 202–564–8729; email address: *Boynton.Lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OLEM–2018–0081 which is available for online viewing at *www.regulations.gov,* or in person viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Superfund Docket is 202–566–1677.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Docket ID No. EPA–HQ–OLEM–2018–0081.

Affected entities: Entities potentially affected by this action are Local Governments that apply for reimbursement under this program.

Title: Local Governments Reimbursement Application.

ICR numbers: EPA ICR No. 1425.05, OMB Control No. 2050–0077.

ICR status: This ICR is currently scheduled to expire on June 30, 2018. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Agency requires applicants for reimbursement under this program authorized under Section 123 of CERCLA to submit an application that demonstrates consistency with program eligibility requirements. This is necessary to ensure proper use of the Superfund. EPA reviews the information to ensure compliance with all statutory and program requirements. The applicants are local governments who have incurred expenses, above and beyond their budgets, for hazardous substance response. Submission of this information is voluntary and to the applicant's benefit.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 30.

Frequency of response: voluntary, on occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 270 hours.

Estimated total annual costs: $7,493 This includes an estimated burden cost of $18.50/hour and there are no capital investment or maintenance and operational costs.

Are there changes in the estimates from the last approval?

At this time, the Agency does not anticipate any substantial changes.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: March 6, 2018.

Reggie Cheatham,

Director, Office of Emergency Management.

[FR Doc. 2018–05405 Filed 3–15–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0652; FRL–9974–82]

RIN 2070–ZA19

Draft Guidance on Expanded Access to TSCA Confidential Business Information; Notice of Availability and Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The amendments to the Toxic Substances Control Act in June 2016 expand the categories of people to whom EPA may disclose TSCA confidential business information (CBI) by specifically authorizing EPA to disclose TSCA CBI to state, tribal, and local governments; environmental, health, and medical professionals; and emergency responders, under certain conditions, including consistency with guidance that EPA is required to develop. This document announces the availability of and solicits comments on three draft guidance documents that address this requirement. These documents are available in the docket for public review and comment.

DATES: Comments must be received on or before April 16, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0652, 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: Jessica Barkas, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 250–8880; email address: *barkas.jessica@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. Executive Summary

A. What action is EPA taking?

As directed by TSCA, EPA has developed draft guidance for each of three new expanded TSCA CBI access provisions. The guidance documents cover the content and form of the agreements and statements of need required under each provision, and include some basic logistical information on where and how to submit requests to EPA. EPA invites comment from prospective guidance users and other stakeholders concerning these draft guidance documents.

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

TSCA section 14(c)(4)(B) requires that EPA develop guidance concerning the ''content and form of the statements of need and agreements required'' under TSCA section 14(d)(4), (5), and (6). 15 U.S.C. 2613.

C. Does this action apply to me?

You may be potentially affected by this action if you are a state, tribal, or local government, or are employed by a government (federal, state, local, or tribal) or in the private sector and your duties concern: Chemical regulation; chemical-related law enforcement; diagnosing or treating chemical exposures; and/or chemical spill, incident, accident, or emergency response, including injury to humans or the environment. You may also be affected by this action if you have or may in the future submit information to EPA that you claim qualifies as TSCA CBI.

D. What are the potential incremental economic impacts of taking this action?

The potential incremental economic impacts that are associated with the information collection activities contained in the guidance documents are enumerated in the Information Collection Request (ICR) entitled ''Guidance on Expanded Access to TSCA Confidential Business Information'' (EPA ICR No. 2570.01 and OMB Control No. 2070-(new)), which published in the **Federal Register** on March 12, 2018 (83 FR 10719) (FRL–9975–24). The annual public reporting and recordkeeping burden for this collection of information is estimated to average 14.8 hours and cost about $868 per response.

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

1. *Submitting CBI.* Do not submit CBI to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI 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

Enacted on June 22, 2016, the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114–182), changed and expanded many parts of TSCA (15 U.S.C. 2601 *et seq.*). Among these changes, amended TSCA section 14(d) expands the categories of people who may now access TSCA CBI. TSCA CBI is information submitted to EPA under TSCA, for which a business has made a claim of business confidentiality which has not been withdrawn by the business, expired, or denied by EPA. There are three new provisions expanding access to CBI, each under certain conditions:

- Under TSCA section 14(d)(4), 15 U.S.C. 2613(d)(4), EPA may disclose CBI to state, tribal, and local governments;
- Under TSCA section 14(d)(5), 15 U.S.C. 2613(d)(5), EPA may, in non-emergency situations, disclose CBI to a health or environmental professional employed by a Federal or state agency or tribal government, or to a treating physician or nurse; and
- Under TSCA section 14(d)(6), 15 U.S.C. 2613(d)(6), EPA may in the event of an emergency disclose CBI to a treating or responding physician, nurse, agent of a poison control center, public health or environmental official of a state, political subdivision of a state, or tribal government, or to a first responder (including any individual duly authorized by a Federal agency, state, political subdivision of a state, or tribal government who is trained in urgent medical care or other emergency procedures, including a police officer, firefighter, or emergency medical technician).

The conditions for access vary under each of the new provisions, but generally include the following;

- The requester must show that he or she has a need for the information related to their employment, professional, or legal duties;
- The recipient of TSCA CBI is prohibited from disclosing or permitting further disclosure of the information to individuals not authorized to receive it (physicians/nurses may disclose the information to their patient); and
- EPA generally must notify the entity that made the CBI claim at least 15 days prior to disclosing the CBI. There is an exception for disclosures in emergency situations, which require that EPA make the notification as soon as practicable (see TSCA section 14(g)(2)(C)(ii)).

In addition, under these new provisions, requesters are generally required to sign an agreement and may be required to submit a statement of need to EPA. Emergency requestors only need to sign an agreement and submit a statement of need if the entity who made the claim so requests, following the notification required under TSCA section 14(g)(2)(C)(ii).

III. Draft Documents for Public Review

Draft Implementing Guidance

The Agency developed three separate draft guidance documents corresponding to each of the new authorities in TSCA section 14(d)(4), (5), and (6). The conditions for access vary under each of the new provisions, but generally include the following: Requesters must show that they have a need for the information related to their employment, professional, or legal duties; recipients of TSCA CBI are prohibited from disclosing or permitting further disclosure of the information to individuals not authorized to receive it (physicians/nurses may disclose the information to their patient); and except in emergency situations EPA must notify the entity that made the CBI claim at least 15 days prior to disclosing the CBI. In addition, under these new provisions, requesters (except in some emergency situations) are required to sign an agreement and may be required to submit a statement of need to EPA. In accordance with the requirements of TSCA section 14(c)(4)(B), each guidance document covers the content and form of the agreements and statements required under each provision and include information on where and how to submit requests to EPA.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

OMB has determined that these draft guidance documents qualified as significant under Executive Order 12866 (58 FR 51735, October 4, 1993). As such, the draft documents were submitted to OMB for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). Any changes to the documents that were made in response to OMB recommendations have been

documented in the docket for this action as required by section 6(a)(3)(E) of Executive Order 12866.

B. Paperwork Reduction Act (PRA)

In the **Federal Register** on March 12, 2018 (83 FR 10719) (FRL–9975–24), EPA announced the availability of and solicited comment on the draft ICR entitled ''Guidance on Expanded Access to TSCA Confidential Business Information'' (EPA ICR No. 2570.01 and OMB Control No. 2070–(new)). The ICR identifies the information collection activities contained in the draft guidance and provides EPA's estimates for the related burden and costs. The ICR, after addressing comments received, will be submitted to OMB for review and approval under the PRA, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This action is not subject to the APA but is subject to TSCA, which does not require notice and comment rulemaking to take this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. As such, the requirements of UMRA sections 202, 203, 204, or 205, 2 U.S.C. 1531–1538, do not apply to this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications because it will not have any effect on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000).

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of Executive Order 13045. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate environmental health risks or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on energy supply, distribution, or use. This action is proposing service fees for TSCA, which will not have a significant effect on the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

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: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment.

Authority: 15 U.S.C. 2613(c).

Dated: March 12, 2018,

Charlotte Bertrand,

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

[FR Doc. 2018–05402 Filed 3–15–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–SFUND–2018–08; FRL–9975–49—Region 9]

Anaconda Copper Mine, Yerington, NV: Proposed Settlement Agreement and Order on Consent

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: This notice announces the availability for review and comment of an administrative Settlement Agreement and Order on Consent (''Settlement'') under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), between the U.S. Environmental Protection Agency (''EPA''), and Atlantic Richfield Company regarding the Anaconda Copper Mine Site (''Site'') in Yerington, Nevada. The Settlement requires Atlantic Richfield Company to reimburse EPA $3,000,000 for Past Response Costs at the Site.

DATES: Comments must be received on or before April 16, 2018.

ADDRESSES: The Settlement Agreement is available for public inspection at the United States Environmental Protection Agency, Superfund Records Center, 75 Hawthorne Street, Room 3110, San Francisco, California 94105. Telephone: 415–947–8717. A copy of the Settlement is also available at the following link: *https://semspub.epa.gov/work/09/100005264.pdf.* Comments should be addressed to Dustin Minor, Assistant Regional Counsel, Office of Regional Counsel (ORC–3), U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; or Email: *minor.dustin@epa.gov;* and should reference the Anaconda Copper Mine Site, EPA R9–2018–08.

FOR FURTHER INFORMATION CONTACT: Dustin Minor, Assistant Regional Counsel, Office of Regional Counsel (ORC–3), Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105; tel: (415) 972–3888; *Minor.Dustin@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA deferred the non-tribal portion of the Site to the Nevada Division of Environmental Protection (NDEP) on February 5, 2018. In addition to requiring Atlantic Richfield Company to reimburse EPA $3,000,000, the Settlement terminates the existing administrative orders referred to in the Settlement. EPA terminated the existing administrative orders because future

work at the non-tribal portion of the Site will be overseen by NDEP. EPA is only seeking comment on the cost recovery component of the Settlement. EPA will consider all comments submitted by the date set forth above regarding Section V. (Payment of Response Costs) and EPA may withhold consent from, or seek to modify, all or part of Section V. (Payment of Response Costs) if comments received disclose facts or considerations that indicate that Section V. (Payment of Response Costs) is inappropriate, improper, or inadequate.

Dated: March 5, 2018.

Enrique Manzanilla,

Director, Superfund Division, U.S. Environmental Protection Agency, Region 9.

[FR Doc. 2018–05407 Filed 3–15–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–OAR–2018–0027; FRL–9975–08—Region 8]

Adequacy Determination for the Denver-North Front Range 2008 Ozone Attainment Plan's Motor Vehicle Emissions Budgets for Transportation Conformity Purposes; State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy determination.

SUMMARY: In this notice, the Environmental Protection Agency (EPA) is notifying the public that the EPA has found the Metro-Denver/North Front Range (Metro-Denver/NFR) Moderate 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) attainment plan and its motor vehicle emissions budgets (MVEBs) adequate for transportation conformity purposes. As more fully explained in the Supplementary Information section of this notice, this finding will affect future transportation conformity determinations.

DATES: This finding is effective on April 2, 2018.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6479, or *russ.tim@epa.gov.*

SUPPLEMENTARY INFORMATION: Transportation conformity is required by section 176(c) of the Clean Air Act to ensure that federally funded highway and transit projects are consistent with the air quality goals established by the state implementation plan (SIP). The EPA's conformity rule provisions at 40 CFR part 93, subpart A, establish the criteria and procedures for determining whether transportation plans, programs and projects conform to the SIP. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the applicable NAAQS.

The criteria by which the EPA determines whether a SIP revision's MVEBs are adequate for transportation conformity purposes are outlined at 40 CFR 93.118(e)(4), and the adequacy review process is described at 40 CFR 93.118(f)(1). We applied these criteria and followed this process in making the determinations announced in this notice.

This notice is simply an announcement of findings that the EPA has already made, as described below.

The State of Colorado submitted the Metro-Denver/NFR Moderate 2008 8-hour ozone NAAQS attainment plan, and its associated MVEBs, on May 16, 2017. As part of our adequacy review, we posted the Metro-Denver/NFR Moderate 2008 8-hour ozone NAAQS attainment plan, with its identified nitrogen oxides (NO_X) and volatile organic compounds (VOC) MVEBs, for adequacy review on the EPA Office of Transportation and Air Quality's transportation conformity website (*https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity*) on December 8, 2017. The EPA requested public comments by January 8, 2018; we did not receive any comments. We sent a letter to the Colorado Department of Public Health and Environment (CDPHE) on January 30, 2018, stating that the submitted Metro-Denver/NFR Moderate 2008 8-hour ozone NAAQS attainment plan and its MVEBs were adequate for transportation conformity purposes.

For the Metro-Denver/NFR Moderate 2008 8-hour ozone NAAQS attainment plan, the MVEBs we found adequate were as identified and described in Chapter 11 of the ozone attainment plan. We find that the Total Nonattainment Area Budgets of 73 tons per day (tpd) of NO_X and 55 tpd of VOC for 2017 are adequate, in accordance with 40 CFR 93.118. We also find the nonattainment area's Northern Subarea Budgets of 12 tpd of NO_X and 8 tpd of VOCs and the Southern Subarea Budgets of 61 tpd of NO_X and 47 tpd of VOCs, all for 2017, are adequate.

In addition, and as described in Chapter 11 of the Metro-Denver/NFR Moderate 2008 8-hour NAAQS ozone attainment plan, the Denver Regional Council of Governments (DRCOG) Metropolitan Planning Organization (MPO) and the North Front Range MPO (NFRMPO) may switch from using the combined nonattainment-area-wide MVEBs to using the sub-area MVEBs for determining transportation conformity. To switch to use of the sub-area MVEBs (or to subsequently switch back to use of the combined nonattainment-area-wide MVEBs), the DRCOG and the NFRMPO must use the process described in Chapter 11 of the Metro-Denver/NFR ozone Moderate 2008 8-hour NAAQS ozone attainment plan on pages 11–5 through 11–6.

Following the effective date listed in the **DATES** section of this notice, the DRCOG, the NFRMPO, the Colorado Department of Transportation, and the U.S. Department of Transportation are required to use the MVEBs discussed above for future transportation conformity determinations for projects in the Metro-Denver/NFR Moderate 2008 8-hour NAAQS ozone nonattainment area. Please refer to 40 CFR 81.306 for a description of the nonattainment area boundary. On the effective date of this notice of adequacy, the previously-approved NO_X and VOC MVEBs (76 FR 47443; August 5, 2011) for the Metro-Denver/NFR 1997 8-hour ozone NAAQS nonattainment area will no longer be applicable for transportation conformity purposes.

Please note that our adequacy review of the MVEBs is separate from our future rulemaking action on the Metro-Denver/NFR Moderate 2008 8-hour NAAQS ozone attainment plan SIP revision and should not be used to prejudge our ultimate approval or disapproval of that SIP revision. Even if we find the Metro-Denver/NFR Moderate 2008 8-hour NAAQS ozone attainment plan and its MVEBs adequate for transportation conformity purposes now, we may later find it necessary to disapprove the SIP revision. Should this situation arise, we would revisit our adequacy finding.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 13, 2018.

Douglas H. Benevento,

Regional Administrator, Region 8.

[FR Doc. 2018–05406 Filed 3–15–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers CMS–P–0015A]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 15, 2018.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–P–0015A Medicare Current Beneficiary Survey

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey; *Use:* CMS is the largest single payer of health care in the United States. The agency plays a direct or indirect role in administering health insurance coverage for more than 120 million people across the Medicare, Medicaid, CHIP, and Exchange populations. A critical aim for CMS is to be an effective steward, major force, and trustworthy partner in supporting innovative approaches to improving quality, accessibility, and affordability in healthcare. CMS also aims to put patients first in the delivery of their health care needs.

The Medicare Current Beneficiary Survey (MCBS) is the most comprehensive and complete Survey available on the Medicare population and is essential in capturing data not otherwise collected through our operations. The MCBS is an in-person, nationally-representative, longitudinal survey of Medicare beneficiaries that we sponsor and is directed by the Office of Enterprise Data and Analytics (OEDA). The survey captures beneficiary information whether aged or disabled, living in the community or facility, or serviced by managed care or fee-for-service. Data produced as part of the MCBS are enhanced with our administrative data (*e.g.* fee-for-service claims, prescription drug event data, enrollment, etc.) to provide users with more accurate and complete estimates of total health care costs and utilization. The MCBS has been continuously fielded for more than 25 years, encompassing over 1 million interviews and more than 100,000 survey participants. Respondents participate in up to 11 interviews over a three and a half year period. This gives a comprehensive picture of health care costs and utilization over a period of time.

The MCBS continues to provide unique insight into the Medicare program and helps CMS and our external stakeholders better understand and evaluate the impact of existing programs and significant new policy initiatives. In the past, MCBS data have been used to assess potential changes to the Medicare program. For example, the MCBS was instrumental in supporting the development and implementation of the Medicare prescription drug benefit by providing a means to evaluate prescription drug costs and out-of-pocket burden for these drugs to Medicare beneficiaries. Beginning in 2019, this proposed revision to the clearance will eliminate or streamline some questionnaire sections, add a few new measures, take advantage of administrative data to reduce the number of survey questions in some long term care facilities, and discontinue the 12th interview as had previously been collected. The revisions will result in an overall reduction in respondent burden by 25%. *Form Number:* CMS–P–0015A (OMB control number: 0938–0568); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 14,146; *Total Annual Responses:* 37,407; *Total Annual Hours:* 44,817. (For policy questions regarding this

collection contact William Long at 410–786–7927.)

Dated: March 13, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–05399 Filed 3–15–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–29 and CMS–209]

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 April 16, 2018.

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' website address at website 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:* Extension of a currently approved collection; *Title of Information Collection:* Verification of Clinic Data—Rural Health Clinic Form and Supporting Regulations; *Use:* The form is utilized as an application to be completed by suppliers of Rural Health Clinic (RHC) services requesting participation in the Medicare program. This form initiates the process of obtaining a decision as to whether the conditions for certification are met as a supplier of RHC services. It also promotes data reduction or introduction to and retrieval from the Automated Survey Process Environment (ASPEN) and related survey and certification databases by the CMS Regional Offices. Should any question arise regarding the structure of the organization, this information is readily available. *Form Number:* CMS–29 (OMB control number 0938–0074); *Frequency:* Occasionally (initially and then every six years); *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 820; *Total Annual Responses:* 820; *Total Annual Hours:* 137. (For policy questions regarding this collection contact Caroline Gallaher at 410–786–8705.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Laboratory Personnel Report (CLIA) and Supporting Regulations; *Use:* The information collected on this survey form is used in the administrative pursuit of the Congressionally-mandated program with regard to regulation of laboratories participating in CLIA. The surveyor will provide the laboratory with the CMS–209 form. While the surveyor performs other aspects of the survey, the laboratory will complete the CMS–209 by recording the personnel data needed to support their compliance with the personnel requirements of CLIA. The surveyor will then use this information in choosing a sample of personnel to verify compliance with the personnel requirements. Information on personnel qualifications of all technical personnel is needed to ensure the sample is representative of the entire laboratory. *Form Number:* CMS–209 (OMB control number 0938–0151); *Frequency:* Biennially; *Affected Public:* Private Sector—State, Local, or Tribal Governments; and Federal Government; *Number of Respondents:* 19,051; *Total Annual Responses:* 9,592; *Total Annual Hours:* 4,796. (For policy questions regarding this collection contact Kathleen Todd at 410–786–3385.)

Dated: March 13, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–05388 Filed 3–15–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Community Services Block Grant (CSBG) State Plan Application.

OMB No.: 0970–0382.

Description: Section 676 of the Community Services Block Grant

(CSBG) Act requires states, including the District of Columbia and the Commonwealth of Puerto Rico, and U.S. territories applying for CSBG funds to submit an application and plan (CSBG State Plan). The CSBG State Plan must meet statutory requirements prior to states and territories being funded with CSBG funds. Applicants have the option to submit a detailed plan annually or biannually. Entities that submit a biannual plan must provide an abbreviated plan the following year if substantial changes to the initial plan will occur.

This request is to revise the automated CSBG State Plan format for states and territories by revising questions for clarity and system compatibility. It is not anticipated that these revisions will cause any additional burden to states as they have been completing the automated plan for three years. It is anticipated that the burden will continue to diminish in subsequent years due to improved pre-population and automation.

In addition to the CSBG State Plan, states will be requested to complete a CSBG Eligible Entity Master List in year one, and then make updates as necessary in subsequent years. As the states have the information about their eligible entities (or sub-grantees), the burden will be minimal to the states to complete this the first year.

Lastly, the request includes a survey for the CSBG eligible entities (or sub-grantees). The survey focuses on the customer service that the eligible entities receive from the CSBG states. The survey is optional, and this will be the third time that the eligible entities that chose to submit will complete it.

Respondents: State Governments, including the District of Columbia and the Commonwealth of Puerto Rico, and U.S. territories, and local level sub-grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CSBG State Plan Application for States	56	1	31	1736
CSBG State Plan Eligible Entity List	56	1	1	56
CSBG ACSI Survey of Eligible Entities	1019	1	.15	152.85

Estimated Total Annual Burden Hours: 1,792 hours for states and territories; 152.85 for eligible entities.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2018–05395 Filed 3–15–18; 8:45 am]

BILLING CODE 4184–27–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0529]

Draft Concept Paper: Illicit Trade in Tobacco Products After Implementation of a Food and Drug Administration Product Standard; Availability; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft concept paper entitled ''Illicit Trade in Tobacco Products after Implementation of an FDA Product Standard.'' FDA seeks public comment on the draft concept paper regarding the potential for illicit trade markets to develop in response to a tobacco product standard. This draft concept paper is offered to stimulate dialogue around the subject of possible illicit trade in connection with tobacco product standards.

DATES: Although you can comment at any time, to ensure that the Agency considers your comment on this draft concept paper, submit either electronic or written comments by June 14, 2018.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–0529 for ''Illicit Trade in Tobacco Products after Implementation of an FDA Product Standard.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of this draft concept paper to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the draft concept paper may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft concept paper.

FOR FURTHER INFORMATION CONTACT: Christopher Griffiths, Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 1–877–287–1373, email: *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft concept paper entitled ''Illicit Trade in Tobacco Products after Implementation of an FDA Product Standard.'' On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) (Tobacco Control Act) was enacted. The Tobacco Control Act grants FDA authority to implement a wide variety of product standards impacting different characteristics of existing and future tobacco products. This draft concept paper describes aspects of the tobacco product market and consumer behavior that may be relevant to the development of illicit trade markets if FDA implements a tobacco product standard. FDA faces a complex task when assessing the potential for an illicit trade market to develop in response to a tobacco product standard. While it remains difficult to measure existing illicit trade markets and use existing data to reliably predict future illicit markets, it may be possible to isolate some of the key factors that may encourage or discourage illicit trade in tobacco products. This draft concept paper assists that effort by breaking down the potential mechanics of an illicit trade market into various components, and examining the factors that could support or hinder the establishment of a persistent illicit trade market in the face of an FDA tobacco product standard. This paper first discusses the legal authority and general approach to establishing tobacco product standards, and then discusses the different components of illicit trade markets, followed by relevant research in consumer behavior and potentially applicable economic research.

FDA is providing notice and an opportunity to comment on this draft concept paper. Please provide evidence or other information supporting your comments.

II. Electronic Access

Persons with access to the internet may obtain an electronic version of the draft concept paper at either *https://www.regulations.gov* or *https://www.fda.gov/TobaccoProducts/Labeling/RulesRegulationsGuidance/default.htm.*

Dated: March 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–05346 Filed 3–15–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0045]

Pediatric Advisory Committee and the Endocrinologic and Metabolic Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Pediatric Advisory Committee (PAC) and the Endocrinologic and Metabolic Drugs Advisory Committee (EMDAC). This meeting was announced in the **Federal Register** of January 23, 2018. The amendment is being made to reflect a change in the agenda for the open session of the meeting and to extend the amount of time allotted for the closed session. There are no other changes.

DATES: The meeting will be held on March 22, 2018, from 8 a.m. to 6 p.m.

FOR FURTHER INFORMATION CONTACT: Marieann Brill, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993, 240–402–3838, *marieann.brill@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 23, 2018 (83 FR 3156), FDA announced that a meeting of the PAC and EMDAC would be held on March 22, 2018.

FDA is revising the first paragraph of the agenda for that meeting to read as follows:

On Thursday, March 22, 2018, the PAC and EMDAC will meet to discuss drug development for the treatment of children with achondroplasia (ACH). The following topics should be considered for discussion: Evidence required to establish dose-response, study design, study duration, intended population, and endpoints. In the open session, the committee does not intend to discuss any individual research programs.

FDA is also changing the meeting procedure and closed committee deliberations as follows:

Procedure: On March 22, 2018, from 12 p.m. to 6 p.m., the meeting is open to the public.

Closed Committee Deliberations: On March 22, 2018, from 8 a.m. to 11 a.m., the meeting will be closed to permit committee review and discussion of trade secret and/or confidential commercial information.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: March 13, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–05413 Filed 3–15–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1960]

Agency Information Collection Activities; Proposed Collection; Comment Request; MedWatch: The Food and Drug Administration Medical Products Reporting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. 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 of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on revisions to Forms FDA 3500, 3500A, and 3500B used in the FDA Medical Products Reporting Program.

DATES: Submit either electronic or written comments on the collection of information by May 15, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before May 15, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of May 15, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–1960 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; MedWatch: The FDA Medical Products Reporting Program.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three

White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''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 provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

MedWatch: The FDA Medical Products Reporting Program—OMB Control Number 0910–0291—Extension

Members of the public use FDA's MedWatch system to report adverse events, product problems, errors with the use of a human medical product, or when evidence of therapeutic failure is suspected or identified in clinical use. To ensure the marketing of safe and effective products, it is critical that postmarketing adverse outcomes and product problems are reported for all FDA-regulated human healthcare products, including drugs (prescription and nonprescription), biologics, medical devices, dietary supplements, and other special nutritional products (*e.g.* infant formula and medical foods), and cosmetics. To facilitate reporting on human medical products (except vaccines) during their postapproval and marketed lifetimes, three forms (collectively known as the MedWatch forms) are available from the Agency. Form FDA 3500 is intended to be used for voluntary (*i.e.,* not mandated by law or regulation) reporting by healthcare professionals. Form FDA 3500B is written in plain language and is intended to be used for voluntary reporting (*i.e.,* not mandated by law or regulation) by consumers (*i.e.,* patients and their caregivers). Form FDA 3500A is used for mandatory reporting (*i.e.,* required by law or regulation). When FDA receives this information from healthcare professionals, patients, or consumers, the report becomes data that will be used to assess and evaluate the risk associated with the product. FDA will then take whatever action is necessary to reduce, mitigate, or eliminate the public's exposure to the risk through regulatory and public health interventions.

Authorizing Statutes and Codified Regulations

The Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 353b, 355, 360i, 360*l,* and 393); and the Public Health Service Act (42 U.S.C. 262) represent the statutory authority for the FDA to collect mandatory adverse event reports from regulated industry on medical products once approved for marketing—to monitor the safety of drugs, biologics, medical devices, and dietary supplements. There are no laws or regulations mandating the post-market reporting for medical foods, infant formula, cosmetics, or tobacco products, and the reporting for these products is done voluntarily.

Requirements regarding mandatory reporting of adverse events or product problems have been codified in parts 310, 314, 600, and 803 (21 CFR 310, 314, 600, and 803), specifically §§ 310.305, 314.80, 314.98, 600.80, 803.30, 803.50, 803.53, 803.56, and specified in sections 503B, 760, and 761 of the FD&C Act (21 U.S.C. 353b, 379aa, and 379aa–1). Mandatory reporting of adverse reactions for human cells, tissues, and cellular- and tissue-based products (HCT/Ps) has been codified in 21 CFR 1271.350.

Use of Form 3500 (Voluntary Reporting)

This voluntary version of the form may be used by healthcare professionals to submit all reports not mandated by Federal law or regulation. Individual health professionals are not required by law or regulation to submit reports to the Agency or the manufacturer with the exception of Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa–1). Reports for vaccines are not submitted via MedWatch or MedWatch forms, but are submitted to the Vaccines Adverse Event Reporting System (see *https://vaers.hhs.gov*), which is jointly administered by FDA and the Centers for Disease Control and Prevention.

Hospitals are not required by Federal law or regulation to submit reports associated with drug products, biological products, or special nutritional products. However, hospitals and other user facilities are required by Federal law to report medical device-related deaths and serious injuries.

Under Federal law and regulation, section 761(b)(1) of the FD&C Act, a dietary supplement manufacturer, packer, or distributor whose name appears on the label of a dietary supplement marketed in the United States is required to submit to FDA any serious adverse event report it receives regarding use of the dietary supplement in the United States. However, FDA bears the burden to gather and review evidence that a dietary supplement may be adulterated under section 402 of the FD&C Act (21 U.S.C. 342) after that product is marketed. Therefore, the Agency depends on the voluntary reporting by health professionals, and especially by consumers, of suspected serious adverse events and product quality problems associated with the use of dietary supplements. All dietary supplement reports were previously received by the Agency on paper versions of Form FDA 3500 (or Form FDA 3500B) (by mail or fax). Currently, electronic reports may be sent to the Agency via an online submission route called the Safety Reporting Portal (*https://www.safetyreporting.hhs.gov/*). In that case, Form FDA 3500 (or Form FDA 3500B) is not used.

Form FDA 3500 may be used to report to the Agency serious adverse events, product problems, and product use errors and therapeutic failures. The form is provided in both paper and electronic formats. Reporters may mail or fax paper forms to the Agency (a fillable PDF version of the form is available at *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM163919.pdf*) or reporters may electronically submit a report via the MedWatch Online Voluntary Reporting Form (*https://www.accessdata.fda.gov/scripts/medwatch/*). Reporting is supported for drugs, non-vaccine biologicals, medical devices, special nutritional products, cosmetics, and non-prescription (over the counter (OTC)) human drug products marketed without an approved

application. The paper form may also be used to submit reports about tobacco products and dietary supplements. Electronic reports for tobacco products and dietary supplements may be submitted to the Agency via an online submission route called the Safety Reporting Portal (*https://www.safetyreporting.hhs.gov/*).

Use of Form 3500B (Consumer Voluntary Reporting)

This voluntary version of the form may be used by consumers (*i.e.* patients and their caregivers) to submit reports not mandated by Federal law or regulation. Individual patients or their caregivers are not required by law or regulation to submit reports to the Agency or the manufacturer.

FDA supports and encourages direct reporting to the Agency by consumers of suspected serious adverse outcomes and other product problems associated with human medical products, (*https://www.fda.gov/Safety/ReportaProblem/default.htm*). Since the inception of the MedWatch program, launched in July 1993 by then FDA Commissioner David Kessler, the program has been promoting and facilitating voluntary reporting by both the general public and healthcare professionals. FDA has further encouraged voluntary reporting by requiring inclusion of the MedWatch toll-free phone number or the MedWatch internet address on all outpatient drug prescriptions dispensed, as mandated by section 17 of the Best Pharmaceuticals for Children Act (Pub. L. 107–109).

On March 25, 2008, section 906 of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85) amended section 502(n) of the FD&C Act (21 U.S.C. 352) and mandated that published direct-to-consumer advertisements for prescription drugs include the following statement printed in conspicuous text (this includes vaccine products): ''You are encouraged to report negative side effects of prescription drugs to the FDA. Visit *https://www.fda.gov/safety/medwatch,* or call 1–800–FDA–1088.''

Most private vendors of consumer medication information, the drug product-specific instructions dispensed to consumers at outpatient pharmacies, remind patients to report ''side effects'' to FDA and provide contact information to permit reporting via the MedWatch process.

Since 2013, FDA has made available Form FDA 3500B. It was proposed during the previous authorization in 2012 and is a version of Form FDA 3500 that is tailored for consumers and written in plain language (in conformance with the Plain Writing Act of 2010 (Pub. L. 111–274), *https://www.gpo.gov/fdsys/pkg/PLAW-111publ274/pdf/PLAW-111publ274.pdf*).

Form FDA 3500B evolved from several iterations of draft versions, with input from human factors experts, from other regulatory agencies, and with extensive input from consumer advocacy groups and the general public. Form FDA 3500B may be used to report to the Agency adverse events, product problems, and product use errors. The form is provided in both paper and electronic formats. Reporters may mail or fax paper forms to the Agency (a fillable PDF version of the form is available at *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM349464.pdf*) or electronically submit a report via the MedWatch Online Voluntary Reporting Form (*https://www.accessdata.fda.gov/scripts/medwatch/*). Reporting is supported for drugs, non-vaccine biologicals, medical devices, special nutritional products, cosmetics, and non-prescription OTC human drug products marketed without an approved application. The paper form may also be used to submit reports about tobacco products and dietary supplements. Electronic reports for tobacco products and dietary supplements may be submitted to the Agency via an online submission route called the Safety Reporting Portal (*https://www.safetyreporting.hhs.gov/*).

I. Use of Form FDA 3500A (Mandatory Version)

A. Drug and Biological Products

In sections 505(b) and (j), 503B, and 704 (21 U.S.C. 355(b) and (j), 353B, and 374) of the FD&C Act, Congress has required that important safety information relating to all human drug products be made available to the FDA so that it can take appropriate action to protect the public health when necessary. Section 702 of the FD&C Act (21 U.S.C. 372) authorizes investigational powers to the FDA for enforcement of the FD&C Act. These statutory requirements regarding mandatory reporting have been codified by FDA under parts 310 and 314 (drugs) and 600 (biological products). Mandatory reporting of adverse reactions for HCT/Ps has been codified in § 1271.350.

B. OTC Monograph Drug Products and Dietary Supplements

Section 760 of the FD&C Act provides for mandatory safety reporting for non-prescription human drug products marketed without an approved application as described in the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Pub. L. 109–462, December 22, 2006), which became law on December 22, 2006. The law requires manufacturers, packers, and distributors of nonprescription, over-the-counter (OTC) human drug products marketed without an approved application (OTC monograph drug products) to submit reports of adverse experiences from domestic sources. The law also requires reports of serious adverse events to be submitted to FDA by manufacturers of dietary supplements.

C. Postmarketing Safety Reports—Changes in Format Starting in June 2018

Current requirements specify that postmarketing adverse experience reports must be submitted on paper on Form FDA Form 3500A (or the CIOMS (Council for International Organizations of Medical Sciences) I form for serious, unexpected adverse experiences from a foreign source). For the last several years the Agency has accepted electronic submissions in lieu of the paper Form FDA 3500A on the condition they are submitted in a manner that the Agency can process, review, and archive. On June 10, 2014, the Agency issued a final rule entitled ''Postmarketing Safety Reports for Human Drug and Biological Products; Electronic Submission Requirements'' (79 FR 33072) that requires electronic submission of all mandatory postmarketing safety reports, including individual case safety reports. Entities with mandatory reporting obligations under parts 310 and 314 (drugs) and 600 (biological products) and specified under section 760 of the FD&C Act must implement this rule within 1 year of the issuance date (by June 10, 2015). For more information see: https://www.gpo.gov/fdsys/pkg/FR-2014-06-10/pdf/2014-13480.pdf.

D. Medical Device Products

Section 519 of the FD&C Act (21 U.S.C. 360i) requires manufacturers and importers of devices intended for human use to establish and maintain records, make reports, and provide information, as the Secretary of Health and Human Services may, by regulation, reasonably be required to provide assurance that such devices are not adulterated or misbranded and to otherwise assure its safety and effectiveness. The Safe Medical Devices Act of 1990 (Pub. L. 101–629), signed into law on November 28, 1990, amends section 519 of the FD&C Act. The

amendment requires that user facilities such as hospitals, nursing homes, ambulatory surgical facilities, and outpatient treatment facilities report deaths related to medical devices to FDA and to the manufacturer, if known. Serious illnesses and injuries are to be reported to the manufacturer or to FDA if the manufacturer is not known. These statutory requirements regarding mandatory reporting have been codified by FDA under 21 CFR part 803 (part 803). Part 803 mandates the use of Form FDA 3500A for reporting to FDA on medical devices. The Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Pub. L. 107–250), signed into law October 26, 2002, amended section 519 of the FD&C Act. The MDUFMA amendment (section 303) required FDA to revise the MedWatch forms to facilitate the reporting of information relating to reprocessed single-use devices, including the name of the reprocessor and whether the device has been reused.

II. Proposed Modification to Existing Forms FDA 3500, 3500A, and 3500B

General changes—The proposed modifications to Forms FDA 3500 and 3500A reflect changes that will bring the form into conformance, since the previous authorization in 2015, with current regulations, rules, and guidances.

The proposed extension to Forms FDA 3500, 3500A, and 3500B will only have changes in the form instructions to provide clarity of reporting. The proposed changes are regulatory driven, improving the Centers' work, and improving report processing. The Agency welcomes comments about translation of Form FDA 3500B (consumer) into Spanish and other languages.

Formatting modifications are being proposed to several fields to enhance the quality, utility, and clarity of the information.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDA Center/FDA Form/21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Center for Biologics Evaluation and Research/Center for Drug Evaluation and Research:					
Form 3500	14,727	1	14,727	0.66 (40 min)	9,720
Form 3500A (§§ 310.305, 314.80, 314.98, 600.80, 1271.350).	599	98	58,702	1.21	71,029
Form 3500A (§§ 310.305 outsourcing facilities)	50	2	100	1.21	121
Center for Devices and Radiological Health:					
Form 3500	5,233	1	5,233	0.66 (40 min)	3,454
Form 3500A (803)	2,277	296	673,992	1.21	815,530
Center for Food Safety and Applied Nutrition:					
Form 3500	1,793	1	1,793	0.66 (40 min)	1,183
Form 3500A	1,659	1	1,659	1.21	2,007
Center for Tobacco Products:					
Form 3500	39	1	39	0.66 (40 min)	26
All Centers:					
Form 3500B	13,750	1	13,750	0.46 (28 min)	6,325
Total					909,395

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates have not changed from the current approval.

Dated: March 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–05337 Filed 3–15–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0976]

Arthritis Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice, establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Arthritis Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on April 23, 2018, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2018–N–0976. The docket will close on April 20, 2018. Submit either electronic or written comments on this public meeting by April 20, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 20, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of April 20, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before April 9, 2018, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–0976 for ''Arthritis Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Yinghua S. Wang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *AAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss new drug application (NDA) 207924, for baricitinib tablets, submitted by Eli Lilly and Company, for the treatment of adult patients with moderately to severely active rheumatoid arthritis who have had an inadequate response or intolerance to methotrexate. The discussion will include the following: Efficacy, safety, including the risk of thromboembolic adverse events, dose selection, and overall risk benefit considerations.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before April 9, 2018, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 30, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 2, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to

accommodate persons with disabilities. If you require accommodations due to a disability, please contact Yinghua Wang (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 13, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–05386 Filed 3–15–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0757]

Pathways to Global Unity; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), in collaboration with the Association of Food and Drug Officials (AFDO), is announcing the following public workshop entitled ''Pathways to Global Unity.'' This 2½-day public workshop is intended to provide information about FDA drug and device regulation to the regulated industries.

DATES: The public workshop will be held on June 11–12, 2018, from 8 a.m. to 5:30 p.m., and on June 13, 2018, from 8 a.m. to 12 p.m.

ADDRESSES: The public workshop will be held at the Doubletree by Hilton Hotel Burlington Vermont, 870 Williston Rd., Burlington, VT 05403, 802–865–6626. For directions to the hotel and information on lodging, visit *http://burlington.afdo.org/hotel.html.* Attendees are responsible for their own accommodations.

FOR FURTHER INFORMATION CONTACT: Krystal Reed, Association of Food and Drug Officials, 155 West Market St., 3rd Floor, York, PA 17401, 717–757–2888, Fax: 717–650–3650, email: *kreed@afdo.org.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The workshop helps to achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by government agencies to small businesses.

II. Topics for Discussion at the Public Workshop

The public workshop helps fulfill the Department of Health and Human Services and FDA's mission to protect the public health. The workshop will provide FDA-regulated drug and device entities with information on a number of topics concerning FDA requirements related to the production and marketing of drugs and/or devices. The public workshop's agenda is available at *http://www.afdo.org/conference.* Topics for discussion include the following:

- FDA Associate Commissioner for Regulatory Affairs Update
- Health Canada: Single Audit Program
- Enforcement Trends in Drug, Devices, and Compounding Pharmacy Inspections
- FDA Compliance Questions Panel
- International Compliance—Industry Perspective
- Puerto Rico Emergency Response Update
- Artificial Intelligence
- Supply Chain Control
- Dermal Abyss: Tattoos as Medical Condition Monitors
- Design Controls for Combination Products
- Benefit Risk—Using Benefit Risk in Making Post-Market Decisions

III. Participating in the Public Workshop

Registration: You are encouraged to register by May 1, 2018. Registration fees cover the cost of facilities, materials, and breaks. Seats are limited; therefore, please submit your registration as soon as possible. Course space will be filled in order of receipt of registration. Those accepted into the course will receive confirmation. Registration will close after the course is filled. Registration at the site is not guaranteed but may be possible on a space-available basis on the day of the public workshop beginning at 7:30 a.m. The cost of registration is as follows:

Category	Cost of registration
AFDO Members	$550
AFDO Non-Members	650
Additional Fee for Registration Postmarked After May 1, 2018	100

To register online, please visit *http://www.afdo.org/conference* (FDA has verified the website address, but is not responsible for subsequent changes to the website after this document publishes in the **Federal Register**.) For alternative registration, please complete and submit an AFDO Conference Registration Form, available at *http://burlington.afdo.org/registration.html,* along with a check or money order payable to AFDO. Please mail your completed registration form and payment to: AFDO, 155 West Market St., 3rd Floor, York, PA 17401. The registrar will also accept payment through Visa, MasterCard, and American Express credit cards. For more information on the public workshop, or for questions about registration, please contact AFDO at 717–757–2888, *afdo@afdo.org,* or *http://www.afdo.org/conference.*

If you need special accommodations due to a disability, please contact Krystal Reed (see **FOR FURTHER INFORMATION CONTACT**) at least 21 days in advance of the workshop.

Dated: March 13, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–05389 Filed 3–15–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Council on Alzheimer's Research, Care, and Services; Meeting

AGENCY: Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces the public meeting of the Advisory Council on Alzheimer's Research, Care, and Services (Advisory Council). The Advisory Council on Alzheimer's Research, Care, and Services provides advice on how to prevent or reduce the burden of Alzheimer's disease and related dementias on people with the disease and their caregivers. During the April meeting, the Clinical Care Subcommittee will be taking charge of the theme, focusing on advancing consensus on dementia care elements to

guide new outcomes measurement. The Council will hear speakers in two sessions, one focuses on developing consensus about dementia care elements, and the second on models that are informing outcomes measurement. The meeting will also include updates on work from the previous meetings, a presentation on the final report from the October 2017 Care Summit, and federal workgroup updates.

DATES: The meeting will be held on April 27, 2018 from 9:00 a.m. to 5:00 p.m. EDT.

ADDRESSES: The meeting will be held in Room 800 in the Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201.

Comments: Time is allocated in the afternoon on the agenda to hear public comments. The time for oral comments will be limited to two (2) minutes per individual. In lieu of oral comments, formal written comments may be submitted for the record to Rohini Khillan, OASPE, 200 Independence Avenue SW, Room 424E, Washington, DC 20201. Comments may also be sent to *napa@hhs.gov.* Those submitting written comments should identify themselves and any relevant organizational affiliations.

FOR FURTHER INFORMATION CONTACT: Rohini Khillan (202) 690–5932, *rohini.khillan@hhs.gov.* Note: Seating may be limited. Those wishing to attend the meeting must send an email to *napa@hhs.gov* and put ''April 27 Meeting Attendance'' in the Subject line by Tuesday, April 17, so that their names may be put on a list of expected attendees and forwarded to the security officers at the Department of Health and Human Services. Any interested member of the public who is a non-U.S. citizen should include this information at the time of registration to ensure that the appropriate security procedure to gain entry to the building is carried out. Although the meeting is open to the public, procedures governing security and the entrance to Federal buildings may change without notice. If you wish to make a public comment, you must note that within your email.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). Topics of the Meeting: During the April meeting, the Clinical Care Subcommittee will be taking charge of the theme, focusing on advancing consensus on dementia care elements to guide new outcomes measurement. The Council will hear speakers in two sessions, one focuses on developing consensus about dementia care elements, and the second on models that are informing outcomes measurement. The meeting will also include updates on work from the previous meetings, a presentation on the final report from the October 2017 Care Summit, and federal workgroup updates.

Procedure and Agenda: This meeting is open to the public. Please allow 30 minutes to go through security and walk to the meeting room. The meeting will also be webcast at *www.hhs.gov/live.*

Authority: 42 U.S.C. 11225; Section 2(e)(3) of the National Alzheimer's Project Act. The panel is governed by provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: March 12, 2018.

John R. Graham,

Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 2018–05368 Filed 3–15–18; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Anti-Marinobufagenin Antibodies and Methods for Diagnosis and Treatment of Cardiovascular Disease and Fibrotic Disease

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute on Aging, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the U.S. and International Patents and Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this notice to CTS Biopharma LLC, located in Sunnyvale, CA.

DATES: Only written comments and/or complete applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before April 2, 2018 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Richard T. Girards, Jr., Esq., MBA, Senior Technology Transfer Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E508 MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702 (for overnight courier services); Telephone: (240)-276–6825; Facsimile: (240)-276–5504; Email: *richard.girards@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

United States Provisional Patent Application No. 60/694,733 [HHS Ref No. E–092–2004/0–US–01], filed on June 27, 2005 and entitled ''Anti-marinobufagenin antibodies and methods for their use;'' Patent Cooperation Treaty Patent Application No. PCT/US2006/024918 [HHS Ref No. E–092–2004/0–PCT–02], filed on June 26, 2006 and entitled ''Anti-marinobufagenin antibodies and methods for their use;'' and U.S. and foreign patents and/or patent applications claiming priority to the aforementioned applications, including but not limited to United States Patent No. 8,038,997 [HHS Ref No. E–092–2004/0–US–03] entitled ''Anti-marinobufagenin antibodies and methods for their use.''

Certain rights in the patent and these applications have been assigned to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the use of the Licensed Patent Rights for the following: (1) The use of anti-marinobufagenin antibodies for one or both of (a) the treatment of fibrotic disease and (b) the treatment of cardiovascular disease, including but not limited to preeclampsia and (2) companion diagnostics associated with the aforementioned treatments.

The patents and applications potentially to be licensed disclose antibodies (mAbs) that specifically bind marinobufagenin. They also disclose use of these mAbs in the diagnosis and treatment of cardiovascular disease such as hypertension. Further, they disclose use of these mAbs in the diagnosis and treatment of fibrotic diseases. The patents and applications potentially to be licensed also disclose technologies useful with respect to companion diagnostics for both fibrotic and cardiovascular diseases. The public substantially will benefit from the clinical and commercial development of these mAbs for the treatment and of cardiovascular as well as fibrotic disorders. The public also will benefit from the clinical and commercial development of companion diagnostics relative to these conditions.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404.

The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a completed license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice must be complete and in acceptable form by the expiration date of this Notice to be considered for a license. License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 8, 2018.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2018–05310 Filed 3–15–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: April 3, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Shalanda A Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: April 6, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Endocrinology, Metabolism, Nutrition, and Reproductive Science.

Date: April 6, 2018.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182 MSC 7892, Bethesda, MD 20892, 301 435–2514, *riverase@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: April 6, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 12, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05308 Filed 3–15–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Responsibility of Applicants for Promoting Objectivity in Research for Which Public Health Service (PHS) Funding Is Sought and Responsible Prospective Contractors, Office of Policy for Extramural Research Administration (OPERA), Office of Extramural Research (OER), Office of the Director, (OD)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health, Office of Policy and Extramural Research Administration (OPERA), Office of Extramural Research (OER), Office of the Director (OD) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Kathy Hancock, Asst. Grants Compliance Officer, Division of Grants Compliance and Oversight, Office of Policy for Extramural Research Administration, 6705 Rockledge Drive, Suite 350, Bethesda, Maryland 20892 or call non-toll-free number 301–435–0949 or Email your request to *FCOICompliance@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the

agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Responsibility of Applicants for Promoting Objectivity in Research for which Public Health Service (PHS) Funding is Sought 45 CFR part 50 Subpart F and Responsible Prospective Contractors 45 CFR part 94, 0925–0417,—REINSTATEMENT WITHOUT CHANGE Office of Policy and Extramural Research Administration (OPERA) Office of Extramural Research (OER), Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection:

This request is for Office of Management and Budget (OMB) approval of a Reinstatement without change of a currently approved collection resulting from the development of revised regulations regarding the Responsibility of Applicants for Promoting Objectivity in Research for which PHS Funding is Sought (42 CFR part 50, subpart F) and Responsible Prospective Contractors (45 CFR part 94). The purpose of these regulations is to promote objectivity in research by requiring institutions to establish standards to ensure that there is no reasonable expectation that the design, conduct, or reporting of PHS-funded research will be biased by any Investigator financial conflict of interest (FCOI).

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 677,295.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents based on applicable section of regulation	Number of respondents	Frequency of responses	Average time per response (in hours)	Total annual burden hour
Reporting:				
Initial Reports under 42 CFR 50.605(b)(1) and (b)(3) or 45 CFR 94.5(b)(1) and (b)(3) from awardee Institutions.	992	1	2	1,984
Subsequent Reports under 42 CFR 50.605(a)(3)(iii) and (b)(2) or 45 CFR 94.5(a)(3)(iii) and (b)(2) from awardee Institutions.	50 FCOI reports as in 42 CFR 50.605(a)(3)(ii) and 45 CFR 94.5(a)(3)(ii).	1	2	100
	5 mitigation reports	1	2	10
Annual Report under 42 CFR 50.605(b)(4) or 45 CFR 94.5(b)(4) from awardee Institutions.	2,031	1	1	2,031
Subsequent Reports under 42 CFR 50.606(a) or 45 CFR 94.6 from awardee Institutions.	20	1	10	200
Record Keeping:				
Under 42 CFR 50.604(i) or 45 CFR 94.4(i) from awardee institutions.	2,000	1	4	8,000
Disclosure:				
Under 42 CFR 50.604(a) or 45 CFR 94.4 for Investigators.	3,000	1	81	243,000
Under 42 CFR 50.604(b) or 45 CFR 94.4(e)(1) for Investigators.	38,000	1	30/60	19,000
Under 42 CFR 50.604(b) or 45 CFR 94.4(e)(1) for Institutions.	2,000	1	6	12,000
Under 42 CFR 50.604(c)(1) or 45 CFR 94.4(c)(1) from subrecipients.	500	1	1	500
Under 42 CFR 50.604(d) or 45 CFR 94.4 for Institutions.	3,000 [4]	1	1	3,000
Under 42 CFR 50.604(e)(1) or 45 CFR 94.4(e)(1) for Investigators.	38,000	1	4	152,000
Under 42 CFR 50.604(e)(2) or 45 CFR 94.4(e)(2) for Investigators.	38,000	1	1	38,000
Under 42 CFR 50.604(e)(3) or 45 CFR 94.4(e)(3) for Investigators.	950	1	30/60	475
Under 42 CFR 50.604(f) or 45 CFR 94.4(f) for institutions [1].	2,000	1	1	2,000
Under 42 CFR 50.605(a)(1) or 45 CFR 94.5(a)(1) for Institutions.	2,000 [5]	1	82	164,000
Under 42 CFR 50.605(a)(3) or 45 CFR 94.5(a)(3) for Institutions.	500 [6]	1	3	1,500
Under 42 CFR 50.605(a)(3)(i) or 45 CFR 94.5(a)(3)(i).	50 [7]	1	80	4,000
Under 42 CFR 50.605(a)(3)(ii) or 45 CFR 94.5(a)(3)(ii).	50 [8]	1	80	4,000
Under 42 CFR 50.605(a)(3)(iii) or 45 CFR 94.5(a)(3)(iii).	50	1	1	50

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents based on applicable section of regulation	Number of respondents	Frequency of responses	Average time per response (in hours)	Total annual burden hour
Under 42 CFR 50.605(a)(4) or 45 CFR 94.5(a)(4).	950	1	12	11,400
Public Website Posting under 42 CFR 50.605(a)(5) or 45 CFR 94.5(a)(5) from awardee Institutions.	2,000	1	5	10,000
Under 42 CFR 50.606(c) or 45 CFR 94.6(c).	50 [9]	3 [10]	18/60	45
Total	136,143	136,243		677,295

[4] Assuming that 3,000 Institutions solicit disclosures on an annual basis by sending a notification to all Investigators.
[5] Although an estimated 950 reports of Conflict of Interest are expected annually, the 2,000 responding Institutions must review all financial disclosures associated with PHS-funded awards to determine whether any conflicts of interest exist. Thus, the review burden of 76,000 hours is based upon estimates that it will take on the average 2 hours for an institutional official(s) to review each of 38,000 financial disclosures associated with PHS funded awards. The burden for developing a management plan for identified FCOI is estimated at 80 hours × 950 cases = 76,000 hours.
[6] Assuming that this is a rare occurrence based on prior experience.
[7] Assuming only a fraction of the newly identified SFIs will constitute FCOI.
[8] Assuming only a fraction of the newly identified SFIs will constitute FCOI.
[9] Number based on 50.605/94.5(a)(3)(i)—of those only a fraction will relate to a project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment, but we are calculating the maximum estimated burden.
[10] Assuming an average of 3 publications annually.

Dated: March 10, 2018.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2018–05384 Filed 3–15–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: BTSS and SAT.

Date: March 26, 2018.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–086/7: Tobacco Use and HIV in Low and Middle-Income Countries.

Date: March 28, 2018.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 12, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05307 Filed 3–15–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Magnetic Resonance Imaging System and Method for the Measurement of Geometric Features of Axons (Including Without Limitation Diameter, Radius, Perimeter, Volume, Surface and Angle) for the Characterization and Diagnosis of Central Nervous System Diseases and Disorders

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The *Eunice Kennedy Shriver* National Institute for Child Health and Human Development (NICHD), an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to Brainvivo Ltd. (Brainvivo), located in Tel Aviv, Israel, to practice the inventions embodied in the patent applications listed in the Supplementary Information section of this notice.

DATES: Only written comments and/or complete applications for a license which are received by the NCI Technology Transfer Center on or before April 2, 2018 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Surekha Vathyam, Ph.D.,

Senior Technology Transfer Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530 MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702 Telephone: (240)-276–5530; Email: *vathyams@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The following represents the intellectual property to be licensed under the prospective agreement:

- United States Provisional Patent Application No. 60/485,658, filed July 8, 2003, titled ''Diffusion Tensor and Q-Space MRI Specimen Characterization'' [HHS Reference No. E–079–2003/0–US–01], status: expired;
- United States Provisional Patent Application No. 60/571,064, filed May 14, 2004, titled ''Diffusion Tensor and Q-Space MRI Specimen Characterization'' [HHS Reference No. E–079–2003/0–US–04], status: expired;
- United States Patent Application No. 10/888,917, filed July 8, 2004, titled ''Diffusion Tensor and Q-Space MRI Specimen Characterization'' [HHS Reference No. E–079–2003/0–US–02], status: issued as Patent No. 7,643,863;
- International Patent Application No. PCT/US2004/22027, July 8, 2004, titled ''Diffusion Tensor and Q-Space MRI Specimen Characterization'' [HHS Reference No. E–079–2003/0–PCT–03], status: expired; and
- United States Patent Application No. 12/114,713, filed May 2, 2008, titled ''Non-Invasive in vivo MRI Axon Diameter Measurement Methods'' [HHS Reference No. E–079–2003/1–US–01], status: issued as Patent No. 8,380,280.

With respect to persons who have an obligation to assign their right, title and interest to the Government of the United States of America, the patent rights in these inventions have been assigned to the Government of the United States of America.

The prospective Exclusive Patent License territory may be worldwide for the following field of use:

''Magnetic Resonance Imaging system and method for the measurement of geometric features of axons (including without limitation diameter, radius, perimeter, volume, surface and angle) for the characterization and diagnosis of Central Nervous System diseases and disorders.''

A non-invasive, painless means for measuring axon diameter distribution (ADD) is disclosed in the intellectual property to be licensed, which has significance for imaging of the central nervous system, and for *in vivo* measurement of microanatomical (histological) features of nerves that are critically important in medicine, particularly, in neuroscience. ADD is altered in abnormal development (possibly even in autism), in degenerative process (*e.g.,* aging, alcoholism, Alzheimer's disease) and diseases such as ALS (Lou Gehrig's disease). The invention provides a painless way to measure microanatomical features previously measurable using invasive histological means requiring biopsy.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective Exclusive Patent License will be royalty bearing and may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a completed license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice must be complete and in acceptable form by the expiration date of this Notice to be considered for a license. License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 7, 2018.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2018–05311 Filed 3–15–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002; Internal Agency Docket No. FEMA–B–1812]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 1, 2018.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
California:						
Riverside	City of Corona (17–09–2752P).	The Honorable Karen Spiegel Mayor, City of Corona, 400 South Vicentia Avenue Corona, CA 92882.	City Hall 400 South Vicentia Avenue, Corona, CA 92882.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 14, 2018	060250
Riverside	Unincorporated Areas of Riverside County (17–09–2752P).	The Honorable Chuck Washington Chairman, Board of Supervisors Riverside County, 4080 Lemon Street 5th Floor, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 14, 2018	060245
Hawaii: Honolulu	City and County of Honolulu (18–09–0118P).	The Honorable Kirk Caldwell Mayor, City and County of Honolulu, 530 South King Street, Room 306, Honolulu, HI 96813.	Department of Planning and Permitting, 650 South King Street, Honolulu, HI 96813.	*https://msc.fema.gov/portal/advanceSearch.*	May 29, 2018	150001
Idaho:						
Ada	City of Kuna (17–10–1636P).	The Honorable Joe Stear Mayor, City of Kuna, P.O. Box 13, Kuna, ID 83634.	City Hall 329 West 3rd Street, Kuna, ID 83634.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 7, 2018	160174
Ada	Unincorporated Areas of Ada County (17–10–1636P).	The Honorable David L. Case Chairman, Ada County Board of Commissioners, 200 West Front Street, 3rd Floor, Boise, ID 83702.	Ada County Courthouse, 200 West Front Street, Boise, ID 83702.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 7, 2018	160001
Ada	Unincorporated Areas of Ada County (18–10–0284X).	The Honorable David L. Case Chairman, Ada County Board of Commissioners, 200 West Front Street, 3rd Floor, Boise, ID 83702.	Ada County Courthouse, 200 West Front Street, Boise, ID 83702.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 8, 2018	160001
Illinois:						
McHenry	Unincorporated Areas of McHenry County (18–05–2003P).	The Honorable Jack D. Franks Chairman, McHenry County Board County Government Center, 2200 North Seminary Avenue, Woodstock, IL 60098.	County Government Center, 2200 North Seminary Avenue, Woodstock, IL 60098.	*https://msc.fema.gov/portal/advanceSearch.*	June 14, 2018	170732
McHenry	Village of Port Barrington (18–05–2003P).	The Honorable Shannon Yeaton Village President, Village of Port Barrington, 69 South Circle Avenue Port, Barrington, IL 60010.	Village Hall, 69 South Circle Avenue Port, Barrington, IL 60010.	*https://msc.fema.gov/portal/advanceSearch.*	June 14, 2018	170478
Iowa: Bremer	City of Waverly (18–07–0164P).	The Honorable Charles D. Infelt Mayor, City of Waverly, 200 1st Street Northeast, Waverly, IA 50677.	City Hall 200 1st Street Northeast Waverly, IA 50677.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 1, 2018	190030

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Kansas: Johnson ..	City of Olathe (17–07–2080P).	The Honorable Michael Copeland Mayor, City of Olathe, P.O. Box 768, Olathe, KS 66051.	City Hall Olathe Planning Office, 100 West Santa Fe Drive, Olathe, KS 66061.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 1, 2018	200173
Minnesota: Anoka	City of Lino Lakes (17–05–5610P).	The Honorable Jeff Reinert Mayor, City of Lino Lakes, 600 Town Center Parkway Lino, Lakes, MN 55014.	City Hall, 600 Town Center Parkway Lino, Lakes, MN 55014.	*https://msc.fema.gov/portal/advanceSearch.*	May 30, 2018	270015
Missouri: Christian	City of Nixa (17–07–1573P).	The Honorable Brian E. Steele Mayor, City of Nixa, 715 West Mount Vernon Street, Nixa, MO 65714.	City Hall, 715 West Mount Vernon Street, Nixa, MO 65714.	*https://msc.fema.gov/portal/advanceSearch.*	May 10, 2018	290078
Nevada: Douglas ..	Unincorporated Areas of Douglas County (17–09–2481P).	The Honorable Barry Penzel Chairman, Board of Commissioners Douglas County, P.O. Box 218, Minden, NV 89423.	Douglas County Community Development, 1594 Esmeralda Avenue, Minden, NV 89423.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 7, 2018	320008
Oregon:						
Marion	City of Salem (17–10–1422P).	The Honorable Chuck M. Bennett Mayor, City of Salem City Hall, 555 Liberty Street Southeast, Room 220, Salem, OR 97301.	Public Works Department, 555 Liberty Street Southeast, Room 325, Salem, OR 97301.	*https://msc.fema.gov/portal/advanceSearch.*	May 29, 2018	410167
Marion	Unincorporated Areas of Marion County (17–10–1422P).	Mr. Sam Brentano Commissioner Marion County, 555 Court Street Northeast, Suite 5232, Salem, OR 97309.	Marion County Department of Planning, 315 Lancaster Drive Northeast, Salem, OR 97305.	*https://msc.fema.gov/portal/advanceSearch.*	May 29, 2018	410154

[FR Doc. 2018–05416 Filed 3–15–18; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002; Internal Agency Docket No. FEMA–B–1808]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before June 14, 2018.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1808, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are

provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 23, 2018.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Fulton County, Georgia and Incorporated Areas **Project: 13–04–8403S Preliminary Date: June 15, 2017**	
City of Milton	City Hall, 2006 Heritage Walk, Milton, GA 30004.
City of Roswell	City Hall, 38 Hill Street, Suite 235, Roswell, GA 30075.
Calcasieu Parish, Louisiana and Incorporated Areas **Project: 12–06–0899S Preliminary Date: February 29, 2016 and December 15, 2017**	
Unincorporated Areas of Calcasieu Parish	Calcasieu Parish Planning and Development Department, 901 Lakeshore Drive, Lake Charles, LA 70601.
Perry County, Pennsylvania (All Jurisdictions) **Project: 15–03–0142S Preliminary Date: August 18, 2017**	
Borough of Blain	Borough Office, 155 East Main Street, Blain, PA 17006.
Borough of Bloomfield	Bloomfield Borough Building, 25 East McClure Street, New Bloomfield, PA 17068.
Borough of Duncannon	Borough Office, 428 North High Street, Duncannon, PA 17020.
Borough of Liverpool	Liverpool Borough Office, 401 Locust Street, Liverpool, PA 17045.
Borough of Marysville	Borough Office, 200 Overcrest Road, Marysville, PA 17053.
Borough of New Buffalo	Borough Office, 32 Mill Street, New Buffalo, PA 17069.
Township of Buffalo	Buffalo Township Office, 22 Cherry Road, Liverpool, PA 17045.
Township of Carroll	Carroll Township Municipal Building, 50 Rambo Hill Road, Shermans Dale, PA 17090.
Township of Centre	Centre Township Office, 2971 Cold Storage Road, New Bloomfield, PA 17068.
Township of Greenwood	Greenwood Township Municipal Building, 17 Pines Drive, Millerstown, PA 17062.
Township of Jackson	Jackson Township Office, 890 Fowler Hollow Road, Blain, PA 17006.
Township of Liverpool	Liverpool Township Office, 1121 Ridge Road, Liverpool, PA 17045.
Township of Miller	Miller Township Office, 554 Old Limekiln Lane, Newport, PA 17074.
Township of Northeast Madison	Northeast Madison Township Office, 979 Quarry Road, Loysville, PA 17047.
Township of Penn	Penn Township Office, 100 Municipal Building Road, Duncannon, PA 17020.
Township of Rye	Rye Township Office, 1775 New Valley Road, Marysville, PA 17053.
Township of Saville	Saville Township Office, 3954 Veterans Way, Elliottsburg, PA 17024.
Township of Southwest Madison	Southwest Madison Township Office, 94 Bistline Bridge Road, Loysville, PA 17047.
Township of Spring	Spring Township Office, 539 Paige Hill Road, Landisburg, PA 17040.
Township of Toboyne	Toboyne Township Office, 50 Lower Buck Ridge Road, Blain, PA 17006.
Township of Tyrone	Tyrone Township Office, 3129 Shermans Valley Road, Loysville, PA 17047.
Township of Watts	Watts Township Office, 112 Notch Road, Duncannon, PA 17020.
Township of Wheatfield	Wheatfield Township Office, 1280 New Bloomfield Road, New Bloomfield, PA 17068.

[FR Doc. 2018–05415 Filed 3–15–18; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 23, 2018.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama: Greene (FEMA Docket No: B–1762).	Unincorporated areas of Greene County (17–04–5766P).	The Honorable Tennyson Smith, Chairman, Greene County Board of Commissioners, PO Box 628, Eutaw, AL 35462.	Greene County Engineering Department, 521 Prairie Avenue, South, Eutaw, AL 35462.	Jan 25, 2018	010091
Arkansas:					
Benton (FEMA Docket No: B–1767).	City of Centerton (17–06–1281P).	The Honorable Bill Edwards, Mayor, City of Centerton, PO Box 208, Centerton, AR 72719.	City Hall, 290 Main Street, Centerton, AR 72719.	Jan 29, 2018	050399
Benton (FEMA Docket No: B–1767).	Unincorporated areas of Benton County (17–06–1281P).	The Honorable Barry Moehring, Benton County Judge, 215 East Central Avenue, Bentonville, AR 72712.	Benton County Development and Building Department, 905 Northwest 8th Street, Bentonville, AR 72712.	Jan 29, 2018	050419
Colorado: Arapahoe (FEMA Docket No: B–1762).	City of Aurora (17–08–0697P).	Mr George Noe, Manager, City of Aurora, 15151 East Alameda Parkway, 5th Floor, Aurora, CO 80012.	Municipal Center, 15151 East Alameda Parkway, 3rd Floor, Aurora, CO 80012.	Feb 2, 2018	080002
Connecticut: Fairfield (FEMA Docket No: B–1762).	Town of Westport (17–01–0033P).	The Honorable Jim Marpe, First Selectman, Town of Westport Board of Selectmen, 110 Myrtle Avenue, Room 310, Westport, CT 06880.	Planning and Zoning Department, 110 Myrtle Avenue, Room 203, Westport, CT 06880.	Jan 8, 2018	090019
Florida:					
Duval (FEMA Docket No: B–1762).	City of Jacksonville (17–04–1816P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Development Services Division, 214 North Hogan Street, Suite 2100, Jacksonville, FL 32202.	Jan 30, 2018	120077
Lee (FEMA Docket No: B–1762).	City of Sanibel (17–04–4409P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Planning and Code Enforcement Department, 800 Dunlop Road, Sanibel, FL 33957.	Jan 17, 2018	120402

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Manatee (FEMA Docket No: B–1758).	Unincorporated areas of Manatee County (17–04–1580P).	The Honorable Betsy Benac, Chair, Manatee County Board of Commissioners, PO Box 1000, Bradenton, FL 34206.	Manatee County Building and Development Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205.	Jan 8, 2018	120153
Palm Beach (FEMA Docket No: B–1762).	Village of Tequesta (17–04–2100P).	The Honorable Abby Brennan, Mayor, Village of Tequesta, 345 Tequesta Drive, Tequesta, FL 33469.	Building Department, 345 Tequesta Drive, Tequesta, FL 33469.	Jan 11, 2018	120228
Pinellas (FEMA Docket No: B–1762).	Town of Redington Shores (17–04–6065P).	The Honorable Bert Adams, Mayor, Town of Redington Shores, 17425 Gulf Boulevard, Redington Shores, FL 33708.	Building Department, 17425 Gulf Boulevard, Redington Shores, FL 33708.	Feb 5, 2018	125141
Sarasota (FEMA Docket No: B–1762).	City of Sarasota (17–04–2771P).	The Honorable Shelli Freeland Eddie, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	Neighborhood and Development Services Department, 1565 1st Street, Sarasota, FL 34236.	Jan 25, 2018	125150
Sarasota (FEMA Docket No: B–1762).	City of Sarasota (17–04–5953P).	The Honorable Shelli Freeland Eddie, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	Neighborhood and Development Services Department, 1565 1st Street, Sarasota, FL 34236.	Jan 24, 2018	125150
Massachusetts:					
Barnstable (FEMA Docket No: B–1762).	Town of Mashpee (17–01–1864P).	The Honorable Thomas F O'Hara, Chairman, Town of Mashpee Board of Selectmen, 16 Great Neck Road, North, Mashpee, MA 02649.	Building Department, 16 Great Neck Road North, Mashpee, MA 02649.	Feb 5, 2018	250009
Bristol (FEMA Docket No: B–1762).	Town of Dartmouth (17–01–1797P).	The Honorable Frank S Gracie III, Chairman, Town of Dartmouth Board of, Selectmen, 400 Slocum Road, Dartmouth, MA 02747.	Building Department, 400 Slocum Road, Dartmouth, MA 02747.	Jan 25, 2018	250051
Mississippi:					
DeSoto (FEMA Docket No: B–1762).	City of Hernando (17–04–4941P).	The Honorable Tom Ferguson, Mayor, City of Hernando, 475 West Commerce Street, Hernando, MS 38632.	Planning Department, 475 West Commerce Street, Hernando, MS 38632.	Jan 24, 2018	280292
DeSoto (FEMA Docket No: B–1762).	Unincorporated areas of DeSoto County (17–04–5325P).	The Honorable Michael Lee, President, DeSoto County Board of Supervisors, 365 Losher Street, Suite 300, Hernando, MS 38632.	DeSoto County Administration Building, 365 Losher Street, Suite 200, Hernando, MS 38632.	Jan 26, 2018	280050
Montana:					
Lewis and Clark (FEMA Docket No: B–1762).	Unincorporated areas of Lewis and Clark County (17–08–0367P).	The Honorable Susan Good Geise, Chair, Lewis and Clark County Board of Commissioners, 316 North Park Avenue, Room 345, Helena, MT 59623.	Lewis and Clark County, Law Enforcement Center, 221 Breckenridge Avenue, Helena, MT 59601.	Jan 26, 2018	300038
Powell (FEMA Docket No: B–1767).	City of Deer Lodge (17–08–0193P).	The Honorable Zane Cozby, Mayor, City of Deer Lodge, 300 Main Street, Deer Lodge, MT 59722.	City Hall, 300 Main Street, Deer Lodge, MT 59722.	Feb 1, 2018	300060
Powell (FEMA Docket No: B–1767).	Unincorporated areas of Powell County (17–08–0193P).	The Honorable Daniel Sager, Chairman, Powell County Board of Commissioners, 409 Missouri Avenue, Suite 202, Deer Lodge, MT 59722.	Powell County Planning Department, 409 Missouri Avenue, Suite 202, Deer Lodge, MT 59722.	Feb 1, 2018	300059
New Mexico: Bernalillo (FEMA Docket No: B–1762).	City of Albuquerque (17–06–1859P).	The Honorable Richard J Berry, Mayor, City of Albuquerque, PO Box 1293, Albuquerque, NM 87103.	Development Review Services Division, 600 2nd Street Northwest, Albuquerque, NM 87102.	Jan 10, 2018	350002
North Carolina: Wake (FEMA Docket No: B–1762).	City of Raleigh (16–04–2708P).	The Honorable Nancy McFarlane, Mayor, City of Raleigh, PO Box 590, Raleigh, NC 27602.	Stormwater Management Division, 1 Exchange Plaza, Suite 304, Raleigh, NC 27601.	Jan 29, 2018	370243
North Dakota: Cass (FEMA Docket No: B–1762).	City of Casselton (17–08–0564P).	The Honorable Lee Anderson, Mayor, City of Casselton, PO Box 548, Casselton, ND 58012.	Auditor's Office, 702 1st Street North, Casselton, ND 58012.	Jan 25, 2018	380020
Oklahoma: Oklahoma (FEMA Docket No: B–1762).	City of Oklahoma City (17–06–2212P).	The Honorable Mick Cornett, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	Department of Public Works, 420 West Main Street, Suite 700, Oklahoma City, OK 73102.	Feb 5, 2018	405378
South Carolina:					
Horry (FEMA Docket No: B–1762).	City of North Myrtle Beach (17–04–2716P).	The Honorable Marilyn Hatley, Mayor, City of North Myrtle Beach, 1018 2nd Avenue South, North Myrtle Beach, SC 29582.	Planning and Development Department, 1018 2nd Avenue, South, North Myrtle Beach, SC 29582.	Jan 18, 2018	450110
Richland (FEMA Docket No: B–1762).	City of Forest Acres (17–04–4597P).	The Honorable Frank Brunson, Mayor, City of Forest Acres, 5209 North Trenholm Road, Columbia, SC 29206.	City Hall, 5209 North Trenholm Road, Columbia, SC 29206.	Jan 23, 2018	450174
Richland (FEMA Docket No: B–1762).	Town of Arcadia Lakes (17–04–4597P).	The Honorable Mark Huguley, Mayor, Town of Arcadia Lakes, 6740 North Trenholm Road, Columbia, SC 29206.	Town Hall, 6911 North Trenholm Road, Suite 2, Columbia, SC 29206.	Jan 23, 2018	450171
Richland (FEMA Docket No: B–1762).	Unincorporated areas Richland County (17–04–4597P).	The Honorable Joyce Dickerson, Chair, Richland County Council, 2020 Hampton Street, Columbia, SC 29204.	Richland County Development Services Department, 2020 Hampton Street, Columbia, SC 29204.	Jan 23, 2018	450170

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
South Dakota:					
Meade (FEMA Docket No: B–1762).	City of Sturgis (17–08–0491P).	Mr Daniel Ainslie, Manager, City of Sturgis, 1040 Harley-Davidson Way, Sturgis, SD 57785.	Engineering Department, 1040 Harley-Davidson Way, Sturgis, SD 57785.	Jan 25, 2018	460055
Texas:					
Burnet (FEMA Docket No: B–1762).	Unincorporated areas of Burnet County (17–06–3660X).	The Honorable James Oakley, Burnet County Judge, 220 South Pierce Street, Burnet, TX 78611.	Burnet County Environmental Services Department, 133 East Jackson Street, Room 107, Burnet, TX 78611.	Jan 25, 2018	481209
Collin (FEMA Docket No: B–1762).	Town of Prosper (17–06–1400P).	The Honorable Ray Smith, Mayor, Town of Prosper, PO Box 307, Prosper, TX 75078.	Engineering Services Department, 407 East 1st Street, Prosper, TX 75078.	Jan 16, 2018	480141
Collin (FEMA Docket No: B–1762).	Town of Prosper (17–06–1828P).	The Honorable Ray Smith, Mayor, Town of Prosper, PO Box 307, Prosper, TX 75078.	Engineering Services Department, 407 East 1st Street, Prosper, TX 75078.	Jan 18, 2018	480141
Collin and Denton (FEMA Docket No: B–1762).	City of Celina (17–06–1400P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	City Hall, 142 North Ohio Street, Celina, TX 75009.	Jan 16, 2018	480133
El Paso (FEMA Docket No: B–1762).	Unincorporated areas of El Paso County (17–06–1021P).	The Honorable Veronica Escobar, El Paso County Judge, 500 East San Antonio Street, Suite 301, El Paso, TX 79901.	El Paso County Public Works Department, 800 East Overland Avenue, Suite 407, El Paso, TX 79901.	Jan 22, 2018	480212
McLennan (FEMA Docket No: B–1767).	City of Robinson (17–06–1462P).	The Honorable Bert Echterling, Mayor, City of Robinson, 111 West Lyndale Drive, Robinson, TX 76706.	City Hall, 111 West Lyndale Drive, Robinson, TX 76706.	Feb 5, 2018	480460
Tarrant (FEMA Docket No: B–1762).	City of Fort Worth (17–06–2839P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	Jan 29, 2018	480596
Tarrant (FEMA Docket No: B–1762).	City of Grand Prairie (17–06–2864P).	The Honorable Ron Jensen, Mayor, City of Grand Prairie, PO Box 534045, Grand Prairie, TX 75053.	Development Center, 206 West Church Street, Grand Prairie, TX 75050.	Jan 25, 2018	485472
Tarrant (FEMA Docket No: B–1762).	City of Saginaw (17–06–1745P).	The Honorable Todd Flippo, Mayor, City of Saginaw, 333 West McLeroy Boulevard, Saginaw, TX 76179.	City Hall, 333 West McLeroy Boulevard, Saginaw, TX 76179.	Jan 25, 2018	480610
Williamson (FEMA Docket No: B–1762).	Unincorporated areas of Williamson County (17–06–3660X).	The Honorable Dan A Gattis, Williamson County Judge, 710 South Main Street, Suite 101, Georgetown, TX 78626.	Williamson County Department of Infrastructure, 3151 Southeast Inner Loop, Suite B, Georgetown, TX 78626.	Jan 25, 2018	481079

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0019]

National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers, Notice of FY 2019 Arrangement

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency announces the Fiscal Year 2019 Financial Assistance/Subsidy Arrangement for private property insurers interested in participating in the National Flood Insurance Program's Write Your Own Program.

DATES: Interested insurers must submit intent to subscribe or re-subscribe to the Arrangement by June 14, 2018.

FOR FURTHER INFORMATION CONTACT: Kelly Bronowicz, Federal Insurance and Mitigation Administration, FEMA, 400 C St. SW, Washington, DC 20472; (202) 557–9488 (phone), or *Kelly.Bronowicz@fema.dhs.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Background

The National Flood Insurance Act of 1968 (NFIA), as amended (42 U.S.C. 4001 *et seq.*), authorizes the Administrator of the Federal Emergency Management Agency (FEMA) to establish and carry out a National Flood Insurance Program (NFIP) to enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real or personal property arising from flood in the United States. *See* 42 U.S.C. 4011(a). Under the NFIA, FEMA has the authority to undertake arrangements to carry out the NFIP through the facilities of the Federal Government, utilizing, for the purposes of providing flood insurance coverage, insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States. *See* 42 U.S.C. 4071. To this end, FEMA may ''enter into any contracts, agreements, or other arrangements'' with private insurance companies to utilize their facilities and services in administering the NFIP, and on such terms and conditions as may be agreed upon. *See* 42 U.S.C. 4081(a).

Pursuant to this authority, FEMA enters into a standard Financial Assistance/Subsidy Arrangement (Arrangement) with private sector property insurers, also known as Write Your Own (WYO) companies, to sell NFIP flood insurance policies under their own names and adjust and pay claims arising under the Standard Flood Insurance Policy (SFIP). Each Arrangement entered into by a WYO company must be in the form and substance of the standard Arrangement, a copy of which is published in the **Federal Register** annually, at least 6 months prior to becoming effective. *See* 44 CFR 62.23(a).

II. Notice of Availability

Insurers interested in participating in the WYO Program for Fiscal Year 2019 must contact Clark Poland at

Clark.Poland@fema.dhs.gov by June 14, 2018.

Prior participation in the WYO Program does not guarantee that FEMA will approve continued participation. FEMA will evaluate requests to participate in light of publicly available information, industry performance data, and other criteria listed in 44 CFR 62.24 and the FY 2019 Arrangement, copied below. Private insurance companies are encouraged to supplement this information with customer satisfaction surveys, industry awards or recognition, or other objective performance data. In addition, private insurance companies should work with their vendors and subcontractors involved in servicing and delivering their insurance lines to ensure FEMA receives the information necessary to effectively evaluate the criteria set forth in its regulations.

FEMA will send a copy of the offer for the FY 2019 Arrangement, together with related materials and submission instructions, to all private insurance companies successfully evaluated by the NFIP. If FEMA, after conducting its evaluation, chooses not to renew a Company's participation, FEMA, at its option, may require the continued performance of all or selected elements of the FY 2018 Arrangement for a period required for orderly transfer or cessation of the business and settlement of accounts, not to exceed 18 months. *See* FY 2018 Arrangement, Article V.C. All evaluations, whether successful or unsuccessful, will inform both an overall assessment of the WYO Program and any potential changes FEMA may consider regarding the Arrangement in future fiscal years.

Any private insurance company with questions may contact FEMA at: Kelly Bronowicz, Federal Insurance and Mitigation Administration, FEMA, 400 C St. SW, Washington, DC 20472 (mail); (202) 557–9488 (phone), or *Kelly.Bronowicz@fema.dhs.gov* (email).

III. Fiscal Year 2019 Arrangement

Pursuant to 44 CFR 62.23(a), FEMA must publish the Arrangement at least 6 months prior to the Arrangement becoming effective. The FY 2019 Arrangement copied below is substantially similar to the previous year's Arrangement. FEMA has made several changes designed to improve the overall clarity and readability of the document, as well as incorporate existing WYO Program policies and requirements. Noteworthy changes include:

- Establishing timeliness requirements for the claim appeals process;
- Requiring WYO companies to submit an Operations Plan to FEMA.
- Removing the provision increasing the WYO Allowance by 1 percent of written premium over the rate indicated by expense data from non-flood insurance lines.
- Removing the cap on the maximum potential growth bonus paid to an individual WYO company, while limiting the total growth bonuses paid to all WYO companies at 2 percent of aggregate written premium.
- Formalizing FEMA's process to temporarily increase the allocated loss adjustment fee schedule when necessary to ensure supply of qualified adjusters during a catastrophic flood event.
- Removing restrictions on WYO companies choosing to offer private flood insurance, while maintaining requirements that such private flood insurance lines remain entirely separate from a WYO company's NFIP insurance business.
- Several stylistic changes designed to improve overall clarity and readability in accordance with Federal Plain Language Guidelines.

The Fiscal Year 2019 Arrangement reads as follows:

Financial Assistance/Subsidy Arrangement

Article I. Findings, Purposes, and Authority

Whereas, the Congress in its ''Finding and Declaration of Purpose'' in the National Flood Insurance Act of 1968, Public Law 90–448, Title XIII, as amended, (''the Act'' or ''Act'') recognized the benefit of having the National Flood Insurance Program (the ''Program'' or ''NFIP'') ''carried out to the maximum extent practicable by the private insurance industry''; and

Whereas, the Federal Emergency Management Agency (''FEMA''), which operates the Program through its Federal Insurance and Mitigation Administration (''FIMA''), recognizes this Arrangement as coming under the provisions of Sections 1340 and 1345 of the Act (42 U.S.C. 4071 and 4081, respectively); and

Whereas, the goal of FEMA is to develop a program with the insurance industry where the risk-bearing role for the industry will evolve as intended by the Congress (Section 1304 of the Act [42 U.S.C. 4011]); and

Whereas, Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108–264, as implemented by 44 CFR 62.20, permits Program policyholders to appeal the denial of a claim, in completely or in part, to FEMA; and

Whereas, the NFIP is a program administered by FEMA, all participants of this Arrangement, and other entities operating on their behalf, shall align themselves toward the common purpose of helping survivors and their communities recover from floods by effectively delivering customer-focused flood insurance products and information; and

Whereas, the insurer (hereinafter the ''Company'') under this Arrangement must charge rates established by FEMA; and

Whereas, FEMA has promulgated regulations and guidance implementing the Act and the Write Your Own (WYO) Program whereby participating private insurance companies act in a fiduciary capacity utilizing Federal funds to sell and administer the Standard Flood Insurance Policies, and has extensively regulated the participating companies' activities when selling or administering the Standard Flood Insurance Policies; and

Whereas, any litigation resulting from, related to, or arising from the Company's compliance with the written standards, procedures, and guidance issued by FEMA arises under the Act or regulations, and legal issues thereunder raise a federal question; and

Whereas, through this Arrangement, the Federal Treasury will back all flood policy claim payments by the Company; and

Whereas, FEMA developed this Arrangement to enable any interested qualified insurer to write flood insurance under its own name; and

Whereas, insured survivors recover faster and more fully than uninsusred survivors, and FEMA is committed to developing a culture of preparedness and closing the insurance gap across the nation; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of buildings at risk and because the insurance industry has marketing access through its existing facilities not directly available to FEMA, FEMA concludes that coverage will be extended to those who would not otherwise be insured under the Program; andWhereas, flood insurance policies issued subject to this Arrangement must be only that insurance written by the Company in its own name under prescribed policy conditions and pursuant to this Arrangement, the Act, and any guidance issued by FEMA; and

Whereas, over time, the Program is designed to increase industry participation, and, accordingly, reduce or eliminate Government as the

principal vehicle for delivering flood insurance to the public; and

Whereas, the sole parties under this Arrangement are the Company and FEMA.

Now, therefore, the parties hereto mutually undertake the following:

Article II. Undertakings of the Company

A. Eligibility Requirements for Participation in the NFIP.

1. Policy Administration. All fund receipt, recording, control, timely deposit requirements, and disbursement in connection with all Policy Administration and any other related activities or correspondences, must meet all requirements of the Financial Control Plan and any guidance issued by FEMA. The Company shall be responsible for:

a. Compliance with the Community Eligibility/Rating Criteria.

b. Making Policyholder Eligibility Determinations.

c. Policy Issuances.

d. Policy Endorsements.

e. Policy Cancellations.

f. Policy Correspondence.

g. Payment of Agents' Commissions.

2. Claims Processing. The Company must process all claims consistent with the Standard Flood Insurance Policy, Financial Control Plan, other guidance adopted by FEMA, and as much as possible, with the Company's standard business practices for its non-NFIP policies.

3. Reports. The Company must submit monthly financial reports and statistical transaction reports in accordance with the requirements of the NFIP Transaction Record Reporting and Processing Plan for the Company and the Financial Control Plan for business written under the WYO Program, as well as with WYO Accounting Procedures. FEMA will validate, edit, and audit in detail these data and compare and balance the results against Company reports.

4. Operations Plan. Within ninety (90) days of the commencement of this Arrangement, the Company must submit an Operations Plan to FEMA describing its efforts to perform under this Arrangement. The plan must include the following:

a. A marketing plan describing the Company's forecasted growth, efforts to achieve that growth, and ability to comply with any marketing guidelines provided by FEMA.

b. A description of the Company's NFIP flood insurance distribution network, including anticipated numbers of agents, efforts to train those agents, and an average rate of commissions paid to producers by state.

c. A catastrophic claims handling plan describing how the Company will respond and maintain service standards in catastrophic flood events.

d. A business continuity plan identifying threats and risks facing the Company's NFIP-related operations and how the Company will maintain operations in the event of a disaster affecting its operational capabilities.

B. Time Standards. Time will be measured from the date of receipt through the date mailed out. All dates referenced are working days, not calendar days. In addition to the standards set forth below, all functions performed by the Company must be in accordance with the highest reasonably attainable quality standards generally utilized in the insurance and data processing field. Continual failure to meet these requirements may result in limitations on the company's authority to write new business or the removal of the Company from the WYO Program. Applicable time standards are:

1. Application Processing—15 days (*Note:* if the policy cannot be mailed due to insufficient or erroneous information or insufficient funds, the Company must mail a request for correction or added moneys within 10 days).

2. Renewal processing—7 days.

3. Endorsement processing—15 days.

4. Cancellation processing—15 days.

5. Claims Draft Processing—7 days from completion of file examination.

6. Claims Adjustment—45 days average from the receipt of Notice of Loss (or equivalent) through completion of examination.

C. Policy Issuance.

1. The flood insurance subject to this Arrangement must be only that insurance written by the Company in its own name pursuant to the Act.

2. The Company must issue policies under the regulations prescribed by the Federal Emergency Management Agency, in accordance with the Act, on a form approved by FEMA.

3. All policies must be issued in consideration of such premiums and upon such terms and conditions and in such states or areas or subdivisions thereof as may be designated by FEMA and only where the Company is licensed by State law to engage in the property insurance business.

D. FEMA may require the Company to discontinue issuing policies subject to this Arrangement immediately in the event Congressional authorization or appropriation for the NFIP is withdrawn.

E. The Company must separate federal flood insurance funds from all other Company accounts, at a bank or banks of its choosing for the collection, retention and disbursement of federal funds relating to its obligation under this Arrangement, less the Company's expenses as set forth in Article III, and the operation of the Letter of Credit established pursuant to Article IV. The Company must remit all funds not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

F. The Company must investigate, adjust, settle, and defend all claims or losses arising from policies issued under this Arrangement. Payment of flood insurance claims by the Company bind FEMA, subject to appeal.

G. Compliance with Agency Standards and Guidelines.

1. The Company must comply with the Act, regulations, written standards, procedures, and guidance issued by FEMA relating to the NFIP and applicable to the Company, including, but not limited to:

a. Financial Control Plan.

b. Transaction Record Reporting and Processing (TRRP) Plan.

c. Flood Insurance Manual.

d. Adjuster Claims Manual.

e. WYO Bulletins.

2. The Company must market flood insurance policies in a manner consistent with marketing guidelines established by FEMA.

3. FEMA may require the Company to collect customer service information to monitor and improve their program delivery.

4. The Company must notify its agents of the requirement to comply with State regulations regarding flood insurance agent education, notify agents of flood insurance training opportunities, and assist FEMA in periodic assessment of agent training needs.

H. Compliance with Appeals Process.

1. FEMA will notify the Company when a policyholder files an appeal. After notification, the Company must provide FEMA the following information:

a. All records created or maintained pursuant to this Arrangement requested by FEMA; and

b. A comprehensive claim file synopsis that includes a summary of the appeal issues, the Company's position on each issue, and any additional relevant information. If, in the process of writing the synopsis, the Company determines that it can address the issue raised by the policyholder on appeal without further direction, it must notify FEMA. The Company will then work directly with the policyholder to achieve resolution and update FEMA upon completion. The Company may

have a claims examiner review the file who is independent from the original decision and who possesses the authority to overturn the original decision if the facts support it.

2. The Company must cooperate with FEMA throughout the appeal process until final resolution. This includes adhering to any written appeals guidance issued by FEMA.

3. Resolution of Appeals. FEMA will close an appeal when:

a. FEMA upholds the denial by the Company;

b. FEMA overturns the denial by the Company and all necessary actions that follow are completed;

c. The Company independently resolves the issue raised by the policyholder without further direction;

d. The policyholder voluntarily withdraws the appeal; or

e. The policyholder files litigation.

4. Processing of Additional Payments from Appeal. The Company must follow supplemental claim procedures for appeals that result in additional payment to a policyholder.

5. Time Standards.

a. Provide FEMA with requested files pursuant to Article II.H.1.a—10 business days after request.

b. Provide FEMA with comprehensive claim file synopsis pursuant to Article II.H.1.b—10 business days after request.

c. Responding to inquiries from FEMA regarding an appeal—10 business days after inquiry.

I. Other Flood Insurance. If the Company also offers flood insurance outside of the NFIP in any geographic area in which Program authorizes the purchase of flood insurance, the Company must:

1. Ensure that all public communications (whether written, recorded, electronic, or other) regarding non-NFIP flood insurance lines would not lead a reasonable person to believe that the NFIP, FEMA, or the Federal Government in any way endorses, sponsors, oversees, regulates, or otherwise has any connection with the non-NFIP flood insurance line. The Company may assure compliance with this requirement by prominently including in such communications the following statement: ''This insurance product is not affiliated with the National Flood Insurance Program.''

2. Ensure that data related to this Arrangement are not used to further or support the Company's non-NFIP flood insurance lines.

Article III. Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

A. The Company is liable for operating, administrative and production expenses, including any State premium taxes, dividends, agents' commissions or any other expense of whatever nature incurred by the Company in the performance of its obligations under this Arrangement but excluding other taxes or fees, such as municipal or county premium taxes, surcharges on flood insurance premium, and guaranty fund assessments.

B. Payment for Selling and Servicing Policies.

1. Operating and Administrative Expenses. The Company may withhold, as operating and administrative expenses, other than agents' or brokers' commissions, an amount from the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's marketing, operating, and administrative expenses, except for allocated and unallocated loss adjustment expenses described in Article III.C. This amount will equal the sum of the average industry expenses ratios for ''Other Acq.'', ''Gen. Exp.'' and ''Taxes'' calculated by aggregating premiums and expense amounts for each of five property coverages using direct premium and expense information to derive weighted average expense ratios. For this purpose, FEMA will use data for the property/casualty industry published, as of March 15 of the prior Arrangement year, in Part III of the Insurance Expense Exhibit in A.M. Best Company's Aggregates and Averages for the following five property coverages: Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril (non-liability portion).

2. Agent Compensation. The Company may retain fifteen (15) percent of the Company's written premium on the policies covered by this Arrangement as the commission allowance to meet the commissions or salaries of insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses.

3. Growth Bonus. FEMA may increase the amount of expense allowance retained by the Company depending on the extent to which the Company meets the marketing goals for the Arrangement year contained in marketing guidelines established pursuant to Article II.G. The total growth bonuses paid to companies pursuant to this Arrangement may not exceed two (2) percent of the aggregate net written premium collected by all WYO companies. FEMA will pay the Company the amount of any increase after the end of the Arrangement year.

4. Reimbursement for Services of a National Rating Organization. The Company, with the consent of FEMA as to terms and costs, may use the services of a national rating organization, licensed under state law, to help us undertake and carry out such studies and investigations on a community or individual risk basis, and to determine equitable and accurate estimates of flood insurance risk premium rates as authorized under the Act, as amended. FEMA will reimburse the Company for the charges or fees for such services under the provisions of the WYO Accounting Procedures Manual.

C. FEMA will reimburse Loss Adjustment Expenses as follows:

1. FEMA will reimburse unallocated loss adjustment expenses to the Company pursuant to a ''ULAE Schedule'' coordinated with the Company and provided by FEMA.

2. FEMA will reimburse allocated loss adjustment expenses to the Company pursuant to a ''Fee Schedule'' coordinated with the Company and provided by FEMA. To ensure the availability of qualified insurance adjusters during catastrophic flood events, FEMA may, in its sole discretion, temporarily authorize the use of an alternative Fee Schedule with increased amounts during the term of this Arrangement for losses incurred during a time frame and geographic area established by FEMA.

3. FEMA will reimburse special allocated loss expenses to the Company in accordance with guidelines issued by FEMA.

D. Loss Payments.

1. The Company must make loss payments for flood insurance policies from federal funds retained in the bank account(s) established under Article II.E and, if such funds are depleted, from federal funds derived by drawing against the Letter of Credit established pursuant to Article IV.

2. Loss payments include payments because of litigation that arises under the scope of this Arrangement, and the Authorities set forth herein. All such loss payments and related expenses must meet the documentation requirements of the Financial Control Plan and of this Arrangement, and the Company must comply with the litigation documentation and notification requirements established by FEMA. Failure to meet these requirements may result in FEMA's decision not to provide reimbursement.

3. Limitation on Litigation Costs.

a. Following receipt of notice of such litigation, the FEMA Office of Chief Counsel (''OCC'') will review the information submitted. If OCC finds that

the litigation is grounded in actions by the Company that are significantly outside the scope of this Arrangement, and/or involves issues of agent negligence, then OCC may make a recommendation regarding whether all or part of the litigation is significantly outside the scope of the Arrangement.

b. In the event the FEMA determines that the litigation is grounded in actions by the Company that are significantly outside the scope of this Arrangement, and/or involves issues of agent negligence, then FEMA will notify the Company in writing within thirty (30) days that any award or judgment for damages and any costs to defend such litigation will not be recognized under Article III as a reimbursable loss cost, expense, or expense reimbursement.

c. In the event a question arises whether only part of the costs of a litigation is reimbursable, OCC may make a recommendation about the appropriate division of responsibility, if possible.

d. In the event that the Company wishes to petition for reconsideration of the determination that it will not be reimbursed for any part of the award or judgment or any part of the costs expended to defend such litigation made under Article III.D.3.a–c, it may do so by mailing, within thirty (30) days of the notice that reimbursement will not be made, a written petition to FEMA, who may request advice on other than legal matters of the WYO Standards Committee established under the WYO Financial Control Plan. The WYO Standards Committee will consider the request at its next regularly scheduled meeting or at a special meeting called for that purpose by the Chairman and issue a written recommendation to the Administrator. FEMA's final determination will be made in writing within a reasonable time to the Company.

E. The Company must make premium refunds required by FEMA to applicants and policyholders from federal flood insurance funds referred to in Article II.E, and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV. The Company may not refund any premium to applicants or policyholders in any manner other than as specified by FEMA since flood insurance premiums are funds of the Federal Government.

Article IV. Undertakings of the Government

A. FEMA must establish Letter(s) of Credit against which the Company may withdraw funds daily, if needed, pursuant to prescribed procedures implemented by FEMA. The amounts of the authorizations will be increased as necessary to meet the obligations of the Company under Article III.C–E. The Company may only request funds when net premium income has been depleted. The timing and amount of cash advances must be as close as is administratively feasible to the actual disbursements by the recipient organization for allowable Letter of Credit expenses. Request for payment on Letters of Credit may not ordinarily be drawn more frequently than daily. This Letter of Credit may be drawn by the Company for any of the following reasons:

1. Payment of claims, as described in Article III.D;

2. Refunds to applicants and policyholders for insurance premium overpayment, or if the application for insurance is rejected or when cancellation or endorsement of a policy results in a premium refund, as described in Article III.E; and

3. Allocated and unallocated loss adjustment expenses, as described in Article III.C.

B. FEMA must provide technical assistance to the Company as follows:

1. FEMA's policy, history concerning underwriting, and claims handling.

2. A mechanism to assist in clarification of coverage and claims questions.

3. Other assistance as needed.

C. FEMA must provide the Company with a copy of all formal written appeal decisions conducted in accordance with Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108–264 and 44 CFR 62.20.

D. Prior to the end of the Arrangement period, FEMA may provide the Company a statistical summary of their performance during the signed Arrangement period. This summary will detail the Company's performance individually, as well as compare the Company's performance to the aggregate performance of all WYO companies and the NFIP Direct Servicing Agent.

Article V. Commencement and Termination

A. The effective period of this Arrangement begins on October 1, 2018 and terminates no earlier than September 30, 2019, subject to extension pursuant to Article V.C. FEMA may provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting, and eligibility rules.

B. Pursuant to 44 CFR 62.23(a), FEMA will publish the Arrangement and the terms for subscription or re-subscription for Fiscal Year 2020 in the **Federal Register** no later than April 1, 2019. Upon such publication, the Company must notify FEMA of its intent to re-subscribe or not re-subscribe to the WYO Program for the following term within ninety (90) calendar days.

C. In addition to the requirements of Article V.B, in order to assure uninterrupted service to policyholders, the Company must promptly notify FEMA in the event the Company elects not to re-subscribe to the WYO Program during the term of this Arrangement. If so notified, or if FEMA chooses not to renew the Company's participation, FEMA, at its option, may require the continued performance of all or selected elements of this Arrangement for the period required for orderly transfer or cessation of business and settlement of accounts, not to exceed eighteen (18) months after the end of this Arrangement (September 30, 2019), and may either require transfer of activities to FEMA under Article V.C.1 or allow transfer of activities to another WYO company under Article V.C.2:

1. FEMA may require the Company to transfer all activities under this Arrangement to FEMA. Within 30 calendar days of FEMA's election of this option, the Company must deliver to FEMA the following:

a. A plan for the orderly transfer to FEMA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance.

b. All data received, produced, and maintained through the life of the Company's participation in the Program, including certain data, as determined by FEMA, in a standard format and medium.

c. All claims and policy files, including those pertaining to receipts and disbursements that have occurred during the life of each policy. In the event of a transfer of the services provided, the Company must provide FEMA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date.

d. All funds in its possession with respect to any policies transferred to FEMA for administration and the unearned expenses retained by the Company.

e. A point of contact within the Company responsible for addressing issues that may arise from the Company's previous participation under the WYO Program.

2. FEMA may allow the Company to transfer all activities under this Arrangement to one or more other WYO companies. Prior to commencing such transfer, the Company must submit and FEMA must approve a formal request. Such request must include the following:

a. An assurance of uninterrupted service to policyholders.

b. A detailed transfer plan providing for either: (1) The renewal of the Company's NFIP policies by one or more other WYO companies or (2) the transfer of the Company's NFIP policies to one or more other WYO companies.

c. A description who the responsible party will be for liabilities relating to losses incurred by the Company in this or preceding Arrangement years.

d. A point of contact within the Company responsible for addressing issues that may arise from the Company's previous participation under the WYO Program.

D. Cancellation by FEMA.

1. FEMA may cancel financial assistance under this Arrangement in its entirety upon thirty (30) days written notice to the Company by certified mail stating one or more of the following reasons for such cancellation:

a. Fraud or misrepresentation by the Company subsequent to the inception of the Arrangement; or

b. Nonpayment to FEMA of any amount due; or

c. Material failure to comply with the requirements of this Arrangement or with the written standards, procedures, or guidance issued by FEMA relating to the NFIP and applicable to the Company.

2. If FEMA cancels this Arrangement pursuant to Article V.D.1, FEMA may require the transfer of administrative responsibilities and the transfer of data and records as provided in Article V.C.1.a-d. If transfer is required, the Company must remit to FEMA the unearned expenses retained by the Company. In such event, FEMA will assume all obligations and liabilities owed to policyholders under such policies, arising before and after the date of transfer.

3. As an alternative to the transfer of the policies to FEMA pursuant to Article V.D.2, FEMA will consider a proposal, if it is made by the Company, for the assumption of responsibilities by another WYO company as provided in Article V.C.2.

E. In the event that the Company is unable or otherwise fails to carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any jurisdiction to which the Company is subject, the Company agrees to transfer, and FEMA will accept, any and all WYO policies issued by the Company and in force as of the date of such inability or failure to perform. In such event FEMA will assume all obligations and liabilities within the scope of the Arrangement owed to policyholders arising before and after the date of transfer, and the Company will immediately transfer to FEMA all needed records and data and all funds in its possession with respect to all such policies transferred and the unearned expenses retained by the Company. As an alternative to the transfer of the policies to FEMA, FEMA will consider a proposal, if it is made by the Company, for the assumption of responsibilities by another WYO company as provided by Article V.C.2.

F. In the event the Act is amended, repealed, expires, or if FEMA is otherwise without authority to continue the Program, FEMA may cancel financial assistance under this Arrangement for any new or renewal business, but the Arrangement will continue for policies in force that shall be allowed to run their term under the Arrangement.

Article VI. Information and Annual Statements

A. The Company must furnish to FEMA such summaries and analysis of information including claim file information, and property address, location, and/or site information in its records as may be necessary to carry out the purposes of the Act, in such form as FEMA, in cooperation with the Company, will prescribe.

B. Upon FEMA's request, the Company must provide FEMA with a true and correct copy of the Company's Fire and Casualty Annual Statement, and Insurance Expense Exhibit or amendments thereof as filed with the State Insurance Authority of the Company's domiciliary State.

Article VII. Cash Management and Accounting

A. FEMA must make available to the Company during the entire term of this Arrangement, and any continuation period required by FEMA pursuant to Article V.C, the Letter of Credit provided for in Article IV drawn on a repository bank within the Federal Reserve System. This Letter of Credit may be drawn by the Company for reimbursement of its expenses as set forth in Article IV that exceed net written premiums collected by the Company from the effective date of this Arrangement or continuation period to the date of the draw. In the event that adequate Letter of Credit funding is not available to meet current Company obligations for flood policy claim payments issued, FEMA must direct the Company to immediately suspend the issuance of loss payments until such time as adequate funds are available. The Company is not required to pay claims from their own funds in the event of such suspension.

B. The Company must remit all funds, including interest, not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual or procedures approved in writing by FEMA.

C. In the event the Company elects not to participate in the Program in this or any subsequent fiscal year, or is otherwise unable or not permitted to participate, the Company and FEMA must make a provisional settlement of all amounts due or owing within three (3) months of the expiration or termination of this Arrangement. This settlement must include net premiums collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FEMA agree to make a final settlement, subject to audit, of accounts for all obligations arising from this Arrangement within eighteen (18) months of its expiration or termination, except for contingent liabilities that must be listed by the Company. At the time of final settlement, the balance, if any, due FEMA or the Company must be remitted by the other immediately and the operating year under this Arrangement must be closed.

Article VIII. Arbitration

If any misunderstanding or dispute arises between the Company and FEMA with reference to any factual issue under any provisions of this Arrangement or with respect to FEMA's nonrenewal of the Company's participation, other than as to legal liability under or interpretation of the Standard Flood Insurance Policy, such misunderstanding or dispute may be submitted to arbitration for a determination that will be binding upon approval by FEMA. The Company and FEMA may agree on and appoint an arbitrator who will investigate the subject of the misunderstanding or dispute and make a determination. If the Company and FEMA cannot agree on the appointment of an arbitrator, then two arbitrators will be appointed, one to be chosen by the Company and one by FEMA.

The two arbitrators so chosen, if they are unable to reach an agreement, must select a third arbitrator who must act as

umpire, and such umpire's determination will become final only upon approval by FEMA. The Company and FEMA shall bear in equal shares all expenses of the arbitration. Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section, upon objection by FEMA or the Company, shall be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

This Article shall indefinitely succeed the term of this Arrangement.

Article IX. Errors and Omissions

In the event of negligence by the Company that has not resulted in litigation but has resulted in a claim against the Company, FEMA will not consider reimbursement of the Company for costs incurred due to that negligence unless the Company takes all reasonable actions to rectify the negligence and to mitigate any such costs as soon as possible after discovery of the negligence. The Company may choose not to seek reimbursement from FEMA.

Further, if the claim against the Company is grounded in actions significantly outside the scope of this Arrangement or if there is negligence by the agent, FEMA will not reimburse any costs incurred due to that negligence. The Company will be notified in writing within thirty (30) days of a decision not to reimburse. In the event the Company wishes to petition for reconsideration of the decision not to reimburse, the procedure in Article III.D.3.d applies.

However, in the event that the Company has made a claim payment to an insured without including a mortgagee (or trustee) of which the Company had actual notice prior to making payment, and subsequently determines that the mortgagee (or trustee) is also entitled to any part of said claim payment, any additional payment may not be paid by the Company from any portion of the premium and any funds derived from any federal letter of credit deposited in the bank account described in Article II.E. In addition, the Company agrees to hold the Federal Government harmless against any claim asserted against the Federal Government by any such mortgagee (or trustee), as described in the preceding sentence, by reason of any claim payment made to any insured under the circumstances described above.

Article X. Officials Not To Benefit

No Member or Delegate to Congress, or Resident Commissioner, may be admitted to any share or part of this Arrangement, or to any benefit that may arise therefrom; but this provision may not be construed to extend to this Arrangement if made with a corporation for its general benefit.

Article XI. Offset

At the settlement of accounts, the Company and FEMA has, and may exercise, the right to offset any balance or balances, whether on account of premiums, commissions, losses, loss adjustment expenses, salvage, or otherwise due one party to the other, its successors or assigns, hereunder or under any other Arrangements heretofore or hereafter entered into between the Company and FEMA. This right of offset shall not be affected or diminished because of insolvency of the Company.

All debts or credits of the same class, whether liquidated or unliquidated, in favor of or against either party to this Arrangement on the date of entry, or any order of conservation, receivership, or liquidation, shall be deemed to be mutual debts and credits and shall be offset with the balance only to be allowed or paid. No offset shall be allowed where a conservator, receiver, or liquidator has been appointed and where an obligation was purchased by or transferred to a party hereunder to be used as an offset.

Although a claim on the part of either party against the other may be unliquidated or undetermined in amount on the date of the entry of the order, such claim will be regarded as being in existence as of the date of such order and any credits or claims of the same class then in existence and held by the other party may be offset against it.

Article XII. Equal Opportunity

The Company shall not discriminate against any applicant for insurance because of race, color, religion, sex, age, handicap, marital status, or national origin.

Article XIII. [Reserved]

[Reserved]

Article XIV. Access to Books and Records

FEMA, the Department of Homeland Security, and the Comptroller General of the United States, or their duly authorized representatives, for the purpose of investigation, audit, and examination shall have access to any books, documents, papers and records of the Company that are pertinent to this Arrangement. The Company shall keep records that fully disclose all matters pertinent to this Arrangement, including premiums and claims paid or payable under policies issued pursuant to this Arrangement. Records of accounts and records relating to financial assistance shall be retained and available for three (3) years after final settlement of accounts, and to financial assistance, three (3) years after final adjustment of such claims. FEMA shall have access to policyholder and claim records at all times for purposes of the review, defense, examination, adjustment, or investigation of any claim under a flood insurance policy subject to this Arrangement.

Article XV. Compliance With Act and Regulations

This Arrangement and all policies of insurance issued pursuant thereto are subject to federal law and regulations.

Article XVI. Relationship Between the Parties and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, that is, to assure that any taxpayer funds are accounted for and appropriately expended. The Company is a fiscal agent of the Federal Government, but is not a general agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any policy issued pursuant hereto, such that the Federal Government is not a proper party to any lawsuit arising out of such policies.

Authority: 42 U.S.C. 4071, 4081; 44 CFR 62.23.

Dated: March 8, 2018.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Federal Emergency Management Agency.

[FR Doc. 2018–05418 Filed 3–15–18; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002; Internal Agency Docket No. FEMA–B–1815]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood

Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before June 14, 2018.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1815, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 8, 2018.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Canyon County, Idaho and Incorporated Areas **Project: 11–10–0399S Preliminary Date: September 16, 2016**	
City of Star	City Hall, 10769 West State Street, Star, ID 83669.
Jefferson County, Washington and Incorporated Areas **Project: 14–10–0586S Preliminary Date: January 4, 2018**	
Unincorporated Areas of Jefferson County	Jefferson County Department of Community Development, 621 Sheridan Street, Port Townsend, WA 98368.

[FR Doc. 2018–05410 Filed 3–15–18; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2017–0074]

Privacy Act of 1974; System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of modified Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to modify and reissue a current DHS system of records titled, ''DHS/ALL–014 Department of Homeland Security Personnel Contact Information.'' This system of records covers DHS's collection and maintenance of records concerning DHS personnel (including Federal employees and contractors) for workforce accountability; DHS and non-DHS Federal employees, contractors, or other individuals who participate in or respond to all-hazard emergencies, including technical, manmade, or natural disasters, or who participate in emergency response training exercises; and individuals identified as emergency points of contact. Categories of individuals, categories of records, and retention schedules for this system of records have been modified and expanded to better reflect the Department's emergency personnel location record systems. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This modified system will be included in the DHS inventory of record systems.

DATES: Submit comments on or before April 16, 2018. This modified system will be effective upon publication. New or modified routine uses will be effective April 16, 2018.

ADDRESSES: You may submit comments, identified by docket number DHS–2017–0074 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Philip S. Kaplan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

FOR FURTHER INFORMATION CONTACT: For general and privacy questions, please contact Philip S. Kaplan, *Sam.Kaplan@hq.dhs.gov,* (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DHS proposes to modify a current DHS system of records titled, ''DHS/ALL–014 Personnel Emergency Contact Information.''

This system of records covers DHS's collection and maintenance of records concerning current and former DHS personnel (including Federal employees and contractors) for workforce accountability (*e.g.,* tracking employee locations for safety and security purposes); Federal employees, contractors, or other individuals (*e.g.,* state, local, tribal, and territorial [SLTT] personnel) who participate in or who respond to all-hazards emergencies including technical, manmade, or natural disasters, or who participate in emergency response training exercises; and individuals identified as emergency points of contact. DHS collects information of family members, next of kin, or other designated emergency contact persons for use in the event of an emergency.

Categories of individuals, categories of records, and retention schedules for this system of records have been modified and expanded to better reflect the Department's emergency personnel location record systems.

Categories of individuals have been expanded to include former DHS personnel; current and former Federal employees, contractors, or other individuals (*e.g.,* SLTT personnel) who participate in or conduct emergency response training exercises; and individuals identified by current or former DHS personnel as emergency points of contact, including family members and next of kin.

DHS is updating the category of records to include geospatial location information. DHS may collect this information from DHS personnel, including Federal employees and contractors; current and former Federal employees, contractors, or other individuals who participate in or conduct emergency response training exercises; current and former Federal employees, contractors, or other individuals who respond to all-hazards emergencies including technical, manmade, or natural disasters. DHS collects this information in order to facilitate the response efforts of deployed DHS and non-DHS personnel to all-hazards emergencies and provide a clear operational picture of the location of emergency personnel. This enables DHS or the emergency managers to better direct emergency personnel and the overall response effort.

In the course of responding to, or planning for, all-hazards emergencies, DHS may contact, locate, and deploy DHS personnel; implement the Continuity of Operations (COOP) Plan; and participate in emergency response training exercises. DHS may also utilize Federal Government employees from other Federal agencies who are deployed as a part of a mission assignment (pursuant to 42 U.S.C. 5197(c)) and non-Federal Government employees, such as other SLTT personnel. This system of records encompasses the collection, storage, and use of information associated with such activities and for all individuals that participate in those activities. Additionally, for emergency notification purposes, DHS may contact the identified emergency contacts or next of kin of the individual.

DHS is updating the record retention schedule to reflect the new and revised General Records Schedules under the Office of Management and Budget (OMB) and the National Archives and Records Administration (NARA) M–12–18, Managing Government Records Directive (Aug. 24, 2012). The previous General Records Schedules have been superseded.

Consistent with DHS's information sharing mission, information stored in the DHS/ALL–014 Personnel Emergency Contact Information system of records notice (SORN) may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information may be shared with appropriate Federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this SORN. This updated system will be included in the Department's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the

individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, and similarly, the Judicial Redress Act (JRA) provides covered persons with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/ALL–014 Personnel Emergency Contact Information System of Records. In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER

Department of Homeland Security (DHS)/ALL–014 Personnel Emergency Contact Information.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at DHS and Federal Emergency Management Agency (FEMA) Headquarters in Washington, DC and field offices. Personnel emergency contact information is typically maintained locally by individual DHS offices.

SYSTEM MANAGER(S):

The System Manager is the Director, Office of Operations Coordination (OPS), Department of Homeland Security, Washington, DC 20528.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Homeland Security Act of 2002, 6 U.S.C. 313, 314, 317, 320, 321a, and 711; Robert T. Stafford Disaster Relief and Emergency Assistance Act, *as amended,* 42 U.S.C. 5144, 5149, 5170b, 5192, and 5197.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is for DHS workforce accountability, to support DHS all-hazards emergency response deployments and exercises, and to contact designated persons in the event of an emergency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals in this system include:

- Current and former DHS personnel, including Federal employees and contractors;
- Current and former Federal employees, contractors, or other individuals (*e.g.,* SLTT personnel) who participate in or conduct emergency response training exercises;
- Current and former Federal employees, contractors, or other individuals (*e.g.,* state, local, tribal, and territorial (SLTT) personnel) who respond to all-hazards emergencies including technical, manmade, or natural disasters; and
- Individuals identified by current or former DHS personnel as emergency points of contact, including family members and next of kin.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records related to current and former DHS personnel, including Federal employees and contractors, include:

- Name;
- Work contact information (address, email address, phone, fax);
- Personal contact information (address, email address, phone numbers, pager number, and personal identification number [PIN]);
- Company/organization name;
- Supervisor name and contact information.

Categories of records related to DHS and non-DHS individuals identified as emergency points of contact may include:

- Name;
- Work contact information (address, email address, phone, fax);
- Personal contact information (address, email address, phone numbers, pager number, and pin number); and
- Relationship to current or former DHS personnel.

Categories of records related to DHS and non-DHS Federal employees, contractors or other individuals who participate in or who respond to all-hazards emergencies including technical, manmade or natural disasters, or who participate in emergency response training exercises may include:

- Name;
- Social Security number;
- Date of birth;
- Identifiers related to deployment;
- Height, weight, and other personal characteristics, if applicable;
- Work contact information (address, email address, phone, fax);
- Personal contact information (address, email address, phone numbers, pager number, and pin number);
- Deployment contact information (lodging address and phone number) while deployed;
- Company/organization name and organization code;
- Job information (position title, start date, duty status, pay status, and employment type);
- Supervisor name and contact information;
- Deployment point of contact name and contact information;
- Approvals, authorizations, certifications, and proficiency levels for training and deployment;
- Information on deployment position (program area, position type);
- Geospatial location information;
- Status of credentials for access to regulated facilities;
- Status of Government credit card (yes or no);
- Clearance and access level;
- Deployment information (duty station, dates, and lodging);
- Skills inventory, qualifications, specialties, and proficiency levels;
- Volunteered medical information;
- Emergency response group/non-emergency response group status; and
- Emergency recall rosters.

RECORD SOURCE CATEGORIES:

Records are obtained from DHS personnel (including Federal employees and contractors); individuals who participate in or conduct exercises or who respond to all-hazards emergencies including technical, manmade, or natural disasters; and other government agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other Federal agency conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or

General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS determines that information from this system of records is reasonably necessary and otherwise compatible with the purpose of collection to assist another Federal recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach; or

2. DHS suspects or has confirmed that there has been a breach of this system of records; and (a) DHS has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (b) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To a Federal, state, tribal, or local agency, if the information is relevant and necessary, for the requesting agency's approval on the issuance of a security clearance or for the purpose of providing support in an all-hazards emergencies including technical, manmade, or natural disasters.

I. To Federal, state, tribal, local, international, or foreign governmental agencies or executive offices, relief agencies, and non-governmental organizations, when disclosure is appropriate for performance of the official duties required in response to all-hazards including technical, manmade, or natural disasters.

J. To identified emergency contacts of:

1. Current and former DHS personnel, including Federal employees and contractors;

2. Current and former Federal employees, contractors, or other individuals who participate in or conduct exercises; or

3. Current and former Federal employees, contractors, or other individuals who respond to all-hazards emergencies including technical, manmade, or natural disasters.

K. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

DHS retrieves records by an individual's name, location, or other personal identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records relating to current and former DHS employees, and individuals designated as emergency points of contact, will be reviewed annually and will be updated as necessary, and will be destroyed when obsolete, or upon separation or transfer of the employee, in accordance with National Archives and Records Administration (NARA) General Records Schedule (GRS) GRS 5.3, Item No. 020 (DAA–GRS–2016–0004–0002). Records on non-DHS individuals will be deleted when obsolete and of no longer use to the Department. The Department also intends to rely on GRS 2.7, Employee Health and Safety, which is currently pending with NARA. Federal Emergency Management Agency Records Schedule EOM–16, which will cover records related to deployment activities, will be submitted by FEMA to NARA for review and approval. FEMA proposes that records related to deployment activities be considered temporary records with a cutoff at the end of each calendar year and are destroyed 50 years after the cutoff date.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and Headquarters or component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform to

the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his/her identity, meaning that the individual must provide his/her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, an individual may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, the individual should:

- Explain why the individual believes the Department would have information on him/her;
- Identify which component(s) of the Department the individual believes may have the information about him or her;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;

If an individual's request is seeking records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his or her records.

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, see ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access procedure.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

81 FR 48832 (July 26, 2016); 73 FR 61888 (October 17, 2008).

Philip S. Kaplan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2018–05403 Filed 3–15–18; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2017–0083; FXIA16710900000–156–FF09A30000]

Foreign Endangered Species; Marine Mammal Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service, have issued permits to conduct activities with foreign endangered and/or threatened species, marine mammals, or both, under the authority of the Endangered Species Act, as amended (ESA). With some exceptions, the ESA prohibits activities involving listed species unless a Federal permit is issued that allows such activity.

ADDRESSES: Information about the applications for the permits listed in this notice is available online at *www.regulations.gov.* See **SUPPLEMENTARY INFORMATION** for details.

FOR FURTHER INFORMATION CONTACT: Joyce Russell, 703–358–2023.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, have issued permits to conduct certain activities with endangered and threatened species in response to permit applications that we received under the authority of section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.;* and or the Marine Mammal Protection Act as amended (16 U.S.C. 1361 *et seq.*).

After considering the information submitted with each permit application and the public comments received, we issued the requested permits subject to certain conditions set forth in each permit. For each application for an endangered species, we found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

Availability of Documents

The permittees' original permit application materials, along with public comments we received during public comment periods for the applications, are available for review. To locate the application materials and received comments, go to *www.regulations.gov* and search for the appropriate permit number (*e.g.,* 12345C) provided in the following table:

Endangered Species

Applicant	Permit No.	Permit issuance date
Memphis Zoo	10014C	9/22/2017
Wildlife & Environmental Conservation.	29610C	9/28/2017
Robert Earl Anderson, Jr..	30893C	10/4/2017
Arnulfo Rodriguez	20528C	10/5/2017
Sal Davino	21334C	10/5/2017

Marine Mammal

Applicant	Permit No.	Permit issuance date
BBC Natural History Unit.	53019C	1/4/2018

Authorities

We issue this notice under the authority of the ESA, as amended (16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act as amended (16 U.S.C. 1361 *et seq.*).

Joyce Russell,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2018–05326 Filed 3–15–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[XXXD5198NI DS61100000 DNINR0000.000000 DX61103]

Exxon Valdez Oil Spill Public Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Meeting notice.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public teleconference meeting of the *Exxon Valdez* Oil Spill (EVOS) Trustee Council's Public Advisory Committee.

DATES: April 2, 2018, at 1:30 p.m. AKST.

ADDRESSES: Grace Hall Conference Room, Suite 220, 4230 University Drive, Anchorage, Alaska; (800) 315–6338, code 72241.

FOR FURTHER INFORMATION CONTACT: Dr. Philip Johnson, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The EVOS Public Advisory Committee was created

by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV.

The EVOS Public Advisory Committee meeting agenda will include discussion of outreach proposals and habitat parcels. An opportunity for public comments will be provided. The final agenda and materials for the meeting will be posted on the EVOS Trustee Council website at *www.evostc.state.ak.us.* All EVOS Public Advisory Committee meetings are open to the public.

Public Input

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Committee to consider during the public meeting. Written statements must be received by March 26, 2018, so that the information may be made available to the Committee for their consideration prior to this meeting. Written statements must be supplied to Dr. Philip Johnson (see **FOR FURTHER INFORMATION CONTACT** above) in the following formats: One hard copy with original signature and/or one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, please 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.

Meeting Minutes

Summary minutes of the conference will be maintained by the Council Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). They will be available for public inspection within 90 days of the meeting.

Philip Johnson,

Regional Environmental Officer, Office of Environmental Policy and Compliance.

[FR Doc. 2018–05500 Filed 3–15–18; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB00640 LF3200000.DD0000 LFBRH6N0000 18X MO #4500112560]

Notice of Temporary Closure of Public Land in Lander County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: As authorized under the provisions of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Battle Mountain District Office will temporarily close and restrict uses of certain public land surrounding and including the Mill Creek Recreational Campground (Campground) in Lander County, Nevada, to all public use to provide for public safety during restoration and rehabilitation activities occurring at the site.

DATES: The temporary closure will go into effect April 16, 2018 and will remain in effect until June 14, 2018. BLM will post notice that the Campground is closed upon publication of the closure notice in the **Federal Register**, but the closure will not be enforced until 30 days have passed, in accordance with 43 CFR 4.21(a)(1) and 43 CFR 4.411(a), which outlines Rules of Procedure for Appeals to the Interior Board of Land Appeals.

ADDRESSES: The temporary closure order, communications plan and map of the closure area will be posted at the BLM Battle Mountain District Office, 50 Bastian Road, Battle Mountain, Nevada 89820, and on the BLM website at *http://www.blm.gov/nevada.*

FOR FURTHER INFORMATION CONTACT: Kyle Hendrix, 775–635–4000. *Khendrix@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Mill Fire started on Wednesday June 28, 2017, and was contained on July 1, 2017. It burned 479 acres: 249 acres on private land and the rest on BLM land within the Battle Mountain District. The fire started in the Mill Creek Campground. Before the fire was contained, the entire campground was engulfed, resulting in extensive damage to structures and recreation areas at the site. In the Campground, a toilet, two footbridges, and a kiosk/interpretive sign burned down. All 16 campsites lost their wooden barricades and one lost a picnic table. A fence that restricted cattle from access to the Campground lost most of its wooden posts and braces. This temporary closure provides for public safety while the BLM Battle Mountain District restores and rehabilitates the Campground. The public lands affected by this closure are described as follows:

Mount Diablo Meridian

T. 29 N, R. 44 E,
Sec. 26, S2SWNE, SWNWNW, S2NW, N2NESW, SWNESE, NWSE, NESWSE, and SESE.

The area described contains 230 acres, more or less, in Lander County, Nevada.

The temporary closure order, communications plan and map of the closure area will be posted at the BLM Battle Mountain District Office, 50 Bastian Road, Battle Mountain, Nevada 89820, and on the BLM website at *http://www.blm.gov/nevada.* This information will also be posted at the access point to the Campground and at the entrance to Mill Creek Road off of SR 305 and around the communities of Battle Mountain and Austin, Nevada.

Roads leading into the public lands under the temporary closure will be posted to notify the public of the temporary closure. Under the authority of Section 303(a) of the FLPMA (43 U.S.C. 733(a)), 43 CFR 8360.0–7 and 43 CFR 8364.1, the BLM will enforce the following rules in the area described above: All public use, whether motorized, on foot, or otherwise, is prohibited.

Exceptions: Temporary closure restrictions do not apply to activities conducted under contract with the BLM, agency personnel monitoring the restoration, or activities conducted under an approved plan of operation. Authorized users must have in their possession a written permit or contract from BLM signed by the authorized officer.

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

Authority: 43 CFR 8360.0–7 and 8364.1.

Jon D. Sherve,

Field Manager, Mount Lewis Field Office.

[FR Doc. 2018–05381 Filed 3–15–18; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD08000.L12200000.DS0000. 18XL1109AF.LXSSB0010000]

Notice of Availability of the Draft Supplemental Environmental Impact Statement for the West Mojave Route Network Project and Draft Land Use Plan Amendment to the California Desert Conservation Area Plan in the West Mojave Planning Area, Inyo, Kern, Los Angeles, Riverside, and San Bernardino Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Land Use Plan Amendment (LUPA) and Draft Supplemental Environmental Impact Statement (DSEIS) for the West Mojave Route Network Project (WMRNP) within the West Mojave (WEMO) Planning Area of the California Desert Conservation Area (CDCA) and by this Notice is announcing the opening of the 90-day public comment period.

DATES: To ensure public comments will be considered, the BLM must receive written comments on the DSEIS/LUPA within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the WMRNP by any of the following methods:

- *Email: blm_ca_wemo_project@blm.gov.*
- *Fax:* 951–697–5299; Attn: WMRNP Plan Amendment.
- *Mail:* Bureau of Land Management, California Desert District, Attn: WMRNP Plan Amendment, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553.

Copies of the WMRNP Draft LUPA and DS EIS are available in the California Desert District Office at the above address; the Ridgecrest Field Office, 300 S. Richmond Rd., Ridgecrest, CA 93555; and the Barstow Field Office, 2601 Barstow Road, Barstow CA 92311. Copies are also available online at *https://www.blm.gov/programs/planning-and-nepa/plans-development/california/west-mojave-plan-route-network.*

FOR FURTHER INFORMATION CONTACT: Matt Toedtli, Planning and Environmental Coordinator, 2601 Barstow Road, Barstow, CA 92311; telephone 760–252–6026; email *mtoedtli@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The WMRNP will delineate travel management areas, adopt transportation and travel management strategies, and designate routes on public lands in the WEMO Planning Area. The WEMO Planning Area covers 9.4-million acres of the CDCA in the western portion of the Mojave Desert in southern California, including parts of San Bernardino, Los Angeles, Riverside, Kern, and Inyo counties. The WMRNP applies to the 3.1-million acres of public lands within the WEMO Planning Area. In March 2006, the BLM signed the Record of Decision (ROD) for the WEMO Plan and Amendment to the CDCA Plan. In January 2011, the U.S. District Court for the Northern District of California partially remanded the 2006 WEMO Plan Amendment ROD back to the BLM and directed the BLM to amend the CDCA Plan and reconsider route designation throughout the WEMO Planning Area, as well as other specified issues in the 2006 WEMO Plan (Center for Biological Diversity v. U.S. Bureau of Land Management Order Re: Remedy (N.D. Cal. Jan 28, 2011)). The court's order: (1) Invalidated the ''decision tree'' instrument used to evaluate and designate routes; (2) found that the authorization of off-highway vehicles (OHV) routes that were not in existence in 1980 were inconsistent with the governing land use plan; (3) found that there was not a reasonable range of alternatives to the proposed action, including an inadequate discussion of the No Action alternative; and (4) found that BLM had done an inadequate analysis of impacts from the route network and the grazing program to specific resource values, including soils, cultural resources, certain biological resources, and air quality.

On September 13, 2011, the BLM issued a Notice of Intent (amended May 2, 2013, 78 FR 25758), inviting comments on the proposed scope and content of the WMRNP. The WMRNP includes a LUPA to the CDCA Plan for livestock grazing, recreation, and motor vehicle access elements for the WEMO Planning Area; an associated travel management framework; and activity-plan level route designations and implementation strategies. The lands covered in the WMRNP are those that are within livestock grazing allotments or designated as ''Limited'' to designated routes for motorized access. Areas ''Closed'' to motorized access are not proposed for change in this plan amendment and are not within the scope of the planning effort.

The 9.4-million acres WEMO Planning Area includes several large Department of Defense facilities, covering almost 3 million acres; a portion of one national park; 3 million acres of private lands; and approximately 100,000 acres of State lands, including Red Rock Canyon State Park. The planning area is also adjacent to four national parks/preserves and four national forests. Much of the planning area is managed as part of the BLM's National Landscape Conservation System, including 18 wilderness areas, three wilderness study areas, and portions of the Pacific Crest Trail and the Old Spanish National Historic Trail. The planning area also includes 60 Areas of Critical Environmental Concern, five California Desert National Conservation Lands, seven National Register Archaeological or Historic Districts, and four Critical Habitat Units for the federally listed desert tortoise.

The planning area also includes eight OHV Open Areas that provide major points of ingress to and egress from the adjacent areas ''Limited'' to designated routes on public land. No changes are proposed to these OHV Open Areas or their boundaries.

The BLM used a public scoping process to determine issues, impacts, and possible alternatives that could influence the scope of the environmental analysis, and to help guide the agency from planning-level decision-making to route designation in order to comply with the court order.

The BLM initially published a Notice of Availability for the DSEIS for the West Mojave Route Network Project in March 2015, which was made available for public comment. Concurrently, the BLM was considering amending the CDCA Plan through the Desert Renewable Energy Conservation Plan

(DRECP). The DRECP is a landscape-scale plan that considered renewable energy development and conservation in the CDCA. The DRECP LUPA was completed in September 2016, and included changes to land use allocations and management of those allocations. Based on public comment associated with the DRECP, the BLM decided to issue a new DS EIS for the West Mojave Route Network Project. The new DSEIS considers the DRECP LUPA's changes in the CDCA Plan.

During previous project scoping, the public raised the following transportation and management concerns:

- Need for a good inventory and accurate information related to the existing environment;
- Documentation and use of the regulatory criteria (43 CFR 8342.1) for route minimization;
- Mitigation for loss of access;
- Sensitive resource protection;
- Maintenance of access for various types of recreational, scientific, and other uses;
- Access to private lands;
- Trespass;
- Regional connectivity;
- Improving GIS and on-the-ground information for the public; and
- Implementation strategies such as signing, monitoring, and law enforcement.

In addition, a substantial number of comments indicated issues and needs associated with specific routes and route areas in the WEMO transportation system, and included recommendations on the designation of specific routes, including limiting use to street-legal vehicles. A few comments were also received on livestock grazing issues and the scope of the supplemental grazing program analysis.

In response to court order and on-the-ground changes since 2006, the DS EIS/LUPA, through four different alternatives, also includes consideration of the cumulative effects of the transportation system alternatives to resource values—particularly air quality, soils, cultural resources, certain biological resources, and certain sensitive species—as well as cumulative effects of livestock grazing and potential cumulative loss of recreational access opportunities. In response to public input, access considerations focused on maintaining a viable transportation network, diversifying recreational opportunities, providing access for specific users (*e.g.,* rockhounds, motorcyclists, scientific and educational activities, and non-motorized users), dealing with conflicts among users, and maintaining commercial access needs.

The draft plan amendments address specific CDCA Plan inconsistencies with regulation and policies in the WEMO Planning Area, including amending language that limits the route network to routes that existed in 1980 and travel management guidance for route designations. Changes are proposed to the land-use plan guidelines for stopping, parking, and camping adjacent to routes in Limited Access Areas within the WEMO Planning Area, and to establish a regional minimization strategy for the route network. Through Alternative 2, changes are also considered to the livestock grazing program that would reallocate forage from livestock use to wildlife use and ecosystem function in desert tortoise critical habitat for active allotments or allotments that become vacant. In addition, the Draft considers plan-level decisions modifying motorized use on four specific lakebeds, including Cuddeback Dry Lake, and competitive motorized use of routes. The Draft also considers activity-level travel management plans. Four alternatives are evaluated, including a No Action alternative.

Finally, the Draft includes activity-level specific route designation alternatives, based on the 43 CFR 8342.1 criteria and different thresholds for minimization or closure. The preferred alternative would designate a sustainable travel network and transportation system of approximately 6,300 miles from an inventory of about 16,000 miles of linear transportation features within the WEMO Planning Area, as compared to the current network of approximately 6,000 miles. The designated route network addresses the need for public, authorized, and administrative access to and across BLM-managed lands, including motorized, non-motorized, and non-mechanized modes of travel, while balancing the need to protect sensitive desert resources, and minimizing the impact to those resources.

The preferred alternative also includes network-wide minimization measures that would limit the extent of off-route stopping and parking throughout the planning area to (1) Minimize impacts to undisturbed habitat; (2) Enhance watersheds; and (3) Protect adjacent sensitive resources. Other measures are based on proximity to sensitive resources, such as riparian systems, that would enhance these resources throughout the planning area. The preferred alternative provides for designated camping and staging areas to direct intensive use to manageable locations.

Please note that public comments and information submitted, including names, street addresses, and email addresses of persons who submit comments, will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

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 request to withhold your personal identifying information from public review, BLM cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Jerome E. Perez,

California State Director.

[FR Doc. 2018–05272 Filed 3–15–18; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000. L51040000.FI0000. 18XL5017AR]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW184371, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition from Anadarko E&P Onshore LLC for reinstatement of competitive oil and gas lease WYW184371 for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed. The BLM proposes to reinstate the lease.

FOR FURTHER INFORMATION CONTACT: Chris Hite, Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003; phone: 307–775–6176; email: *chite@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Hite during normal business hours. The FRS

is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16 ⅔ percent, respectively. The lessee has paid the required $500 administrative fee and the $159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective October 1, 2016, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Authority: 30 U.S.C. 188 and 43 CFR 3108.2–3.

Chris Hite,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2018–05383 Filed 3–15–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X LLNMA01400 L12320000.AL0000 LVRDNM030000]

Notice of Closure, Kasha-Katuwe Tent Rocks National Monument

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Temporary Closure.

SUMMARY: Notice is hereby given that under the authority of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Kasha-Katuwe Tent Rocks Resource Management Plan (RMP), Presidential Proclamation 7394, and other authorities, the Kasha-Katuwe Tent Rocks National Monument (Monument) will be temporarily closed to the public on twelve days each year, to allow for Pueblo de Cochiti cultural observances.

DATES: The temporary closure will be in effect beginning April 16, 2018. The closure will remain in effect for 24 months upon publication in the **Federal Register**. The temporary closure dates are as follows: New Year's Day (January 1); January 6; Friday before Easter; Easter Sunday; Monday after Easter Sunday; May 3; July 13; July 14; July 25; November 1; Thanksgiving Day; and Christmas Day. These temporary closures are compliant with the Monument RMP and Presidential Proclamation 7394.

FOR FURTHER INFORMATION CONTACT: Danita Burns, District Manager, Bureau of Land Management Albuquerque District Office, 100 Sun Avenue NE, Suite 330, Pan American Building, Albuquerque, New Mexico 87109; 505–761–8700.

SUPPLEMENTARY INFORMATION: The BLM will post temporary closure signs a week prior to a closure at the main entry to the Monument. In addition, a temporary closure notice with all applicable dates will be posted on the BLM website: *https://www.blm.gov/nlcs_web/sites/nm/st/en/prog/NLCS/KKTR_NM.html.* Presidential Proclamation 7394 designated the Monument on January 17, 2001, to provide opportunities for visitors to observe, study, and experience the geologic processes and cultural and biological objects of interest found in the area, as well as to protect these resources.

Closure: During the temporary closure dates listed above, public access is prohibited.

Exceptions: The temporary closure order does not apply to members of the Pueblo de Cochiti participating in or observing religious and/or cultural practices; or persons performing authorized BLM planning, administrative, maintenance, and/or emergency or law enforcement activities.

Penalties: Any person who violates this temporary closure or these restrictions may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.07, or both. In accordance with 43 CFR 8365.17, state or local officials may also impose penalties for violations of New Mexico law.

During these closure dates only BLM planning, administrative, and maintenance activities will be authorized, and no public access will be granted.

Authority: FLPMA, the Kasha-Katuwe Tent Rocks RMP, Presidential Proclamation 7394, 43 CFR 8364.1, and 43 U.S.C. 1701 *et seq.*

Danita Burns,

District Manager, Albuquerque District.

[FR Doc. 2018–05382 Filed 3–15–18; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–ANRSS–24116; PPMWMWROW2, PMP00UP05.YP0000]

Notice of Availability of the Final Environmental Impact Statement To Address the Presence of Wolves at Isle Royale National Park, Michigan

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Final Environmental Impact Statement (EIS) to address the presence of wolves at Isle Royale National Park.

DATES: The NPS will execute a Record of Decision (ROD) no sooner than 30 days from the date of publication by the U.S. Environmental Protection Agency of the notice of filing of the Final EIS in the **Federal Register**.

ADDRESSES: An electronic copy of the final EIS/plan will be available for public review at *http://parkplanning.nps.gov/isrowolves.* A limited number of hard copies will be available at Park Headquarters, 800 East Lakeshore Drive, Houghton, Michigan 49931–1896.

FOR FURTHER INFORMATION CONTACT: Superintendent Phyllis Green, Isle Royale National Park, ISRO Wolves, 800 East Lakeshore Drive, Houghton, Michigan 49931–1896, or by telephone at (906) 482–0984.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act, 43 U.S.C. 4321 *et seq.,* the NPS announces the availability of the Final EIS. The final EIS/plan responds to, and incorporates where appropriate, agency and public comments received on the draft EIS/plan, which was available for public review from December 16, 2016 to March 15, 2017. Two public meetings and two webinars were held from February 14 through February 21, 2017 to gather input on the draft EIS/plan. During the public comment period, 4916 pieces of correspondence were received. NPS responses to agency and public comments are provided in Appendix B of the final EIS/plan available at *http://parkplanning.nps.gov/isrowolves.*

This final EIS/plan evaluates the impacts of the no-action alternative (Alternative A) and three action alternatives (Alternatives B, C, and D). Alternative B is the preferred alternative and the environmentally preferable alternative.

Alternative A would continue existing management practices and assume no

new management actions would be implemented beyond those available at the outset of the wolf planning process. Wolves may arrive or depart independently via an ice bridge. Under Alternative A, wolves would not be introduced by management to Isle Royale National Park.

The action alternatives include the capture and relocation of wolves from the Great Lakes Region to Isle Royale National Park. NPS would target wolves for relocation that are known to feed on moose as one of their prey sources, are in good health with no apparent injuries, and have the appropriate genetic diversity to sustain a viable population on the island. Capture and relocation efforts would take place between late fall and late winter. All of the action alternatives include monitoring which could include radio or GPS collar tracking from ground and air, scat sample collection, visual observations, and other methodology as funding is available.

Under the preferred alternative, between 20 and 30 wolves with a wide genetic diversity would be introduced to the island. Wolves may be supplemented as needed up to the third year after initial introduction. After the third year, should an unforeseen event occur that impacts the wolf population, such as a mass die-off or introduction of disease, and the goals of the alternative are not being met due to this event, wolves may be supplemented for an additional two years. No additional wolves would be brought to the island after five years from date of initial introduction.

Alternative C would involve the initial introduction of between 6 and 15 wolves. The NPS would bring wolves to the island as often as needed in order to maintain a population of wolves on the island for at least the next 20 years. Under this alternative, additional wolves may be brought based on one or more resource indicators that could include genetic health of the wolves, health of the ecosystem, and prey species population trends.

Under Alternative D, the NPS would not take immediate action and would continue current management, allowing natural processes to continue. This alternative is meant to allow the study of island ecosystem changes to continue without an apex predator and action would only be taken should the weight of evidence suggest an apex predator is necessary to ecosystem function. Resource indicators, such as population size and growth rate of moose would be used to determine if and when wolf introduction actions should be taken. If the weight of evidence indicates wolf introduction actions should be taken, NPS would follow procedures outlined within Alternative C.

Authority

The authority for publishing this notice is 40 CFR 1506.6.

Dated: March 8, 2018.

Cameron H. Sholly,

Regional Director, Midwest Region.

[FR Doc. 2018–05408 Filed 3–15–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF INTERIOR

National Park Service

[NPS–MWR–KNRI–23883; PPMWMWROW0, PMP00UP05.YP00000]

Notice of Availability of the Final Archeological Resources Management Plan/Environmental Impact Statement, Knife River Indian Villages National Historic Site, North Dakota

AGENCY: National Park Service.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Final Archeological Resources Management Plan/Environmental Impact Statement (Final Plan/EIS), Knife River Indian Villages National Historic Site, North Dakota.

DATES: The NPS will execute a Record of Decision no sooner than 30 days from the date that the US Environmental Protection Agency publishes the Notice of Availability of the Final Plan/EIS in the **Federal Register**.

ADDRESSES: A limited number of hard-copies of the Final Plan/EIS may be picked up in-person or may be obtained by making a request in writing to Knife River Indian Villages National Historic Site, PO Box 9, Stanton, North Dakota 58571. The document is also available on the internet at the NPS Planning, Environment, and Public Comment website at: *http://parkplanning.nps.gov/KNRIfinalEIS.*

FOR FURTHER INFORMATION CONTACT: Superintendent, Brenda Todd, may be reached at this address above, by telephone at (701) 745–3300 or via email at *Brenda_Todd@nps.gov.*

SUPPLEMENTARY INFORMATION: The NPS announces the availability of the Final Plan/EIS. This process has been conducted pursuant to the National Environmental Policy Act (NEPA) (42 United States Code 4321 *et seq.*) and the regulations of the US Department of the Interior (43 Code of Federal Regulations [CFR] part 46). The purpose of the plan is to provide a management framework for proactive, sustainable archeological resource protection for the next 30 years. The NPS has identified four major threats to the park's archeological resources: Riverbank erosion, burrowing mammals, vegetation encroachment and the location of park infrastructure. Over the past few decades, village remnants and archeological sites adjacent to the Knife River have experienced measurable erosion. In addition, northern pocket gophers and the encroachment of woody and overgrown vegetation have displaced soil and artifacts from chronologically stratified deposits. Under the preferred alternative, these threats would be addressed following an adaptive management framework designed to detect changes to important indicators and provide park managers tools to manage them.

The preferred alternative also calls for the relocation of the park maintenance facility. The maintenance facility is located on the edge of the Big Hidatsa Village site, a designated National Historic Landmark and sacred site of the Mandan, Hidatsa, and Arikara Nation (MHA Nation). If off-site space is available and cost effective, the maintenance facility would be relocated outside the park. If suitable property outside the park is unavailable or cost prohibitive the NPS intends to relocate and construct the maintenance facility within the park.

Similarly, the preferred alternative calls for the relocation of the museum collections storage facility if current efforts to stop water infiltration are unsuccessful. The museum collections storage facility, located in the basement of the visitor center, has experienced water leaks since construction was completed in 1992. A project is underway to waterproof the exterior of the building. If efforts fail, the museum collections storage facility would be moved to a suitable location in consultation with the MHA Nation.

Notice of availability of the Draft Plan/EIS was published in the **Federal Register** on November 4, 2016 (81 FR 214), and the NPS provided the public with 60 days to review and comment on the draft document. The NPS also held public meetings in Stanton, North Dakota, and Bismarck, North Dakota, to facilitate public understanding of the document and provide opportunity for public comment. Public comments informed the NPS analysis of alternatives in the Final Plan/EIS. A summary of the public comments received, and NPS responses to those comments are addressed in chapter 5 of the Final Plan/EIS.

Authority

The authority for publishing this notice is 40 CFR 1506.6.

Dated: March 8, 2018.

Cameron H. Sholly,

Regional Director, Midwest Region, National Park Service.

[FR Doc. 2018–05409 Filed 3–15–18; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–015]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 23, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–567–569 and 731–TA–1343–1345 (Final)(Silicon Metal from Australia, Brazil, Kazakhstan, and Norway). The Commission is currently scheduled to complete and file its determinations and views of the Commission by April 10, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 13, 2018.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–05463 Filed 3–14–18; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1102]

Certain Light Engines and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 2, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Lumencor, Inc. of Beaverton, Oregon. Supplements were filed on February 16, 2018; February 22, 2018; and February 27, 2018. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light engines and components thereof by reason of infringement of U.S. Patent No. 9,574,722 (''the '722 patent''), U.S. Patent No. 9,395,055 (''the '055 patent''), and U.S. Patent No. 8,493,564 (''the '564 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server 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.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, The Office of the Secretary, Docket Services, U.S. International Trade Commission, telephone (202) 205–1800.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 12, 2018, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain light engines and components thereof by reason of infringement of one or more of claims 1–6, 10–11, and 16–19 of the '722 patent, claims 1–3, 5, 7, 9, 11–13, 15, 17 and 20 of the '055 patent, and claims 1, 4, 6–7, 9, 16, and 18 of the '564 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Lumencor, Inc., 14940 NW Greenbrier Parkway, Beaverton, OR 97006.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Excelitas Technologies Corp., 200 West Street, Waltham, MA 02451

Lumen Dynamics Group, Inc., 2260 Argentia Road, Mississauga, ON L5N, 6H7, Canada

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to

the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 12, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05324 Filed 3–15–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1095]

Certain Load Supporting Systems, Including Composite Mat Systems, and Components Thereof; Commission Determination Not To Review an Initial Determination Granting an Unopposed Motion To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (Order No. 4) granting an unopposed motion to amend the complaint and notice of investigation to add a certain respondent.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–3438. 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 (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 22, 2018, based on a complaint filed by Newpark Mats & Integrated Services LLC of The Woodlands, Texas (''Newpark''). 83 FR 3022 (Jan. 22, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain load supporting systems, including composite mat systems, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,511,257 and 6,695,527. The notice of investigation named as respondents Checkers Industrial Products, LLC of Broomfield, Colorado; Checkers Safety Group UK LTD of Cheshire, United Kingdom; and Zigma Ground Solutions LTD of Essex, United Kingdom (collectively, ''Respondents''). The Office of Unfair Import Investigations was not named as a party to the investigation.

On February 14, 2018, Newpark filed a motion to amend the complaint and notice of investigation to add Isokon d.o.o. of Slovenske Konjice, Slovenia (''Isokon'') as a respondent. Respondents do not oppose the motion.

On February 20, 2018, the presiding administrative law judge (''ALJ'') issued an initial determination (''ID'') (Order No. 4), granting the motion to amend the complaint and notice of investigation. The ALJ found good cause for the amendment. The ALJ found that Newpark recently learned through discovery of Isokon's role in the sale for importation of products accused in this investigation and that Newpark did not know of Isokon's role when it filed the original complaint. The ALJ found that the amendment will not prejudice the public interest or the parties. The ALJ also found the amendment is in the public interest because it would permit development of a record that identifies the correct entities that import into the United States, sell for importation, and/or sell within the United States after importation the products accused in the investigation. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

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: March 12, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05323 Filed 3–15–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1104]

Certain Multi-Domain Test and Measurement Instruments; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 9, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Tektronix, Inc. of Beaverton, Oregon. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain multi-domain test and measurement instruments by reason of infringement of certain claims of U.S. Patent No. 8,521,460 B2 (''the '460 patent'') and U.S. Patent No. 8,675,719 B2 (''the '719 patent''). The complaint further alleges that an industry in the United States exists, or is in the process of being established, as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server 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.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 12, 2018, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain multi-domain test and measurement instruments by reason of infringement of one or more of claims 1–14 of the '460 patent and claims 1–10 and 12–15 of the '719 patent; and whether an industry in the United States exists, or is in the process of being established, as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Tektronix, Inc., 14150 SW Karl Braun Drive, Beaverton, OR 97077.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Rohde & Schwarz USA, Inc., 6821 Benjamin Franklin Drive, Columbia, MD 21046

Rohde & Schwarz GmbH & Co. KG, Mühldorfstraße 15, 81671 München, Germany

Rohde & Schwarz Vertriebs GmbH, Mühldorfstraße 15, 81671 München, Germany

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 13, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05367 Filed 3–15–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–017]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 3, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731–TA–1347 and 1348 (Final) (Biodiesel from Argentina and Indonesia). The Commission is currently scheduled to complete and file its determinations and views of the Commission by April 16, 2018.
5. Vote in Inv. No. 731–TA–893 (Third Review) (Honey from China). The Commission is currently scheduled to complete and file its determination and views of the Commission by April 16, 2018.
6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 13, 2018.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–05462 Filed 3–14–18; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1103]

Certain Digital Video Receivers and Related Hardware and Software Components; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 8, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Rovi Corporation of San Jose, California, Rovi Guides, Inc. of San Jose, California, Rovi Technologies Corporation of San Jose, California, and Veveo, Inc. of Andover, Massachusetts. Supplements to the Complaint were filed on February 13 and 28, 2018. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital video receivers and related hardware and software components by reason of infringement of certain claims of U.S. Patent No. 7,779,011 (''the '011 patent''); U.S. Patent No. 7,937,394 (''the '394 patent''); U.S. Patent No. 7,827,585 (''the '585 patent''); U.S. Patent No. 9,294,799 (''the '799 patent''); U.S. Patent No. 9,396,741 (''the '741 patent''); U.S. Patent No. 9,578,363 (''the '363 patent''); U.S. Patent No. 9,621,956 (''the '956 patent''); and U.S. Patent No. 9,668,014 (''the '014 patent''). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server 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.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 12, 2018, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain digital video receivers and related hardware and software components by reason of infringement of one or more of claims 1–3, 5–11, 13–19, and 21–24 of the '011 patent; claims 1, 2, 4–6, and 8–11 of the '394 patent; claims 1, 3, 4, 8, 10, 11, 15, 17, 18, 22, 24, and 25 of the '585 patent; claims 1–3, 5, 7, 9–12, 14, 16, 18, and 28 of the '799 patent; claims 1–3, 5–10, 12, 14–17, 19, and 20 of the '741 patent; claims 1–8, 10–18, and 20 of the '363 patent; claims 1, 2, 4–6, 11, 12, and 14–16 of the '956 patent; and claims 1–4, 7–13, and 17–20 of the '014 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are: Rovi Corporation, 2160 Gold Street, San Jose, CA 95002; Rovi Guides, Inc., 2160 Gold Street, San Jose, CA 95002; Rovi Technologies Corporation, 2160 Gold Street, San Jose, CA 95002; Veveo, Inc., 40 Shattuck Road, Suite 303, Andover, MA 01810.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: Comcast Corporation, One Comcast Center, 1701 John F. Kennedy Boulevard, Philadelphia, PA 19103; Comcast Cable Communications, LLC, One Comcast Center, 1701 John F. Kennedy Boulevard, Philadelphia, PA 19103; Comcast Cable Communications Management, LLC, One Comcast Center, 1701 John F. Kennedy Boulevard, Philadelphia, PA 19103; Comcast Business Communications, LLC, One Comcast Center, 1701 John F. Kennedy Boulevard, Philadelphia, PA 19103; Comcast Holdings Corporation, One Comcast Center, 1701 John F. Kennedy Boulevard, Philadelphia, PA 19103; Comcast Shared Services, LLC, 330 N Wabash Avenue 22, Chicago, IL 60611–3586.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 12, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05336 Filed 3–15–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree and Environmental Settlement Agreement Under The Clean Air Act

On March 12, 2018, the Department of Justice lodged a proposed Consent Decree and Environmental Settlement Agreement (''Settlement Agreement'') with the United States Bankruptcy Court for the District of Delaware in *In PES HOLDINGS LLC., et al.,* Civil Action No. 18–10122 (Bankr. D. Del.).

The United States, on behalf of the United States Environmental Protection Agency, filed this Settlement Agreement with PES Holdings, LLC and its Debtor Affiliates (collectively the Debtors),[1] including Debtor Philadelphia Energy Solutions Refining and Marketing LLC (''PESRM''), to resolve a dispute about the obligations and liabilities of PESRM and related parties under the Clean Air Act's Renewable Fuel Standard program, which requires refiners to blend renewable fuels into gasoline or diesel fuel or obtain Renewable Identification Numbers (''RINs'') to meet Renewable Volume Obligations (''RVOs''). Under the Settlement Agreement, Debtors have agreed (1) to retire a total of 138 million currently held RINs to resolve PESRM's liability for RVOs prior to the Effective Date of Debtors' proposed Plan of Reorganization; (2) to retire 64.6 million RINs toward their post-bankruptcy 2018 RVO; and (3) to consent to retirement of RINs on a semiannual basis for their post-Effective Date RVOs through 2022. This obligation will be extended and the company will be subject to stipulated penalties if it fails to meet this obligation.

The publication of this notice opens a period for public comment on the

[1] Debtors in this matter include: PES Holdings, LLC; North Yard Financing, LLC; North Yard GP, LLC; North Yard Logistics, L.P.; PES Administrative Services, LLC; PES Logistics GP, LLC; PES Logistics Partners, L.P.; PESRM Holdings, LLC; and Philadelphia Energy Solutions Refining and Marketing LLC.

Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to In re *PES Holdings, LLC., et al.,* D.J. Ref. No. 90–5–2–1–10993/1. All comments must be submitted no later than ten (10) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey K. Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–05338 Filed 3–15–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On March 9, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for District of Utah in the lawsuit entitled *United States* v. *Kinder Morgan Altamont LLC and Colorado Interstate Gas Company, L.L.C.,* Civil Action No. 2:18–cv–00212–DBP. In a civil action filed on March 9, 2018, under Section 113(a) of the Clean Air Act, 42 U.S.C. 7413(a), the United States, on behalf of the Environmental Protection Agency, alleged defendants Kinder Morgan Altamont LLC and Colorado Interstate Gas Company, L.L.C violated Section 112(r) of the Clean Air Act, 42 U.S.C. 7412(r), by failing to comply with the chemical accident prevention regulations at 40 CFR part 68. In the Complaint, the United States sought injunctive relief and penalties.

The proposed Consent Decree resolves the claims alleged in the Complaint, and requires the defendants to take specified actions designed to achieve and maintain compliance with the Clean Air Act and the applicable regulations. The proposed Consent Decree requires the defendants to perform audits to identify non-compliance at four facilities and to correct any violations identified. In addition, the defendants must pay a civil penalty of $179,099 and must complete a Supplemental Environmental Project designed to reduce volatile organic compound emissions at the Rabbit Gulch compressor station, located near the Altamont gas processing plant in Duchesne County, Utah.

The publication of this notice opens a period for public comment on the Consent Decree. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division and refer to *United States* v. *Kinder Morgan Altamont LLC and Colorado Interstate Gas Company, L.L.C.,* DJ. Ref. No. 90–5–2–1–11424. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $ 15.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–05387 Filed 3–15–18; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATES: The Members of the National Council on Disability (NCD) will meet by phone on Thursday, March 29, 2018, 11:00 a.m.–12:30 p.m., ET.

PLACE: The meeting will occur by phone. NCD staff will participate in the call from the NCD conference room, 1331 F Street NW, Suite 850, Washington, DC. Interested parties may join the meeting in person at the NCD conference room or may join the phone line in a listening-only capacity using the following call-in information: Call-in number: 1–888–855–5838; Passcode: 5101128; Host Name: Neil Romano.

MATTERS TO BE CONSIDERED: The Council will discuss and vote on the slate of projects it will move forward for external funding opportunities and internal work of staff.

AGENDA: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Eastern):

Thursday, March 29

11:00 a.m.–11:10 a.m.—Opening comments by the Chairman

11:10 a.m.–12:30 p.m.—Discussion of policy project proposals, to conclude with a vote of the board regarding funding allocations and priorities

12:30 p.m.—Adjourn

CONTACT PERSON: Anne Sommers, NCD, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (V).

ACCOMMODATIONS: A CART streamtext link has been arranged for this meeting. The web link to access CART on Thursday, March 29, 2018 is: *https://www.streamtext.net/player?event=NCD-MEETING.*

Those who plan to attend the meeting in-person and require accommodations should notify NCD as soon as possible to allow time to make arrangements. To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person refrain from wearing scented personal care products such as perfumes, hairsprays, and deodorants.

Dated: March 14, 2018.

Sharon M. Lisa Grubb,

Executive Director (Interim).

[FR Doc. 2018–05547 Filed 3–14–18; 4:15 pm]

BILLING CODE 8421–03–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2018–128 and CP2018–178; MC2018–129 and CP2018–179; MC2018–130 and CP2018–180]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 19, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2018–128 and CP2018–178; *Filing Title:* USPS Request to Add Priority Mail Contract 423 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 9, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* March 19, 2018.

2. *Docket No(s).:* MC2018–129 and CP2018–179; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 62 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 9, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* March 19, 2018.

3. *Docket No(s).:* MC2018–130 and CP2018–180; *Filing Title:* USPS Request to Add Priority Mail Contract 424 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 9, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* March 19, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–05300 Filed 3–15–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82855; File No. SR–CBOE–2018–019]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

March 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 27, 2018, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule to adopt the Select Customer Options Reduction (''SCORe'') program. The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt the Select Customer Options Reduction program (''SCORe'').[3] SCORe is a new discount program for Retail, Non-FLEX Customer (''C'' origin code) volume in the following options classes: SPX (including SPXW), VIX, RUT, MXEA, MXEF & XSP (''Qualifying Classes''). For purposes of this program ''Retail'' orders will be defined as Customer orders for which the original order size (in the case of a simple order) or largest leg size (in the case of a complex order) is 100 contracts or less. Volume executed during Extended Trading Hours (''ETH'') will be aggregated with volume executed during Regular Trading Hours (''RTH'').

The SCORe program is available to any Trading Permit Holder (''TPH'') Originating Clearing Firm or non-TPH Originating Clearing Firm. For this program, an ''Originating Clearing Firm'' will be defined as either (a) the executing clearing Options Clearing Corporation (''OCC'') number on any transaction which does not also include a Clearing Member Trading Agreement (''CMTA'') OCC clearing number or (b) the CMTA in the case of any transaction which does include a CMTA OCC clearing number. In order to participate, an Originating Firm must complete the SCORe Registration Form by the second to last business day of the month preceding the month in which their participation in the SCORe program will commence. The Exchange will aggregate an Originating Firm's volume with volume of their OCC clearing affiliates if such affiliates are reported to the Exchange via the SCORe Registration Form and there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A. ''Originating Firm'' will refer to both an Originating Clearing Firm and any applicable affiliates.

The SCORe program will utilize two measures for participation and discounts: (1) The Qualifying Tiers, which determine whether a firm qualifies for the discounts in either Tier A or Tier B and (2) the Discount Tiers, which determine the Originating Firm's applicable discount tiers and corresponding discounts, as further described below.

QUALIFYING TIER B—RETAIL VOLUME PERCENTAGE IN QUALIFYING CLASSES BETWEEN 35.00% AND 69.99%

Discount tier	Percentage of all customer retail volume in qualifying classes	Discount per retail contract
B3	0.00%–5.00%	0.00
B2	Above 5.00%–26.00%	0.04
B1	Above 26.00%	0.08

QUALIFYING TIER A—RETAIL VOLUME PERCENTAGE IN QUALIFYING CLASSES AT OR ABOVE 70.00%

Discount tier	Percentage of all customer retail volume in qualifying classes	Discount per retail contract
A5	0.00%–5.00%	$0.00
A4	Above 5.00%–37.00%	0.08
A3	Above 37.00%–41.00%	0.15
A2	Above 41.00%–47.00%	0.19
A1	Above 47.00%	0.23

VOLUME MULTIPLIER

MXEA/MXEF	XSP	RUT
99	99	2

Qualifying Tiers

To determine an Originating Firm's Qualifying Tier, the Originating Firm's total Retail volume in the Qualifying Classes will be divided by the Originating Firm's total Customer volume, Retail and non-Retail, in the Qualifying Classes. If an Originating Firm's Retail volume is between 35.00% and 69.99%, the Originating Firm will qualify for Tier B discounts. If an Originating Firm's Retail volume is at or above 70.00%, the Originating Firm will qualify for Tier A discounts. The Qualifying Tier that is applied in a given month is based on an Originating Firm's Retail volume in the prior month (*e.g.,* an Originating Firm's volume in January determines which Qualifying Tier applies in February).[4]

Discount Tiers

For the Discount Tier, an Originating Firm's Retail volume in the Qualifying Classes will be divided by total Retail volume in the Qualifying Classes executed on the Exchange. Additionally, SCORe will employ the use of ''product multipliers'' for the Discount Tier only. Multipliers will be applied to MXEF, MXEA, RUT and XSP volume only, as reflected below. Specifically, Retail volume in these products will be multiplied by the values indicated below so that any volume executed by an Originating Firm in these classes will be increased for purposes of the Discount Tier calculation, but not for purposes of calculating the Qualifying Tiers. Additionally, discounts will be applied to executed volume only, not on multiplied volume. If an Originating Firm's volume in a given month includes volume from MXEF, MXEA,

[3] The proposed SCORe program will be effective March 1, 2018 (*i.e.,* March discounts will be based on February 2018 volume for all participants that sign up prior to the second to last business day of February).

[4] For example, in January, if an Originating Firm executes a total of 1,000,000 Customer (C) contracts in the Qualifying Classes, of which 600,000 contracts qualify as Retail volume, the Originating Firm would have a retail percentage of 60% and qualifies for the B Tier discounts to be applied to the Originating Firm's qualifying Retail Customer volume in February.

RUT or XSP, an average rate will be calculated using the Discount Tiers.[5]

The Clearing TPH(s) that is billed for an Originating Firm's transactions will receive the applicable discounts. If more than one Clearing TPH was billed transaction fees for an Originating Firm's transactions subject to the SCORe program, the discounts will be applied pro-rata to the Clearing TPHs.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The adoption of SCORe is reasonable because it will allow Customers orders from Originating Firms that register for the program an opportunity to receive certain discounts for reaching certain trading volume thresholds. The Exchange notes that SCORe provides an incremental incentive for Originating Firms to strive for the highest tier level, which provides increasingly higher discounts. The Exchange notes that it is voluntary for Originating Firms to choose whether or not to register for the program.

The Exchange believes it's equitable and not unfairly discriminatory to establish the program for Originating Firms only because this is designed to attract a greater number of customer orders in the Qualifying Classes. This increased volume creates greater trading opportunities that benefit all market participants by providing more trading opportunities and tighter spreads. Additionally, the Exchange notes that incentive programs based on Customer volume already exist elsewhere within the industry.[9] In addition the Exchange believes the proposed program is equitable and not unfairly discriminatory because any Originating Firm may avail itself of this program provided it registers with the Exchange.

The Exchange believes limiting the SCORe program to the Qualifying Classes is equitable and not unfairly discriminatory because the Exchange has expended considerable time and resources in developing these products. The SCORe program is designed to encourage greater customer options trading in the Qualifying Classes, which, along with bringing greater options trading opportunities to all market participants, would bring in more fees to the Exchange, and such fees can be used to recoup the Exchange's costs and expenditures from developing and maintaining the Qualifying Classes.

The Exchange believes limiting the SCORe program to Retail orders is equitable and not unfairly discriminatory because the Exchange wants to encourage more Retail Customer volume in the Qualifying classes, which as noted above will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. Additionally, the Exchange notes other incentive programs already exist for non-Retail Customer orders.[10]

The Exchange believes it's reasonable, equitable and not unfairly discriminatory to adopt a product multiplier because the Exchange wishes to support and encourage customers to provide greater order flow in these particular classes, which allows for price improvement in these products and has a number of positive impacts on the market system. The Exchange also believes however, that it's reasonable, equitable and not unfairly discriminatory to base the discount paid off the amount of transaction fees that would be assessed pursuant to the Fees Schedule (as opposed to being based off the ''theoretical'' number of contracts using the product multiplier) because the Exchange does not want to provide discount on contracts for which it is not also collecting transaction fees.

The Exchange also believes it's reasonable, equitable and not unfairly discriminatory to provide that it will aggregate the volume of affiliated Originating Firms to determine whether and what volume thresholds are met as the entities being aggregated share more than majority ownership. Particularly, the Exchange notes multiple incentive programs allow for aggregation between affiliates provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A.[11]

Lastly, the Exchange believes it's reasonable, equitable and not unfairly discriminatory to provide the discount to the executing Clearing TPH (or if more than one Clearing TPH, than on a pro-rata basis to the Clearing TPHs) because the executing Clearing TPH is the entity that is assessed transactions fees on the SCORe eligible volume.

[5] For example, assume Originating Firms A and B both qualify for Tier A discounts in a given month and that the total qualifying contracts for that month is 1.4 million contracts.

In that month, Originating Firm A executes 900,000 contracts from orders which qualify as Customer Retail volume, none of which were in product multiplier classes (*i.e.,* MXEA, MXEF, XSP or RUT). Out of a total of 1.4 million total Retail volume executed on the Exchange in the Qualifying Classes, Originating Firm B [sic] has 64.3% (900,000/1,400,000) of all qualifying contracts, and thus receives a discount of up to Tier A1. Originating Firm A therefore receives a discount using the following formula: receives $.00 on 70,000 (5%) contracts, $.08/contract on 448,000 contracts equaling $35,840 (32%) (*i.e.* above 5% to 37%), $.15/contract on 56,000 contracts equaling $8,400 (4%) (*i.e.* above 37.00% to 41%), $.19/contract on 84,000 contracts equaling $15,960 (6%) (*i.e.,* above 41%—47%), and $.23/contract on the remaining 242,000 contracts equaling $55,660, resulting in a total discount of $115,860.

In the same month, Originating Firm B executes 900,000 contracts from orders which qualify as Customer Retail volume, of which 10,000 contracts were in XSP. The XSP volume of Originating Firm B is multiplied by 99 (*i.e.* adding an additional 980,000 [sic] contracts to the qualifying total). Originating Firm B's recalculated total of contracts is now ''1,880,000'' [sic] contracts (*i.e.,* 134.3% of the total 1,400,000), and thus receives a discount up to Tier A1. Originating Firm B therefore receives an average rate using the following formula: the average of: $.00 on 70,000 (5%) contracts, $.08/contract on 448,000 contracts equaling $35,840 (32%) (*i.e.* above 5% to 37%), $.15/contract on 56,000 contracts equaling $8,400 (4%) (*i.e.* above 37.00% to 41%), $.19/contract on 84,000 contracts equaling $15,960 (6%) (*i.e.,* above 41%—47%), and $.23/contract on the remaining ''1,222,000'' contracts equaling $281,060, resulting in an average discount rate of $0.182 contract ($341,260/1,880,000) and a total discount of $163,800 ($0.182 x 900,000).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(4).

[9] *See e.g.,* Cboe Options Fees Schedule, the Volume Incentive Program and Frequent Trader; and Nasdaq PHLX LLC Pricing Schedule, Section B. Customer Rebate Program.

[10] *See e.g.,* Cboe Options Fees Schedule, Customer Large Trade Discount.

[11] *See e.g.,* Cboe Options Fees Schedule, Footnote 10, which provides the Exchange will aggregate the trading activity of separate Liquidity Provider firms for purposes of the Liquidity Provider Sliding Scale if there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while the discounts apply only to Customer orders from Originating Firms, the Program is designed to encourage increased Customer options volume in the Qualifying Classes, which provides greater trading opportunities for all market participants. Additionally, there is a history in the options markets of providing preferential treatment to Customers orders. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because the Qualifying Classes are products that only trade on Cboe Options. To the extent that the proposed changes make the Exchange a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2018–019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2018–019. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2018–019 and should be submitted on or before April 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05330 Filed 3–15–18; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82857; File No. SR–NYSEARCA–2018–14]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Short Term Options Series Program

March 12, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to expand the Short Term Options Series (''STOS'') Program to allow Monday expirations for SPDR S&P 500 ETF Trust (''SPY'') options. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to expand the STOS Program to allow Monday expirations for SPY options. In

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

particular, the Exchange proposes to amend Rule 6.1–O (Definitions) and Rule 6.4–O (Series of Options Open for Trading) to permit the listing and trading of options series with Monday expirations that are listed pursuant to the STOS Program. This is a competitive filing based on a filing submitted by Nasdaq PHLX LLC (''Phlx''), which the Securities and Exchange Commission (''Commission'') recently approved.[4]

Currently Rule 6.1–O(b)(41) provides that a STOS is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Wednesday or Friday of the next business week. The Exchange proposes to amend Rule 6.1–O(b)(41) to permit the listing of options series that expire on Mondays. Specifically, the Exchange is proposing that it may open for trading series of options on any Monday that is a business day and that expires on the Monday of the next business week. The Exchange is also proposing to list Monday expirations series on Fridays that precede the expiration Monday by one business week, plus one business day. Since Rule 6.1–O(b)(41) already provides for the listing of STOS on Fridays, the Exchange is not modifying this provision to allow for Friday listing of Monday expiration series. However, the Exchange proposes to amend Rule 6.1–O(b)(41) to clarify that, in the case of a STOS that is listed on a Friday and expires on a Monday, that STOS must be listed one business week and one business day prior to that expiration (*i.e.,* two Fridays prior to expiration).

As part of this proposal, the Exchange is also amending Rule 6.1–O(b)(41) to address the expiration date of Monday expiration series when the Monday is not a business day. In that case, the rule would provide that the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. In that case, the Wednesday expiration series expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week.[5] However, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. The Exchange notes that this provision is identical to the corresponding provision recently adopted by Phlx in its proposal to list options series with Monday expirations pursuant to its Short Term Options Series program. The Exchange also notes that Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[6]

The Exchange also proposes to make corresponding changes to Rule 6.4–O, Commentary .07, which sets forth the requirements for SPY options that are listed pursuant to the STOS Program, to permit Monday SPY expirations (''Monday SPY Expirations''). Accordingly, the Exchange proposes to amend Commentary .07(a) and (f) to Rule 6.4–O to state that, with respect to Monday SPY Expirations, the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPY to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire, provided that Monday SPY Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. As with the current rules for Wednesday SPY Expirations, the Exchange would also amend Commentary .07(a) and (f) to state that it may list up to five consecutive Monday SPY Expirations at one time, and may have no more than a total of five Monday SPY Expirations (and no more than a total of five STOS expirations for SPY expiring on Friday and no more than a total of five Wednesday SPY Expirations). The Exchange would also clarify that, as with Wednesday SPY Expirations, Monday SPY Expirations would be subject to the provisions of this Rule. The interval between strike prices for the proposed Monday SPY Expirations would be the same as those for the current STOS for Wednesday and Friday SPY Expirations. Specifically, the Monday SPY Expirations would have a $0.50 strike interval minimum. As is the case with other options series listed pursuant to the STOS, the Monday SPY Expiration series would be P.M.-settled.

Currently, for each option class eligible for participation in the STOS Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class. The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.[7] This thirty (30) series restriction would apply to Monday SPY Expiration series as well. In addition, the Exchange would be able to list series that are listed by other exchanges, assuming those exchanges file similar rules with the Commission to list SPY options expiring on Mondays.

Finally, the Exchange proposes to amend Commentary .07 to Rule 6.4–O to address the listing of STOS that expire in the same week as monthly or quarterly options series. Currently, that rule states that no STOS may expire in the same week in which monthly option series on the same class expire (with the exception of Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class. The Exchange proposes to extend this exemption to Monday SPY Expirations.[8] As with Wednesday SPY Expirations, the Exchange believes that it is reasonable to extend this exemption to Monday SPY Expirations because Monday SPY Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday SPY Expirations for one week every month because there was a monthly SPY expiration on the Friday of that week would create investor confusion. Finally, like Wednesday SPY Expirations, Monday SPY Expirations cannot expire on the same day as any Quarterly Option Series.

The Exchange does not believe that any market disruptions would be encountered with the introduction of P.M.-settled Monday expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday expiration series, including Monday SPY Expirations. The Exchange currently trades P.M.-settled STOS that expire almost every

[4] *See* Securities Exchange Act Release No. 82611 (February 1, 2018), 83 FR 5473 (February 7, 2018) (SR–Phlx–2017–103).

[5] *See* Rule 6.1–O(b)(45).

[6] *See* CBOE Rule 24.9(e)(1) (''If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.'')

[7] *See* Rule 6.4–O, Commentary .07(b).

[8] *See* Rule 6.4–O, Commentary .07(a) and (f).

Wednesday and Friday, which provide market participants a tool to hedge special events and to reduce the premium cost of buying protection. Moreover, the Exchange has been listing Wednesday expirations pursuant to Rule 6.1–O(b)(41) and 6.4–O since 2016.[9] With the exception of Monday expiration series that are scheduled to expire on a holiday, the Exchange does not believe that there are any material differences between Monday expirations and Wednesday or Friday expirations for STOS.

The Exchange seeks to introduce Monday expirations to, among other things, expand hedging tools available to market participants and to continue the reduction of the premium cost of buying protection. The Exchange believes that Monday expirations, similar to Wednesday and Friday expirations, would allow market participants to purchase an option based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

As noted above, Phlx recently received approval to list Monday expirations for SPY options pursuant to its Short Term Options Series program. In addition, other exchanges currently permit Monday expirations for other options. For example, Cboe lists options on the SPX with a Monday expiration as part of its Nonstandard Expirations Pilot Program.[10]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[13]

In particular, the Exchange believes the STOS Program has been successful to date and that Monday expirations, including Monday SPY Expirations, would expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the STOS Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday expirations, including Monday SPY Expirations, should create greater trading and hedging opportunities and flexibility, and would provide customers with the ability to tailor their investment objectives more effectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, the Exchange does not believe there are any material differences between Monday SPY Expirations and Wednesday or Friday SPY Expirations. The Exchange notes that it has been listing Wednesday expiration pursuant to Rule 6.4–O and Rule 6.1–O(b)(41) since 2016.[14] The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. The Exchange also notes that Cboe uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[15] Additionally, the proposed rule change is consistent with rules of another options exchange, as Phlx recently received Commission approval to list Monday SPY Expirations.[16]

Given the similarities between Monday SPY Expiration series and Wednesday and Friday SPY Expiration series, the Exchange believes that applying the provisions in Rule 6.4–O, Commentary .07 that currently apply to Wednesday SPY Expirations, to Monday SPY Expirations, is justified. For example, the Exchange believes that allowing Monday SPY Expirations and monthly SPY expirations in the same week would benefit investors and minimize investor confusion by providing Monday SPY Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend Rule 6.4–O, Commentary .07 to clarify that no STOS may expire on the same day as an expiration of Quarterly Option Series on the same class. This change would make that provision more consistent with the existing language in Rule 6.4–O, Commentary .07 that prohibits Wednesday SPY Expirations from expiring on a Wednesday in which Quarterly Options Series expire.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday expirations, including Monday SPY Expirations, in the same way that it monitors trading in the current STOS Program.

With regard to the impact of this proposal on system capacity, the Exchange believes it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that having Monday expirations is not a novel proposal, as Cboe currently lists and trades short-term SPX options with a Monday expiration, and Phlx has recently received approval from the Commission to list Monday SPY expirations.[17] Therefore, the proposal would not impose any undue burden on inter-market competition. Additionally, other options exchanges are free to propose similar rules to list and trade STOS with Monday expirations. Finally, the Exchange does not believe the proposal would impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[9] *See* Securities Exchange Act Release No. 78779 (September 7, 2016), 81 FR 62944 (September 13, 2016) (SR–NYSEArca–2016–127).

[10] *See* CBOE Rule 24.9(e)(1) (''The Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration'').

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

[14] *See* supra note 9.

[15] *See supra* note 10 [sic].

[16] *See supra* note 4.

[17] *See supra* notes 4, 6.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii) [20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday SPY Expirations.[21] The Exchange has stated that waiver of the operative delay will allow the Exchange to list and trade Monday SPY Expirations as soon as possible, and therefore, promote competition among the option exchanges. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2018–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2018–14. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2018–14 and should be submitted on or before April 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

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[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See supra* note 4.

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82858; File No. SR–NYSEAMER–2018–08]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Short Term Options Series Program

March 12, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 1, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to expand the Short Term Options Series (''STOS'') Program to allow Monday expirations for SPDR S&P 500 ETF Trust (''SPY'') options. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to expand the STOS Program to allow Monday expirations for SPY options. In particular, the Exchange proposes to amend Rule 900.2NY (Definitions) and Rule 903 (Series of Options Open for Trading) to permit the listing and trading of options series with Monday expirations that are listed pursuant to the STOS Program. This is a competitive filing based on a filing submitted by Nasdaq PHLX LLC (''Phlx''), which the Securities and Exchange Commission (''Commission'') recently approved.[4]

Currently Rule 900.2NY(50) provides that a STOS is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Wednesday or Friday of the next business week. The Exchange proposes to amend Rule 900.2NY(50) to permit the listing of options series that expire on Mondays. Specifically, the Exchange is proposing that it may open for trading series of options on any Monday that is a business day and that expires on the Monday of the next business week. The Exchange is also proposing to list Monday expirations series on Fridays that precede the expiration Monday by one business week, plus one business day. Since Rule 900.2NY(50) already provides for the listing of STOS on Fridays, the Exchange is not modifying this provision to allow for Friday listing of Monday expiration series. However, the Exchange proposes to amend Rule 900.2NY(50) to clarify that, in the case of a STOS that is listed on a Friday and expires on a Monday, that STOS must be listed one business week and one business day prior to that expiration (*i.e.,* two Fridays prior to expiration).

As part of this proposal, the Exchange is also amending Rule 900.2NY(50) to address the expiration date of Monday expiration series when the Monday is not a business day. In that case, the rule would provide that the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. In that case, the Wednesday expiration series expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week.[5] However, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. The Exchange notes that this provision is identical to the corresponding provision recently adopted by Phlx in its proposal to list options series with Monday expirations pursuant to its Short Term Options Series program. The Exchange also notes that Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[6]

The Exchange also proposes to make corresponding changes to Rule 903, which sets forth the requirements for SPY options that are listed pursuant to the STOS Program, to permit Monday SPY expirations (''Monday SPY Expirations''). Accordingly, the Exchange proposes to amend Rule 903(h) and Rule 903 Commentary .10(e) to state that, with respect to Monday SPY Expirations, the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPY to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire, provided that Monday SPY Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. As with the current rules for Wednesday SPY Expirations, the Exchange would also amend Rule 903(h) and Rule 903, Commentary .10(e) to state that it may list up to five consecutive Monday SPY Expirations at one time, and may have no more than a total of five Monday SPY Expirations (and no more than a total of five STOS expirations for SPY expiring on Friday and no more than a total of five Wednesday SPY Expirations). The Exchange would also clarify that, as with Wednesday SPY Expirations, Monday SPY Expirations would be subject to the provisions of this Rule. The interval between strike prices for the proposed Monday SPY Expirations would be the same as those for the current STOS for Wednesday and Friday SPY Expirations. Specifically, the Monday SPY Expirations would have a $0.50 strike interval minimum. As is the case with other options series listed pursuant to the STOS, the Monday SPY Expiration series would be P.M.-settled.

Currently, for each option class eligible for participation in the STOS Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class. The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.[7] This thirty (30) series restriction would apply to Monday SPY Expiration series as well. In addition, the Exchange would be able to list series that are listed by other exchanges, assuming those exchanges file similar rules with the Commission to list SPY options expiring on Mondays.

Finally, the Exchange proposes to amend Rule 903 to address the listing of STOS that expire in the same week as monthly or quarterly options series. Currently, that rule states that no STOS may expire in the same week in which monthly option series on the same class expire (with the exception of Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class. The Exchange proposes to extend this exemption to Monday SPY Expirations.[8] As with Wednesday SPY Expirations, the Exchange believes that it is reasonable to extend this exemption to Monday SPY Expirations because Monday SPY Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday SPY Expirations for one week every month because there was a monthly SPY expiration on the Friday of that week would create investor confusion.

[4] *See* Securities Exchange Act Release No. 82611 (February 1, 2018), 83 FR 5473 (February 7, 2018) (SR–Phlx–2017–103).

[5] *See* Rule 900.2NY(50).

[6] *See* CBOE Rule 24.9(e)(1) (''If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.'')

[7] *See* Rule 903, Commentary .10(a).

[8] *See* Rule 903(h) and Rule 903, Commentary .10(e).

Finally, like Wednesday SPY Expirations, Monday SPY Expirations cannot expire on the same day as any Quarterly Option Series.

The Exchange does not believe that any market disruptions would be encountered with the introduction of P.M.-settled Monday expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday expiration series, including Monday SPY Expirations. The Exchange currently trades P.M.-settled STOS that expire almost every Wednesday and Friday, which provide market participants a tool to hedge special events and to reduce the premium cost of buying protection. Moreover, the Exchange has been listing Wednesday expirations pursuant to Rule 903 and Rule 900.2NY(50) since 2016.[9] With the exception of Monday expiration series that are scheduled to expire on a holiday, the Exchange does not believe that there are any material differences between Monday expirations and Wednesday or Friday expirations for STOS.

The Exchange seeks to introduce Monday expirations to, among other things, expand hedging tools available to market participants and to continue the reduction of the premium cost of buying protection. The Exchange believes that Monday expirations, similar to Wednesday and Friday expirations, would allow market participants to purchase an option based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

As noted above, Phlx recently received approval to list Monday expirations for SPY options pursuant to its Short Term Options Series program. In addition, other exchanges currently permit Monday expirations for other options. For example, Cboe lists options on the SPX with a Monday expiration as part of its Nonstandard Expirations Pilot Program.[10]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[13]

In particular, the Exchange believes the STOS Program has been successful to date and that Monday expirations, including Monday SPY Expirations, would expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the STOS Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday expirations, including Monday SPY Expirations, should create greater trading and hedging opportunities and flexibility, and would provide customers with the ability to tailor their investment objectives more effectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, the Exchange does not believe there are any material differences between Monday SPY Expirations and Wednesday or Friday SPY Expirations. The Exchange notes that it has been listing Wednesday expiration pursuant to Rule 903 and Rule 900.2NY(50) since 2016.[14] The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. The Exchange also notes that Cboe uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[15] Additionally, the proposed rule change is consistent with rules of another options exchange, as Phlx recently received Commission approval to list Monday SPY Expirations.[16]

Given the similarities between Monday SPY Expiration series and Wednesday and Friday SPY Expiration series, the Exchange believes that applying the provisions in Rule 903 Commentary .10 that currently apply to Wednesday SPY Expirations, to Monday SPY Expirations, is justified. For example, the Exchange believes that allowing Monday SPY Expirations and monthly SPY expirations in the same week would benefit investors and minimize investor confusion by providing Monday SPY Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend Rule 903 Commentary .10 to clarify that no STOS may expire on the same day as an expiration of Quarterly Option Series on the same class. This change would make that provision more consistent with the existing language in Rule 903 Commentary .10 that prohibits Wednesday SPY Expirations from expiring on a Wednesday in which Quarterly Options Series expire.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday expirations, including Monday SPY Expirations, in the same way that it monitors trading in the current STOS Program.

With regard to the impact of this proposal on system capacity, the Exchange believes it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that having Monday expirations is not a novel proposal, as Cboe currently lists and trades short-term SPX options with a Monday expiration, and Phlx has recently received approval from the Commission to list Monday SPY expirations.[17] Therefore, the proposal would not impose any undue burden on inter-market competition. Additionally, other options exchanges are free to propose similar rules to list and trade STOS with

[9] *See* Securities Exchange Act Release No. 78780 (September 7, 2016), 81 FR 62939 (September 13, 2016) (SR–NYSEMKT–2016–87).

[10] *See* CBOE Rule 24.9(e)(1) (''The Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration'').

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

[14] *See supra* note 9.

[15] *See supra* note 6.

[16] *See supra* note 4.

[17] *See supra* notes 4, 6.

Monday expirations. Finally, the Exchange does not believe the proposal would impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii) [20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday SPY Expirations.[21] The Exchange has stated that waiver of the operative delay will allow the Exchange to list and trade Monday SPY Expirations as soon as possible, and therefore, promote competition among the option exchanges. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges.

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See supra* note 4.

Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2018–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–08. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2018–08 and should be submitted on or before April 6, 2018.

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05333 Filed 3–15–18; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82854; File No. SR–CBOE–2018–012]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees for Options That Overlie the S&P Select Sector Index Options

March 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2018, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish fees for options that overlie the S&P Select Sector Index options (''Sector Index options''). The text of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 4, 2017, the Exchange submitted a proposed rule change to amend certain rules in connection with listing S&P Select Sector Index [3] options under generic narrow-based listing standards, which became effective on November 3, 2017.[4] The Exchange rules currently permit the Exchange to list and trade options overlying each S&P Select Sector Index (''Sector Index options''). The Exchange proposes to establish fees for Sector Index options.

By way of background, a specific set of proprietary products are commonly included or excluded from a variety of programs, qualification calculations and transaction fees. In lieu of listing out these products in various sections of the Fees Schedule, the Exchange uses the term ''Underlying Symbol List A'' to represent these products.[5] The Exchange notes the reason the products in Underlying Symbol List A are often collectively included or excluded from certain programs, qualification calculations and transactions fees is because the Exchange has expended considerable resources developing and maintaining its proprietary, exclusively listed products. Similar to the products currently represented by ''Underlying Symbol List A,'' Sector Index options are not listed on any other exchange. As such, the Exchange proposes to establish fees for Sector Index options similar to those applicable to options overlying the indexes in Underlying Symbol List A, as well as similarly exclude those options from several programs from products [sic] in Underlying Symbol List A are excluded. The Exchange does not propose to add Sector Index options to Underlying Symbol List A. In lieu of listing out these products in various sections of the Fees Schedule, the Exchange proposes to refer to Sector Indexes in the Fees Schedule (which is defined in proposed footnote 47).

Specifically, like products in Underlying Symbol List A, the Exchange proposes to except Sector Index options from the Volume Incentive Program (''VIP''),[6] the Marketing Fee,[7] the Clearing Trading Permit Holder Fee Cap (''Fee Cap''),[8] exemption from fees for facilitation orders,[9] the AIM Contra Execution Fee,[10] the CFLEX AIM Response Fee,[11] the Clearing Trading Permit Holder Proprietary and/or their Non-Trading Permit Holder Affiliates transaction fee cap for all non-facilitation business executed in AIM or open outcry, or as a QCC or FLEX transaction,[12] the Order Router Subsidy (''ORS'') and Complex Order Router Subsidy (''CORS'') Programs,[13] the per contract per side surcharge for noncustomer complex order executions that remove liquidity from the COB and auction response in the complex order auction and AIM,[14] and the calculation of qualifying volume for rebates for Floor Broker Trading Permit Holder Trading Permit Fees.[15]

The Exchange does intend to apply to Sector Index options the Liquidity Provider Sliding Scale.[16] Although the Exchange proposes fees for Sector Index options similar to those established for products in ''Underlying Symbol List A,'' the Exchange proposes to apply to Sector Index options the Liquidity Provider Sliding Scale to encourage Market-Makers to provide liquidity in these classes and believes that including them in this sliding scale will provide such incentive.

The Exchange next proposes to establish transaction fees for Sector Index options. Particularly, the Exchange proposes to assess the same fees for Sector Index options as apply to OEX Weekly and XEO Weekly options, except for Market-Maker transaction fees, which will be subject to the Liquidity Provider Sliding Scale as described above, and except for Clearing Trading Permit Holder Proprietary transactions, which will be $0.25 rather than subject to the Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders. Transaction fees for Sector Index options will be as follows (all listed rates are per contract): [17]

Customer (origin code C)	$0.30.
Clearing Trading Permit Holder Proprietary (origin codes F and L)	$0.25.[18]
Market-Maker (origin code M)	Liquidity Provider Sliding Scale.
Joint Back-Office, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional (origin codes BNWJ).	$0.40.

[3] There are ten S&P Select Sector Indexes: S&P Financial Select Sector Index (IXM), S&P Energy Select Sector Index (IXE), S&P Technology Select Sector Index (IXT), S&P Health Care Select Sector Index (IXV), S&P Utilities Select Sector Index (IXU), S&P Consumer Staples Select Sector Index (IXR), S&P Industrials Select Sector Index (IXI), S&P Consumer Discretionary Select Sector Index (IXY), S&P Materials Select Sector Index (IXB), and S&P Real Estate Select Sector Index (IXRE). The options listing symbols for options overlying these indexes will be: SIXM, SIXE, SIXT, SIXV, SIXU, SIXR, SIXI, SIXY, SIXB, and SIXRE, respectively.

[4] Securities Exchange Act Release No. 81879 (October 16, 2017), 82 FR 48858 (October 20, 2017) (SR–CBOE–2017–065).

[5] Currently, Underlying Symbol List A is defined in Footnote 34 and represents the following proprietary products: OEX, XEO, RUT, RLG, RLV, RUI, AWDE, FTEM, FXTM, UKXM, SPX (including SPXW), VIX, VOLATILITY INDEXES and binary options.

[6] *See* Cboe Options Fees Schedule, Volume Incentive Program (VIP) table and Footnote 36.

[7] *See* Cboe Options Fees Schedule, Footnote 6.

[8] *See* Cboe Options Fees Schedule, Footnote 11.

[9] *See* Cboe Options Fees Schedule, Footnotes 11 and 12.

[10] *See* Cboe Options Fees Schedule, Footnote 18.

[11] *See* Cboe Options Fees Schedule, Footnote 20.

[12] *See* Cboe Options Fees Schedule, Footnote 22.

[13] *See* Cboe Options Fees Schedule, Order Router Subsidy Program and Complex Order Router Subsidy Program table and Footnotes 29 and 30.

[14] *See* Cboe Options Fees Schedule, Footnote 35.

[15] *See* Cboe Options Fees Schedule, Footnote 25.

[16] *See* Cboe Options Fees Schedule, Specified Proprietary Index Options Rate Table—Underlying Symbol List A and Sector Indexes.

[17] *See id.*

The Exchange also proposes to apply to Sector Index options the CFLEX Surcharge Fee of $0.10 per contract for all Sector Index option orders executed electronically on CFLEX, capped at $250 per trade (*i.e.,* first 2,500 contracts per trade).[19] The CFLEX Surcharge Fee assists the Exchange in recouping the cost of developing and maintaining the CFLEX system. The Exchange notes that the CFLEX Surcharge Fee (and $250 cap) also applies to other proprietary index options, including products in Underlying Symbol List A.

The Exchange currently assesses an Index License Surcharge of $0.10 per contract for all non-customer orders for products in Underlying Symbol A except RUT and SPX. The Exchange proposes to assess a Surcharge of $0.10 per contract in order to recoup the costs associated with the Sector Index license. In order to promote and encourage trading of Sector Index options, the Exchange proposes to waive the Index License Surcharge for Sector Index option transactions through June 30, 2018.[20]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[21] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[22] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[23] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[24] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

Particularly, the Exchange believes it is reasonable to charge different fee amounts to different user types in the manner proposed because the proposed fees are consistent with the price differentiation that exists today for other index products, including those in Underlying Symbol A. The Exchange also believes that the proposed fee amounts for Sector Index option orders are reasonable because the proposed fee amounts are the same already assessed for other proprietary products (*i.e.* OEX Weeklys and XEO Weeklys), as well as are within the range of amounts assessed for the Exchange's other proprietary products.[25]

The Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Customers as compared to certain other market participants except Market-Makers and Clearing Trading Permit Holders because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The fees offered to customers are intended to attract more customer trading volume to the Exchange. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges. Finally, all fee amounts listed as applying to Customers will be applied equally to all Customers (meaning that all Customers will be assessed the same amount).

The Exchange believes that it is equitable and not unfairly discriminatory to, [sic] assess lower fees to Market-Makers pursuant to the Liquidity Provider Sliding Scale as compared to other market participants because Market-Makers, unlike other market participants, take on a number of obligations, including quoting obligations, that other market participants do not have. Further, these lower fees offered to Market-Makers are intended to incent Market-Makers to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants. Additionally, the proposed fee for Market-Makers will be applied equally to all Market-Makers (meaning that all Market-Makers will be subject to the Liquidity Provider Sliding Scale). This concept also applies to orders from all other origins. It should also be noted that all fee amounts described herein are intended to attract greater order flow to the Exchange in Sector Index options, which should therefore serve to benefit all Exchange market participants.

Similarly, it is equitable and not unfairly discriminatory to assess lower fees to Clearing Trading Permit Holder Proprietary orders than those of other market participants (except Market-Makers) because Clearing Trading Permit Holders also have a number of obligations (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations, that other market participants do not need to take on. The Exchange also notes that the Sector Index option fee amounts for each separate type of market participant will be assessed equally to all such market participants (*i.e.* all Broker-Dealer orders will be assessed the same amount, all Joint Back-Office orders will be assessed the same amount, etc.). The Exchange believes the proposed transaction fee of $0.25 per contract for Clearing Trading Permit Holders is reasonable, equitable, and not unfairly discriminatory because is comparable to the amount of transaction fees for Clearing Trading Permit Holders in other proprietary products.[26]

The Exchange believes the proposed transaction fees for Brokers Dealers, Non-Trading Permit Holder Market-Makers, Professionals/Voluntary Professionals, JBOs and Customers are reasonable because they are the same as those assessed for transactions in certain other proprietary products.[27] The

[18] Currently, there is one line in the Specified Proprietary Index Options Rate Table for Clearing Trading Permit Holder Proprietary, pursuant to which all products subject to that table (Underlying Symbol List A) were [sic] subject to the Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders. The proposed rule change divides Clearing Trading Permit Holder Proprietary line in the transaction rate table into two, indicating that Underlying Symbol List A will continue to be subject to the sliding scale, and Sector Indexes will be $0.25.

[19] *See id.* [sic].

[20] *See id.* [sic].

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

[23] *Id.*

[24] 15 U.S.C. 78f(b)(4).

[25] *See* Cboe Options Fees Schedule, Specified Proprietary Index Options Rate Table—Underlying Symbol A and Sector Indexes.

[26] *See* Cboe Options Fee Schedule, Cboe Options Clearing Trading Permit Holder Proprietary Products Sliding Scales Table. The maximum transaction fee per contract in the Table B (related to the VIX Sliding Scale) part of that table is $0.25.

[27] *Id.*

Exchange also notes that the Sector Index option fee amounts for each separate type of market participant will be assessed equally to all such market participants (*i.e.* all Broker-Dealer orders will be assessed the same amount, all Joint Back-Office orders will be assessed the same amount, etc.).

The Exchange believes that assessing an Index License Surcharge Fee of $0.10 per contract to Sector Index option transactions is reasonable because the Surcharge helps recoup some of the costs associated with the license for Sector Index options. Additionally, the Exchange notes that the Surcharge amount is the same as, and in some cases lower than, the amount assessed as an Index License Surcharge to other index products. The proposed Surcharge is also equitable and not unfairly discriminatory because the amount will be assessed to all market participants to whom the Surcharge applies. Not applying the Sector Index License Surcharge Fee to Customer orders is equitable and not unfairly discriminatory because this is designed to attract Customer Sector Index option orders, which increases liquidity and provides greater trading opportunities to all market participants. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to waive the Index License Surcharge because it promotes and encourages trading of these new products and applies to all Trading Permit Holders.

Similarly, the Exchange believes assessing a CFLEX Surcharge Fee of $0.10 per contract for all Sector Index option orders executed electronically on CFLEX and capping it at $250 (*i.e.,* first 2,500 contracts per trade) is reasonable because it is the same amount currently charged to other proprietary index products for the same transactions.[28] The proposed Surcharge is also equitable and not unfairly discriminatory because the amount will be assessed to all market participants to whom the CFLEX Surcharge applies.

Excepting VIP, the Marketing Fee, the Fee Cap, exemption from fees for facilitation orders, the AIM Contra Execution Fee, the CFLEX AIM Response Fee, the Clearing Trading Permit Holder Proprietary and/or their Non-Trading Permit Holder Affiliates transaction fee cap for all non-facilitation business executed in AIM or open outcry, or as a QCC or FLEX transaction, the ORS and CORS Programs,[29] the per contract per side surcharge for noncustomer complex order executions that remove liquidity from the COB and auction response in the complex order auction and AIM,[30] and the calculation of qualifying volume for rebates for Floor Broker Trading Permit Holder Trading Permit Fees is reasonable because other proprietary products are excepted from those same items. This is equitable and not unfairly discriminatory for the same reason; it seems equitable to except Sector Index options from items on the Fees Schedule from which other proprietary products are also excepted.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, Market-Makers have quoting obligations that other market participants do not have. The Exchange does not believe the proposed rule change to waive the Index License Surcharge through June 30, 2018 will impose any burden on intramarket competition because it applies to all Trading Permit Holders and encourages trading in these new products.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because Sector Index options will be exclusively listed on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[31] and paragraph (f) of Rule 19b–4[32] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2018–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2018–012. 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 website (*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

[28] *See* Cboe Options Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A and Sector Indexes, CFLEX Surcharge Fee and Specified Proprietary Index Options Rate Table—Underlying Symbol List A and Sector Indexes, CFLEX Surcharge Fee.

[29] *See* Cboe Options Fees Schedule, Order Router Subsidy Program and Complex Order Router Subsidy Program table and Footnotes 29 and 30.

[30] *See* Cboe Options Fees Schedule, Footnote 22.

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f).

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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2018–012, and should be submitted on or beforeApril 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05329 Filed 3–15–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82856; File No. SR–OCC–2018–001]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Related to The Options Clearing Corporation's Fee Policy

March 12, 2018.

On January 18, 2018, The Options Clearing Corporation (''OCC'') 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] proposed rule change SR–OCC–2018–001. The proposed rule change was published for comment in the **Federal Register** on January 30, 2018,[3] and the Commission did not receive any comments. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

A. Background

As stated in the Notice, OCC filed the proposed Fee Policy to reduce the permitted implementation time for proposed changes to its Schedule of Fees.[4] Under the current Fee Policy, any change to the Schedule of Fees resulting from a review by OCC's Board of Directors (''Board'')[5] will be implemented no sooner than 60 days after filing the revised Schedule of Fees with the Commission as a proposed rule change.

B. The Proposed Rule Change to OCC's Fee Policy

OCC's By-Laws require OCC to set its fee structure so that it is sufficient to: (1) Cover OCC's operating expenses plus a Business Risk Buffer (''Buffer'');[6] (2) maintain reserves deemed reasonably necessary by OCC's Board; and (3) accumulate an additional surplus deemed advisable by the Board to permit OCC to meet its obligations to its Clearing Members and the public.[7] As part of the Fee Policy, OCC sets fees at a level that will cover its estimated operating expenses plus the additional 25% Buffer, with OCC conducting quarterly reviews to manage revenues as close to the Buffer as possible. OCC stated that the Board may rely on recommendations of OCC staff based on analyses of year-to-date revenue and operating expenses, as well as projected clearing volume and operating expenses to determine the proper level of fees to achieve the Buffer.[8]

As stated in the Notice, OCC believes that the current 60-day implementation period under the Fee Policy: (i) Increases the difficulty of projecting appropriate fee levels needed to cover its operating expenses and the Buffer because of the amount of time that passes between OCC's analysis of the data supporting the fee change and the subsequent implementation of the fee change; (ii) increases the risk that by the time the fee change is implemented, the extended delay in implementation may result in revenues that diverge (either higher or lower) further from the target Buffer; and (iii) increases the impact of fee changes on participants due to the delayed implementation timing.[9] OCC states that the effects of delayed implementation described above may result in OCC needing to make more frequent and/or more dramatic changes to its Schedule of Fees in order to maintain its target Buffer, resulting in less stability in fees for OCC's participants.[10] OCC states that reducing the 60-day implementation period to thirty days would allow for fee adjustments that are based on revenue and expense data that is more current, and therefore projections that are more accurate.[11] OCC further states that it believes the proposed Fee Policy would improve its ability to set fees at the level required by the Fee Policy while still providing adequate notice to its participants of any proposed fee changes.[12]

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[13] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. The Commission finds that the proposed Fee Policy is consistent with Section 17A(b)(3)(F) of the Act[14] and Rule 17Ad–22(e)(21)[15] thereunder, as described in detail below.

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and the protection of investors and the public interest.[16] As described above,

[33] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 82576 (January 24, 2018), 83 FR 4324 (January 30, 2018) (SR–OOC–2018–001) (''Notice'').

[4] *See* Notice at 4324.

[5] *See* Notice at 4325 (stating that the authority to review and approve changes to OCC's fees pursuant to the Capital Plan has been delegated to the Compensation and Performance Committee of the Board). *See also* OCC Compensation and Performance Committee Charter, *available at: http://www.optionsclearing.com/components/docs/about/corporate-information/performance_committee_charter.pdf.*

[6] The Buffer is an amount of fee revenue that OCC targets above its anticipated operating expenses to allow for unexpected fluctuations in operating expenses, business capital needs, and regulatory capital requirements.

[7] *See* OCC's By-Laws, Art. IX, Sec. 9. In the Notice at 4325, OCC noted that clauses two and three above would be invoked only at the discretion of OCC's Board and in extraordinary circumstances.

[8] *See* Notice at 4325.

[9] *See id.* OCC further stated that, because it generally implements fee changes on the first of the month, the actual delay in implementing a proposed fee change may be significantly longer than 60 days depending on the timing of Board approval of any fee change and subsequent filing of the associated proposed rule change.

[10] *See id.*

[11] *See id.*

[12] *See id.*

[13] 15 U.S.C. 78s(b)(2)(C).

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] 17 CFR 240.17Ad–22(e)(21).

[16] 15 U.S.C. 78q–1(b)(3)(F).

the Fee Policy requires OCC to set fees at a level sufficient to cover its operating expenses plus a Buffer. Conducting quarterly reviews allows OCC to monitor the fees collected and make any necessary adjustments to maintain the Buffer. However, delayed implementation of fee changes due to the 60-day waiting period and OCC's preference to introduce such changes at the beginning of the month increase the risk of an inaccurate fee calculation, which could in turn result in OCC collecting inadequate resources to cover its operating expenses and maintain the Buffer.

The Commission believes that setting clearing fees based on more current information would allow OCC to more accurately set and collect fees necessary to support its operations, and promote the prompt and accurate clearance and settlement of securities transactions. The Commission further believes that accurate fee calculations supports the protection of investors and the public by protecting participants from large and unexpected swings in fee levels resulting from fee schedules based upon stale and outdated information. While the proposed Fee Policy would shorten the notice period for implementation, the Commission believes that thirty days still provides sufficient notice for Clearing Members to make adjustments to their activity as a result of any impending fee change. Accordingly, the Commission finds that the proposed Fee Policy promotes the prompt and accurate settlement of securities transactions and protection of investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act.[17]

B. Consistency With Rule 17Ad–22(e)(21)

Rule 17Ad–22(e)(21) requires, in part, that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves.[18]

The Fee Policy requires OCC to set fees at levels designed to cover its operating expenses and to maintain the Buffer. As discussed above, the proposed Fee Policy would reduce the implementation period for fee changes from sixty to thirty days. The Commission believes the proposed change would enhance the efficiency and effectiveness of OCC's fee calculations by using more current expense and revenue information, thereby leading to more accurate fee projections. Improving the efficiency and effectiveness of OCC's fee calculation process ensures that OCC is able to cover its operating expenses and maintain the Buffer, while also reducing the possibility of large and unexpected swings in fees that could result from using stale and outdated information. Accordingly, the Commission finds that the proposed Fee Policy would enhance OCC's efficiency and effectiveness in setting accurate fees necessary to cover its operating expenses and the Buffer, thereby enhancing its efficiency and effectiveness to meet the requirements of its participants and the markets it serves, consistent with Rule 17Ad–22(e)(21).[19]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed Fee Policy is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A of the Act[20] and Rule 17Ad–22(e)(21)[21] thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–OCC–2018–001) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated Authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05331 Filed 3–15–18; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78q–1(b)(3)(F).

[18] 17 CFR 240.17Ad–22(e)(21).

[19] *Id.*

[20] 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).

[21] 17 CFR 240.17Ad–22(e)(21).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10353]

30-Day Notice of Proposed Information Collection: Foreign Diplomatic Services Applications (FDSA)

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to April 16, 2018.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Patrice Johnson at 3507 International Place NW, Washington DC 20008, who may be reached on 202–895–3504 or at *johnsonpd@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Foreign Diplomatic Services Applications (FDSA).
- *OMB Control Number:* 1405–0105.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* M/OFM.
- *Form Number:* DS–98, DS–99, DS–100, DS–101, DS–102, DS–104, DS–1504, DS–1972D, DS–1972T, DS–2003, DS–2004, DS–2005, DS–2006, DS–2008, DS–4138, DS- 4139, DS–4140, DS–4155, DS–4284, DS–4285, DS–4298, DS–4299, DS–7675.
- *Respondents:* Foreign Mission Community.
- *Estimated Number of Respondents:* 98,770.
- *Estimated Number of Responses:* 98,770.
- *Average Time per Response:* 12 minutes.
- *Total Estimated Burden Time:* 20,726 hours annually.
- *Frequency:* For each specific event; annually.
- *Obligation to Respond:* Mandatory and/or Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Information collection instruments from the foreign mission community, to include the electronic data compilation (e-Gov), have been combined under one information collection request, collectively referred to as the ''Foreign Diplomatic Services Applications.'' These information collection instruments provide the Office of Foreign Missions and the Office of the Chief of Protocol with the information necessary to provide and administer an effective and efficient benefits, privileges, and immunities program by which foreign missions and eligible applicants may apply for benefits from the U.S. Department of State, to which they are entitled pursuant to the Foreign Missions Act or international agreement.

Methodology

Information may be received via Email, fax, or electronic submission through eGov at *https://egov.ofm.state.gov/.*

Cliff Seagroves,

Senior Bureau Official, Office of Foreign Missions, Department of State.

[FR Doc. 2018–05357 Filed 3–15–18; 8:45 am]

BILLING CODE 4710–43–P

DEPARTMENT OF STATE

[Public Notice: 10357]

Notice of Determinations; Culturally Significant Object Imported for Exhibition Determinations: Exhibition of ''Snow-Covered Field With a Harrow (after Millet)'' Painting

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object, entitled ''Snow-Covered Field with a Harrow (after Millet),'' to be exhibited in the Impressionism and the Late Nineteenth Century Gallery of the Harvard Art Museums, imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Harvard Art Museums, Cambridge, Massachusetts, from on or about March 23, 2018, until on or about July 10, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–05362 Filed 3–15–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10358]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Otobong Nkanga: To Dig a Hole that Collapses Again'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain component objects of a certain work of art entitled ''In Pursuit of Bling,'' to be included in the exhibition ''Otobong Nkanga: To Dig a Hole that Collapses Again,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The component objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit component objects as configured in the aforesaid work of art, at the Museum of Contemporary Art Chicago, in Chicago, Illinois, from on or about March 31, 2018, until on or about September 2, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–05363 Filed 3–15–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10360]

Determination and Certification Under Section 490(b)(1)(A) of the Foreign Assistance Act Relating to the Largest Exporting and Importing Countries of Certain Precursor Chemicals

Pursuant to Section 490(b)(1)(A) of the Foreign Assistance Act of 1961, as amended, I hereby determine and certify that the top five exporting and importing countries and economies of pseudoephedrine and ephedrine (Egypt, Germany, Greece, India, Indonesia, Republic of Korea, Singapore, Spain, Switzerland, Turkey, and the United Kingdom) have cooperated fully with the United States, or have taken adequate steps on their own, to achieve full compliance with the goals and objectives established by the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

This determination and certification shall be published in the **Federal Register**, and copies shall be provided to the Congress together with the

accompanying Memorandum of Justification.

Dated: February 28, 2018.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2018–05473 Filed 3–15–18; 8:45 am]

BILLING CODE 4710–17–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty Seventh RTCA SC–214 Standards for Air Traffic Data Communications Services Plenary

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

ACTION: Twenty Seventh RTCA SC–214 Standards for Air Traffic Data Communications Services Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Twenty Seventh RTCA SC–214 Standards for Air Traffic Data Communications Services Plenary.

DATES: The meeting will be held April 17, 2018 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held Virtually: *https://rtca.webex.com/rtca/j.php?MTID=m93f0cde80b9c1d96d2df6bdfb9aee7c9*, Meeting number (access code): 630 124 113, Meeting password: vJyisXs8.

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 website at *http://www.rtca.org*.

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 Twenty Seventh RTCA SC–214 Standards for Air Traffic Data Communications Services Plenary. The agenda will include the following:

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Review
4. Previous Meeting Minutes Review
5. Review DO–281C/ED–92C for Final Review and Comment (FRAC)/Open Consultation Comments (OC) Release
6. Review DO–224D for FRAC Release
7. Decision to Approve Release of DO–281C/ED–92C for FRAC/OC
8. Decision to Approve Release of DO–224D for FRAC
9. Schedule Update
10. Date, Place and Time of Next Meeting
11. Other Topics
12. 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 March 13, 2018.

Michelle Swearingen,

Systems and Equipment Standards Branch, AIR–6B0, Policy and Innovation Division, AIR–600, Federal Aviation Administration.

[FR Doc. 2018–05343 Filed 3–15–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation: Notice of Availability and Request for Comment on the Spaceport Camden Draft Environmental Impact Statement (EIS), Camden County, GA

AGENCY: The Federal Aviation Administration (FAA), Department of Transportation (DOT) is the lead agency. The National Aeronautics and Space Administration and National Park Service are cooperating agencies.

ACTION: Notice of availability and request for comment; Notice of public hearings.

SUMMARY: The FAA is announcing the availability of and requesting comments on the Spaceport Camden Draft EIS, which is available for public review. The Draft EIS evaluates the potential environmental impacts that may result from the FAA's Proposed Action of issuing a Launch Site Operator License to the Camden County Board of Commissioners (County) to operate a proposed commercial space launch site, called Spaceport Camden. The license would allow the County to offer Spaceport Camden to commercial launch operators to conduct vertical launches.

DATES: Comments must be received on or before May 16, 2018.

The FAA will hold two public hearings to solicit comments from the public concerning the content of the Draft EIS. The dates of the hearings are Wednesday, April 11, and Thursday, April 12, 2018, from 5:30 p.m. to 8:30 p.m.

ADDRESSES: The FAA will hold the two public hearings at the following location: Camden County Public Service Authority Recreation Center Community Room, 1050 Wildcat Drive, Kingsland, GA 31548 (912–729–5600).

A paper copy of the Draft EIS is available for review during regular business hours at the following libraries:

- Camden County Public Library, 1410 Georgia Highway 40, Kingsland, GA 31548
- St. Marys Public Library, 100 Herb Bauer Drive, St. Marys, GA 31558
- Brunswick-Glynn County Library, 208 Gloucester Street, Brunswick, GA 31520
- St. Simons Island Public Library, 530A Beachview Drive, St. Simons Island, GA, 31522

Comments regarding the Draft EIS should be mailed to Ms. Stacey M. Zee, Environmental Specialist, Federal Aviation Administration, c/o Leidos, 2109 Air Park Road SE, Suite 200, Albuquerque, NM 87106. Comments may also be submitted by email to *FAACamdenSpaceportEIS@Leidos.com.*

FOR FURTHER INFORMATION CONTACT: Ms. Stacey M. Zee, Environmental Specialist, Federal Aviation Administration, 800 Independence Ave. SW, Suite 325, Washington, DC 20591; telephone (202) 267–9305; email *FAACamdenSpaceportEIS@Leidos.com.*

SUPPLEMENTARY INFORMATION: The FAA is announcing the availability of and requesting comments on the Spaceport Camden Draft EIS, in accordance with the National Environmental Policy Act of 1969 as amended (42 United States Code [U.S.C.] §§ 4321 *et seq.*), Council on Environmental Quality Regulations (40 Code of Federal Regulations Parts 1500–1508), and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures.* This Draft EIS is also submitted for review pursuant to the following public law requirements: Section 4(f) of the DOT Act (49 U.S.C. 303); Section 106 of the National Historic Preservation Act (54 U.S.C. 300101 *et seq.*); Executive Order (E.O.) 11988, *Floodplain Management;* DOT Order 5650.2, *Floodplain Management and Protection;* E.O. 11990, *Protection of Wetlands;* and DOT Order 5660.1A, *Preservation of the Nation's Wetlands.* Pursuant to the Coastal Zone Management Act of 1972, as amended, this project is being evaluated for consistency with the Georgia Coastal Management Program. Section 306(d)(14) of the Act requires public participation in the Federal consistency

review process. The FAA encourages the public to submit comments on the compatibility of the Proposed Action and alternatives with these special purpose laws.

An electronic version of the Draft EIS is available on the FAA Office of Commercial Space Transportation website at: *https://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/documents_progress/camden_spaceport/*.

The FAA encourages all interested agencies, organizations, Native American tribes, and members of the public to submit comments concerning the analysis presented in the Draft EIS by May 16, 2018. Comments should be as specific as possible and address the analysis of potential environmental impacts and the adequacy of the proposed action or merits of alternatives and any mitigations being considered. Reviewers should organize their participation so that it is meaningful and makes the agency aware of the viewer's interests and concerns using quotations and other specific references to the text of the Draft EIS and related documents. Matters that could have been raised with specificity during the comment period on the Draft EIS may not be considered if they are raised for the first time later in the decision process. This commenting procedure is intended to ensure that substantive comments and concerns are made available to the FAA in a timely manner so that the FAA has an opportunity to address them.

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Due to the large turnout during the public scoping meetings, the FAA will hold two public hearings to solicit comments from the public concerning the content of the Draft EIS on Wednesday, April 11 and Thursday, April 12, 2018, from 5:30 p.m. to 8:30 p.m. at the following location: Camden County Public Service Authority Recreation Center Community Room, 1050 Wildcat Drive, Kingsland, GA 31548 (912–729–5600).

At the public hearings, the FAA will present information about the Draft EIS and the environmental review process. Please note the FAA will present identical information at each public hearing. If you are planning to provide oral comments during the hearing, we ask that you speak at only one of the hearings, so that everyone wanting to present comments has the opportunity to do so, as time is limited. The purpose of the public hearings is to afford the public and other interested parties the opportunity to comment on the analysis of the Proposed Action and alternatives presented in the Draft EIS. Members of the public and other interested parties will be provided the opportunity to submit both written and oral comments. The hearings will include a poster information session and an FAA presentation, followed by a public statement period in which members of the public can present up to a three-minute statement. The FAA will transcribe oral comments. All comments received during the comment period will be given equal weight and taken into consideration during preparation of the Final EIS.

Under the Proposed Action, the FAA would issue a Launch Site Operator License to the County. The license would allow the County to offer Spaceport Camden to commercial launch operators to conduct launches of liquid-fueled, small to medium-large lift-class, orbital and suborbital vertical launch vehicles. The license would allow up to 12 vertical launches and up to 12 associated launch vehicle first-stage landings per year. In support of the launches, there would be up to 12 wet dress rehearsals and up to 12 static fire engine tests per year. All vehicles would launch to the east, from between 83 degrees (slightly north of due east) and 115 degrees (approximately east southeast), over the Intracoastal Waterway, Cumberland Island National Seashore and/or Little Cumberland Island, and the Atlantic Ocean. The Proposed Action includes possible recovery of the first stage by either landing the stage at Spaceport Camden or landing the stage on a barge approximately 200 to 300 miles off shore in the Atlantic Ocean and returning it to Spaceport Camden.

Alternatives under consideration in the Draft EIS include the Proposed Action, an Ocean-Landing Only Alternative (similar to the Proposed Action except first-stage landings would only occur on a barge approximately 200 to 300 miles off shore in the Atlantic Ocean), and the No Action Alternative.

The Draft EIS evaluates the potential direct, indirect, and cumulative environmental impacts that may result from the Proposed Action, Ocean-Landing Only Alternative, and the No Action Alternative. The FAA assessed impact categories to provide a context for understanding and assessing the potential environmental impacts of the construction and operation, as well as secondary (induced) impacts associated with the Proposed Action and alternatives. The Draft EIS focuses on the following impact categories: Air quality; biological resources (including fish, wildlife, and plants); climate; coastal resources; Department of Transportation Act, Section 4(f) (including park and recreational lands, wildlife and waterfowl refuges, and historic sites in transportation project development); farmlands; hazardous materials, solid waste, and pollution prevention; historical, architectural, archeological, and cultural resources; land use; natural resources and energy supply; noise and compatible land use; socioeconomics, environmental justice, and children's environmental health and safety risks; visual effects (including light emissions), and water resources (including wetlands, floodplains, surface waters, groundwater, and wild and scenic rivers). The following topics were also analyzed and are appended to the Draft EIS: Health and safety, soils and geology, transportation, and airspace.

Issued in Washington, DC, on March 9, 2018.

Daniel Murray,

Manager, Space Transportation Development Division.

[FR Doc. 2018–05322 Filed 3–15–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirty Ninth RTCA SC–216 Aeronautical Systems Security Plenary

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

ACTION: Thirty Ninth RTCA SC–216 Aeronautical Systems Security Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Thirty Ninth RTCA SC–216 Aeronautical Systems Security Plenary.

DATES: The meeting will be held April 09–13, 2018 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW, Suite 910, Washington, DC 20036.

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 website at *http://www.rtca.org.*

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 Ninth RTCA SC–216 Aeronautical Systems Security Plenary.

The agenda will include the following:

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Review
4. Meeting-Minutes Review
5. Review Joint Action List
6. Review/Resolution of DO–356A/ED–203A Final Review and Comment(Frac)/Open Consultation Comments
7. Decision to Approve Release of DO–356A/Ed–203A for Presentation to Program Management Committee/Council for Publication
8. Schedule Update
9. Potential Future Joint Activities
10. Date, Place and Time of Next Meeting
11. New Business
12. 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 March 13, 2018.

Michelle Swearingen,

Systems and Equipment Standards Branch, AIR–6B0, Policy and Innovation Division, AIR–600, Federal Aviation Administration.

[FR Doc. 2018–05344 Filed 3–15–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Intent To Prepare Environmental Impact Statement, I–495 & I–270 Managed Lanes Study, Montgomery and Prince George's Counties, Maryland and Fairfax County, Virginia

AGENCY: Maryland Department of Transportation State Highway Administration (MDOT SHA), Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The FHWA, as the Lead Federal Agency, and MDOT SHA, as the Local Project Sponsor, are issuing this notice to advise the public of our intention to prepare an EIS for the I–495 & I–270 Managed Lanes Study (Study). The Study is the first element of a broader Traffic Relief Plan as announced by Governor Larry Hogan in September 2017, which considers improvements along the entire length of I–495 (Capital Beltway), as well as the entire length of I–270 (Dwight D. Eisenhower Memorial Highway) up to I–70 in Frederick County, Maryland. This EIS will evaluate the potential environmental impacts of alternatives that address congestion within the specific Study scope of I–495 from south of the American Legion Bridge in Fairfax County, Virginia to east of the Woodrow Wilson Bridge and on I–270 from I–495 to I–370, including the east and west I–270 spurs in Montgomery and Prince George's Counties, Maryland. The EIS will be prepared in accordance with regulations implementing the National Environmental Policy Act (NEPA) and provisions of the Fixing America's Surface Transportation (FAST) Act and will include a range of reasonable alternatives, including a ''No Build'' alternative.

FOR FURTHER INFORMATION CONTACT: Jeanette Mar, Environmental Program Manager, Federal Highway Administration, Maryland Division, George H. Fallon Federal Building 31 Hopkins Plaza, Suite 1520, Baltimore MD 21201, (410) 779–7152, or email at *jeanette.mar@dot.gov.* Lisa B. Choplin, Project Director, I–495 & I–270 P3 Project Office, Maryland Department of Transportation State Highway Administration, 707 North Calvert Street, Baltimore, MD 21202, (833) 858–5960, or email at *495-270-P3@sha.state.md.us.*

SUPPLEMENTARY INFORMATION: The purpose of this notice is to: (1) Alert interested parties to the FHWA and MDOT SHA plan to prepare the EIS; (2) provide information on the nature of the proposed action; (3) solicit public and agency input regarding the scope of the EIS, including the purpose and need, alternatives to be considered, and impacts to be evaluated; and (4) announce that public and agency scoping meetings will be conducted.

The Study limits extend to areas in Montgomery and Prince George's counties, Maryland along I–495 (Capital Beltway) from south of the American Legion Bridge in Fairfax County, Virginia, to east of the Woodrow Wilson Bridge and on I–270 (Dwight D. Eisenhower Memorial Highway) from I–495 to I–370 including the east and west I–270 spurs.

At the present time, high travel demand from commuter, business, and recreational trips results in severe congestion nearly 10 hours a day in the Study corridors. Travelers place a high value on reaching their destinations in a timely manner, and in recent years, the Study corridors have become so unreliable that uncertain travel times are experienced daily. Managed lanes are needed to provide more dependable travel times and congestion relief. Motorists on I–495 and I–270 do not have an option for efficient travel during extensive periods of congestion. Additional roadway management options are needed to improve travel choices.

Additional capacity and improvements to enhance reliability must be financially viable. MDOT's traditional funding sources would be unable to effectively finance, construct, operate, and maintain highway systems of this magnitude. A revenue source that provides necessary funding, such as tolling options, is needed to provide additional capacity and improvements addressing existing and anticipated high travel demand. A Public-Private Partnership (P3) with the state will be pursued to develop innovative approaches to design, build, finance, operate, and maintain the potential improvements developed through the NEPA Study.

The intent of the proposed action to be assessed in the Study is to accommodate existing traffic and long-term traffic growth, enhance trip reliability, and provide an additional roadway travel choice. Additional roadway options would also accommodate homeland security needs and improve the movement of goods and services throughout the Study corridor. The EIS will include a review of existing and future traffic, existing roadway infrastructure, and existing environmental conditions to establish context for the identification of alternatives and assessment of potential impacts. The analyses undertaken during the EIS will result in identification of the alternative that best meets the Study purpose and need while considering the environmental impacts of that alternative. The alternatives evaluated in the EIS will include build alternatives which provide additional capacity and offer travel choices for travelers on I–495 and I–270. The ''No Build'' alternative will

be carried forward for baseline comparison purposes throughout the EIS development process.

The EIS will be prepared by MDOT SHA for FHWA to fulfill the requirements established in NEPA pursuant to current FHWA regulations and guidance. MDOT SHA intends to recommend a preferred alternative in the Draft EIS. The FHWA may issue a single Final EIS and Record of Decision (Final EIS/ROD), unless FHWA determines statutory criteria or consideration precluding issuance of a combined decision document.

Previous analyses which evaluated managed lanes in the Study corridors will be considered and incorporated by reference, as appropriate. The Study will consider relevant resource identification and field investigations from previous studies. To the extent consistent with FHWA NEPA regulations, conclusions reached as part of previous planning studies could inform the initial range of alternatives and focus the alternatives evaluation. Since 1990, several studies have examined various sections of I–495 and I–270 within the current Study limits in an effort to evaluate potential congestion relief and operational improvements. Among other issues, these studies considered the potential to provide additional capacity along I–495 and I–270 that could connect with adjacent transportation facilities. Recommendations resulting from each of these studies included the implementation of managed lanes (including Express Toll Lanes [ETL], High-Occupancy vehicle [HOV] lanes, and High-Occupancy Toll [HOT] lanes) on I–495 and radial facilities, (*i.e.,* I–270 and I–95). Studies have included: the *Statewide Commuter Assistance Study Corridor Profile Reports* (MDOT, 1990); the *Capital Beltway HOV Feasibility Study* (MDOT, 1992); *The Potential for Circumferential Transit in the Washington Region* (MWCOG, August 1993); the *I–270/US 15 Multi-Modal Corridor Study* (MDOT, 2002); the *Capital Beltway Study EIS* (VDOT, 2006); *Maryland's Statewide Express Toll Lanes Network Initiative* (MDOT, 2007); the *West Side Mobility Study* (MDOT and VDOT, 2009); and the *Purple Line Study* and the *Capital Beltway Study* (MDOT *et al.*, 2013).

The *Maryland's Statewide Express Toll Lanes Network Initiative* (MDOT, 2007) built on the studies listed above and provided an overview of the state's vision for a Statewide Express Toll Lanes Network on the State's busiest highway segments in the Baltimore-Washington Region, including I–495 and I–270. The major benefit of the Express Toll Lanes cited in the study was the ability to provide needed highway lane capacity to ease the impact of congestion by providing transportation improvements sooner than traditional approaches could otherwise achieve. As a result, Metropolitan Washington Council of Governments (MWCOG) recognized this statewide approach to Express Toll Lanes as regionally significant and Express Toll Lanes on I–495 and I–270, as well as other corridors in the Baltimore Washington Region, became part of the Constrained Long-Range Plan.

In July 2017, the National Capital Region Transportation Planning Board at the MWCOG approved a set of ten regional initiatives for further study, which includes analyzing managed lanes on the portions of I–495 and I–270 that are included in the I–495 and I–270 Managed Lanes Study. In September 2017, Maryland Governor Hogan announced the intent to develop additional capacity along sections of I–270, I–495, and the Baltimore-Washington Parkway (MD 295). For I–495 and I–270, the Governor has proposed a P3 to design, build, finance, operate, and maintain this project to accelerate the delivery of improvements for congestion relief.

Scoping Process

FHWA and MDOT SHA will undertake a scoping process for the I–495 & I–270 Managed Lanes Study that will solicit input from the public and interested agencies on the issues that will be evaluated in EIS. This public outreach effort will educate and engage stakeholders regarding the nature and extent of the proposed action. FHWA and MDOT SHA will invite all interested individuals, organizations, and public agencies to comment on the scope of the EIS, including the purpose and need, potential alternatives to be studied, environmental impacts to be considered, evaluation methods to be used, and potential mitigation measures.

More information on public outreach activities, including future public workshops, will be available in a project coordination plan on the Study website. All public meetings related to the Study will be held in locations accessible to persons with disabilities. Any person who requires special assistance, such as a language interpreter, should contact the I–495 & I–270 P3 Office at (833) 858–5960 via email at *495-270-P3@sha.state.md.us* at least 48 hours before the workshop.

Letters inviting agencies to be cooperating or participating in the environmental review process are being sent to those agencies that have jurisdiction or may have an interest in the EIS. Additionally, FHWA and MDOT SHA will notify cooperating and participating agencies of a separate agency scoping meeting.

DATES: Four initial public workshop presentations will be held in April 2018 to solicit public input regarding the scope of issues that will be included in the EIS. Written comments on the scope of the EIS should be provided to MDOT SHA by May 1, 2018, using the email address or physical mailing address listed below. Comments may also be provided in writing at the public workshops.

ADDRESSES: The public and other interested parties are encouraged to comment on-line at the Study's website (*www.495-270-P3.com*), via email at *495-270-P3@sha.state.md.us,* or by hard copy during the public workshops. Hard copy comments can also be mailed to the I–495 & I–270 Project Office at 707 North Calvert Street, Baltimore MD 21202.

Authority: 23 U.S.C. 315; 49 CFR 1.48; 23 CFR 771.111 and 771.123.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 8, 2018.

Gregory Murrill,

Division Administrator, Federal Highway Administration, Baltimore, Maryland.

[FR Doc. 2018–05354 Filed 3–15–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2018–0015]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on June 19, 2017. We are required to publish this notice in the

Federal Register by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 16, 2018.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket No. FHWA–2018–0015.

FOR FURTHER INFORMATION CONTACT: Crystal Taylor, 202–366–2907, Office of Human Resources, Corporate Recruitment and Career Entry Division, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590. Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: DOT–FHWA Summer Transportation Internship Program for diverse Groups (STIPDG).

Background: 23 U.S.C. 140 (b) Section 5204—Training and Education/Surface Transportation Workforce Development, Training, and Education states that subject to project approval by the Secretary, a State may obligate funds apportioned to the State for five primary core programs (STP, NHS, Bridge, IM, CMAQ), workforce development, training, and education, including student internships; university or community college support; and outreach to develop interest and promote participation in surface transportation careers. The Summer Transportation Internship Program for Diverse Groups (STIPDG) is an important part of U.S. DOT's intermodal effort to promote the entry of women, persons with disabilities, and members of diverse groups into transportation careers where traditionally these groups have been under-represented. Accordingly, The Federal Highway Administrations' Office of Innovative Program Delivery will support the STIPDG by working closely with FHWA's Office of Human Resources, specifically the Corporate Recruitment and Career Entry Group, which has responsibility for administering the program, to include participation and placement of college students, DOT-wide, and for all occupational disciplines, to include summer intern placement DOT-wide and nationwide.

The STIPDG anticipates accepting approximately 500 applications each year and placing an estimated 60–120 undergraduate, graduate, and law students in transportation-related, non-administrative, technical, hands-on assignments with a Federal or State mentor providing on-the- job training. The STIPDG will provide college students with an opportunity to work on current transportation-related topics and issues identified in, or directly pertaining to, the current DOT Strategic Plan. The STIPDG is open to all qualified applicants regardless of race, color, religion, sex, national origin, political affiliation, sexual orientation, marital status, disability, age, membership in an employee organization, or other non-merit factor.

The STIPDG is open to all applicants based on the eligibility requirements that follow and based on the merit of the ''Required Documents'' listed in bulleted-format below:

1. Applicants must be currently enrolled in degree-granting programs of study at accredited U.S. institutions of higher education recognized by the U.S. Department of Education.

2. Undergraduate applicants must *be juniors or seniors for the fall following the summer internship.* Undergraduate applicants from Junior, Tribal, or Community Colleges *must have completed their first year.*

3. Law Applicants must be *entering their second or third year of law school in the fall following the summer internship.*

4. Applicants who are scheduled to graduate during the coming spring or summer semesters are not eligible for consideration for the STIPDG *unless:* (1) They have been accepted for graduate school enrollment; (2) they have been accepted for enrollment at an institution of higher education; or (3) their acceptance is pending. *In all instances, the applicant must submit with their completed application packages, documentation (with the school's logo) reflecting their status.* (There will be no exceptions.)

5. Former STIPDG interns may apply but will not receive preferential consideration.

6. Applicants will be evaluated based on the ''completeness of the application and the Required Documents'' listed below. Priority will be given to those with GPA's of 3.0 or better (for the Major and/or cumulatively).

7. Applicants must be available and able to participate in the entire 10-week program.

Respondents: Approximately 500 applicants consisting of undergraduate, graduate and law students. All applicants must be U.S. Citizens.

Frequency: Annually.

Estimated Average Burden per Response: Approximately two hours to complete and submit the application.

Estimated Total Annual Burden Hours: Approximately 1000 hours annually.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: March 9, 2018.

Michael Howell,

Information Collection Officer.

[FR Doc. 2018–05359 Filed 3–15–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0004]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that on November 11, 2017, Brightline (BLF) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 229, *Railroad Locomotive Safety Standards.* FRA assigned the petition docket number FRA–2018–0004.

BLF has purchased ten Siemens SCB–40 locomotives to power Brightline trains between Miami and Orlando, Florida. BLF requests relief from the requirements of 49 CFR 229.61, *Draft system,* with respect to the daily inspection procedure for the front coupler. The locomotives are equipped

with a streamlined front coupler cover for improved aerodynamic and esthetic purposes. BLF will use the front coupler for rescue purposes only, and proposes to remove the coupler cover at 184-day inspection intervals as required by 49 CFR 229.23 (b)(1). During the daily inspection the front coupler will be visually inspected as best as possible from the bottom. The nose cone will not be removed unless the bottom visual inspection warrants further investigation based on the requirements of 49 CFR 229.61. If the front coupler is used in operations prior to the next daily inspection, the coupler will be completely inspected before the coupler cover is replaced.

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:

- *Website: 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 April 30, 2018 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*.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2018–05309 Filed 3–15–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

2018 Report on the Effectiveness of the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Request for comment.

SUMMARY: The Terrorism Risk Insurance Program Reauthorization Act of 2015 (Reauthorization Act), which extended and amended certain provisions of the Terrorism Risk Insurance Program (TRIP or Program), requires the Secretary of the Treasury (Secretary) to submit a report to Congress by June 30, 2018 concerning, in general, the overall effectiveness of TRIP. To assist the Secretary in formulating the report, the Federal Insurance Office (FIO) within the Department of the Treasury (Treasury) is seeking comments from the industry and other stakeholders on the statutory factors that the report must analyze, as well as any other feedback about the effectiveness of TRIP.

DATES: Submit comments on or before April 30, 2018.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov,* in accordance with the instructions on that site, or by mail to the Federal Insurance Office, Attn: Richard Ifft, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments concerning the 2018 report on the effectiveness of the Terrorism Risk Insurance Program should be captioned with ''2018 TRIP Effectiveness Report.'' In general, Treasury will post all comments to *www.regulations.gov* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All comments, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly. Where appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

Additional Instructions. Responses should also include: (1) The data or rationale, including examples, supporting any opinions or conclusions; and (2) any specific legislative, administrative, or regulatory proposals for carrying out recommended approaches or options.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622–2922 (this is not a toll-free number) or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, (202) 622–3220 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Terrorism Risk Insurance Act of 2002, as amended (TRIA), requires participating insurers to make insurance available for losses resulting from acts of terrorism, and provides a federal government backstop for the insurers' resulting financial exposure. TRIA established TRIP within Treasury, and the Program is administered by the Secretary with the assistance of FIO. Section 111 of the Reauthorization Act (Pub. L. 114–1) requires the Secretary to prepare and submit reports to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on, among other things, the impact and effectiveness of TRIP. The report which is to be submitted by June 30, 2018 will also include an analysis of information that is being collected by Treasury through the 2018 TRIP Data Call,[1]

[1] The proposed data collection for Calendar Year 2018 that Treasury will use in analyzing the Program has been described by Treasury in a

Continued

which will gather certain data appropriate to analyze the effectiveness of TRIP.

II. Solicitation for Comments

The Section 111 factors that must be considered in the report and on which Treasury seeks comments include:

1. The overall effectiveness of TRIP;

2. Any changes or trends you have observed relating to the data Treasury is collecting under Section 111 of the Reauthorization Act;

3. Whether any aspects of TRIP have the effect of discouraging or impeding insurers from providing commercial property casualty insurance coverage or coverage for acts of terrorism; and

4. Any impact of TRIP on workers' compensation insurers in particular. Collecting information and views via this request for comments on the matters that must be addressed in the report will enhance the accuracy and value of the report to Congress, by offering qualitative feedback that may not be otherwise observable through the results of the TRIP Data Calls. Comments from insurers that are otherwise providing data, from other stakeholders, and from the public at large will assist the Secretary in the formulation of the report. In addition to comments on the above statutory factors, Treasury also seeks comments on:

5. The availability and affordability of terrorism risk insurance coverage, both nationally and in particular geographic areas;

6. Whether any lines of insurance or coverages within certain lines of insurance currently subject to the Program do not require the support of TRIP;

7. The market for standalone terrorism risk insurance that is written outside of TRIP, the reasons such coverage is offered and obtained, and whether the existence of such insurance provides any insights into the effectiveness of the Program;

8. The availability and affordability of private reinsurance, or capital markets support, for terrorism risk insurance exposures (both those which are currently subject to support under TRIP as well as those otherwise held by insurers participating in TRIP);

9. The extent to which reinsurance for terrorism risk is being obtained as part of catastrophe reinsurance programs generally, the reasons for this, and how if at all this has affected market capacity for terrorism risk reinsurance generally;

10. Any factors that impede private reinsurance or capital markets support for terrorism risk insurance;

11. The availability of terrorism risk insurance coverage for losses arising from nuclear, biological, chemical, or radiological (NBCR) exposures, and the availability of private reinsurance or capital markets support for such terrorism risk insurance;

12. Terrorism risk insurance issues presented by cyber-related losses, the impact of TRIP in connection with such exposures, and any reforms that would encourage the take up of insurance for cyber-related losses arising from acts of terrorism within the meaning of TRIA; [2]

13. Private reinsurance or capital markets support for cyber-related losses arising from acts of terrorism within the meaning of TRIA; and

14. Any other issues relating to TRIP or terrorism risk insurance or reinsurance that may be relevant to an assessment of the effectiveness of TRIP in the report.

Dated: March 12, 2018.

Steven E. Seitz,

Deputy Director, Federal Insurance Office.

[FR Doc. 2018–05433 Filed 3–15–18; 8:45 am]

BILLING CODE 4810–25–P

separate notice. 82 FR 56328 (November 28, 2017). Treasury will also discuss the results of the prior 2017 TRIP Data Call in this report on the effectiveness of the Program.

[2] Treasury has previously addressed the application of TRIP to policies covering cyber-related losses. 81 FR 95312 (December 27, 2016).

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Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 1130

Tobacco Product Standard for Nicotine Level of Combusted Cigarettes; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1130

[Docket No. FDA–2017–N–6189]

RIN 0910–AH86

Tobacco Product Standard for Nicotine Level of Combusted Cigarettes

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing this advance notice of proposed rulemaking (ANPRM) to obtain information for consideration in developing a tobacco product standard to set the maximum nicotine level for cigarettes. Because tobacco-related harms ultimately result from addiction to the nicotine in such products, causing repeated use and exposure to toxicants, FDA is considering taking this action to reduce the level of nicotine in these products so they are minimally addictive or nonaddictive, using the best available science to determine a level that is appropriate for the protection of the public health. FDA is using the term ''nonaddictive'' in this document specifically in the context of a potentially nonaddictive cigarette. We acknowledge the highly addictive potential of nicotine itself depending upon the route of delivery. As discussed elsewhere in this document, questions remain with respect to the precise level of nicotine in cigarettes that might render them either minimally addictive or nonaddictive for specific members or segments of the population. We envision the potential circumstance where nicotine levels in cigarettes do not spur or sustain addiction for some portion of potential smokers. This could give addicted users the choice and ability to quit more easily, and it could help to prevent experimenters (mainly youth) from initiating regular use and becoming regular smokers. The scope of products covered by any potential product standard will be one issue for comment in the ANPRM. Any additional scientific data and research relevant to the empirical basis for regulatory decisions related to a nicotine tobacco product standard is another issue for comment in the ANPRM.

DATES: Submit either electronic or written comments on the ANPRM by June 14, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 14, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of June 14, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–6189 for ''Tobacco Product Standard for Nicotine Level of Certain Tobacco Products.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gerie Voss, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 1–877–CTP–1373, *gerie.voss@fda.hhs.gov.*

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I. Executive Summary

A. Purpose of the ANPRM

Tobacco use causes a tremendous toll of death and disease every year, and these effects are ultimately the result of addiction to the nicotine in combustible cigarettes which causes repeated use of such products, thus repeatedly exposing users and non-users to toxicants. This nicotine addiction causes users to engage in compulsive tobacco use, makes quitting less likely, and, thus, repeatedly exposes them to thousands of toxicants in combusted tobacco products. This is especially true with respect to cigarette smoking. Through this ANPRM, FDA indicates that it is considering the issuance of a product standard to set a maximum nicotine level in cigarettes so that they are minimally addictive or nonaddictive, using the best available science to determine a level that is appropriate for the protection of the public health. The Agency seeks information and comment on a number of issues associated with such a potential product standard. Greatly reducing or eliminating the addictiveness of cigarettes would have significant benefits for youth, young adults, and adults. More than half of adult cigarette smokers make a serious quit attempt each year (quit for at least a day), many of whom do not succeed due to the addictive nature of these products (Ref. 1). The establishment of a maximum nicotine level in cigarettes not only could increase the likelihood of successful quit attempts, but it also could help prevent experimenters (mainly youth and young adults) from initiating regular cigarette smoking. Therefore, rendering cigarettes minimally addictive or nonaddictive (however that were achieved) could help current users quit and prevent future users from becoming addicted and escalating to regular use.

B. Summary of the Major Issues Raised in the ANPRM

In this ANPRM, FDA is seeking information on a variety of issues regarding the development of a tobacco product standard that would limit the amount of nicotine in cigarettes. Specifically, FDA is seeking your comments, evidence, and other information supporting your responses to questions on the following topics:

- *Scope*—Cigarettes are the tobacco product category that causes the greatest burden of harm to public health given the prevalence of cigarette use, including among youth, and the toxicity and addictiveness of these products and the resulting tobacco-related disease and death across the population, including among non-users. If FDA were to establish a nicotine tobacco product standard that covered only cigarettes, some number of addicted smokers could migrate to other similar combusted tobacco products to maintain their nicotine dose (or engage in dual use with other combusted tobacco products), potentially reducing the positive public health impact of such a rule. Because the scope would impact the potential public health benefits of a nicotine tobacco product standard, FDA is seeking comment on whether the standard should cover any or all of the following products: Combusted cigarettes (which FDA has previously interpreted to include kreteks and bidis), cigarette tobacco, roll-your-own (RYO) tobacco, some or all cigars, pipe tobacco, and waterpipe tobacco. FDA intends that any nicotine tobacco product standard would cover all brands in a particular product category and, therefore, those products currently on the market and any new tobacco products would be expected to adhere to the standard.
- *Maximum Nicotine Level*—FDA has considered the existing peer-reviewed studies regarding very low nicotine content (VLNC) cigarettes and the likely effects of reducing nicotine in combusted tobacco products (*i.e.,* cigarettes, cigars, pipe tobacco, roll-your-own tobacco, and waterpipe tobacco). A 2013 survey paper noted that researchers initially estimated that reducing the total nicotine content of cigarettes to 0.5 milligrams (mg) per rod would minimize addictiveness and that a ''more recent analysis suggests that the maximum allowable nicotine content per cigarette that minimizes the risk of central nervous system effects contributing to addiction may be lower'' (Ref. 2). The study authors concluded that ''[p]reventing children from becom[ing] addicted smokers and giving people greater freedom to stop smoking when they decide to quit by reducing the addictiveness of cigarettes is a policy that increasingly appears to be feasible and warranted'' (id.). We specifically request comment regarding this paper's conclusions and the possible impact of higher or lower maximum nicotine levels in a potential nicotine tobacco product standard. If FDA were to pursue a nicotine tobacco product standard, it would be important for FDA to consider what maximum nicotine level for such standard would be appropriate, how this maximum nicotine level should be measured (*e.g.,* nicotine yield, nicotine in tobacco filler, something else), and how the threshold of nicotine addiction should be measured, using the best available science to determine a level that is appropriate for the protection of the public health. FDA seeks comment on a potential maximum nicotine level that would be appropriate for the protection of the public health, in light of scientific evidence about the addictive properties of nicotine in cigarettes. FDA is particularly interested in comments about the merits of nicotine levels like 0.3, 0.4, and 0.5 mg nicotine/g of tobacco filler, as well as other levels of nicotine. FDA is also requesting any information on additional scientific data and research which would provide information about specific groups within the general population which may have an increased sensitivity to nicotine's reinforcing effects, or who may have otherwise not been captured in the literature on VLNC cigarettes. In addition, FDA is considering and requesting information on additional scientific data and research relevant to the empirical basis for regulatory decisions related to a potential nicotine product standard.
- *Implementation*—If FDA were to issue a product standard establishing a maximum nicotine level for cigarettes, such a standard could propose either a single target (where the nicotine is reduced all at once) or a stepped-down approach (where the nicotine is reduced gradually over time through a sequence of incremental levels and implementation dates) to reach the desired maximum nicotine level.
- *Analytical Testing Method*—As part of its consideration regarding a potential nicotine tobacco product standard, FDA is also considering whether such a product standard should specify a method for manufacturers to use to

detect the level of nicotine in their products. FDA believes that the results of any test to measure the nicotine in such products should be comparable across different accredited testing facilities and products. It is critical that the results from the test method used demonstrate a high level of specificity, accuracy, and precision in measuring a range of nicotine levels across a wide variety of tobacco blends and products. FDA is aware of a variety of methods being developed that quantify nicotine in tobacco or tobacco product filler for various products.

• *Technical Achievability*—If FDA were to move forward in this area and proceed to the next step of issuing a proposed rule, section 907(b)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 387g(b)(1) would require that FDA consider information submitted in connection with that proposed product standard regarding technical achievability of compliance. FDA continues to analyze the technical achievability of a maximum nicotine level for cigarettes as part of its broader assessment of how best to exercise its regulatory authority in this area. Significant nicotine reductions in cigarettes and other combusted tobacco products can be achieved principally through tobacco blending and cross-breeding plants, genetic engineering, and chemical extraction. Agricultural practices (*e.g.,* controlled growing conditions, fertilization, and harvest) as well as more recent, novel techniques also can help to reduce nicotine levels. FDA is considering the feasibility of the current nicotine reduction techniques—for cigarette and other combusted tobacco product manufacturers of all sizes—to significantly reduce nicotine levels to levels similar to those in existing VLNC cigarettes. FDA also is considering the proper timeframe for implementation of a possible nicotine tobacco product standard to allow adequate time for industry to comply. In addition, FDA is seeking data and information regarding the potential costs, including possible costs to farmers, to implement such a standard.

• *Possible Countervailing Effects*—There may be possible countervailing effects that could diminish the population health benefits expected as a result of a nicotine tobacco product standard. As part of any subsequent rulemaking, FDA would need to assess these effects in comparison to the expected benefits, including among population subgroups. One possible countervailing effect is continued combusted tobacco product use. Current smokers of tobacco products subject to a nicotine tobacco product standard could turn to other combusted tobacco products to maintain their nicotine dependence, both in combination with cigarettes (*i.e.,* dual use) or in place of cigarettes (*i.e.,* switching). Coverage of other combusted tobacco products, as FDA is considering, is one way to significantly limit this product migration or transition to dual use with other combusted tobacco products.

Another possible countervailing effect is the potential for increased harm due to continued VLNC smoking with altered smoking behaviors (*e.g.,* increase in number of cigarettes smoked, increased depth of inhalation). Some studies of VLNC cigarettes with nicotine levels similar to what FDA may consider including in a nicotine tobacco product standard have not resulted in compensatory smoking and have demonstrated reductions in cigarettes smoked per day and in exposure to harmful constituents (*e.g.,* Ref. 3; Ref. 4; Ref. 5).

Another possible countervailing effect of setting a maximum nicotine level for cigarettes could be users seeking to add nicotine in liquid or other form to their combusted tobacco product. Therefore, FDA is considering whether any action it might take to reduce nicotine in cigarettes should be paired with a provision that would prohibit the sale or distribution of any tobacco product designed for the purposes of supplementing the nicotine content of the combusted tobacco product (or where the reasonably foreseeable use of the product is for the purposes of supplementing the nicotine content). FDA is also considering other regulatory options to address this concern.

FDA is also considering whether illicit trade could occur as a result of a nicotine tobacco product standard and how that could impact the marketplace. In addition, FDA is considering how, if FDA were to issue a nicotine tobacco product standard that prompted an increase in the illicit market, comprehensive interventions could reduce the size of the illicit tobacco market through enforcement mechanisms and collaborations across jurisdictions.

• *Other Considerations*—FDA also recognizes that, if FDA were to proceed to the stage of proposing a rule in this area, potential costs and benefits from a possible nicotine tobacco product standard would be estimated and considered in an accompanying preliminary impact analysis, including the potential impacts on growers of tobacco and current users of potentially regulated products. Thus, FDA is also seeking comments, data, research results, and other information regarding economic impacts of a potential nicotine tobacco product standard.

Further, this ANPRM briefly describes the potential public health benefits that could result from the increased cessation from and decreased initiation to regular use of cigarettes that FDA expects could occur with a nicotine tobacco product standard. FDA references findings from a population-based simulation model that projects the potential public health impact of enacting a regulation lowering nicotine levels in cigarettes and certain other combusted tobacco products to minimally addictive levels, utilizing inputs derived from empirical evidence and expert opinion (eight subject matter experts provided quantitative estimates for the potential outcomes of the policy on smoking cessation, initiation, switching, and dual use rates). Based on the experts' determinations that the reduction in nicotine levels in combusted tobacco products would create substantial reductions in smoking prevalence due to increased smoking cessation and reduced initiation of regular smoking, the model calculates that by the year 2100, more than 33 million youth and young adults who would have otherwise initiated regular smoking would not start as a result of a nicotine tobacco product standard. The model also projected that approximately 5 million additional smokers would quit smoking 1 year after implementation of the product standard, compared to the baseline scenario, which would increase to approximately 13 million additional former smokers within 5 years after policy implementation.

II. Background

A. Purpose

On July 28, 2017, FDA announced a comprehensive approach to the regulation of nicotine that includes the Agency's plan to begin a public dialogue about lowering nicotine levels in combustible cigarettes to minimally addictive or nonaddictive levels through achievable product standards, including the issuance of an ANPRM to seek input on the potential public health benefits and any possible adverse effects of lowering nicotine in cigarettes. Tobacco use causes a tremendous toll of death and disease every year, and these effects are ultimately the result of addiction to the nicotine contained in combustible cigarettes, leading to repeated exposure to toxicants from such cigarettes. This nicotine addiction causes users to engage in compulsive use, makes quitting less likely and, therefore,

repeatedly exposes them (and others) to thousands of toxicants in combusted tobacco products. This is especially true with respect to cigarette smoking. Researchers have found that the mortality rate from any cause of death at any given age is 2 to 3 times higher among current cigarette smokers, compared to individuals who never smoked (Ref. 6).[1] Through this ANPRM, FDA indicates that it is considering the issuance of a product standard to set a maximum nicotine level in cigarettes so that they are minimally addictive or nonaddictive, using the best available science to determine a level that is appropriate for the protection of the public health.[2] The Agency seeks information and comment on a number of issues associated with such a potential product standard. Greatly reducing the addictiveness of cigarettes would have significant benefits for youth, young adults, and adults.[3] More than half of adult smokers make a serious quit attempt each year (quit for at least a day), many of whom are not able to succeed due to the addictive nature of these products (Ref. 1). The establishment of a maximum nicotine level in cigarettes not only could increase the likelihood of successful quit attempts, but it also could help prevent experimenters (mainly youth) from initiating regular use. Therefore, FDA hypothesizes that making cigarettes minimally addictive or nonaddictive, using the best available science to determine a level that is appropriate for the protection of the public health, would significantly reduce the morbidity and mortality caused by smoking.

Preventing nonsmokers, particularly youth and young adults, from becoming regular smokers due to nicotine addiction would allow them to avoid the severe adverse health consequences of smoking and would result in substantial public health benefits. In 2014, the Surgeon General estimated that, unless this trajectory is changed dramatically, 5.6 million youth aged 0 to 17 years alive today will die prematurely from a smoking-related disease (Ref. 7 at table 12.2.2). In 2009, Congress estimated that a 50 percent reduction in youth smoking would also result in approximately $75 billion in savings[4] attributable to reduced health care costs (see section 2(14) of the Family Smoking Prevention and Tobacco Control Act; 21 U.S.C. 387 note). As further explained in this ANPRM, if cigarettes were minimally addictive or nonaddictive, it is expected that many fewer youth and young adults would be subjected to the impacts of nicotine (which has a significantly stronger effect on the developing brains of youth (*e.g.,* Refs. 8 and 9)) from cigarettes, nor would they suffer from the health and mortality effects of cigarette use.

Nicotine is powerfully addictive. The Surgeon General has reported that 87 percent of adult smokers start smoking before the age of 18 and half of adult smokers become addicted before the age of 18, which is before the age at which they can legally buy a pack of cigarettes (Ref. 7). Nearly all smokers begin before the age of 25, which is the approximate age at which the brain has completed development (Ref. 8). Generally, those who begin smoking before the age of 18 are not aware of the degree of addictiveness and the full extent of the consequences of smoking when they begin experimenting with tobacco use (see, *e.g.,* Ref. 10). Although youth generally believe they will be able to quit when they want, in actuality they have low success rates when making a quit attempt. For example, more than 60 percent of high school aged daily smokers have tried to quit but less than 13 percent were successful at quitting for 30 days or more (Ref. 11). In addition, one study found that 3 percent of 12th grade daily smokers estimated that they would ''definitely'' still be smoking in 5 years, while in reality 63 percent of this population is still smoking 7 to 9 years later (Ref. 12). Another survey revealed that ''nearly 60 percent of adolescents believe that they could smoke for a few years and then quit'' (Ref. 13).

Because it is such a powerful addiction, addiction to nicotine is often lifelong (Ref. 14). Among adolescent tobacco users in 2012, over half (52.2 percent) reported experiencing at least one symptom of tobacco dependence (Ref. 15). FDA expects that making cigarettes minimally addictive or nonaddictive (however that were achieved) may have significant benefits for youth by reducing the risk that youth experimenters progress to regular use of cigarettes as a result of nicotine dependence.

The adolescent brain is more vulnerable to developing nicotine dependence than the adult brain; there are also data from animal studies that indicate that brain changes induced by nicotine may have long-term consequences (*i.e.,* the long-term physical changes, caused by the adolescent nicotine exposure, prevent the brain from reaching its full potential, which could result in permanent deficiencies) (Refs. 8 and 9). Adolescent tobacco users who initiated tobacco use at earlier ages were more likely than those initiating at older ages to report symptoms of tobacco dependence, putting them at greater risk for maintaining tobacco product use into adulthood (Ref. 15). Evidence from animal studies indicate that exposure to substances such as nicotine can disrupt brain development and have long-term consequences for executive cognitive function (such as task-switching and planning) and for the risk of developing a substance abuse disorder and various mental health problems (particularly affective disorders such as anxiety and depression) as an adult (Ref. 16). This exposure to nicotine can also have long-term effects, including decreased attention performance and increased impulsivity, which could promote the maintenance of nicotine use behavior (id.). Further, the 2010 Surgeon General's Report noted that symptoms of dependence could result from even a limited exposure to nicotine during adolescence (Ref. 17).

For all these reasons, FDA is considering limiting the addictiveness of cigarettes by setting a product standard establishing a maximum nicotine level of cigarettes, to help prevent experimenters (who are mainly youth) from becoming addicted to tobacco and, thus, prevent them from initiating regular use and from increasing their risk of tobacco-related death and disease.

FDA is also considering this action because age restrictions on the sale of tobacco products, by themselves, are not entirely effective in preventing youth from obtaining cigarettes or other combusted tobacco products. Youth smokers get their cigarettes from a variety of sources, including directly purchasing them from retailers, giving others money to buy them, obtaining them from other youth or adults (with

[1] The discussion of scientific data discussed in this ANPRM is not intended to cover all available information on this subject matter. Rather, it is intended to provide only a sampling of some of the current research that could be relevant to consideration of a potential nicotine tobacco product standard.

[2] The Family Smoking Prevention and Tobacco Control Act specifically prohibits the Agency from ''requiring the reduction of nicotine yields of a tobacco product to zero'' but generally authorizes FDA to issue a tobacco product standard setting a maximum nicotine level. Section 907(C)(3)(B) of the FD&C Act.

[3] The definitions of ''youth,'' ''young adults,'' and ''adults'' can vary in scientific studies. The term ''youth'' generally refers to middle school and/or high school age students. ''Young adults'' generally refers to individuals 18 to 24 years of age. In some studies, ''adults'' may encompass individuals age 18 to 24 but generally refers to those individual 24 to 65 years of age.

[4] Congress' estimate of approximately $75 billion in savings, if adjusted for inflation, would amount to $83.63 billion in 2017.

or without their knowledge), or using illegal means (*i.e.,* shoplifting or stealing) (Ref. 18). The 2015 National Youth Risk Behavior Surveillance Survey (YRBS) of high school students in grades 9 through 12 found that 12.6 percent of current cigarette smokers under age 18 had purchased their cigarettes directly from stores or gas stations despite the Federal minimum age requirements for cigarettes (Ref. 19). While continued vigorous enforcement of youth access restrictions is critical to protecting public health, FDA is considering taking this additional step to ensure that even if youth do obtain access to cigarettes, they will be less likely to: (1) Become addicted to these products; (2) initiate regular use; and (3) increase their risk of the many diseases caused by, and debilitating effects of, combusted tobacco product use (Ref. 20).

Similarly, limiting the nicotine in cigarettes could have significant benefits for adult tobacco product users, a large majority of whom want to quit but are unsuccessful because of the highly addictive nature of these products (see, *e.g.,* Ref. 21). Data from the 2015 National Health Interview Survey show that 68 percent of current adult cigarette smokers in the United States wanted to quit and 55.4 percent of adult cigarette smokers made a past-year quit attempt of at least 1 day (Ref. 22). In high-income countries, about 7 of 10 adult smokers say they regret initiating smoking and would like to stop (Ref. 23 at p. 2). Decreasing the nicotine in cigarettes so that they are minimally addictive or nonaddictive (using the best available science to determine a level that is appropriate for the protection of the public health) could help users quit if they want to—as the large majority of users say they do (*e.g.,* Ref. 21).

Although many factors contribute to an individual's initial experimentation with tobacco products, the addictive nature of tobacco is the major reason people progress to regular use, and it is the presence of nicotine that causes youth, young adults, and adult users to become addicted to, and to sustain, tobacco use (see, *e.g.,* Refs. 24 and 25). While nicotine is the primary addictive chemical in tobacco, sensorimotor stimuli that are repeatedly paired with nicotine through the process of smoking also develop into conditioned reinforcers that contribute to the persistent nature of nicotine dependence (Ref. 26). In cigarette users, the sensory aspects of smoking, such as taste and sensations of smoking (*e.g.,* throat hit), are often reinforcing as they have been paired repeatedly with nicotine exposure and have been found to be reinforcing without concomitant nicotine exposure in experienced users (Ref. 27). Once tobacco users become addicted to nicotine, they require nicotine to avoid certain withdrawal symptoms. In the process of obtaining nicotine, users of combusted tobacco products are exposed to an array of toxicants in tobacco and tobacco smoke that lead to a substantially increased risk of morbidity and mortality (see, *e.g.,* Ref. 10). Although most current U.S. smokers report that they want to quit smoking, have attempted to quit, and regret starting (see, *e.g.,* Refs. 28 and 29), many smokers find it difficult to break their addiction and quit. Because of nicotine addiction, many smokers lack the ability to choose whether or not to continue smoking these toxic combusted products despite their stated desire to quit (see, *e.g.,* Ref. 17).

Accordingly, FDA is considering whether to issue a tobacco product standard to: (1) Give addicted users of cigarettes the choice and ability to quit more easily by reducing the nicotine to a minimally addictive or nonaddictive level and (2) reduce the risk of progression to regular use and nicotine dependence for persons who experiment with the tobacco products covered by the standard. FDA hypothesizes that making cigarettes minimally addictive or nonaddictive, using the best available science to determine a level that is appropriate for the protection of the public health, could significantly reduce the morbidity and mortality caused by smoking.

B. Legal Authority

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) was enacted on June 22, 2009, amending the FD&C Act and providing FDA with the authority to regulate tobacco products (Pub. L. 111–31). Section 901 of the FD&C Act (21 U.S.C. 387a), as amended by the Tobacco Control Act, granted FDA authority to regulate the manufacture, marketing, and distribution of cigarettes, cigarette tobacco, RYO tobacco, and smokeless tobacco to protect the public health and to reduce tobacco use by minors. The Tobacco Control Act also gave FDA the authority to issue a regulation deeming other products that meet the statutory definition of tobacco product to be subject to FDA's tobacco product authority under chapter IX of the FD&C Act. On May 10, 2016, FDA issued the deeming rule (81 FR 28973), extending FDA's tobacco product authority to all tobacco products, other than the accessories of deemed tobacco products, that meet the statutory definition of tobacco product.

Among the authorities included in chapter IX of the FD&C Act is the authority to establish tobacco product standards. The Act authorizes FDA to adopt a tobacco product standard under section 907 of the FD&C Act if the Secretary of Health and Human Services (HHS) finds that a tobacco product standard is appropriate for the protection of the public health. In making such a finding, the Secretary of HHS must consider scientific evidence concerning: (1) The risks and benefits of the proposed standard to the population as a whole, including users and nonusers of tobacco products; (2) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and (3) the increased or decreased likelihood that those who do not use tobacco products will start using such products (section 907(a)(3)(B)(i) of the FD&C Act).

Section 907(a)(4) of the FD&C Act states that tobacco product standards must include provisions that are appropriate for the protection of the public health. Section 907(a)(4)(B)(i) provides that a product standard must include, where appropriate for the protection of the public health, provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product. Further, section 907(a)(4)(A)(i) states that provisions in tobacco product standards must include, where appropriate, provisions for nicotine yields. Section 907(a)(4)(B)(ii) also provides that a product standard must, where appropriate for the protection of public health, include ''provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product.'' In addition, section 907(a)(4)(B)(iv) provides that, where appropriate for the protection of public health, a product standard must include provisions requiring that the results of the tests of the tobacco product required under section 907(a)(4)(B)(ii) show that the product is in conformity with the portions of the standard for which the test(s) were required. Finally, section 907(d)(3)(B) of the FD&C Act prohibits the Agency from issuing a regulation that would require the reduction of nicotine yields of a tobacco product to zero.

The FD&C Act also provides FDA with authority to issue regulations establishing restrictions on the sale and distribution of a tobacco product (section 906(d)(1) of the FD&C Act (21 U.S.C. 387f(d)(1))). These restrictions

may include restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary of HHS determines such regulation would be appropriate for the protection of the public health.

FDA intends to use the information submitted in response to this ANPRM, its independent scientific knowledge, and other appropriate information, to further inform its thinking about options, including the scope, for a potential product standard that would set a maximum nicotine level for cigarettes, and restrictions prohibiting the sale and distribution of any product that violates such a standard.

III. Health Consequences of Combusted Tobacco Products

A. Nicotine in Combusted Tobacco Products and Its Impact on Users

Tobacco products are addictive, primarily due to the presence of nicotine, and the magnitude of public health harm caused by tobacco products is inextricably linked to their addictive nature (Ref. 13 at p. xi). Cigarettes are the most widely used tobacco products among adults and are responsible for at least 480,000 premature deaths in the United States each year (Ref. 7). Other combusted tobacco products that are possible targets of product migration (*i.e.,* switch candidates for smokers to maintain their nicotine addiction) or dual use have similar adverse health effects and can cause nicotine dependence (Refs. 30 and 31). For example, researchers have found that current exclusive cigar smokers and current exclusive pipe smokers have an increased risk for lung cancer and tobacco-related cancers overall, as compared to those who reported never using any type of combusted tobacco product (Ref. 32). We note that there is a dose-response relationship between the number of cigars and pipes smoked and the risk of disease (*i.e.,* the larger the number of cigars or pipes smoked, the higher the risk of disease) (Ref. 31 at 110), but cigar and pipe users are still subject to the addictive effects of nicotine through nicotine absorption (and to the health impacts of long-term use that may follow from regular use due to addiction) even if they report that they do not inhale (Refs. 33–35).

The Surgeon General has reported that ''most people begin to smoke in adolescence and develop characteristic patterns of nicotine dependence before adulthood'' (Ref. 36 at p. 29). Adolescents develop physical dependence and experience withdrawal symptoms when they try to quit smoking (id.). The 2014 Surgeon General's Report states that 5.6 million youth currently 0 to 17 years of age are projected to die prematurely from smoking-related illnesses (Ref. 7 at pp. 666–667). Accordingly, using the best available science to determine a level that is appropriate for the protection of the public health, making cigarettes minimally addictive or nonaddictive would limit the number of youth and young adults who progress from experimentation to regular use and who, thereby, increase their risk for dangerous smoking-related diseases.

Researchers have determined that almost one-third of adolescents aged 11 to 18 (31 percent) are ''early experimenters,'' meaning that they have tried smoking at least one puff of a cigarette (but smoked no more than 25 cigarettes in their lifetime) (Ref. 37). The Centers for Disease Control and Prevention (CDC) and other researchers have estimated that 30 percent or more of experimenters become established smokers (Ref. 37, citing Refs. 38 and 39). Given these past trends, if one applies the 30 percent estimate to the adolescents who were early experimenters in 2000, then 2.9 million of these early experimenters have now or will become established smokers (Ref. 37). Based on the number of persons aged 0 to 17 in 2012, the Surgeon General estimated that 17,371,000 of that group will become future smokers and 5,557,000 will die from a smoking-related disease (Ref. 7 at T. 12.2.1). These high numbers speak to the extreme vulnerability of today's children and adolescents to the health harms of tobacco use resulting from addiction.

Nicotine addiction is a critical factor in the transition of smokers from experimentation to sustained smoking and in the continuation of smoking for those who want to quit (Ref. 7 at p. 113; Ref. 17). Intermittent smokers, even very infrequent smokers, can become addicted to tobacco products (Ref. 40). Longitudinal research has shown that smoking typically begins with experimental cigarette use and the transition to regular smoking can occur relatively quickly by smoking as few as 100 cigarettes (Ref. 8). Other research found that among the 3.9 million middle and high school students who reported current use of tobacco products (including cigarettes and cigars) in 2012, 2 million of those students reported at least one symptom of dependence (Ref. 15).

Although the majority of adolescent daily smokers meet the criteria for nicotine dependence, one study found that the most susceptible youth lose autonomy (*i.e.,* independence in their actions) regarding tobacco within 1 or 2 days of first inhaling from a cigarette (Refs. 41 and 42). Another study found that 19.4 percent of adolescents who smoked weekly also were considered to be nicotine dependent (Ref. 43). In a study regarding nicotine dependence among recent onset adolescent smokers, individuals who smoked cigarettes at the lowest levels (*i.e.,* smoking on only 1 to 3 days of the past 30 days) experienced nicotine dependence symptoms such as loss of control over smoking (42 percent) and irritability after not smoking for a while (23 percent) (Ref. 44). Researchers in a 4-year study of sixth grade students also found that ''[e]ach of the nicotine withdrawal symptoms appeared in some subjects *prior* to daily smoking'' (Ref. 42) (emphasis added). Ten percent of the subjects showed signs of addiction to tobacco use within 1 or 2 days of first inhaling from a cigarette, and half had done so by the time they were smoking seven cigarettes per month (Ref. 42).

It is clear that many adult cigarette smokers want to quit. Data from the 2015 National Health Interview Survey show that 68 percent of current adult smokers in the United States wanted to quit and 55.4 percent of adult smokers made a past-year quit attempt of at least 1 day (Ref. 22). According to an analysis of this survey, only 7.4 percent of former adult cigarette smokers had recently quit (id.).

For adult smokers who report quit attempts, many of these attempts are unsuccessful. For example, among the 19 million adults who reported attempting to quit in 2005, epidemiologic data suggest that only 4 to 7 percent were successful (Ref. 28 at p. 15). Similarly, the Institute of Medicine (IOM), considering data from 2004, found that although approximately 40.5 percent of adult smokers reported attempting to quit in that year, only between 3 and 5 percent were successful (Ref. 13 at p. 82). Adult smokers may make as many as thirty or more quit attempts before succeeding (Ref. 45). FDA also notes that adults with education levels at or below the equivalent of a high school diploma have the highest smoking prevalence levels but the lowest quit ratios (*i.e.,* the ratio of persons who have smoked at least 100 cigarettes during their lifetime but do not currently smoke to persons who report smoking at least 100 cigarettes during their lifetime) (Ref. 46). Nicotine addiction and associated withdrawal symptoms make it difficult for smokers to quit without using cessation counseling and/or cessation medications.

Adolescents also experience low success rates when attempting to quit. As we have noted, most Americans who use tobacco products begin using when they are under the age of 18 and become addicted before reaching the age of 18 (Refs. 36 and 47). Although many adolescents believe ''they can quit [smoking] at any time and therefore avoid addiction,'' nicotine dependence can be rapidly established (Ref. 13 at p. 89; see also Ref. 28 at p. 158). Research has shown that some adolescents report symptoms of withdrawal and craving within days or weeks of beginning to smoke (Ref. 48). As a result, many adolescents are nicotine dependent despite their relatively short smoking histories (Ref. 11). An analysis of data from the 2015 YRBS found that, of those currently smoking cigarettes, 45.4 percent had tried to quit smoking cigarettes during the previous year (Ref. 19). Likewise, an analysis of the 2012 National Youth Tobacco Survey (NYTS) revealed that 51.5 percent of middle and high school student smokers had sought to quit all tobacco use in the previous year (Ref. 49).

Relapse is the principal limiting factor in the transition of smoking to nonsmoking status (Ref. 17). Relapse refers to the point after an attempt to stop smoking when tobacco use becomes ongoing and persistent (Ref. 17, citing Ref. 50). Most smokers who ultimately relapse do so soon after their quit attempt (Ref. 17). One study found that 80 to 90 percent of those individuals who were smoking at 6 months following a quit attempt had resumed smoking within 2 weeks following their quit attempt (Ref. 51). Long-term studies of individuals trying to quit smoking reveal that 30 to 40 percent of those who quit smoking for 1 year eventually relapsed (id.). In fact, one study following 840 participants for more than 8 years found that approximately one-half of smokers who stopped smoking for 1 year relapsed to regular smoking within the subsequent 7 years (Ref. 52). Researchers have found that a higher frequency of smoking predicts more severe withdrawal symptoms and earlier relapse after an attempt to quit smoking and is associated with early lapses after cessation (Ref. 17 at p. 119). FDA specifically requests comment as to whether higher frequency smokers would experience more severe withdrawal symptoms from the use of VLNC cigarettes.

FDA expects that, if cigarettes were minimally addictive or nonaddictive, the nicotine level in cigarettes would be self-limiting (*i.e.,* smokers would be unable to obtain their nicotine dose from cigarettes no matter how they smoked them and eventually would stop trying to do so) (*e.g.,* Refs. 4, 5, and 53), making it potentially easier for smokers to make more successful quit attempts and likely leading to a potentially substantial reduction in the rate of relapse compared to current levels.[5] Former smokers that choose to switch completely to a potentially less harmful nicotine delivery product (*e.g.,* electronic nicotine delivery systems (ENDS)) to maintain their nicotine dose also would, to the extent that those products result in less harm, significantly reduce their risk of tobacco-related death and disease. Accordingly, rendering cigarettes minimally addictive or nonaddictive (however that were achieved) would be expected to address the principal reason that smokers are unable to quit smoking.

B. Negative Health Effects of Combusted Tobacco Product Use

Nicotine is a powerfully addictive chemical. The effects of nicotine on the central nervous system occur rapidly after absorption (Ref. 25 at p. 12). Users of combusted tobacco products absorb nicotine readily from tobacco smoke through the lungs (id. at p. iii). Nicotine introduced through the lungs is rapidly distributed to the brain (id. at p. 12). With regular use, nicotine levels accumulate in the body during the day from the tobacco product use and then decrease overnight as the body clears the nicotine (id. at p. iii). Mild nicotine intoxication even occurs in first-time smokers (Ref. 25 at pp. 15–16). Tolerance to the effects of nicotine develops rapidly.

The addiction potential of a nicotine delivery system varies as a function of its total nicotine dosing capability, the speed at which it can deliver nicotine, the palatability and sensory characteristics of the system, how easy it is for the user to extract nicotine, and the cost of the delivery system (Ref. 54). A cigarette is an inexpensive and extremely effective nicotine delivery device, which maximizes the cigarette's addicting and toxic effects (id.). The amount of nicotine delivered and the means through which it is delivered can either reduce or enhance a product's potential for abuse and physiological effects (Ref. 17 at p. 113). Quicker delivery, higher rate of absorption, and higher resulting concentration of nicotine increase the potential for addiction (id. at p. 113). The ultimate levels of nicotine absorbed into the blood for different tobacco products (*e.g.,* cigarettes and cigars) can be similar in magnitude even though individuals may smoke them differently and the rate of absorption may be different (Ref. 25).

The significant negative health effects from cigarettes are a consequence of long-term use. Children and adults continue using cigarettes primarily as a result of their addiction to nicotine (*e.g.,* Ref. 7). Almost all adult smokers started smoking cigarettes as children or young adults, and half of adult smokers became addicted before turning 18 (id.).

Cigarettes are responsible for hundreds of thousands of premature deaths every year from many diseases, put a substantial burden on the U.S. health care system, and cause massive economic losses to society (Ref. 7 at pp. 659–666; another perspective on this issue is provided by Sloan et al. (Ref. 55)). Cigarette smoking causes more deaths each year than AIDS, alcohol, illegal drug use, homicide, suicide, and motor vehicle crashes combined (Ref. 47). Every year, cigarette smoking is the primary causal factor for 163,700 deaths from cancer, 160,600 deaths from cardiovascular and metabolic diseases, and 131,100 deaths from pulmonary diseases (Ref. 7 at p. 659). In the United States, about 87 percent of all lung cancer deaths, 32 percent of coronary heart disease deaths, and 79 percent of all cases of chronic obstructive pulmonary disease (COPD) are attributable to cigarette smoking (id.). The 2014 Surgeon General's Report states that 5.6 million youth currently 0 to 17 years of age are projected to die prematurely from smoking-related illnesses (id. at pp. 666–667).

Data from the CDC's Smoking-Attributable Mortality, Morbidity, and Economic Costs system for 2005–2009 (the most recent years for which analyses are available) indicate that cigarette smoking and exposure to cigarette smoke are responsible for at least 480,000 premature deaths each year (id. at p. 659). However, this estimate does not include deaths caused by other combusted forms of tobacco, such as cigars and pipes (id. at 665).[6]

[5] As stated throughout the document, FDA expects that, to maintain their nicotine dose, some number of addicted cigarette smokers could migrate to other similar, combusted products (or engage in dual use with such products) after the standard went into effect, reducing the benefits of the product standard. Since the scope would impact the potential public health benefits of such a nicotine tobacco product standard, FDA is seeking comment on whether the standard should cover any or all of the following products: Combusted cigarettes (which FDA has previously interpreted to include kreteks and bidis), cigarette tobacco, roll-your-own tobacco, some or all cigars, waterpipe tobacco, and pipe tobacco.

[6] As discussed in Ref. 56, regular cigar smoking was responsible for approximately 9,000 premature deaths and more than 140,000 years of potential life

The three leading causes of smoking-attributable death for current and former smokers were lung cancer, heart disease, and COPD (id. at p. 660). For every person who dies from a smoking-related disease, approximately 30 more people will suffer from at least one smoking-related disease (Ref. 58).

Cigarettes also have deadly effects on nonsmokers. From 2005 to 2009, an estimated 7,330 lung cancer and 33,950 heart disease deaths were attributable to exposure to secondhand smoke (Ref. 7 at p. 660). It is also well established that secondhand tobacco smoke causes premature death and disease in children and in adults who do not smoke (see, *e.g.,* Ref. 59 at p. 11). According to the Surgeon General's Report, ''50 Years of Progress: A Report of the Surgeon General, 2014,'' which summarizes thousands of peer-reviewed scientific studies and is itself peer-reviewed, smoking remains the leading preventable cause of disease and death in the United States, and cigarettes have been shown to cause an ever-expanding number of diseases and health conditions (Ref. 7 at pp. 107–621). As stated in the 2014 Report, ''cigarette smoking has been causally linked to disease of nearly all organs of the body, to diminished health status, and to harm to the fetus . . . [and] the burden of death and disease from tobacco use in the United States is overwhelmingly caused by cigarettes and other combusted tobacco products'' (Ref. 7 at p. 7).

Other combusted tobacco products, particularly those that could be cigarette alternatives if users were unable to continue smoking cigarettes, cause similar negative health effects. For example, there is a long-standing body of research, including reports from the Surgeon General and National Cancer Institute (NCI), demonstrating that cigar use can cause serious adverse health effects (Ref. 31 at 119–155; Refs. 60, 61, and 33). NCI's Smoking and Tobacco Control Monograph No. 9 (''Cigars: Health Effects and Trends''), which provides a comprehensive, peer-reviewed analysis of the trends in cigar smoking and potential public health consequences, as well as other research, demonstrates that cigar smoking leads to an increased risk of oral, laryngeal, esophageal, pharyngeal, and lung cancers, as well as coronary heart disease and aortic aneurysm, with the magnitude in risk a function of the amount smoked and depth of inhalation (Ref. 31 at 119–155). Research indicates that most cigar smokers do inhale some amount of smoke, even when they do not intend to inhale, and are not aware of doing so (Refs. 33 and 34). Even when cigar smokers do not breathe smoke into their lungs, they are still subject to the addictive effects of nicotine through nicotine absorption (Refs. 33 and 35). This is because cigar smoke dissolves in saliva, allowing the smoker to absorb sufficient nicotine to create dependence, even if the smoke is not inhaled (Refs. 35 and 62).

Regular cigar smoking (which, in this study, constituted use on at least 15 of the past 30 days) was responsible for approximately 9,000 premature deaths and more than 140,000 years of potential life lost among adults aged 35 years or older in 2010 (Ref. 56). Researchers also have found that the risk of dying from tobacco-related cancers is higher from current exclusive pipe smokers and current exclusive cigar smokers than for those who reported never using combusted tobacco products (Ref. 32).

IV. Requests for Comments and Information

To aid in its consideration regarding development of a nicotine tobacco product standard, FDA is seeking comments, data, research results, and other information related to questions under the following topics: Scope of products to be covered, maximum nicotine level for a nicotine tobacco product standard, implementation, analytical testing, technical achievability, possible countervailing effects (including the potential for an illicit market), and other considerations. We ask that commenters clearly identify the section and question associated with their responsive comments and information.

A. Scope

A tobacco product standard limiting the nicotine level in cigarettes could address one of our nation's greatest public health challenges: The death and disease caused by cigarette use. Approximately 480,000 people die every year from smoking cigarettes (Ref. 7). Cigarettes are the tobacco product category that causes the greatest burden of harm to public health as a result of the prevalence of cigarette use and the toxicity and addictiveness of these products. FDA hypothesizes that a tobacco product standard limiting the nicotine level in cigarettes could significantly increase the number of successful quit attempts by the majority of smokers seeking to quit smoking every year and potentially prevent experimenters from becoming regular smokers. However, if a standard were to apply to cigarettes only, it could be substantially less effective. Specifically, FDA expects that, to maintain their nicotine dose, some number of addicted cigarette smokers could migrate to other similar, combusted products (or begin to engage in dual use with such other products) after the standard went into effect, reducing the benefits of the product standard. Former smokers that choose to switch completely to a potentially less harmful nicotine delivery product (*e.g.,* ENDS) to maintain their nicotine dose also would, to the extent that those products result in less harm, significantly reduce their risk of tobacco-related death and disease. Since the scope would impact the potential public health benefits of such a nicotine tobacco product standard, FDA is seeking comment on whether the standard should cover any or all of the following products: Combusted cigarettes (which FDA has previously interpreted to include kreteks and bidis), cigarette tobacco, RYO tobacco, some or all cigars, pipe tobacco, and waterpipe tobacco. FDA intends that any nicotine tobacco product standard would cover all brands in a product category and, therefore, those products currently on the market and any new tobacco products would be expected to adhere to the standard.

FDA is continuing to weigh several factors as it considers the scope of products that should be subject to any potential nicotine tobacco product standard—including the strength and breadth of the available data derived from studies of VLNC cigarettes on the likely effects of reducing nicotine [7] (as discussed in section IV.B); current prevalence and initiation rates for different classes of tobacco products; the available data on the toxicity, addictiveness, and appeal of the products; the use topography of the products (including quantity, frequency, and duration of use); and the potential for migration to, and dual use of, different products. Current VLNC cigarette literature indicates that reduction of nicotine in cigarettes would make it more likely for smokers (even those not currently expressing a desire to quit) to cease cigarette use (*e.g.,* Refs. 4, 5, 63, and 64). In light of these data, FDA also believes that reduction of nicotine could help prevent

lost among adults aged 35 years or older in 2010. The 2014 Surgeon General Report states that the methodology for estimating the current population burden for use of combusted tobacco products other than cigarettes remains under discussion, but the number of added deaths is expected to be in the thousands per year (Ref. 7 at 665, 14 SG; citing Ref. 57).

[7] VLNC cigarettes do not contain uniform amounts of nicotine.

experimenters from becoming addicted to tobacco, resulting in regular tobacco use.

Based on these considerations, FDA is seeking comment on whether any nicotine tobacco product standard should cover any or all of the following products:

- Combusted cigarettes (which FDA has previously interpreted to include kreteks and bidis),
- Cigarette tobacco,
- RYO tobacco,
- Cigars (some or all categories; *i.e.,* small cigars, large cigars, cigarillos, and/or so-called premium cigars),
- Pipe tobacco, and
- Waterpipe tobacco.

Please explain your responses and provide any evidence or other information supporting your responses to the following questions:

1. If FDA were to propose a product standard setting a maximum nicotine level, should such a standard cover other combusted tobacco products in addition to cigarettes? If so, which other products? If FDA were to propose to include additional categories of combusted tobacco products in a nicotine tobacco product standard, should the standard be tailored to reflect differences in these products? What criteria should be used to determine whether, and which, products should be covered?

2. Some suggest that large cigars and those cigars typically referred to as ''premium'' cigars should be regulated differently from other cigars, asserting that they are used primarily by adults and their patterns of use are different from those of regular cigars (81 FR 28973 at 29024). FDA requests information and data on whether large and/or so-called premium cigars should be excluded from a possible nicotine tobacco product standard based on asserted different patterns of use, and whether large and/or so-called premium cigars would be migration (or dual use) candidates if FDA were to issue a nicotine tobacco product standard that excluded premium cigars from its scope. FDA also requests data and information on whether and how there is a way that, if FDA were to exclude premium cigars from the scope of a nicotine tobacco product standard, FDA could define ''premium cigar'' to include only unlikely migration or dual use products and thereby minimize such consequences.

3. Should waterpipe tobacco products, which are different from regular pipe tobacco, be included in such a standard? Are there data showing different use topographies or that they are not likely to be migration substitutes or dual use candidates? If FDA were to issue a nicotine tobacco product standard that did not include waterpipe tobacco products within the scope, what would be the likelihood that former smokers would switch to waterpipe tobacco to maintain their nicotine addiction? What are the relative risk consequences of switching to waterpipe tobacco?

B. Maximum Nicotine Level

As discussed throughout this document, nicotine is addictive and is the primary reason why many smokers who want to quit are unable to do so. Accordingly, FDA is considering developing a proposed product standard to make cigarettes minimally addictive or nonaddictive by setting a maximum nicotine level, using the best available science to determine a level that is appropriate for the protection of the public health. FDA has considered several peer-reviewed studies regarding very low nicotine content (VLNC) cigarettes [8] and the likely effects of reducing nicotine in combusted tobacco. A 2013 survey paper noted that researchers initially estimated that reducing the total nicotine content of cigarettes to 0.5 mg per rod would minimize addictiveness and that a ''more recent analysis suggests that the maximum allowable nicotine content per cigarette that minimizes the risk of central nervous system effects contributing to addiction may be lower'' (Ref. 2). The study authors concluded that ''[p]reventing children from becom[ing] addicted smokers and giving people greater freedom to stop smoking when they decide to quit by reducing the addictiveness of cigarettes is a policy that increasingly appears to be feasible and warranted'' (id.). We specifically request comment regarding this paper's conclusions and the possible impact of higher or lower maximum nicotine levels in a potential nicotine tobacco product standard.

Early ''light'' cigarettes achieved a reduction in machine-measured nicotine yield through a variety of means, including through the use of ventilation holes (although the actual nicotine content was not low). This increase in ventilation led to lower yields of nicotine in smoke as measured by smoking machines, and these products were marketed as low nicotine delivery or ''light'' cigarettes. However, cigarette users could modify their use behaviors to compensate for this increase in ventilation. For example, the vent holes could be easily blocked by users' fingers or mouths, and larger or more frequent puffs could be taken by consumers (Ref. 65). As a result, these products were designed to make them ''appear'' light to the user but could deliver as much nicotine to the user as high nicotine delivery cigarettes. The compensatory behaviors of the cigarette user were able to overcome the changes in ventilation in these higher ventilated products.

VLNC cigarettes, in contrast, have relied on reducing nicotine content in the tobacco filler rather than engineering changes to the cigarette. Patents reveal that more than 96 percent of nicotine can be successfully extracted while achieving a product that ''was subjectively rated as average in smoking characteristics'' (Ref. 66) and that up to a 75 percent reduction in the nicotine contained in a tobacco leaf can be achieved with an ''effective and economical system for producing tobacco products . . . while maintaining other desirable ingredients for good taste and flavor'' (Ref. 67).

In conventional cigarettes manufactured in the United States, nicotine accounts for approximately 1.5 percent of the cigarette weight, or 10–14 mg of nicotine per cigarette (Refs. 68–71) and generally have nicotine yields in the 1.1 mg to 1.7 mg (Ref. 31 at p. 67). Certain VLNC cigarettes have much lower nicotine yields than conventional cigarettes—in the 0.02–0.07 mg nicotine/cigarette range—due to product changes that the user cannot overcome (Ref. 72). Reducing the nicotine in the finished tobacco product places an absolute maximum limit on the amount of nicotine that can be extracted by the user in a given cigarette, unlike modifications such as ventilation holes, which affect nicotine yield in smoke but can be overcome through user behavior. See section IV.C of this document for a discussion of possible compensatory smoking under a single target approach or a stepped down approach to nicotine reduction.

1. VLNC Cigarettes

The first VLNC cigarettes studied by researchers were produced by Philip Morris and marketed under the brand name ''Next,'' which was reported to contain 0.4 mg nicotine/g of tobacco filler (Ref. 73). Later, the National Institute for Drug Abuse (NIDA) contracted with the Ultratech/Lifetech

[8] Scientific studies regarding VLNC cigarettes use both ''yield'' and ''content'' to describe the amount of nicotine in research cigarettes. ''Yield'' is the International Organization for Standardization (ISO) machine-generated nicotine smoke yield, and ''content'' refers to the nicotine in the tobacco filler of the entire finished product. ''Yield'' and ''content'' are not interchangeable terms. If neither ''yield'' nor ''content'' is used, the nicotine levels in these studies refer to content.

Corporation [9] to produce VLNC cigarettes for research purposes (Ref. 74; Ref. 75). The two types of cigarettes produced were: (1) 1.1 mg/cigarette (cig) ISO smoke nicotine (7.2 mg nicotine/cig in filler) and (2) 0.07 mg/cig ISO smoke nicotine (filler levels were reported as 0, but FDA has estimated these levels to be between 0.4 and 0.5 mg/cig) (Ref. 74).

Researchers also have used Quest cigarettes, produced by Vector Tobacco, to study the impact of reduced nicotine (Ref. 76). To provide consumers with reduced risk tobacco products, companies like 22nd Century are using genetic engineering and plant breeding to produce very low nicotine tobacco for incorporation into cigarettes. In 2014, the company was granted patents for its process to virtually eliminate the nicotine in tobacco plants (Ref. 77). Further, low-nicotine cigarettes are produced and distributed for research purposes by Research Triangle Institute (RTI), under a contract for the NIDA's Drug Supply Program (Ref. 78). 22nd Century is acting as a vendor for RTI for this contract manufacturing Spectrum cigarettes that contain 0.4 mg nicotine/gram (g) of tobacco filler (id). Finally, Philip Morris manufactured cigarettes with varying nicotine levels for research only (Ref. 79). FDA requests data and information regarding the risks to smokers from inhalation of VLNC cigarette smoke.

Table 1 includes a list of VLNC cigarettes used in research studies and their reported nicotine levels.

TABLE 1—FILLER NICOTINE AND ISO NICOTINE DELIVERY FOR LOW AND VERY LOW (*) NICOTINE CIGARETTES MADE AVAILABLE EITHER COMMERCIALLY OR FOR RESEARCH

Type of cigarette	Filler nicotine level (mg/g or mg/cig)	ISO Nicotine delivery (mg/cig)
Quest 1	12.5 mg/g; 8.9 mg/cig	0.6
Quest 2	6.4 mg/g; 5.1 mg/cig	0.3
Quest 3	1.0 mg/g; 0.4 mg/cig	*0.5
Ultratech/Lifetech	10.3 mg/g [1]; 7.2 mg/cig	1.1
Ultratech/Lifetech[2]	0.6–0.7 mg/g [1]; 0.4–0.5 mg/cig	*<0.06
Next	0.4 mg/g	*0.08
Spectrum high nicotine	11.4–12.8 mg/g	0.6–1.0
Spectrum intermediate nicotine	5.7–5.8 mg/g	0.3
Spectrum low nicotine	0.4 mg/g	*<0.04
Philip Morris 12 mg (for research only)	14.4 mg/g [1]; 10.1 mg/cig	0.9
Philip Morris 8 mg (for research only)	10.6 mg/g [1]; 7.4 mg/cig	0.6
Philip Morris 4 mg (for research only)	5 mg/g [1]; 3.5 mg/cig	0.3
Philip Morris 2 mg (for research only)	2.1 mg/g [1]; 1.5 mg/cig	0.2
Philip Morris 1 mg (for research only)	0.9 mg/g [1]; 0.6 mg/cig	0.1

[1] mg/g or mg/cigarette (cig) was calculated based on an estimate of 0.7 g of tobacco per cigarette (Ref. 80).
[2] Filler nicotine level was reported as 0 mg/cig, but FDA estimates the cigarette contained 0.4–0.5 mg/cig.

2. Estimate of Addiction Threshold Levels

In 1994, certain scientists proposed the idea of federal regulation of nicotine content, which could result in lower intake of nicotine and a lower level of nicotine dependence (Ref. 81). However, FDA acknowledges that there is individual variability in dose sensitivity to all addictive substances, making it difficult to determine a single addiction threshold which would apply across the population. A proposal to lower the nicotine in conventional cigarettes, or any tobacco product, could merit consideration only if there were a threshold nicotine exposure level below which the nicotine did not produce significant reinforcing effects or sustain addiction in a majority of the population. FDA continues to assess VLNC cigarette studies analyzing addiction threshold levels, as discussed in this section.

Four primary study types speak to the level of nicotine in tobacco that could significantly reduce product addictiveness. The first type uses indirect estimates based on information in humans regarding nicotine intake in smokers who appear not to be addicted to nicotine to estimate a likely threshold level. A second type includes studies of VLNC use by study participants that have reported increased quit attempts and cessation even in smokers not interested in quitting. A third type includes studies that have revealed reduced positive subjective effects and increased negative effects in VLNC smokers. The fourth type includes studies measuring nicotine receptor binding, which indicate that use of VLNC cigarettes yields significantly lower nicotinic acetylcholine receptor (nAChR) occupancy and cerebral response.

a. *Indirect estimates of an addiction threshold.* In 1994, researchers conducted a review to explore indirect estimates of an addiction threshold by focusing on the smoking habits of a small population of smokers who demonstrate reduced nicotine dependence, as compared to other smokers (a group sometimes referred to as tobacco ''chippers'') (Ref. 81, citing Ref. 82,). In the 1994 review, researchers suggested that a threshold level of nicotine per cigarette should be low enough to prevent or limit the development of nicotine addiction in most young people, while providing enough nicotine for taste and sensory sensation (*e.g.,* Ref. 81). These researchers found that based on existing studies at the time, ''an absolute limit of 0.4 to 0.5 mg of nicotine per cigarette should be adequate to prevent or limit the development of addiction in most young people. At the same time, it may provide enough nicotine for taste and sensory stimulation'' (id.), which FDA interprets to mean that there would be enough nicotine for an experienced user to tell that there is nicotine in the tobacco product.

In another study seeking to estimate a reinforcement threshold, scientists reviewed several studies, including one in which abstinent smokers received intravenous nicotine injections by pulling a lever in a fixed ratio task (Ref.

[9] Both Ultratech and Lifetech have been reported as being the company through which NIDA manufactured research cigarettes.

83). The authors found that studies using intravenous nicotine administration suggest that the nicotine reinforcement threshold (*i.e.,* the minimum amount of nicotine intake required to initiate or maintain self-administration) is between 1.5 to 6.0 micrograms/kg in humans and 3 to 10 micrograms/kg in rats (Ref. 84). Although the study's authors noted potential limitations (*i.e.,* intravenous delivery does not mimic inhalation, administration of nicotine alone omits other psychoactive constituents in tobacco smoke, and other factors such as age, sex, and genetic variations may influence nicotine's reinforcing properties) (Ref. 84), the lowest dose in the study overlaps with the upper limit of an addiction threshold estimated by the 1994 study (Ref. 81). Despite the study limitations of both these estimates, they help provide a range on which to potentially base a nicotine level threshold.

b. *Findings of increased cessation for VLNC cigarettes.* Several studies indicate that people using significantly reduced nicotine content cigarettes (as low as 0.4 mg nicotine/g of tobacco filler) are more likely to consider cessation (*i.e.,* consider reducing cigarette intake as a step towards cessation or consider fully ceasing cigarette intake), even if they had not previously considered quitting (see, *e.g.,* Refs. 4, 5, 63, and 64). These studies were not investigating VLNC cigarettes as cessation aids.

Some studies showed that switching to VLNC cigarettes results in a reduced number of cigarettes smoked per day (Ref. 4; Ref. 76), reduced nicotine dependence (Refs. 4, 84, and 85), and minimal evidence of withdrawal distress and increased depression (Ref. 64, Ben 12; Refs. 85–87). On the other hand, other researchers have reported the use of VLNC cigarettes did not change the number of cigarettes smoked per day (Refs. 86 and 88), but they did observe reductions in cotinine and carbon monoxide levels. For example, in the Benowitz et al. 2015 study (Ref. 86), where researchers progressively lowered nicotine content over 7 months, the authors found that, after the 7 months of VLNC cigarette use, nicotine intake remained below baseline (*i.e.,* plasma cotinine at 149 ng/ml vs. 250 ng/ml). The Mercincavage et al. study (Ref. 88), a randomized study of smokers progressively decreasing nicotine content over three ten day periods, also yielded mixed results regarding harm exposure. The researchers found that certain biomarkers of exposure to toxic tobacco-related constituents (*i.e.,* cotinine and NNAL) decreased with decreases in nicotine content, but there was no effect on the biomarker 1-hydroxpyrene (1–HOP) (Ref. 88). One limitation of these studies is that they were conducted in an unregulated environment in which smokers continued to have access to the normal nicotine content (NNC) cigarettes.

One of the more recent studies (Ref. 85) on this issue was a double-blind, parallel, randomized clinical trial conducted between June 2013 and July 2014 that evaluated 840 participants (780 completed the 6-week study) who were not interested in quitting smoking. During the sixth week of the study, the average number of cigarettes smoked per day was lower for participants randomly assigned to cigarettes containing 2.4, 1.3, or 0.4 mg of nicotine per gram of tobacco (16.5, 16.3, and 14.9 cigarettes per day, respectively) than for those assigned to their usual cigarette brand or those cigarettes containing 5.2 or 15.8 mg per gram (22.2 and 21.3 cigarettes per day, respectively) (Ref. 85). Those participants using cigarettes with the lowest nicotine content (0.4 mg per gram nicotine/gram of tobacco filler, demonstrated reduced dependence, and use of reduced nicotine cigarettes, including the VLNC cigarettes, with minimal evidence of withdrawal-related discomfort or safety concerns (id.). The authors concluded that this study provides ''preliminary-short term data . . . [that] suggest that if nicotine content is adequately reduced, smokers may benefit by smoking fewer cigarettes and experiencing less nicotine dependence, with few negative consequences'' (id.).

While these results, taken together with other studies, are promising, FDA acknowledges the inherent limitations of the available research on changes in smoking as a function of VLNC cigarettes use. As noted by the investigators of the 2015 double-blind, parallel, randomized clinical trial, ''no large-scale clinical trials of reduced nicotine cigarettes have been conducted. Furthermore, little is known about the dose-related effects of reduced nicotine. Data derived from trials assessing a range of reduced-nicotine cigarettes are critical for providing an empirical basis for regulatory decisions pertaining to nicotine product standards'' (Ref. 85). As a result, FDA requests submission of additional data that may be used to explore further the hypotheses presented in this ANPRM (*e.g.,* extended duration studies) and supports the development of additional studies to further analyze these conclusions.

c. *Subjective effects and relief of withdrawal symptoms associated with VLNC cigarettes.* Individuals who smoke VLNC cigarettes experience some of the same subjective effects as those individuals who smoke traditional, NNC cigarettes. For example, VLNC users report experiencing reductions in certain physiological withdrawal symptoms (*e.g.,* craving, anxiety, irritability, depression) but do not experience other symptoms associated with full nicotine content cigarettes (*e.g.,* relief of physical withdrawal symptoms, increased stimulation and alertness, reduction in restlessness) (Refs. 44, 72, 74, 75, 89–93). Exposure over multiple days generally leads to a reduction in cigarettes smoked per day (Ref. 87). Furthermore, physiological responses after VLNC cigarettes, such as the increase in heart rate that is typically observed following nicotine administration, are less than those seen with higher nicotine cigarettes and are absent in some cases (Ref. 74, 94, and 95). Thus, it appears that transitioning to VLNC cigarettes (from NNC cigarettes) may result in some behavioral and physiological responses commonly experienced when using standard NNC cigarettes (*e.g.,* reduced appetite, increased alertness). These responses, where present, are lower than those seen with standard nicotine cigarettes and get progressively lower over time.

d. *Lower nAChR occupancy and cerebral response from the use of VLNC cigarettes.* VLNC cigarettes contain some nicotine, albeit at very low levels. Although there is enough nicotine in VLNC cigarettes to bind to acetylcholine receptors in the brain, there is not enough to consistently produce the full range of subjective responses (*i.e.,* those responses based on or influenced by individual, internal perceptions or experiences) observed following use of NNC cigarettes (Refs. 74, 92, 96, and 97). Therefore, VLNC cigarettes may not produce the full range of subjective effects as NNC cigarettes. This supports the hypothesis that many subjective and physiological effects observed following exposure to smoke from VLNC cigarettes could be due to repeated pairing of nicotine with sensory and conditioned cues or to other psychoactive chemicals. Given that these subjective and physiological effects have been directly linked to nicotine, it is likely that they are learned responses through repeated pairing with nicotine and not due to other chemicals in the smoke.

Please explain your responses and provide any evidence or other information supporting your responses to the following questions:

1. The Tobacco Control Act prohibits FDA from reducing nicotine yields in any combusted tobacco product to zero

(section 907(d)(3) of the FD&C Act). If FDA were to propose a maximum nicotine level for cigarettes, what should be the maximum level to ensure that the product is minimally addictive or nonaddictive, using the best available science to determine a level that is appropriate for the protection of the public health? Rather than establishing a nicotine target to make products ''minimally addictive'' or ''nonaddictive,'' should FDA consider a different threshold (*e.g.,* less addictive than current products on the market)? How should the maximum level be measured (*e.g.,* nicotine yield, nicotine in cigarette filler, something else)? What would be the potential health impacts of requiring a maximum nicotine level such as 0.4 mg nicotine/g of tobacco filler? FDA is interested in public health impacts of requiring different maximum nicotine levels, such as 0.3, 0.4, and 0.5 mg nicotine/gram of tobacco filler, as well as other maximum nicotine levels and solicits comments about the potential health impacts of different maximum levels.

2. FDA lists four types of studies to estimate the threshold of nicotine addiction (*i.e.,* indirect estimates; findings of increased cessation for VLNC cigarettes; subjective effects, craving, and withdrawal associated with VLNC cigarettes; and lower nAChR occupancy and cerebral response from the use of VLNC cigarettes). Should FDA rely on some or all of these types of studies? Why or why not? Is there a different method that FDA should investigate or use to determine the threshold for nicotine addiction?

3. In addition to nicotine, minor tobacco alkaloids (including nornicotine, cotinine, anabasine, anatabine, and myosamine) and tobacco smoke aldehydes (such as acetaldehyde) are pharmacologically active and may contribute to addiction (see, *e.g.,* Refs. 98 and 99). Researchers have investigated the abuse potential of nornicotine, cotinine, anabasine, and acetaldehyde in animals (Ref. 100). However, many of these compounds are only present in tobacco smoke at low levels and are likely less potent than nicotine in mediating pharmacological response and, therefore, reinforcement (Refs. 101 and 102). In addition to setting a maximum nicotine level, should the product standard also set maximum levels of other constituents (*e.g.,* nornicotine, acetaldehyde, anabasine) that may have the potential to produce dependence and be addictive? If so, at what levels?

4. If FDA were to finalize a nicotine tobacco product standard, what is the potential that adults and adolescents would perceive these VLNC cigarettes as ''safe''—and how could youth and adult risk perceptions of these cigarettes impact initiation, use, and cessation habits of combusted tobacco products?

C. Implementation (Single Target vs. Stepped-Down Approach)

If FDA were to issue a product standard establishing a maximum nicotine level for cigarettes, such a standard would need to either propose a single target (where the nicotine is reduced all at once) or a stepped-down approach (where the nicotine is gradually reduced over time through a sequence of incremental levels and implementation dates) to reach the desired maximum nicotine level. Some have suggested that any maximum nicotine level should be established as a single target (rather than a stepped-down approach) to limit exposure to harmful tobacco while providing similar cessation rates to those that could occur with a stepped-down approach. Some level of compensatory smoking behavior (*i.e.,* smokers seeking to obtain the amount of nicotine they need to sustain their addiction by smoking more cigarettes per day, taking more and deeper puffs, and/or puffing with a faster draw rate) theoretically could occur under either a single target or stepped-down approach and could impact the public health benefits of a possible nicotine tobacco product standard. According to studies involving VLNC cigarettes and other reduced nicotine cigarettes, researchers expect there could be very little or no compensatory smoking with a single target approach and that it would be self-limiting (*i.e.,* smokers would be unable to obtain their nicotine dose from cigarettes no matter how they smoke them and eventually would stop trying to do so), which could maximize the benefits of such a tobacco product standard (Refs. 3–5). If individuals were to engage in compensatory smoking with a single target approach, researchers find that any compensatory smoking at the maximum nicotine levels that FDA is considering here could only be minimal and transient (*e.g.,* Refs. 103, 104, 92, and 93).

In contrast, during a stepped-down approach, tobacco users may attempt to compensate for the loss of nicotine during the early stages of a stepped-down approach by smoking additional tobacco products or by smoking more intensely, since the intermediate-stage products could allow for extraction of nicotine through such efforts in a way that VLNC cigarettes would not (*e.g.,* Refs. 64, 76, and 105).[10]

FDA is aware of several studies that have demonstrated the impact of an immediate (*e.g.,* Refs. 53, 106–108) or a stepped-down approach (Ref. 64) to nicotine reduction on smoking cessation outcomes. Researchers have found that the single target approach may be associated with better cessation outcomes. Data from the International Tobacco Control Policy Evaluation 4-Country Survey, a telephone survey of more than 8,000 adult smokers in the United States, the United Kingdom, Canada, and Australia, illustrates the cessation benefits from abrupt abstinence from cigarettes (''cold turkey'') when compared to a gradual reduction of smoking prior to complete abstinence (''cut down'') (Ref. 109). While this differs from the approaches considered in this ANPRM, it provides helpful insight into the effects of a gradual vs. single change in nicotine intake. Researchers concluded that immediate nicotine cessation was ''clearly associated with more successful outcomes'' (Ref. 109). Scientists also found higher abstinence rates for those using the single target approach in studies comparing two levels of commercial low-yield nicotine cigarettes and nicotine lozenges (Ref. 4).

Nevertheless, some studies have found that both reduction strategies increase a smoker's probability of cessation. For example, in a study of smokers with no strong preference for a quitting method who were randomly assigned to study arms requiring either that they quit immediately or gradually reduce their cigarette consumption over 2 weeks, both the immediate and gradual cessation methods produced similar results (Ref. 110). Likewise, in a meta-analysis of 10 studies to determine the impact of stepped reduction of nicotine versus a single nicotine target in participants interested in quitting smoking, scientists determined that a stepped reduction in nicotine ''provides similar quit rates to abrupt quitting with no evidence that one method is significantly superior to the other in adults trying to quit smoking'' (Ref. 111 at p. 13) and concluded that there were no additional cessation benefits for the stepped-down approach (Ref. 111 at p. 2).

FDA understands the argument that a stepped-down approach to limiting the nicotine levels in tobacco products

[10] However, the IOM has cited one study showing that when nicotine content is stepped down, smokers do not engage in compensatory smoking when nicotine is extracted from tobacco and, therefore, do not increase their toxic exposures (Ref. 13 at p. 349).

could undermine the public health goals of such a standard by allowing for prolonged exposure to tobacco-related toxicants during the step-down period. Although both approaches likely would result in comparable quit rates eventually, some studies have indicated a greater likelihood of cessation success with the use of a single target. In addition, preliminary studies show that a single target approach could limit further exposure to harmful tobacco (when compared with the stepped-down approach to limiting nicotine levels). FDA continues to weigh these factors, and will consider the information submitted in response to this ANPRM, as it decides the appropriate approach for a potential nicotine tobacco product standard.

Please explain your responses and provide any evidence or other information supporting your responses to the following questions:

1. What data are available to demonstrate that a single target approach to reach a maximum nicotine level would or would not result in any unintended consequences?
2. In the alternative, what data are available to demonstrate that a stepped-down approach involving a sequence of incremental levels and implementation dates to reach a proposed nicotine level would or would not result in any unintended consequences?
3. If FDA were to select a stepped-down approach for a nicotine tobacco product standard, what scientific evidence exists to support particular interim nicotine levels and the appropriate number of steps that would be needed to reach the target level?
4. Would a single target and a stepped-down approach for implementation result in comparable quit rates or reduced initiation rates?
5. What would be the likely implementation differences, including implementation timelines and transition costs, between a single target approach or a stepped-down approach involving a sequence of incremental levels and implementation dates?

D. Analytical Testing Method

As part of its consideration regarding a potential nicotine tobacco product standard, FDA is also considering whether such a product standard should specify a method for manufacturers to use to detect the level of nicotine in their tobacco products. FDA believes that the results of any test method to measure the nicotine in combusted tobacco products should be comparable across different accredited testing facilities and products. It is critical that the results from the test method demonstrate a high level of specificity, accuracy, and precision in measuring a range of nicotine levels across a wide variety of tobacco blends and products.

A variety of methods have been in development that allows nicotine in tobacco or tobacco product filler to be quantified for various products. For example, two Cooperation Centre for Scientific Research Relative to Tobacco (CORESTA) methods have undergone round-robin method validation studies in accordance with ISO 5725–1 through ISO 5725–2: (1) Continuous flow analysis (CFA) and (2) gas chromatography-flame ionization detector (GC–FID). The CFA method measured a nicotine range of 0.69–3.30 percent (or 6.9–33 mg/g) in burley and flue-cured tobaccos and exhibited a repeatability range of 0.03–0.17 and a reproducibility range of 0.12–0.67, dependent on the mean (Ref. 112). A GC–FID method for determining nicotine in fermented extractions from tobacco leaves was validated in accordance with FDA and International Council for Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use specifications, including specificity, linearity, precision, accuracy, and robustness (Ref. 113). Gas chromatography-mass spectrometry (GC–MS) was used as the confirmation technique in this study, in which a recovery of 117.8 percent was achieved; recovery was within FDA guidelines (<120 percent) (Ref. 113). Nicotine content of 0.43 percent (4.3 mg/g) in the extract was reliably measured and stability testing on this same extract was conducted for 360 days (id.). In addition, the WHO's Tobacco Laboratory Network (TobLabNet) has developed a standard operating procedure for determination of nicotine in cigarette tobacco filler using gas chromatography (Ref. 114). The WHO's TobLabNet determined that this method is suitable for the quantitative determination of nicotine in cigarette tobacco filler by gas chromatography (GC) (id.).

We also note that ISO 10315 and CORESTA Method No. 62 have been used in substantial equivalence reports submitted to the Agency. ISO 10315 is a method for analyzing nicotine in smoke. With this method, conditioned cigarettes are smoked under ISO 4387 conditions and smoke is captured on a Cambridge filter pad and extracted in propan-2-ol containing internal standard such as n-heptadecane or quinaldine (carvone or n-octadecane are other alternatives to internal standards) and analyzed immediately using GC coupled with flame ionization detection (Ref. 115).

CORESTA Method No. 62 is a standard method used to analyze nicotine in tobacco filler and smokeless tobacco products (Ref. 116). This method describes extraction of nicotine in solid tobacco in basified extraction solution (using sodium hydroxide to deprotonate the nicotine in solution) of either hexane containing n-heptadecane or quinaldine internal standards or basified extraction solution (using sodium hydroxide) of methyl-t-butyl ether solution containing quinoline internal standard (id.).

FDA is also aware of other methods that have been used to analyze nicotine levels. Such methods include GC combined with various detectors, GC–MS with solid-phase microextraction as a preconcentration step for low detection, other formats of GC–FID, capillary electrophoresis combined with either ultraviolet (UV) or electrochemical detection, and alternative chromatography techniques including supercritical fluid chromatography-ion mobility detection (Ref. 117), reversed phase ion-pair liquid chromatographic extraction (Ref. 118), and high-pressure liquid chromatography with UV detection (Ref. 119).

Please explain your responses and provide any evidence or other information supporting your responses to the following questions:

1. If FDA were to issue a product standard, should the Agency require a standard method of product testing to analyze the nicotine levels in products subject to the standard? If so, what method or methods should FDA use?
2. Should the Agency require manufacturers to sample their products in a specific manner to ensure that products do not contain excess levels of nicotine? Should manufacturers be required to test each manufactured batch to ensure compliance with a product standard limiting nicotine levels? What criteria should be used to determine if a batch passes or fails testing?

E. Technical Achievability

FDA continues to analyze the technical achievability of a maximum nicotine level for cigarettes as part of its overall assessment of how best to implement this authority and is seeking comments from interested parties regarding this issue, including with respect to the technical achievability of such a standard for small cigarette and/or small combusted tobacco product manufacturers.

The industry and consumer product companies have developed versions of denicotinized cigarettes and a range of brands with differing nicotine levels. By blending tobaccos based on nicotine levels, tobacco companies have manufactured their products to specifications that ensure the final product will have precise levels of nicotine and have ensured that nicotine levels vary only minimally within cigarette packs and from pack to pack (60 FR 41453 at 41505, 41509, August 11, 1995). In fact, the tobacco industry has had programs in place since the 1960s to obtain ''any level of nicotine desired'' (Ref. 120, citing Ref. 121). The industry also has recognized that the techniques it has used to increase nicotine levels can be used to reduce nicotine levels as well (60 FR 41453 at 41722).

As previously described, VLNC cigarettes have been produced since the 1970s. During this time, NCI contracted for production of a line of cigarettes with widely varying nicotine concentrations (Ref. 122, 81 SG). In the late 1980s, a major cigarette manufacturer had plans to develop VLNC cigarettes with a reduction in mainstream nicotine yields of greater than 95 percent (Ref. 123). More recently, 22nd Century, acting as vendor for RTI's contract with NIDA, has developed cigarettes, not currently commercially available, that are similar in many sensory characteristics to conventional cigarettes but with extremely low nicotine levels (Refs. 54, 124, and 125).

Significant reductions of nicotine in combusted tobacco products can be achieved principally through tobacco blending and cross-breeding plants, genetic engineering, and chemical extraction. Agricultural practices (*e.g.,* controlled growing conditions, fertilization, harvest) as well as more recent, novel techniques also can help to reduce nicotine levels. One or a combination of these processes could be used to achieve the nicotine levels that FDA is considering for a nicotine tobacco product standard.

1. Tobacco Blending/Cross Breeding

Most of the cigarettes sold in the United States are blended cigarettes (Ref. 126). A tobacco industry executive previously testified that the main component of a cigarette that contributes to nicotine delivery is the tobacco blend and that year-to-year crop variation does not determine the nicotine content in a cigarette (Ref. 127). The term ''leaf blending'' describes the selection of tobaccos to be used in a product by tobacco type (*e.g.,* flue-cured, burley, oriental), geographical origin, year, and grade of the tobacco (Ref. 128). Blend differences can produce significant variations in nicotine concentration in the tobacco rod, leading to differences in smoke composition and yield (Ref. 120 at p. 469). Grading, which is used to evaluate and identify differences within tobacco types and is a function of both plant position (*i.e.,* higher or lower on the stalk) and of quality (*i.e.,* ripeness), and segregation of grades by nicotine content, already has become common practice (Ref. 128 at p. 2–3).

Many tobacco lines are available, including approximately 1,000 different tobacco varieties (Ref. 126). The tobacco industry has used breeding and cultivation practices to develop high nicotine tobacco plants to give manufacturers greater flexibility in blending and in controlling the amount of nicotine to be delivered (60 FR 41453 at 41694). These practices could be used to develop low nicotine plants as well. In fact, tobacco industry documents show that in the 1960s, tobacco companies recognized the increasing demand for low nicotine tobacco and began instituting projects that found that low nicotine cigarettes can be made by selecting grades of tobacco with low nicotine content (Ref. 128; citing Ref. 129; Ref. 130).

Because the nicotine content of tobacco plants varies, manufacturers could replace more commonly used nicotine-rich varieties like *Nicotiana rustica* with lower nicotine varieties (Ref. 131). Oriental Turkish-type cigarettes also deliver substantially less nicotine than cigarettes that contain air-cured Burley tobacco (Ref. 120; citing Ref. 132). In addition, manufacturers could select specific tobacco seedlings that are low in nicotine and plant only those low nicotine seedlings (Ref. 133). Even without this selective breeding, manufacturers could use careful tobacco leaf purchasing plans to control the nicotine content in their products (60 FR 41453 at 41694). By maintaining awareness of the differences and monitoring the levels in purchased tobacco, companies could produce cigarettes with nicotine deliveries consistent to one-tenth of one percent (despite variations of up to 25 percent in the nicotine content of the raw material grown in the same area, from year to year) (60 FR 41453 at 41694).

The position of leaves on the plant stalk also affects nicotine levels; tobacco leaves located near the top of the plant can contain higher concentrations of nicotine and lower stalk leaves generally contain lower nicotine levels (Ref. 114; Ref. 120). For example, flue-cured tobacco leaves harvested from the lowest stalk position may contain from 0.08 to 0.65 percent nicotine, whereas leaves from the highest positions may contain between 0.13 and 4.18 percent nicotine (Ref. 126, citing Ref. 134). Therefore, substituting leaves found lower on the plants could reduce the nicotine content of tobacco products (Ref. 131).

A number of internal tobacco industry documents describe the use of leaf blending and tobacco selection to control the nicotine content of cigarettes (Ref. 128 at p. 3). For example, one company project determined that low nicotine cigarettes can be made by selecting grades of tobacco with low nicotine content (Ref. 128 at p. 3, citing Ref. 135). Another observed that the demand for low nicotine tobacco has increased worldwide and necessitated a shift in purchasing standards (Ref. 128 at p. 3, citing Ref. 136).

2. Chemical Extraction

Nicotine also can be removed from tobacco via chemical extraction technology. By the 1970s, tobacco manufacturers regularly practiced nicotine extraction as a method to control nicotine delivery (Ref. 128, citing Ref. 137; Refs. 138 and 139). Extraction methods include water extraction (coupled with steam or oven drying), solvent extraction, and extractions of nicotine without usable leaf (Ref. 128). Supercritical fluid extraction also yielded success in the 1990s, allowing for optimum extraction times and the elimination of more time-consuming steps (Refs. 140 and 141). FDA notes that there are existing patents for chemical extraction of nicotine in tobacco, which reveal that more than 96 percent of nicotine can be successfully extracted while achieving a product that ''was subjectively rated as average in nicotine characteristics'' (Refs. 142 and 66).

In addition, a major tobacco manufacturer has used a high-pressure carbon dioxide process similar to the process used to decaffeinate coffee. In this process, tobacco leaf is treated with ammonium salt, then treated with carbon dioxide/water vapor, which has achieved a 95 to 98 percent reduction in nicotine (Ref. 133, citing Ref. 143) Although some manufacturers believe that previous water extraction practices may have rendered the tobacco ''unsuitable for use,'' other water extraction projects yielded suitable smoking material with sizeable nicotine reductions (80 to 85 percent reduction in leaf nicotine) (Ref. 128, citing Ref. 144; Refs. 145 and 146).

3. Genetic Engineering

Tobacco industry scientists have long recognized the potential for genetic engineering to control nicotine content (Ref. 147). The first practical application of biotechnology by a major tobacco manufacturer was the development of low nicotine tobacco in the 1980s, which led to the receipt of a patent for biotechnology for altering nicotine in tobacco plants (Refs. 133 and 148). Other tobacco researchers and major manufacturers also recognized the value of biotechnology for developing low nicotine tobacco for cigarettes, including for use as part of a smoking cessation program (Ref. 149).

Several American and international tobacco companies genetically engineered low nicotine varietals in the 1960s and 1970s, including a strain with nicotine levels as low as 0.15 percent (Ref. 128; citing Refs. 150–155). During that time period, the Kentucky Tobacco Research Board worked on genetic strains of low nicotine tobacco (with a nicotine content of 0.2 percent) to be used for experimental studies on the role of nicotine in smoking behavior (Ref. 128, citing Refs. 156–159). In addition, Canadian researchers examined low nicotine strains of tobacco, particularly in association with efforts to develop a strain of flue-cured or air-cured tobacco that would be suitable as the base material for reconstituted tobacco (Ref. 128, citing Refs. 151 and 160). In 2003, Vector Tobacco began marketing the Quest cigarette, which was produced from genetically modified tobacco and contained only trace amounts of nicotine (Ref. 133) (this product is no longer on the market). Genetic engineering has resulted in reductions of nicotine levels in the range of 80 to 98 percent (id.). In 2014, the U.S. Patent and Trademark Office granted two patents for two genes that may be suppressed to achieve a substantial decrease in nicotine in tobacco plants (Ref. 161).

4. Other Practices

Industry studies have shown that changes to growing and harvesting practices affect the development of tobacco chemistry, including nicotine content (Ref. 128). Some manufacturers have revised their agricultural practices specifically to meet new product development goals, such as the production of low nicotine tobacco (id.). For example, one manufacturer evaluated various experimental agricultural practices that could affect the tobacco's chemistry, including bulk-curing, once-over harvesting, and high plant density (id., citing Ref. 162). In other cases, chemical agents were observed to reduce nicotine content (Ref. 128 citing Refs. 163–165).

After growers harvest tobacco, it is cured and aged before use in tobacco products. The aging process naturally changes the chemistry of the tobacco, including some reduction in nicotine content (Ref. 128). At least one manufacturer has explored efforts to speed up the process of aging tobacco, in part to alter or limit the changes in chemistry that naturally occur (id., citing Ref. 166). Other approaches to curing and fermenting tobacco were explored as a method for altering nicotine content (Ref. 128). For example, in one manufacturer's report, researchers observed that the properties of tobacco, including nicotine content, could be altered without the need for nontobacco additives by modifying curing practices (id., citing Ref. 167). In addition, manufacturers have explored approaches to identify microbial bacteria that actively degraded nicotine while leaving other components of the leaf intact (Ref. 128, citing Refs. 168 and 169). Consumer product testing showed that the ''product acceptability'' of that tobacco was equal to that of untreated tobacco (Ref. 128, citing Ref. 170).

Researchers have developed novel approaches to reducing the nicotine in tobacco products in recent years. For example, a salivary excretion produced by a caterpillar (containing the enzyme glucose oxidase) is applied to tobacco plant leaves and can reduce the nicotine in tobacco leaf by up to 75 percent and provide an ''effective and economical system for producing tobacco products which contain about 0.01 mg nicotine per cigarette or less . . . while maintaining the other desirable ingredients for good taste and flavor'' (Ref. 67).

Please explain your responses and provide any evidence or other information supporting your responses to the following questions:

1. What methods are tobacco product manufacturers currently using to maintain consistency of the nicotine in their products, given the variability of nicotine levels over growing seasons and crop type? How could these methods be adapted to ensure that certain combusted tobacco products meet a potential nicotine tobacco product standard?

2. What is the feasibility of using the techniques discussed in this section, or other nicotine reduction techniques, to reduce the nicotine in cigarettes?

3. What is the feasibility of using the techniques discussed in this section, or other nicotine reduction techniques, for non-cigarette combusted tobacco products (*e.g.,* cigarette tobacco, RYO tobacco, little cigars, large cigars, cigarillos, pipe tobacco, and waterpipe tobacco) that FDA is considering covering under a nicotine tobacco product standard?

4. If FDA were to propose a tobacco product standard setting a maximum nicotine level, how, if at all, would such a product standard impact tobacco farmers' growing and/or curing practices? If FDA were to finalize a nicotine tobacco product standard, what would be the costs and benefits for tobacco farmers and tobacco processors, particularly regarding how any such rulemaking might affect them in light of new technologies and business opportunities that are foreseeable, but not now in place? In addition, if FDA were to finalize a nicotine tobacco product standard, what would be the costs for farmers in light of such a standard?

5. Section 907(d)(2) of the FD&C Act provides that a tobacco product standard must set forth the effective date of the standard, which may not be less than 1 year after publication of a final rule unless FDA determines that an earlier effective date is necessary for the protection of the public health (and that such effective date be established ''to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade''). This section also provides that the effective date be a minimum of 2 years after publication of a final rule if the tobacco standard can be met only by requiring ''substantial changes to the methods of farming the domestically grown tobacco used by the manufacturer.'' Therefore, if FDA were to propose a product standard setting a maximum nicotine level, when should this standard become effective? What implementation timeframe would allow adequate time for industry to comply? Should the same timeframe be required for all tobacco product manufacturers, regardless of their number of employees and/or annual revenues? [11] Given the currently available processes to reduce the nicotine in tobacco products (*e.g.,* chemical processes, genetic engineering), what do manufacturers

[11] The Tobacco Control Act defines ''small tobacco product manufacturer'' to be a tobacco product manufacturer that employs fewer than 350 employees (21 U.S.C. 387(16)). In the preamble to the deeming rule, FDA defined ''small-scale tobacco product manufacturers'' to be a manufacturer of any regulated tobacco product with 150 employees or fewer and annual total revenues of $5 million or less (81 FR 28973 at 28980). If you are providing comments or information relevant to these definitions or a different definition, please note that definition in your comments.

and others with relevant expertise consider an appropriate timeframe to implement a product standard to reduce nicotine? Would a 2-year, 4-year, or 6-year timeframe be appropriate?

6. Should the standard include provisions that would allow manufacturers, distributors, or retailers to sell off existing nonconforming inventory of manufactured combusted tobacco products? If so, what would be a reasonable sell-off period?

7. What are the potential outcomes of implementing methods to reduce nicotine content in cigarettes in terms of impact on characteristics of cigarettes (flavor, taste, aroma, etc.) and user experience?

F. Possible Countervailing Effects

Section IV. B discusses some of the potential benefits that FDA expects could occur as a result of one possible nicotine tobacco product standard. There may be possible countervailing effects that could diminish the population health benefits expected as a result of a nicotine tobacco product standard. As part of any subsequent rulemaking FDA would need to assess these effects in comparison to the expected benefits, including among population subgroups.

One possible countervailing effect is continued combusted tobacco product use. Current smokers of tobacco products covered by a nicotine tobacco product standard could turn to other tobacco products to maintain their nicotine dependence, both in combination with cigarettes (*i.e.,* dual use) or in place of cigarettes (*i.e.,* switching). For those users seeking to switch to a potentially less hazardous tobacco product (*e.g.,* electronic nicotine delivery systems), FDA expects that the increase in consumer demand for such other products likely would be met by the tobacco industry, which has a history of being responsive to market shifts (see FDA's Draft Concept Paper published elsewhere in this issue of the **Federal Register**). For example, traditional cigarette manufacturers began to expand into the smokeless market when restrictions on where smokers were allowed to smoke were in enacted in the 1980s, 1990s, and early 2000s (id., citing Ref. 171). FDA also wishes to better understand whether users would switch to premium cigars if these products were excluded from the scope of a nicotine tobacco product standard. FDA has requested data and information on whether large and/or so-called premium cigars would be migration or dual use candidates, or whether and how there is a way to define ''premium cigar'' to minimize such consequences.

While FDA believes that some consumers would be satisfied with VLNC cigarettes, the Agency expects that there would be a subset of consumers uninterested in switching to VLNC cigarettes or quitting tobacco products altogether. This subset of consumers may seek to obtain illicit tobacco products after a standard becomes effective (see FDA's Draft Concept Paper). As a result, FDA is considering whether an increase in illicit trade might occur as a result of a nicotine tobacco product standard and how that could impact the marketplace and public health. The analysis of possible illicit trade includes considerations regarding the sources of tobacco, how illicit tobacco products might be manufactured, possible workarounds (such as adding nicotine in liquid or other form to a product with minimally addictive or nonaddictive nicotine levels), the ability to distribute illicit products, the development of consumer awareness, and how illicit trade sales might take place (id.). The capacity to produce illicit tobacco products would depend upon a variety of factors, including the ease of acquiring the raw materials (particularly tobacco), the sophistication required to construct the desired product, and the purpose (whether it is for an individual's personal use, or for wider distribution and sale). Large, commercial, tobacco product manufacturers have the resources, sophistication, and ability to manufacture illicit tobacco products (id.). Illicit tobacco products also may be smuggled and sold through the internet. It is unclear, however, to what extent such companies would be willing to risk their businesses (and resulting profits) to manufacture illicit tobacco products (id.). Tribal manufacturers are an additional source of tobacco products, having relatively high sophistication and machinery in some instances, but they are also subject to the same disincentives as large manufacturers and generally lack widespread distribution and sales capabilities (id.).

The IOM has explored the issue of possible illicit trade if FDA were to issue a tobacco product standard limiting the levels of nicotine in cigarettes. The IOM found that although there is insufficient evidence to draw firm conclusions regarding how the U.S. illicit tobacco market would respond to regulations requiring a reduction in the nicotine content of cigarettes, limited evidence suggests that the demand for illicit conventional cigarettes would be ''modest'' (Ref. 172). The IOM suggests that demand would be limited, because some smokers may quit and other will use modified products or seek legal alternatives (id.). Although some smokers may seek to purchase illicit products if available and accessible, the IOM finds that this ''would require established distribution networks and new sources of product (which would either have to be smuggled from other countries or produced illegally) to create a supply of cigarettes with prohibited features'' (id.). Given that individuals have utilized distribution networks to smuggle cigarettes and avoid higher taxes, FDA is considering whether there might be additional incentive to create or obtain the prohibited cigarettes that are not available elsewhere in the United States. In addition, the report explains that comprehensive interventions by several countries show that it is possible to reduce the size of the illicit tobacco market through enforcement mechanisms and collaborations across jurisdictions (id.).

If a nicotine tobacco product standard were to prompt the development of an illicit market, FDA would have the authority to take enforcement actions regarding the sale and distribution of illicit tobacco products. The FD&C Act provides FDA with several tools that it may use against noncompliant parties. For example, FDA could issue a Warning Letter, an advisory action in which FDA notifies a regulated entity that FDA has found evidence that the party violated the law. A Warning Letter is used to achieve prompt voluntary compliance. In a Warning Letter, FDA informs the regulated entity that failure to comply with the requirements of the FD&C Act and its implementing regulations may result in FDA enforcement action. These actions may include initiating administrative actions or referring cases to the Department of Justice for initiation of judicial action. FDA may seek to initiate an administrative legal action against a regulated entity that can result in the imposition of a fine or civil money penalty. Possible judicial actions may include seizures, injunctions, and criminal prosecution.

Another possible countervailing effect is the potential for increased harm due to continued VLNC smoking with altered smoking behaviors. Some studies of VLNC cigarettes with nicotine levels similar to what FDA is considering have not found compensatory smoking behavior and have found reductions in the number of cigarettes smoked per day and, consequently, decreased exposure to harmful constituents (as discussed in

section IV.B of this document). If FDA decides to pursue a proposed nicotine product standard, FDA will continue to consider this potential countervailing effect.

Another possible countervailing effect of setting a maximum nicotine level for cigarettes could be that users would seek to add nicotine in liquid or other form to their combusted tobacco products. Therefore, FDA is considering whether any action it might take to reduce nicotine in combusted tobacco products should be paired with a provision that would prohibit the sale or distribution of any tobacco product designed for the purposes of supplementing the nicotine content of a combusted tobacco product (or any product where the reasonably foreseeable use is for the purposes of supplementing this nicotine content). FDA is also considering what other regulatory options may be available to address this concern and requests comments on such options.

Please explain your responses and provide any evidence or other information supporting your responses to the following questions:

1. In addition to a nicotine tobacco product standard, should FDA consider any additional regulatory action to address the possibility of migration to, or dual use with, other tobacco products?

2. If FDA were to issue a product standard setting a maximum nicotine content for cigarettes, would smokers seek to add liquid nicotine to their VLNC cigarettes? Therefore, should such a regulation include provisions prohibiting the sale or distribution of any tobacco product designed for the purposes of supplementing the nicotine content of a combusted tobacco product (or any product where the reasonably foreseeable use is to supplement this nicotine content)? How could such a provision be structured to efficiently and effectively achieve this purpose? Should FDA consider other means to prevent supplementing the nicotine content of a combusted tobacco product subject to a nicotine tobacco product standard?

3. Would a nicotine tobacco product standard affect the current illicit trade market, and, if so, to what extent? How would users obtain their sources of tobacco in an illicit market? How would manufacturers distribute their illicit products and develop consumer awareness of such products? How would such sales take place?

4. FDA hypothesizes that, based on currently available research, nicotine levels like those levels that FDA would consider with a possible nicotine tobacco product standard would be self-limiting (*i.e.,* smokers would be unable to obtain their nicotine dose from cigarettes no matter how they smoke them and eventually would stop trying to do so). Do any peer-reviewed studies demonstrate that lowering the nicotine content of cigarettes to minimally addictive levels might encourage consumers to smoke more VLNC cigarettes to achieve the higher nicotine doses currently delivered by NNC cigarettes?

5. If a nicotine tobacco product standard were in effect, the following outcomes could occur: (1) Smokers could continue to smoke but use the low nicotine products; (2) smokers could completely switch to, or dual use low nicotine products with, other legal tobacco or nicotine products; (3) smokers could quit using any nicotine or tobacco product; or (4) smokers could seek to buy illegal cigarettes in an illicit market. Are there data that would provide information on which of these outcomes is most likely? Is there some other outcome that could occur?

6. If an illicit market developed, what percentage of current smokers would switch to illicit conventional cigarettes rather than quitting or switching to other legal products? How would this change if illicit conventional cigarettes were more expensive and/or harder to obtain? How would this change with the implementation of improved monitoring and enhanced enforcement by FDA and its partners?

7. If a nicotine tobacco product standard prompted growth of an illicit market, how long would it likely last? Would demand likely decrease over time, stay the same, or increase?

8. If a nicotine tobacco product standard prompted growth of an illicit market, what effect, if any, would this have on the market for illegal drugs? Are there data showing a relationship between illicit tobacco use and illegal drug use?

9. What mechanisms may be used to prevent, control, or contain illicit markets in conventional cigarettes that may develop if FDA establishes a product standard? What State and Federal entities may be responsible for these mechanisms, and how much would they cost?

G. Other Considerations

To aid in its consideration regarding development of a nicotine tobacco product standard, FDA is seeking data, research results, and other information regarding the following:

1. What data may be helpful to assess the universe of tobacco products that are currently available to consumers and their relevant characteristics, such as nicotine levels? How can available sources of information, such as manufacturer registrations and/or product listings with FDA, be used in this assessment?

2. How should potential consumer surplus or utility loss from the removal of nicotine in cigarettes be considered, given the availability of other sources of nicotine such as ENDS and the continued availability of combustible tobacco products?

3. What sources of information could be used to estimate the change in demand for VLNC cigarettes? What factors should we consider in estimating the changes in demand for other tobacco products?

4. What factors should be considered in estimating changes in experimentation and initiation that may occur as a result of a potential nicotine tobacco product standard?

5. In what ways might a change in nicotine levels in cigarettes spur innovation in the market for both combusted and noncombusted tobacco products?

6. What factors should be considered in estimating the impacts of externalities that might exist for VLNC cigarettes, such as secondhand smoke, litter, and pollution? How could the impact of externalities for VLNC cigarettes be compared to the impacts from NNC cigarettes?

7. What factors should we consider in estimating the impact of changes in demand for other tobacco products?

8. If FDA were to finalize a nicotine tobacco product standard, what might be the costs to current smokers?

9. Are there any other relevant comments or information that would be helpful for FDA to consider in analyzing the economic impacts of a proposed nicotine tobacco product standard?

V. Potential Public Health Benefits of Preventing Initiation to Regular Use and Increasing Cessation

If FDA were to issue a proposed tobacco product standard setting a maximum nicotine level, FDA would provide an analysis explaining how the proposed rule would be appropriate for the protection of the public health (section 907(a)(3)(A) of the FD&C Act). For the purposes of this ANPRM, this section briefly describes the potential public health benefits FDA believes could result from the increased cessation and decreased initiation to regular use that FDA expects could occur if cigarettes and possibly some other combusted tobacco products were minimally addictive or nonaddictive. It also references findings from a

population-based simulation model that quantified the potential public health impact of enacting a regulation lowering nicotine levels in cigarettes and some other combusted tobacco products to minimally addictive levels, utilizing inputs derived from empirical evidence and expert opinion. We are seeking public comment regarding the inputs that should be used for modeling the impact of a nicotine tobacco product standard.

A. Smoking Cessation Would Lead to Substantial Public Health Benefits for People of All Ages

Significant declines in the deaths caused by the use of combusted tobacco products can be achieved by reducing the prevalence of smoking cigarettes and other combusted tobacco products. Smoking cessation has major and immediate health benefits for men and women of all ages, regardless of health status (Ref. 173 at p. i). Smoking cessation decreases the risk of the health consequences of smoking, and former smokers live longer than continuing smokers. For example, persons who quit smoking before age 50 have one-half the risk of dying in the next 15 years compared with continuing smokers (id. at p. v).

Smoking cessation reduces the risk of cancers throughout the body (Ref. 173). For example, although the risk of dying from lung cancer is 22 times higher for male smokers than male nonsmokers (and 12 times higher for female smokers than female nonsmokers), the risk of lung cancer after 10 years of abstinence is 30 to 50 percent that of continuing smokers (id.; Refs. 174 and 175).

Smoking cessation also reduces the risk of other life-threatening illnesses that occur in smokers. In addition to reducing the risk of cancers and the mortality rates of smoking-related diseases, smoking cessation substantially reduces the risk of other dangerous diseases that can lead to death or disability and cause a financial strain on health care resources. For example, smoking cessation substantially reduces risk of peripheral artery occlusive disease (which can cause complications that lead to loss of limbs) (Ref. 173). Former smokers also have half the excess risk of experiencing an abdominal aortic aneurysm compared to current smokers (id.). Cigarette smoking also complicates many diseases (*e.g.,* smokers with diabetes have higher risk of complications, including heart and kidney disease, poor blood flow in the legs and feet, retinopathy and peripheral neuropathy), and smoking cessation can alleviate those complications as well (Ref. 17).

Youth and young adults would experience the greatest benefits from a nicotine tobacco product standard, because many of them may not progress beyond experimentation and, therefore, may not experience dangerous and deadly tobacco-related health effects. Fetuses and children also would benefit if their parents quit smoking, given the negative health consequences to the fetus of a smoking mother and the dangers of secondhand smoke. In addition, children of parents who smoke, when compared with children of nonsmoking parents, have an increased frequency of respiratory infections like pneumonia and bronchitis (Ref. 173). Smoking cessation reduces the rates of these respiratory symptoms and of respiratory infections (Ref. 176 at p. 467). Children exposed to tobacco smoke in the home also are more likely to develop acute otitis media (middle ear infections) and persistent middle ear effusions (thick or sticky fluid behind the eardrum) (Ref. 173). If parents were more able to quit because these products become minimally addictive or nonaddictive, youth would experience these health problems much less frequently.

Although the health benefits are greater for people who stop smoking at earlier ages (Refs. 173 and 176), researchers estimate that smokers can gain years of additional life expectancy no matter when they quit (Ref. 177). In addition, scientists using data from the Cancer Prevention Study (CPS–II), but accounting for bias caused by smoking cessation after baseline, found that even smokers who quit at age 65 had an expected life expectancy increase of 2 years for men and 3.7 years for women (Ref. 178).

The benefits continue for those who remain smoke free. At year one, an individual's added risk of coronary heart disease becomes half that of a smoker's (Ref. 175). Between 2 and 5 years after cessation, an individual's stroke risk is reduced to that of a nonsmoker (id.). In addition, a former smoker's risk of cancers of the mouth, throat, esophagus, and bladder is halved within five years (id.). By 10-years post cessation, an individual's risk of cancers of the kidney and pancreas decreases (id). The risk of coronary heart disease becomes that of a nonsmoker after 15 years of abstinence (id.).

B. A Nicotine Tobacco Product Standard Could Lead to Substantial Improvement in Public Health

As stated throughout this document, nicotine at levels currently found in tobacco products is highly addictive, and addiction to nicotine is the ''fundamental reason that individuals persist in using tobacco products'' (Ref. 17 at p. 105). Although nicotine itself is not the direct cause of most tobacco-attributable disease, addiction to the nicotine in tobacco products is the proximate cause of these conditions because it sustains tobacco use (Refs. 54 and 179). Addiction caused by nicotine in tobacco is critical in the transition of smokers from experimentation to sustained smoking and in the maintenance of smoking for those who want to quit (Ref. 7 at p. 113; Ref. 17). As a result, FDA expects that making cigarettes minimally addictive or nonaddictive would reduce tobacco-related harms by promoting smoking cessation or complete migration to alternative, potentially less harmful noncombusted products and by reducing initiation. In this section, we summarize the approach used to describe the possible impact of a potential nicotine tobacco product standard to the population as a whole and present the findings of this analysis.

As discussed elsewhere in this document, FDA is considering the scope of a potential product standard, and has asked for public comment. To assess the impact of one potential option that might maximize the potential public health impact, it may be appropriate to consider the Apelberg et al. 2018 publication, which presented simulation modeling of a policy scenario in which the scope of a potential product standard restricted the nicotine level in cigarettes, cigarette tobacco, RYO tobacco, cigars (including little cigars, large cigars, and cigarillos, but not so-called ''premium'' cigars), and pipe tobacco (other than waterpipe/hookah tobacco). As part of a formal expert elicitation process (this process centered around three online conferencing sessions held during January and February 2015, following a written protocol designed to elicit opinions using a structured, standardized approach (see Ref. 181 for more details)), eight subject matter experts were asked to provide their individual estimates of the anticipated impacts of a hypothetical policy (setting a ''maximum limit on the amount of nicotine in cigarette tobacco filler'' for the purpose of reducing nicotine in cigarettes ''to minimally addictive levels'') and to develop subjective probability distributions for parameters of interest.

A more detailed description of the methodology, data sources and inputs, and results from this analysis can be

found in two peer-reviewed publications (Refs. 180 and 181).

1. Approach to Estimating Impacts to the Population as a Whole

As described in this document, FDA expects that making cigarettes minimally addictive or nonaddictive (however that were achieved) would impact currently addicted smokers by increasing their ability to quit smoking and affect nonsmokers by reducing the likelihood that they would become established and addicted smokers. Apelberg et al. 2018 updated a previously published discrete system dynamic population model to compare projected outcomes for a status-quo scenario (in which no maximum nicotine level is implemented) with outcomes for a policy scenario in which a hypothetical regulation lowering nicotine in cigarettes, and selected other combusted tobacco products, to minimally addictive was implemented [12] (Ref. 181).

The model incorporated, based on estimates of subject matter experts, the following tobacco use transitions to estimate the impact of the policy: (1) Cigarette smoking cessation; (2) cigarette smokers switching to noncombusted tobacco products (*e.g.,* smokeless tobacco and/or electronic cigarettes) rather than quitting tobacco use entirely; (3) continuing smokers becoming dual users of cigarettes and noncombusted tobacco products; (4) nonsmokers initiating regular cigarette smoking; and (5) nonsmokers who have been dissuaded from smoking cigarettes and certain other combusted tobacco products, who may instead initiate use of a noncombusted tobacco product. The model, based on input parameters derived from expert estimates, projected the impact of the policy on four main outcomes: (1) Prevalence of cigarette smoking and noncombusted tobacco product use; (2) the number of individuals dissuaded from cigarette smoking; (3) cumulative number of tobacco-attributable deaths avoided; and (4) cumulative life years gained as a result of a regulation setting a maximum nicotine level.

The methodology implemented in this analysis has been detailed elsewhere (Refs. 180 and 181). Briefly, the simulation begins with an initial population that reflects the sex, age, and tobacco use distribution (*i.e.,* never, current, and former use of cigarettes and noncombusted products) of the U.S. population in 2015, based on U.S. Census Bureau estimates. The analysis projects population changes for 2016–2100 in 1-year increments, while accounting for births, net migration (which accounts for immigration and emigration) and deaths, the last of which is a function of age, sex, and tobacco use status. Baseline estimates for tobacco use status (combinations of current, former, and never use for cigarettes and noncombusted products) by sex, age, and time since cessation (for cigarettes only) were obtained from the 2015 National Health Interview Survey (NHIS) for adults (Ref. 1) and the 2015 NYTS for youth (Ref. 182). Mortality rates and relative risks by tobacco use status were obtained from U.S. vital statistics data, NHIS data linked for mortality followup (for never smoker mortality rates and cigarette smoking relative risks), and the CPS–II (for smokeless tobacco product relative risks). In the absence of data on the long-term health risks of ENDS, Apelberg et al. assumed that the ENDS products carried the same risks associated with traditional smokeless tobacco (see Ref. 181 for more detail).

Quantitative inputs for rates of post-policy smoking cessation, switching, and dual use in the hypothetical policy scenario were obtained through a formal expert elicitation process. The methodology used to identify experts, develop the protocol, conduct the elicitation, and summarize the findings has been described in detail elsewhere (Ref. 181 at Appendix). Briefly, elicitation candidates with expertise in tobacco science and policy were identified, ranked, and recruited in accordance with a pre-specified protocol, based on publication history and accounting for potential conflicts of interest. Candidates were required to self-certify that they were free of any actual, apparent, or potential conflicts of interests. The elicitation process centered around three online conferencing sessions held during January and February 2015, following a written protocol designed to elicit opinions using a structured, standardized approach (see Ref. 181 for more details). Briefing books with key papers on the topics of interest as well as background data on tobacco use and policy were provided to a panel of eight experts prior to the conference sessions. Experts were asked to identify any other relevant information to share with the panel. Detailed written questionnaires were completed by each expert as independent take-home exercises. To maintain the independence of the experts and encourage open discussion, involvement of FDA staff was limited.

To explore the potential impact of a product standard that would maximally benefit population health, the experts were asked to assume that combusted tobacco products that could be viewed as highly likely to serve as substitutes for traditional cigarettes (*i.e.,* RYO tobacco, pipe tobacco, nonpremium cigars) would be included in the policy, while other tobacco products (*i.e.,* premium cigars, waterpipe/hookah, ENDS, smokeless tobacco) would be excluded.[13] The eight experts were asked to predict and quantify the anticipated impact of the policy on the following model parameters: (1) Cigarette smoking cessation rates; (2) switching from cigarette smoking to other tobacco products excluded from the hypothetical policy scenario; (3) dual use rates; (4) cigarette smoking initiation rates; and (5) initiation rates for other tobacco products excluded from the hypothetical policy scenario. Each of the eight experts was asked to provide his or her best estimate of the parameters' true value, estimates of the minimum and maximum plausible values, and estimates of the 5th, 25th, 75th and 95th percentile values. Experts were asked first about impacts in the first year immediately following the potential product standard's implementation and then about the impacts in the years following the first full year of implementation. Experts had the option of providing separate estimates of impacts for males and females for the initial and subsequent years. For each question, experts were asked to provide the factors they considered pertinent to answering the question, including the studies and research findings most influential to informing their views, and to rate their familiarity with the relevant literature. The elicitation process provided the experts with opportunities to interact and discuss divergent views, from

[12] The policy scenario presented in Apelberg et al. 2018 (Ref. 181) did not define a specific level of nicotine as minimally addictive. Rather, the policy scenario simulated implementation of a hypothetical standard in which cigarettes and certain other combusted tobacco products were made minimally addictive, informed by a formal expert elicitation process (Ref. 181), used to estimate the impact of decreasing the addictiveness of cigarettes on certain tobacco use behaviors. Given the lack of specificity in the hypothetical scenario posed in the Apelberg et al. study, caution is warranted in extrapolating its results to the assessment of a particular policy.

[13] While the policy scenario presented in Apelberg et al., 2018 (Ref. 181) is based on reduction in nicotine level in cigarettes, cigarette tobacco, RYO tobacco, certain cigars and pipe tobacco, the estimated population impact is based on reductions in cigarette smoking. FDA notes that not accounting for reductions in the use of other combusted tobacco products may underestimate the overall impact of this policy scenario.

which each expert generated his/her initial and final estimates.

The eight experts' judgments about the potential values of these parameters are published in Apelberg et al. 2018 (Ref. 181). While parameter estimates and their probability distributions varied somewhat between participants, most experts had the view that making cigarettes and certain other combusted tobacco products minimally addictive would lead to substantial initial and long-term increases in smoking cessation among cigarette smokers and decreased initiation among nonsmokers. Distributions provided by the eight experts' parameter estimates were substantially broad in range. For example, for both male and female non-smokers, the median minimum and maximum estimates from the eight experts on the ''percent of reduction in annual smoking initiation rates'' after the first year in response to the policy ranged from 10 percent to 90 percent. For both male and female smokers, the median minimum and maximum estimates from the eight experts on the ''percent of current smokers who quit smoking as a result of the policy'' within the first year after policy implementation ranged from 4 percent to 50 percent.

To account for uncertainty associated with the expected impact of the policy scenario, Apelberg et al. 2018 used the distributions of the experts' estimates in a Monte Carlo simulation. A Latin Hypercube sampling with 1,000 sample values was performed for each of the expert's response distributions. For each simulation, the policy scenario was compared to the baseline scenario to estimate changes in the outcomes described above. A summary of distribution responses are provided in Apelberg et al. 2018.

2. Projected Impacts to Users, Nonusers, and the Population as a Whole

As illustrated in Figure 1 (Ref. 181), using the experts' input estimates for the parameters described previously, and assuming that the policy is implemented in 2020, the simulation model projected that cigarette smoking prevalence declines substantially in the policy scenario within the first year of implementation of the hypothetical policy scenario to a median value of 10.8 percent compared with 12.8 percent in the baseline scenario. In subsequent years, the simulation model projects that the difference in cigarette smoking prevalence between the scenarios continues to grow due to the experts' estimates of sustained increases in cessation and decreases in initiation in the policy scenario. The projected smoking prevalence drops to a median value of 1.4 percent (5th and 95th percentile projections range from 0.2 percent to 5.9 percent) under the policy scenario by 2060 compared to 7.9 percent under the baseline. Smoking prevalence estimates for the year 2100 are comparable to those for 2060.

Concurrent with a projected reduction in cigarette smoking is a projected increase in noncombusted product use. Adult noncombusted tobacco product use is higher in the hypothetical policy scenario compared to the baseline scenario within the first year of implementation of the potential product standard (Ref. 181 at Figure 1), due to estimated increases in switching from cigarette smoking and transitions to dual cigarette and noncombusted product use as a result of the hypothetical policy scenario. The prevalence of noncombusted tobacco product use remains higher in the policy scenario over time due to the experts' predictions that there would be both increased uptake among smokers (through either complete switching or dual use) and increased initiation due to some dissuaded cigarette initiators taking up noncombusted products instead.

Table 2 provides a projection of the number of individuals who would not become cigarette smokers over time as a result of the hypothetical policy scenario. Since it is assumed, based on expert input, that there would be a sustained decrease in cigarette smoking initiation rates, the model projects that the cumulative number of dissuaded smoking initiates continues to increase over time. By 2100, the median estimate from the model, based on the experts' estimates of potential initiation rates as a result of the policy, is that more than 33 million youth and young adults who would have otherwise initiated regular smoking would not start as a result of the hypothetical policy scenario (5th and 95th percentile projections range from 8.0 million to 64.1 million).

Using the eight experts' estimates for the percent of current smokers who would quit smoking after implementation of the policy, approximately 5 million additional smokers are estimated to quit smoking within one year after implementation of the product standard (5th and 95th percentile projections range from 110,000 to 19.7 million), compared to the baseline scenario. The number of additional smokers quitting would increase by approximately 13 million within 5 years after policy implementation (5th and 95th percentile projections range from 430,000 to 30.5 million), compared to the baseline scenario.

TABLE 2—PROJECTED NUMBER OF INDIVIDUALS WHO WOULD NOT INITIATE REGULAR SMOKING AS A RESULT OF A NICOTINE TOBACCO PRODUCT STANDARD IMPLEMENTED IN 2020

Year	Cumulative new smoking initiates avoided (in millions)		
	5th percentile	Median	95th percentile
2040 ..	2.0	8.1	15.6
2060 ..	3.9	16.0	31.0
2080 ..	5.9	24.4	47.2
2100 ..	8.0	33.1	64.1

Table 3 presents the estimated cumulative number of tobacco-attributable deaths potentially avoided and life years gained due to the experts' determinations that smoking rates would decrease as a result of the hypothetical policy scenario. By 2060, it is estimated that a median value of almost 3 million deaths due to tobacco would be avoided (5th and 95th percentile projections range from 0.7 million to 4.3 million), rising to 8.5 million by the end of the century (5th and 95th percentile projections range from 2.2 million to 11.2 million). The reduction in premature deaths attributable to the hypothetical policy scenario would result in approximately 33 million life years gained by 2060 (5th and 95th percentile projections range from 7.8 million to 53.9 million) and over 134 million life years gained by 2100 (5th and 95th percentile projections range from 31.6 million to 183.0 million).

TABLE 3—PROJECTED NUMBER OF TOBACCO-ATTRIBUTABLE DEATHS AVOIDED AND LIFE YEARS GAINED DUE TO REDUCED SMOKING AS A RESULT OF A NICOTINE TOBACCO PRODUCT STANDARD IMPLEMENTED IN 2020

Year	Cumulative tobacco attributable deaths avoided (millions)			Cumulative life years gained (millions)		
	5th percentile	Median	95th percentile	5th percentile	Median	95th percentile
2040	0.3	0.9	1.4	2.5	6.8	11.5
2060	0.7	2.8	4.3	7.8	33.1	53.9
2080	1.3	5.6	7.9	16.5	79.6	118.0
2100	2.2	8.5	11.2	31.6	134.4	183.0

3. Request for Comments

Based on the experts' judgments that reducing nicotine levels in combusted tobacco products would increase smoking cessation and decrease smoking initiation, and calculations from the simulation model describing the potential impact of reducing nicotine to minimally addictive levels in cigarettes and selected other combusted tobacco products, FDA anticipates a significant public health benefit to the United States. This hypothesis is based on the assumption that the reduction in nicotine levels in combusted tobacco products would create substantial reductions in smoking prevalence due to increased smoking cessation and reduced initiation of regular smoking. Given that research studies cannot easily replicate the condition of a nationally enforced restriction on nicotine to minimally addictive levels in cigarettes, FDA sought expert opinion through an established elicitation process to provide the best estimates for the potential values and associated ranges of the likely impact of a hypothetical reduction in cigarettes' nicotine content (to be achieved by a potential product standard) on tobacco use behaviors. FDA requests data, evidence, and other information regarding the potential public health benefits (or risks) if FDA were to move forward in this area. Specifically, FDA is seeking data, evidence, and other information that could inform the following five parameter inputs that would be helpful in determining the public health impact of a nicotine tobacco product standard:

- Percent of current cigarette smokers who would quit cigarette smoking as a result of a standard restricting nicotine to minimally addictive levels.
- Percent of quitters switching to other combusted or noncombusted tobacco products.
- Percent of continuing smokers who become dual product users of cigarettes and noncombusted tobacco products.
- Percent reduction in annual smoking initiation rates.
- Percent of dissuaded smoking initiates who initiate noncombusted tobacco product use instead.

Please include your assumptions about the scope of the standard and data that supports your estimates.

4. Additional Public Health Benefits

While the projections from the simulation model calculating the potential impact from reducing nicotine to minimally addictive levels in cigarettes suggest a significant public health benefit to the United States resulting from substantial reductions in smoking prevalence (based on the model's inputs, which reflect the experts' assessments that the reduction in nicotine levels in combusted tobacco products would create substantial increases in smoking cessation and reductions in initiation of regular smoking), the analysis does not address certain potential added benefits. First, the model does not account for increased quality of life from decreased tobacco-related morbidity, nor does it account for cost savings from medical care averted. Second, the analysis does not account for the impacts of secondhand smoke exposure on public health in the United States. Third, the analysis does not account for reductions in harms caused by smoking-related fires. Fourth, the potential impact described does not account for the potential impact on population health from use of the other combusted products (*e.g.,* cigars, pipes) if the assumed rule were to cover such products. Finally, these projections do not assess whether there could be potential health benefits associated with smokers cutting down on the number of cigarettes smoked as a result of the standard.

VI. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m. Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

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Dated: March 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

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