AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

# FEDERAL REGISTER

Vol. 83 Friday,
No. 82 April 27, 2018

Pages 18399–18726

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

**The seal of the National Archives and Records Administration authenticates the Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

**How To Cite This Publication:** Use the volume number and the page number. Example: 83 FR 12345.

**Postmaster:** Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

## SUBSCRIPTIONS AND COPIES

**PUBLIC**

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | **202–512–1800** |
| Assistance with public subscriptions | **202–512–1806** |
| **General online information** | **202–512–1530; 1–888–293–6498** |

**Single copies/back copies:**

| | |
|---|---|
| Paper or fiche | **202–512–1800** |
| Assistance with public single copies | **1–866–512–1800 (Toll-Free)** |

**FEDERAL AGENCIES**

**Subscriptions:**

Assistance with Federal agency subscriptions:

| | |
|---|---|
| Email | *FRSubscriptions@nara.gov* |
| Phone | **202–741–6000** |

Printed on recycled paper.

# Contents

**Federal Register**

Vol. 83, No. 82

Friday, April 27, 2018

**Agricultural Marketing Service**
PROPOSED RULES
Cranberries Grown in States of Massachusetts, et al.:
Establishment of 2018–19 Seasonal Volume Regulation, 18462–18468
Cranberries Grown in States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in State of New York:
Marketing Order; Proposed Amendment, 18460–18462

**Agriculture Department**
*See* Agricultural Marketing Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18501

**Census Bureau**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2020 Census New Construction Program, 18502–18504

**Centers for Disease Control and Prevention**
NOTICES
Meetings:
Vessel Sanitation Program, 18567
Vessel Sanitation Program Operations Manual; Vessel Sanitation Program Construction Guidelines, 18567–18568

**Centers for Medicare & Medicaid Services**
RULES
Managed Care; CFR Correction, 18441
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18568–18569

**Civil Rights Commission**
NOTICES
Meetings:
Nevada State Advisory Committee, 18502
Ohio Advisory Committee, 18501–18502

**Coast Guard**
RULES
Anchorage Grounds:
Galveston Harbor, Bolivar Roads Channel, Galveston, TX, 18412–18414
Drawbridge Operations:
Atlantic Intracoastal Waterway, Boca Raton, FL, 18415
St. Johns River, Putnam County, FL, 18414–18415
Safety Zones:
Recurring Safety Zones in Captain of the Port Sault Sainte Marie Zone, 18415–18419
PROPOSED RULES
Anchorages:
Captain of the Port Puget Sound Zone, WA; Withdrawal, 18491
NOTICES
Certificate of Alternative Compliance for Gunderson Marine LLC Hull 116, 18580
Certificates of Alternative Compliance:
Gunderson Marine LLC Hull 117, 18580–18581

**Commerce Department**
*See* Census Bureau
*See* National Institute of Standards and Technology
*See* National Oceanic and Atmospheric Administration
*See* Patent and Trademark Office

**Committee for Purchase From People Who Are Blind or Severely Disabled**
NOTICES
Procurement List; Additions and Deletions, 18540–18541

**Consumer Product Safety Commission**
NOTICES
Meetings:
Prehearing Conference, 18541
Meetings; Sunshine Act, 18541

**Defense Acquisition Regulations System**
RULES
Foreign Acquisition; Solicitation Provisions and Contract Clauses; CFR Correction, 18454

**Defense Department**
*See* Defense Acquisition Regulations System
*See* Engineers Corps
*See* Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Progress Payments, 18566–18567

**Education Department**
RULES
Definitions and Selection Criteria that Apply to Direct Grant Programs, 18419–18421
NOTICES
Privacy Act; Systems of Records, 18544–18547

**Energy Department**
*See* Federal Energy Regulatory Commission

**Engineers Corps**
NOTICES
Exclusive Patent License Approvals:
4D Tech Solutions, Inc., Morgantown, WV, 18542
Meetings:
Inland Waterways Users Board, 18542–18543

**Environmental Protection Agency**
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Texas; Control of Air Pollution from Visible Emissions and Particulate Matter, 18429–18431
Control of Emissions From New and In-Use Highway Vehicles and Engines; CFR Correction, 18436
Guidance:
Protection of Stratospheric Ozone; Stakeholder Meeting Concerning Significant New Alternatives Policy Program, 18431–18436

Incorporation by Reference of State Hazardous Waste Management Program:
New York, 18436–18441
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Montana; Revisions to Prevention of Significant Deterioration Permitting Rules, 18494–18496
South Dakota; Revisions to the Permitting Rules, 18496–18499
Texas; Control of Air Pollution from Visible Emissions and Particulate Matter, 18499
Incorporation by Reference of State Hazardous Waste Management Program:
New York, 18499–18500
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18553–18554
National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal), 18555–18556
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Mobile Air Conditioner Retrofitting Program, 18557–18558
Environmental Assessments; Availability, etc.:
Water Infrastructure Finance and Innovation Act, 18556–18557
Environmental Impact Statements; Availability, etc.:
Weekly Receipts, 18554–18555
Guidance:
Planning for Natural Disaster Debris and Related Guidance, 18558–18560
Meetings:
Toxic Substances Control Act Alternative Testing Methods Draft Strategic Plan, 18556
National Pollutant Discharge Elimination System General Permits:
Hydroelectric Facilities within State of Idaho, 18555

**Federal Aviation Administration**
RULES
IFR Altitudes; Miscellaneous Amendments, 18401–18409
PROPOSED RULES
Airworthiness Directives:
Airbus Airplanes, 18483–18488
Fokker Services B.V. Airplanes, 18488–18490
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Aircraft Noise Complaint and Inquiry System (FAA Noise Portal), 18620–18621
Renewal, Rotorcraft External Load Operator Certificate Application, 18621–18622

**Federal Bureau of Investigation**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18591

**Federal Communications Commission**
RULES
Auction of FM Translator Construction Permits:
Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 83, 18441–18454
Connect America Fund, ETC Annual Reports and Certifications, Rural Broadband Experiments, 18454
NOTICES
Pleading Cycle Established for Comment on Applications for State Certification for Provision of Telecommunications Relay Service, 18560

**Federal Deposit Insurance Corporation**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18560–18562

**Federal Energy Regulatory Commission**
NOTICES
Combined Filings, 18547–18549, 18551–18552
Complaints:
CITGO Petroleum Corp. v. Colonial Pipeline Co., 18547–18548
Consumers Energy Co., Interstate Power and Light Co., Midwest Municipal Transmission Group,Missouri River Energy Services, Southern Minnesota Municipal Power Agency, WPPI Energy v. International Transmission Co., ITC Midwest, LLC, Michigan Electric Transmission Co., 18552
Environmental Assessments; Availability, etc.:
Sabine Pass LNG, L.P.; Sabine Pass Liquefied Natural Gas Third Berth Expansion Project, 18549–18551
Filings:
Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events, 18551
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
NS Power Energy Marketing Inc., 18552–18553

**Federal Motor Carrier Safety Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Medical Qualification Requirements, 18640–18643
Qualification of Drivers; Exemption Applications:
Diabetes, 18638–18640, 18643–18644, 18647–18648
Diabetes Mellitus, 18626–18634, 18636–18638
Epilepsy and Seizure Disorders, 18624–18626
Hearing, 18623–18624
Vision, 18622–18623, 18634–18635, 18644–18649

**Federal Railroad Administration**
RULES
Training, Qualification, and Oversight for Safety-Related Railroad Employees, 18455–18459

**Federal Reserve System**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18562–18565
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 18565–18566

**Fish and Wildlife Service**
RULES
Endangered and Threatened Species:
Removing Textual Descriptions of Critical Habitat Boundaries for Mammals, Birds, Amphibians, Fishes, Clams, Snails, Arachnids, Crustaceans, and Insects, 18698–18726
NOTICES
Incidental Take Permits; Applications:
American Burying-Beetle Amended Oil and Gas Industry Conservation Plan in Oklahoma, 18588–18589

**Food and Drug Administration**
NOTICES
Guidance:
Clinical Trial Imaging Endpoint Process Standards, 18571–18573
Index of Legally Marketed Unapproved New Animal Drugs for Minor Species, 18569–18570
Multiple Function Device Products: Policy and Considerations, 18570–18571

**General Services Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Progress Payments, 18566–18567

**Health and Human Services Department**
*See* Centers for Disease Control and Prevention
*See* Centers for Medicare & Medicaid Services
*See* Food and Drug Administration
*See* Health Resources and Services Administration
*See* National Institutes of Health

**Health Resources and Services Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Voluntary Partner Surveys to Implement Executive Order 12862 in Health Resources and Services Administration, 18574
Meetings:
Advisory Committee on Heritable Disorders in Newborns and Children, 18573

**Homeland Security Department**
*See* Coast Guard
*See* U.S. Citizenship and Immigration Services
*See* U.S. Customs and Border Protection

**Housing and Urban Development Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Human Trafficking Housing Partnership, 18584–18585
Indian Community Development Block Grant, 18585–18586
Manufactured Housing Installation Program Reporting Requirements, 18586–18587
Single Family Premium Collection Subsystem—Periodic, 18587

**Institute of Museum and Library Services**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State Program Reporting System Forms, 18597–18598

**Inter-American Foundation**
NOTICES
Meetings; Sunshine Act, 18587–18588

**Interior Department**
*See* Fish and Wildlife Service
*See* Reclamation Bureau
*See* Surface Mining Reclamation and Enforcement Office

**International Trade Commission**
NOTICES
Complaints:
Certain Submarine Telecommunication Systems and Components Thereof, 18590–18591
Investigations; Determinations, Modifications, and Rulings, etc.:
Laminated Woven Sacks from Vietnam, 18589–18590

**Justice Department**
*See* Federal Bureau of Investigation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18591–18592
Proposed Consent Decrees:
Clean Air Act, 18592

**Labor Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Bureau of Labor Statistics Occupational Safety and Health Statistics Cooperative Agreement Application Package, 18592–18593
Coverage of Certain Preventive Services under Affordable Care Act—Private Sector, 18595–18596
Labor Market Information Cooperative Agreement, 18594–18595
Servicing Multi-Piece and Single Piece Rim Wheels Standard, 18593–18594
Survey of Occupational Injuries and Illnesses, 18596–18597

**National Aeronautics and Space Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Progress Payments, 18566–18567

**National Foundation on the Arts and the Humanities**
*See* Institute of Museum and Library Services

**National Highway Traffic Safety Administration**
NOTICES
Requests for Information:
Improving Prehospital Trauma Care, 18649–18651

**National Institute of Standards and Technology**
NOTICES
National Cybersecurity Center of Excellence Data Integrity Building Block, 18504–18506

**National Institutes of Health**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
CTEP Branch and Support Contracts Forms and Surveys, 18576–18579
Data and Specimen Hub, 18575–18576
Meetings:
Center for Scientific Review, 18579–18580
Diabetes Mellitus Interagency Coordinating Committee, 18574–18575

**National Oceanic and Atmospheric Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18533–18534, 18536–18537

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Pacific Islands Logbook Family of Forms, 18534–18535
Environmental Impact Statements; Availability, etc.:
Marine Mammal Health and Stranding Response Program, 18507
Meetings:
Gulf of Mexico Fishery Management Council, 18535
National Sea Grant Advisory Board, 18506–18507
New England Fishery Management Council, 18533–18536
Science Advisory Board, 18536
Takes of Marine Mammals Incidental to Specified Activities:
Low-Energy Geophysical Survey in Northwest Atlantic Ocean, 18664–18695
South Basin Improvements Project, San Francisco Ferry Terminal, 18507–18533

**National Science Foundation**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18598–18600

**Navy Department**
**NOTICES**
Environmental Impact Statements; Availability, etc.:
Point Mugu Sea Range, 18543–18544

**Patent and Trademark Office**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Medal of Technology and Innovation Nomination Application, 18537
Post Registration (Trademark Processing), 18537–18539

**Personnel Management Office**
**RULES**
Federal Employees Health Benefits Program Flexibilities, 18399–18401

**Postal Regulatory Commission**
**RULES**
Update to Product List, 18422–18429

**Reclamation Bureau**
**NOTICES**
Environmental Impact Statements; Availability, etc.:
Pure Water San Diego Program, North City Project; San Diego County, CA, 18589

**Securities and Exchange Commission**
**NOTICES**
Applications:
Swiss Helvetia Fund, Inc., et al., 18602
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe Exchange, Inc., 18605–18614
MIAX PEARL, LLC, 18614–18616
Nasdaq Stock Market, LLC, 18600–18601
NYSE Arca, Inc., 18603–18605

**Small Business Administration**
**PROPOSED RULES**
Small Business Size Standards:
Revised Size Standards Methodology, 18468–18483
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18616–18617
Delegation of Authority:
Chief Operating Officer Functions Delegated to Chief of Staff, 18617

**State Department**
**NOTICES**
Meetings:
Advisory Committee on International Economic Policy, 18618
Preparation for Forty-Second Session of International Maritime Organization's Facilitation Committee, 18617

**Surface Mining Reclamation and Enforcement Office**
**RULES**
Alabama Regulatory Program, 18409–18412

**Surface Transportation Board**
**NOTICES**
Lease and Operation Exemptions:
Kasgro Rail Corp.; KJ Rail Logistics LLC, 18618

**Trade Representative, Office of United States**
**NOTICES**
Country Practice Reviews:
India, Indonesia, and Kazakhstan, 18618–18620

**Transportation Department**
*See* Federal Aviation Administration
*See* Federal Motor Carrier Safety Administration
*See* Federal Railroad Administration
*See* National Highway Traffic Safety Administration
**NOTICES**
Funding Availability:
National Infrastructure Investments under the Consolidated Appropriations Act, 2018, 18651–18661

**U.S. Citizenship and Immigration Services**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Nonimmigrant Petition Based on Blanket L Petition, 18582–18583
Request for Reduced Fee, 18583–18584

**U.S. Customs and Border Protection**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Certificate of Origin, 18582
Free Trade Agreements, 18581–18582

**Veterans Affairs Department**
**RULES**
Eligibility for Supplemental Service-Disabled Veterans' Insurance, 18421–18422
**PROPOSED RULES**
Veterans' Group Life Insurance Increased Coverage, 18491–18494

---

**Separate Parts In This Issue**

**Part II**
Commerce Department, National Oceanic and Atmospheric Administration, 18664–18695

**Part III**
Interior Department, Fish and Wildlife Service, 18698–18726

**Reader Aids**
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.


**5 CFR**
890 ..... 18399

**7 CFR**
**Proposed Rules:**
929 (2 documents) ..... 18460, 18462

**13 CFR**
**Proposed Rules:**
121 ..... 18468

**14 CFR**
95 ..... 18401
**Proposed Rules:**
39 (3 documents) ..... 18343, 18345, 18348

**30 CFR**
901 ..... 18409

**33 CFR**
110 ..... 18412
117 (2 documents) ..... 18414, 18415
165 ..... 18415
**Proposed Rules:**
110 ..... 18491

**34 CFR**
75 ..... 18419
77 ..... 18419

**38 CFR**
8 ..... 18421
**Proposed Rules:**
9 ..... 18491

**39 CFR**
3020 ..... 18422

**40 CFR**
52 ..... 18429
82 ..... 18431
86 ..... 18436
272 ..... 18436
**Proposed Rules:**
52 (3 documents) ..... 18494, 18496, 18499
272 ..... 18499

**42 CFR**
438 ..... 18441

**47 CFR**
1 ..... 18441
54 ..... 18454
73 ..... 18441
74 ..... 18441

**48 CFR**
225 ..... 18454
252 ..... 18454

**49 CFR**
243 ..... 18455

**50 CFR**
17 ..... 18698

# Rules and Regulations

Federal Register
Vol. 83, No. 82
Friday, April 27, 2018

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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 890

**RIN 3206–AN54**

### Federal Employees Health Benefits Program Flexibilities

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** To correct an asymmetry in the insurance market for Federal employees and annuitants, this Final regulation provides all Federal Employees Health Benefits (FEHB) Program carriers the ability to offer the same number and types of plan options. Currently, OPM regulations defining minimum standards for health benefits plans allow certain plans to have two options and a high deductible health plan, while other plans may have three options of any type or two options and a high deductible health plan, creating an asymmetry between the potential offerings of health benefits plans. We have revised the regulations so all health benefits plans are able to offer three options or two options and a high deductible health plan. This final rule will give FEHB enrollees more choices in selecting a health plan that best meets their family's health care needs.

**DATES:** This rule is effective April 27, 2018.

**FOR FURTHER INFORMATION CONTACT:** Michael W. Kaszynski, Senior Policy Analyst, at *Michael.Kaszynski@opm.gov* or (202) 606–0004.

**SUPPLEMENTARY INFORMATION:** To correct an asymmetry in the insurance market for Federal employees and annuitants, this Final regulation provides all Federal Employees Health Benefits (FEHB) Program carriers the ability to offer the same number and types of plan options. Currently, OPM regulations at 5 CFR 890.201 on minimum standards for health benefits plans allow plan types under 5 U.S.C. 8903(1) and (2) to have two options and a high deductible health plan, but plan types under 5 U.S.C. 8903(3) and (4) may have three options or two options and a high deductible health plan, creating an asymmetry between the potential offerings of types of health benefits plans. We have revised the regulations so all health benefits plans under 5 U.S.C. 8903 have the language that includes three options or two options and a high deductible health plan. This will give enrollees additional options when considering which health plan is best suited for them, for example, using a variety of variables such as premium, co-pay, and deductible costs, provider networks, and referral and pre-authorization policies. Since all health plans must compete annually for enrollees, the availability of additional options could create an incentive for plans to keep premiums as low as possible to attract enrollees. This regulation fully aligns with the Administration's goal of promoting quality and affordable health plan choices.

**Response to Comments**

On December 19, 2017, OPM published this as a proposed rule in the **Federal Register** (82 FR 60126) and the 60 day comment period ended on February 20, 2018. OPM received comments from a citizen, several FEHB carriers, and a bankers' association.

All the commenters were supportive of the regulation's goal to increase choice, competition and affordability. One FEHB carrier, the citizen and the bankers' association expressed agreement with the proposed regulatory change, while all commenting carriers supported OPM's stated purpose. However, some of the commenting carriers expressed the concern that the proposed adjustment to section § 890.201 will not increase competition in the FEHB Program because the regulatory change only affects the offerings of the Service Benefit Plan (SBP) carrier [since there is no current carrier contracted to offer the Indemnity Benefit Plan (IBP)]. The carriers noted that the Service Benefit Plan currently provides health insurance coverage to a significant portion of FEHB enrollees, dominating the FEHB insurance market. Two of the carriers proposed alternate statutory and regulatory changes to increase competition in the Program.

OPM understands the concerns expressed by these FEHB carriers and appreciates the alternate proposals to increase competition, some of which would require legislative action to implement. However, OPM declines to adjust the proposed regulatory language based on these comments. OPM's primary objective for the FEHB Program, as detailed in the agency's strategic plan, is to enhance the quality and affordability of FEHB insurance offerings. In order to achieve that objective, this regulation's goal is to allow increased competition among FEHB Program plans. OPM considers a competitive environment as one in which all carriers conduct business under the same set of rules, meaning no carrier has the advantage of offering products that another carrier cannot. While plan benefits vary, OPM wants all carriers to be able to offer the same number and types of plan options. Carriers in the FEHB Program compete on price, quality, providers, and coverage levels. All carriers have the ability to adjust their premiums, focus on quality, recruit providers and promote their brand to compete with the largest insurer in the FEHB Program. That some carriers attract more enrollment than others is not evidence of an anti-competitive environment. The new option now available to be offered by the Service Benefit Plan may encourage carriers to make changes to their existing third products or add a new third product, creating more competition in the Program.

Several carriers also asserted that the proposed rule exceeds OPM's authority under the FEHB Act and recommended that OPM withdraw the proposed rule. OPM declines to withdraw the proposed rule on this basis.

OPM asserts that the statute allows both the SBP and the IBP to have more than two options of benefits. The legislative history of the FEHB Act (FEHBA) supports this conclusion. In designing the FEHB Program, Congress intended for employees to have free choice among health benefits plans in four major categories and the legislative history notes that the SBP and the IBP would each include ''at least'' two levels of benefits; H.R. Rep. No. 957, 86th Cong., 1st Sess. 1959, 1959 U.S.C.C.A.N. 2913, 2915; 1959 WL 3975. OPM's

interpretation of the FEHBA allows for carriers to have no fewer than two options, and supports the Agency's position on competition, quality and affordability in the FEHB Program. The precedent for adding additional options to the SBP was set in 2010 at 75 FR 76615. Additional innovative options can help the government compete with private employers for talented employees.

FEHBA was enacted in 1959 with the recognition that competition was essential to maintain good benefits at low cost. Congress, however, did not seek to burden the Government with the administrative complexities of doing business with a large number of carriers throughout the nation competing for Federal enrollees. Recognizing that unrestricted competition could make the program administratively unwieldy and ineffective, competition was contemplated as occurring between and among the industry groups offering the various plan types. See testimony from the hearing before the House Committee on Post Office and Civil Service (Testimony) at 89–93; S Rept 498, 86th Cong 1st Sess 1959 at 8–9. In considering the plan descriptions and types, it was clear that Congress valued and anticipated evolution in the health benefits services industry and intentionally left certain aspects of the law vague in order for the carriers and/or the Civil Service Commission (CSC) to apply discretion. Indeed, the Senate Report identifies, in its prefatory discussion of governing principles related to the Government as an employer, that the Federal Government has an opportunity to ''influence soundly the development of health services and ways of financing their costs, and that all responsible and promising efforts should be encouraged and not arbitrarily limited to any single approach. Reasonable competition among different types of programs will provide Federal employees with a better program.'' It appears clear from the legislative history of the FEHB Program that Congress intended the CSC and its successor OPM to reasonably interpret the law in a way that supports and encourages competition among the different categories of plans. Where the law as it presently reads, refers to ''at least'' in other places, it does so in an unrelated context, not necessarily related to OPM's discretion in establishing competition. Where the law does not speak to the number of levels or options, it is implicit that OPM has authority to restrict or encourage a carrier's addition of options in those plans. The need for a baseline of at least two options was intended to ensure sufficient choice to serve enrollees, given that the purpose of the law was to recruit and retain employees by establishing a program with a variety of offerings consisting of good coverage at low cost. The notion that OPM may in some way be constrained by language that does not expressly preclude more than two levels, mandating the agency to fail or refuse to modernize its thinking or react responsively to change engendered by transformations in the marketplace and in the arena of FEHB competition, is antithetical to the foundational premise of the program. Given the ongoing evolution of competition in the health care industry, OPM has now taken the view that the statute need not be read to require exactly two levels for SBP and IBP. We believe that so long as there are ''at least'' two levels of benefits, permitting additional levels of benefits does not contravene the statute; the goal of ensuring adequate competition while avoiding undue administrative complexity is satisfied.

Carriers noted in their comments that OPM has asserted in the past that the SBP and the IBP are limited to offering only 2 options. While this may be relevant historical context, the current regulation allows both the SBP and the IBP to have 3 options, though one must be a high deductible health plan (HDHP). In other words, under the current regulation the SBP and the IBP are able to offer more than two levels of benefits. This regulation merely broadens carriers' ability to offer competitive options beyond HDHPs. Therefore, no changes have been made to the regulation based on these comments.

**Expected Impact of Final Changes**

The FEHB Program currently contracts with 83 health plan carriers which offer a total of 262 health plan options. These changes are projected to create two additional plan options in the FEHB Program. OPM expects that this regulatory change allowing an increase in the number of plan options will have a positive effect on the market dynamics in the FEHB Program by potentially increasing competition between health plans. This regulatory change will allow health plans under 5 U.S.C. 8903(1) and (2) to offer a greater variety of lower cost, higher quality options to better serve FEHB Program enrollee interests. OPM will ensure that any new options are distinct and meet enrollee interests and that enrollees have access to adequate information to understand the available plan options.

**Executive Order Requirements**

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' under Executive Order 12866.

**Paperwork Reduction Act Requirements**

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves an OMB approved collection of information subject to the PRA—OMB No. 3206–0160, Health Benefits Election Form. The public reporting burden for this collection is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 9,000 hours. The systems of record notice for this collection is: OPM/Central 1 Civil Service Retirement and Insurance Records, available at *https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-central-1-civil-service-retirement-and-insurance-records.pdf.*

The FEHB Program currently has a total of 262 health plan options for employees to choose from for their health benefits coverage. Historically, about 18,000 FEHB participants switch health care plans in any given year. This regulation has the potential to add two new enrollment codes representing new plan options and is not anticipated to significantly change the burden associated with this collection. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to *formsmanager@opm.gov.*

**Regulatory Flexibility Act**

I certify that these regulations will not have a significant economic impact on a substantial number of small entities.

**E.O. 13771: Reducing Regulation and Controlling Regulatory Costs**

This Final rule is expected to be an E.O. 13771 deregulatory action as it addresses an asymmetry in the Federal Employees Health Benefits (FEHB) Program market by allowing all carriers to offer three plan options. Additional information can be found in the ''Expected Impact of Final Changes'' section of the rule.

**List of Subjects in 5 CFR Part 890**

Administration and general provisions; Health benefits plans; Enrollment, Temporary extension of coverage and conversion; Contributions and withholdings; Transfers from retired FEHB Program; Benefits in medically underserved areas; Benefits for former spouses; Limit on inpatient hospital charges, physician charges, and FEHB benefit payments; Administrative sanctions imposed against health care providers; Temporary continuation of coverage; Benefits for United States hostages in Iraq and Kuwait and United States hostages captured in Lebanon; Department of Defense Federal Employees Health Benefits Program demonstration project; Administrative practice and procedure, Employee benefit plans, Government employees, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

**Jeff T.H. Pon,**

*Director.*

Accordingly, OPM is amending title 5, Code of Federal Regulations, as follows:

## PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

**Authority:** 5 U.S.C. 8913; Sec. 890.301 also issued under sec. 311 of Pub. L. 111–03, 123 Stat. 64; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; Sec. 890.112 also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604; 5 U.S.C. 8913; Sec. 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 890.102 also issued under sections 11202(f), 11232(e), 11246 (b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061; Pub. L. 111–148, as amended by Pub. L. 111–152.

■ 2. Amend § 890.201 by revising paragraph (b)(3)(i) and removing and reserving paragraph (b)(3)(ii).

The revision reads as follows:

**§ 890.201 Minimum standards for health benefits plans.**

* * * * *

(b) * * *

(3)(i) Have either more than three options, or more than two options and a high deductible health plan (26 U.S.C. 223(c)(2)(A)) if the plan is described under 5 U.S.C. 8903(1), (2), (3) or (4).

* * * * *

[FR Doc. 2018–08933 Filed 4–26–18; 8:45 am]

BILLING CODE 6325–63–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 95

**[Docket No. 31192; Amdt. No. 539]**

## IFR Altitudes; Miscellaneous Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**DATES:** Effective 0901 UTC, May 24, 2018.

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

**SUPPLEMENTARY INFORMATION:** This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

**The Rule**

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

**Conclusion**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 95**

Airspace, Navigation (air).

Issued in Washington, DC, on April 20, 2018.

**John Duncan,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, May 24, 2018.

■ 1. The authority citation for part 95 continues to read as follows:

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

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT

[Amendment 539 effective date May 24, 2018]

| FROM | TO | MEA |
|---|---|---|
| **§ 95.6001 Victor Routes–U.S.** | | |
| **§ 95.6002 VOR Federal Airway V2 is Amended to Delete** | | |
| LANSING, MI VORTAC | SALEM, MI VORTAC | *5000 |
| *3000—MOCA | | |
| *3000—GNSS MEA | | |
| SALEM, MI VORTAC | DELOW, MI FIX | 3000 |
| DELOW, MI FIX | U.S. CANADIAN BORDER | *4000 |
| *2800—MOCA | | |
| U.S. CANADIAN BORDER | BUFFALO, NY VOR/DME | *4000 |
| *2400—MOCA | | |
| **§ 95.6005 VOR Federal Airway V5 is Amended to Delete** | | |
| APPLETON, OH VORTAC | MANSFIELD, OH VORTAC | 3000 |
| MANSFIELD, OH VORTAC | DRYER, OH VOR/DME | 3000 |
| DRYER, OH VOR/DME | U.S. CANADIAN BORDER | #2500 |
| #FOR THAT AIRSPACE OVER U.S. TERRITORY | | |
| **§ 95.6006 VOR Federal Airway V6 is Amended by Adding** | | |
| GIPPER, MI VORTAC | MODEM, IN FIX | *4000 |
| *2600—MOCA | | |
| **Is Amended to Delete** | | |
| GIPPER, MI VORTAC | BRYTO, IN FIX X | *3500 |
| *2600—MOCA | | |
| BRYTO, IN FIX | PIONS, OH FIX | *4000 |
| *2500—MOCA | | |
| PIONS, OH FIX | WATERVILLE, OH VOR/DME | *3300 |
| *2300—MOCA | | |
| DRYER, OH VOR/DME | *MOROW, OH FIX | 3100 |
| *5000—MCA MOROW, OH FIX, E BND | | |
| MOROW, OH FIX | *HIRES, OH FIX | **5000 |
| *3500—MCA HIRES, OH FIX, W BND | | |
| **2700—MOCA | | |
| **3000—GNSS MEA | | |
| HIRES, OH FIX | YOUNGSTOWN, OH VORTAC | 2900 |
| YOUNGSTOWN, OH VORTAC | MERCY, PA FIX | *5000 |
| *3000—MOCA | | |
| *3000—GNSS MEA | | |
| MERCY, PA FIX | CLARION, PA VOR/DME | 3600 |
| **§ 95.6007 VOR Federal Airway V7 is Amended to Read in Part** | | |
| DOLPHIN, FL VORTAC | LEE COUNTY, FL VORTAC | 2300 |
| **§ 95.6008 VOR Federal Airway V8 is Amended to Delete** | | |
| FLAG CITY, OH VORTAC | DUSKY, OH FIX | 2600 |
| DUSKY, OH FIX | MANSFIELD, OH VORTAC | 3000 |
| MANSFIELD, OH VORTAC | BRIGGS, OH VOR/DME | 3000 |
| **§ 95.6010 VOR Federal Airway V10 is Amended to Delete** | | |
| LITCHFIELD, MI VOR/DME | *CRUXX, MI FIX | 3000 |
| *7500—MRA | | |
| *CRUXX, MI FIX | CARLETON, MI VOR/DME | **6000 |
| *7500—MRA | | |
| **2300—MOCA | | |
| CARLETON, MI VOR/DME | U.S. CANADIAN BORDER | *3000 |
| *2100—MOCA | | |
| U.S. CANADIAN BORDER | AZTRO, OH FIX | *4000 |
| *1800—MOCA | | |
| AZTRO, OH FIX | FAILS, OH FIX | *4000 |
| *1800—MOCA | | |
| *2300—GNSS MEA | | |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 539 effective date May 24, 2018]

| FROM | TO | MEA |
|---|---|---|
| FAILS, OH FIX | WONOP, OH FIX | *3000 |
| *2000—MOCA | | |
| WONOP, OH FIX | YOUNGSTOWN, OH VORTAC | *5000 |
| *2700—MOCA | | |
| *3000—GNSS MEA | | |
| **§ 95.6011 VOR Federal Airway V11 is Amended to Delete** | | |
| EDGEE, OH FIX | PIONS, OH FIX | 4000 |
| PIONS, OH FIX | *HIRED, MI FIX | 6000 |
| *6000—MRA | | |
| *HIRED, MI FIX | **CRUXX, MI FIX | 7500 |
| *6000—MRA | | |
| **7500—MRA | | |
| **§ 95.6014 VOR Federal Airway V14 is Amended to Delete** | | |
| FLAG CITY, OH VORTAC | OBRLN, OH FIX | *3500 |
| *2400—MOCA | | |
| OBRLN, OH FIX | DRYER, OH VOR/DME | *3500 |
| *2500—MOCA | | |
| DRYER, OH VOR/DME | JEFFERSON, OH VOR/DME | 3500 |
| JEFFERSON, OH VOR/DME | ERIE, PA VORTAC | 2700 |
| **§ 95.6026 VOR Federal Airway V26 is Amended to Delete** | | |
| LANSING, MI VORTAC | SALEM, MI VORTAC | *5000 |
| *3000—GNSS MEA | | |
| SALEM, MI VORTAC | DETROIT, MI VOR/DME | 2900 |
| DETROIT, MI VOR/DME | U.S. CANADIAN BORDER | *3400 |
| *2300—MOCA | | |
| U.S. CANADIAN BORDER | GEMNI, OH FIX | *3400 |
| *2300—MOCA | | |
| GEMNI, OH FIX | DRYER, OH VOR/DME | *3000 |
| *2200—MOCA | | |
| **§ 95.6030 VOR Federal Airway V30 is Amended to Delete** | | |
| LITCHFIELD, MI VOR/DME | *HIRED, MI FIX | 3000 |
| *6000—MRA | | |
| *HIRED, MI FIX | WATERVILLE, OH VOR/DME | 3000 |
| *6000—MRA | | |
| DRYER, OH VOR/DME | AKRON, OH VOR/DME | 3000 |
| AKRON, OH VOR/DME | CAPEL, OH FIX | 3600 |
| CAPEL, OH FIX | VOLAN, PA FIX | *3600 |
| *2800—MOCA | | |
| VOLAN, PA FIX | CLARION, PA VOR/DME | 3600 |
| **§ 95.6038 VOR Federal Airway V38 is Amended by Adding** | | |
| FORT WAYNE, IN VORTAC | WINES, OH FIX | 2500 |
| **Is Amended to Delete** | | |
| FORT WAYNE, IN VORTAC | FLAG CITY, OH VORTAC | 2500 |
| FLAG CITY, OH VORTAC | APPLETON, OH VORTAC | 3000 |
| **§ 95.6040 VOR Federal Airway V40 is Amended to Delete** | | |
| DRYER, OH VOR/DME | BRIGGS, OH VOR/DME | 3000 |
| BRIGGS, OH VOR/DME | CUTTA, OH FIX | 3000 |
| **§ 95.6043 VOR Federal Airway V43 is Amended to Delete** | | |
| APPLETON, OH VORTAC | TIVERTON, OH VOR/DME | 3000 |
| TIVERTON, OH VOR/DME | BRIGGS, OH VOR/DME | 3000 |
| BRIGGS, OH VOR/DME | YOUNGSTOWN, OH VORTAC | 3000 |
| ERIE, PA VORTAC | U.S. CANADIAN BORDER. | |
| #UNUSABLE | | |
| U.S. CANADIAN BORDER | BUFFALO, NY VOR/DME | *4000 |
| *2400—MOCA | | |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 539 effective date May 24, 2018]

| FROM | TO | MEA |
|---|---|---|
| **§ 95.6045 VOR Federal Airway V45 is Amended to Delete** | | |
| APPLETON, OH VORTAC | DUSKY, OH FIX | 3000 |
| DUSKY, OH FIX | WATERVILLE, OH VOR/DME | 2600 |
| WATERVILLE, OH VOR/DME | *HIRED, MI FIX | 3000 |
| *6000—MRA | | |
| *HIRED, MI FIX | JACKSON, MI VOR/DME | 3000 |
| *6000—MRA | | |
| JACKSON, MI VOR/DME | LANSING, MI VORTAC | 3000 |
| LANSING, MI VORTAC | SAGINAW, MI VOR/DME | 2600 |
| **§ 95.6047 VOR Federal Airway V47 is Amended to Delete** | | |
| FLAG CITY, OH VORTAC | WATERVILLE, OH VOR/DME | 2500 |
| **§ 95.6059 VOR Federal Airway V59 is Amended to Delete** | | |
| NEWCOMERSTOWN, OH VOR/DME | BRIGGS, OH VOR/DME | 3000 |
| **§ 95.6074 VOR Federal Airway V74 is Amended to Read in Part** | | |
| FORT SMITH, AR VORTAC | MAGGA, AR FIX. | |
| | E BND | 4500 |
| | W BND | 4000 |
| **§ 95.6075 VOR Federal Airway V75 is Amended to Delete** | | |
| BRIGGS, OH VOR/DME | DRYER, OH VOR/DME | 3000 |
| DRYER, OH VOR/DME | U.S. CANADIAN BORDER | #*4000 |
| *2200—MOCA | | |
| #FOR THAT AIRSPACE OVER U.S. TERRITORY. | | |
| **§ 95.6084 VOR Federal Airway V84 is Amended to Delete** | | |
| LANSING, MI VORTAC | FLINT, MI VORTAC | 2700 |
| **§ 95.6092 VOR Federal Airway V92 is Amended to Delete** | | |
| BEBEE, IL FIX | *NILES, IL FIX | 3400 |
| *3500—MRA | | |
| *3000—MCA NILES, IL FIX, N BND | | |
| *NILES, IL FIX | CHICAGO HEIGHTS, IL VORTAC | 2500 |
| *3500—MRA | | |
| GOSHEN, IN VORTAC | BAGEL, IN FIX | 2700 |
| BAGEL, IN FIX | EDGEE, OH FIX | *3000 |
| *2400—MOCA | | |
| EDGEE, OH FIX | WATERVILLE, OH VOR/DME | 3000 |
| WATERVILLE, OH VOR/DME | MANSFIELD, OH VORTAC | 2900 |
| MANSFIELD, OH VORTAC | TIVERTON, OH VOR/DME | 3000 |
| TIVERTON, OH VOR/DME | NEWCOMERSTOWN, OH VOR/DME | 3000 |
| **§ 95.6096 VOR Federal Airway V96 is Amended by Adding** | | |
| FORT WAYNE, IN VORTAC | TWERP, OH FIX | *5000 |
| *2300—MOCA | | |
| **Is Amended to Delete** | | |
| FORT WAYNE, IN VORTAC | *ILLIE, OH FIX | **5000 |
| *16000—MCA ILLIE, OH FIX, NE BND | | |
| **2300—MOCA | | |
| ILLIE, OH FIX | *ANNTS, OH FIX | **16000 |
| *16000—MCA ANNTS, OH FIX, SW BND | | |
| **2100—MOCA | | |
| ANNTS, OH FIX | DETROIT, MI VOR/DME | *3000 |
| *2100—MOCA | | |
| **§ 95.6098 VOR Federal Airway V98 is Amended to Delete** | | |
| DAYTON, OH VOR/DME | HINES, OH FIX | 3000 |
| HINES, OH FIX | *WOCKY, OH FIX | 7000 |
| *7000—MCA WOCKY, OH FIX, S BND | | |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 539 effective date May 24, 2018]

| FROM | TO | MEA |
|---|---|---|
| WOCKY, OH FIX<br>*10000—MCA PIONS, OH FIX, S BND | *PIONS, OH FIX | 10000 |
| PIONS, OH FIX | MIZAR, MI FIX | 3000 |
| **§ 95.6103 VOR Federal Airway V103 is Amended to Delete** | | |
| AKRON, OH VOR/DME<br>*2700—MOCA | U.S. CANADIAN BORDER | *9000 |
| U.S. CANADIAN BORDER<br>*2700—MOCA | DETROIT, MI VOR/DME | *4000 |
| DETROIT, MI VOR/DME<br>*2400—MOCA | PONTIAC, MI VORTAC | *3000 |
| PONTIAC, MI VORTAC | LANSING, MI VORTAC | 3000 |
| **§ 95.6116 VOR Federal Airway V116 is Amended to Delete** | | |
| WILLA, IL FIX<br>*3000—MRA<br>**1800—MOCA | *NEPTS, MI FIX | **4000 |
| *NEPTS, MI FIX<br>*3000—MRA | KEELER, MI VOR/DME | 2400 |
| KEELER, MI VOR/DME | KALAMAZOO, MI VOR/DME | 2600 |
| KALAMAZOO, MI VOR/DME | JACKSON, MI VOR/DME | 2700 |
| JACKSON, MI VOR/DME | SALEM, MI VORTAC | 3000 |
| SALEM, MI VORTAC<br>*2400—MOCA | U.S. CANADIAN BORDER | #*3000 |
| U.S. CANADIAN BORDER<br>*1900—MOCA | TRACE, OH FIX | *7000 |
| TRACE, OH FIX<br>*2200—MOCA | ERIE, PA VORTAC | *3000 |
| **§ 95.6126 VOR Federal Airway V126 is Amended by Adding** | | |
| GOSHEN, IN VORTAC<br>*2400—MOCA | ILTON, IN FIX | *3000 |
| **Is Amended to Delete** | | |
| GOSHEN, IN VORTAC | BAGEL, IN FIX | 2700 |
| BAGEL, IN FIX<br>*2400—MOCA | EDGEE, OH FIX | *3000 |
| EDGEE, OH FIX | WATERVILLE, OH VOR/DME | 3000 |
| WATERVILLE, OH VOR/DME | DRYER, OH VOR/DME | 000 |
| DRYER, OH VOR/DME | JEFFERSON, OH VOR/DME | 3000 |
| JEFFERSON, OH VOR/DME | ERIE, PA VORTAC | 2700 |
| **§ 95.6133 VOR Federal Airway V133 is Amended to Delete** | | |
| ZANESVILLE, OH VOR/DME | TIVERTON, OH VOR/DME | 3000 |
| TIVERTON, OH VOR/DME | MANSFIELD, OH VORTAC | 3000 |
| SALEM, MI VORTAC | SAGINAW, MI VOR/DME | 3000 |
| **§ 95.6144 VOR Federal Airway V144 is Amended to Read in Part** | | |
| *BEALL, OH FIX<br>*4600—MCA MORGANTOWN, WV VORTAC, SE BND | *MORGANTOWN, WV VORTAC | 4000 |
| **§ 95.6157 VOR Federal Airway V157 is Amended to Read in Part** | | |
| *LOTTS, GA FIX<br>*6000—MRA<br>**1800—MOCA<br>**2000—GNSS MEA | ALLENDALE, SC VOR | **9000 |
| **§ 95.6159 VOR Federal Airway V159 is Amended to Read in Part** | | |
| VIRGINIA KEY, FL<br>*3000—MCA NITNY, FL FIX, N BND | VOR/DME *NITNY, FL FIX | 2100 |
| **§ 95.6170 VOR Federal Airway V170 is Amended to Delete** | | |
| ERIE, PA VORTAC | BRADFORD, PA VOR/DME | *5000 |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 539 effective date May 24, 2018]

| FROM | TO | MEA |
|---|---|---|
| *3900—MOCA | | |
| **§ 95.6176 VOR Federal Airway V176 is Amended to Delete** | | |
| CARLETON, MI VOR/DME | U.S. CANADIAN BORDER | *3000 |
| *2100—MOCA | | |
| **§ 95.6188 VOR Federal Airway V188 is Amended to Delete** | | |
| CARLETON, MI VOR/DME | U.S. CANADIAN BORDER | *3000 |
| *2100—MOCA | | |
| U.S. CANADIAN BORDER | FAILS, OH FIX | *4000 |
| *1800—MOCA | | |
| *2300—GNSS MEA | | |
| FAILS, OH FIX | WONOP, OH FIX | *3000 |
| *2000—MOCA | | |
| WONOP, OH FIX | CLERI, OH FIX | *3000 |
| *2200—MOCA | | |
| CLERI, OH FIX | JEFFERSON, OH VOR/DME | *3000 |
| *2400—MOCA | | |
| JEFFERSON, OH VOR/DME | TIDIOUTE, PA VORTAC | 3500 |
| **§ 95.6210 VOR Federal Airway V210 is Amended to Delete** | | |
| ROSEWOOD, OH VORTAC | TIVERTON, OH VOR/DME | 3000 |
| TIVERTON, OH VOR/DME | BRIGGS, OH VOR/DME | 3000 |
| BRIGGS, OH VOR/DME | SEING, OH FIX | 3000 |
| SEING, OH FIX | CAPEL, OH FIX | 3600 |
| CAPEL, OH FIX | VOLAN, PA FIX | *3600 |
| *2800—MOCA | | |
| VOLAN, PA FIX | TALLS, PA FIX | *5000 |
| *3200—MOCA | | |
| *3300—GNSS MEA | | |
| TALLS, PA FIX | REVLOC, PA VOR/DME | 4100 |
| **§ 95.6221 VOR Federal Airway V221 is Amended by Adding** | | |
| FORT WAYNE, IN VORTAC | ILTON, IN FIX | 3000 |
| **Is Amended to Delete** | | |
| FORT WAYNE, IN VORTAC | GAREN, IN FIX | 2600 |
| GAREN, IN FIX | LITCHFIELD, MI VOR/DME | 3000 |
| LITCHFIELD, MI VOR/DME | JACKSON, MI VOR/DME | *3000 |
| *2500—MOCA | | |
| JACKSON, MI VOR/DME | SALEM, MI VORTAC | 3000 |
| SALEM, MI VORTAC | DELOW, MI FIX | 3000 |
| DELOW, MI FIX | U.S. CANADIAN BORDER | *4000 |
| *2800—MOCA | | |
| U.S. CANADIAN BORDER | ERIE, PA VORTAC | #3000 |
| #FOR THAT AIRSPACE OVER U.S. TERRITORY. | | |
| **§ 95.6232 VOR Federal Airway V232 is Amended to Delete** | | |
| CHARDON, OH VOR/DME | FRANKLIN, PA VOR | 3300 |
| | | MAA—15000 |
| FRANKLIN, PA VOR | COOBE, PA FIX | 3500 |
| COOBE, PA FIX | KEATING, PA VORTAC | 4000 |
| **§ 95.6233 VOR Federal Airway V233 is Amended to Delete** | | |
| LITCHFIELD, MI VOR/DME | LANSING, MI VORTAC | 3000 |
| LANSING, MI VORTAC | MOUNT PLEASANT, MI VOR/DME | 3000 |
| **§ 95.6275 VOR Federal Airway V275 is Amended to Read in Part** | | |
| DAYTON, OH VOR/DME | KLOEE, OH FIX | *6000 |
| *2500—MOCA | | |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 539 effective date May 24, 2018]

| FROM | TO | MEA |
|---|---|---|
| **§ 95.6297 VOR Federal Airway V297 is Amended to Delete** | | |
| JOHNSTOWN, PA VOR/DME | TALLS, PA FIX | 4400 |
| TALLS, PA FIX | VOLAN, PA FIX | *5000 |
| *3200—MOCA | | |
| *3300—GNSS MEA | | |
| VOLAN, PA FIX | CAPEL, OH FIX | *3600 |
| *2800—MOCA | | |
| CAPEL, OH FIX | AKRON, OH VOR/DME | 3600 |
| AKRON, OH VOR/DME | U.S. CANADIAN BORDER | *6000 |
| *3000—MOCA | | |
| **§ 95.6353 VOR Federal Airway V353 is Amended to Delete** | | |
| JACKSON, MI VOR/DME | FLINT, MI VORTAC | 2800 |
| **§ 95.6383 VOR Federal Airway V383 is Amended to Delete** | | |
| ROSEWOOD, OH VORTAC | YOGGI, OH FIX | 3100 |
| YOGGI, OH FIX | *CHOOT, OH FIX | **6500 |
| *6500—MRA | | |
| **3100—MOCA | | |
| *CHOOT, OH FIX | DETROIT, MI VOR/DME | 3100 |
| *6500—MRA | | |
| **§ 95.6396 VOR Federal Airway V396 is Amended to Delete** | | |
| U.S. CANADIAN BORDER | CHARDON, OH VOR/DME | *8000 |
| *2700—MOCA | | |
| **§ 95.6406 VOR Federal Airway V406 is Amended to Delete** | | |
| SALEM, MI VORTAC | U.S. CANADIAN BORDER | *4000 |
| *2700—MOCA | | |
| **§ 95.6416 VOR Federal Airway V416 is Amended to Delete** | | |
| ROSEWOOD, OH VORTAC | *LAWTO, OH FIX | **4000 |
| *4000—MRA | | |
| **2500—MOCA | | |
| *LAWTO, OH FIX | MANSFIELD, OH VORTAC | **4000 |
| *4000—MRA | | |
| **2500—MOCA | | |
| MANSFIELD, OH VORTAC | JAKEE, OH FIX | 3000 |
| **§ 95.6418 VOR Federal Airway V418 is Amended to Delete** | | |
| SALEM, MI VORTAC | BEWEL, OH FIX | #*4000 |
| *2700—MOCA | | |
| #FOR THAT AIRSPACE OVER U.S. TERRITORY. | | |
| BEWEL, OH FIX | JAMESTOWN, NY VOR/DME | *4000 |
| *3300—MOCA | | |
| **§ 95.6426 VOR Federal Airway V426 is Amended to Delete** | | |
| CARLETON, MI VOR/DME | SALFE, OH FIX | *4000 |
| *3000—GNSS MEA | | |
| SALFE, OH FIX | AMRST, OH FIX. | |
| AMRST, OH FIX | DRYER, OH VOR/DME | *3000 |
| *2200—MOCA | | |
| **§ 95.6435 VOR Federal Airway V435 is Amended to Delete** | | |
| ROSEWOOD, OH VORTAC | OBRLN, OH FIX | *6000 |
| *2700—MOCA | | |
| OBRLN, OH FIX | DRYER, OH VOR/DME | *3500 |
| *2500—MOCA | | |
| **§ 95.6443 VOR Federal Airway V443 is Amended to Delete** | | |
| WISKE, WV FIX | NEWCOMERSTOWN, OH VOR/DME | 3300 |
| NEWCOMERSTOWN, OH VOR/DME | TIVERTON, OH VOR/DME | 3000 |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 539 effective date May 24, 2018]

| FROM | TO | MEA |
|---|---|---|
| TIVERTON, OH VOR/DME | DRYER, OH VOR/DME | 3000 |
| DRYER, OH VOR/DME | FAILS, OH FIX | 2500 |
| FAILS, OH FIX | U.S. CANADIAN BORDER | *3000 |
| *1700—MOCA | | |
| **§ 95.6450 VOR Federal Airway V450 is Amended to Delete** | | |
| FLINT, MI VORTAC | KATTY, MI FIX | 3000 |
| KATTY, MI FIX | U.S. CANADIAN BORDER | *4000 |
| *2800—MOCA | | |
| **§ 95.6464 VOR Federal Airway V464 is Amended to Delete** | | |
| SALEM, MI VORTAC | U.S. CANADIAN BORDER | 3000 |
| **§ 95.6467 VOR Federal Airway V467 is Amended to Delete** | | |
| RICHMOND, IN VORTAC | WATERVILLE, OH VOR/DME | *10000 |
| *3000—MOCA | | |
| WATERVILLE, OH VOR/DME | DETROIT, MI VOR/DME | *3000 |
| *2100—MOCA | | |
| **§ 95.6486 VOR Federal Airway V486 is Amended to Delete** | | |
| LEBRN, OH FIX | CHARDON, OH VOR/DME | 3000 |
| CHARDON, OH VOR/DME | ALLCO, PA FIX | 3300 |
| ALLCO, PA FIX | JAMESTOWN, NY VOR/DME | *3700 |
| *3200—MOCA | | |
| **§ 95.6493 VOR Federal Airway V493 is Amended to Delete** | | |
| APPLETON, OH VORTAC | DUSKY, OH FIX | 3000 |
| DUSKY, OH FIX | WATERVILLE, OH VOR/DME | 2600 |
| WATERVILLE, OH VOR/DME | CARLETON, MI VOR/DME | *3000 |
| *2200—MOCA | | |
| **§ 95.6522 VOR Federal Airway V522 is Amended to Delete** | | |
| DRYER, OH VOR/DME | FAILS, OH FIX | 2500 |
| **§ 95.6523 VOR Federal Airway V523 is Amended to Delete** | | |
| APPLETON, OH VORTAC | TIVERTON, OH VOR/DME | 3000 |
| TIVERTON, OH VOR/DME | AKRON, OH VOR/DME | 3000 |
| AKRON, OH VOR/DME | YOUNGSTOWN, OH VORTAC | 3000 |
| YOUNGSTOWN, OH VORTAC | ERIE, PA VORTAC | *5000 |
| *3000—GNSS MEA | | |
| **§ 95.6525 VOR Federal Airway V525 is Amended to Delete** | | |
| APPLETON, OH VORTAC | TIVERTON, OH VOR/DME | 3000 |
| TIVERTON, OH VOR/DME | DRYER, OH VOR/DME | 3000 |
| **§ 95.6534 VOR Federal Airway V534 is Amended to Read in Part** | | |
| SCRAN, AR FIX | FORT SMITH, AR VORTAC. | |
| | W BND | *3500 |
| | E BND | *4500 |
| *3000—MOCA | | |
| **§ 95.6542 VOR Federal Airway V542 is Amended to Delete** | | |
| ROSEWOOD, OH VORTAC | *LAWTO, OH FIX | 4000 |
| *4000—MRA | | |
| *LAWTO, OH FIX | MANSFIELD, OH VORTAC | **4000 |
| *4000—MRA | | |
| **2500—MOCA | | |
| MANSFIELD, OH VORTAC | AKRON, OH VOR/DME | 3000 |
| AKRON, OH VOR/DME | YOUNGSTOWN, OH VORTAC | *3000 |
| *2600—MOCA | | |
| YOUNGSTOWN, OH VORTAC | HAGAR, PA FIX | 3000 |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 539 effective date May 24, 2018]

| FROM | TO | MEA |
|---|---|---|
| HAGAR, PA FIX | TIDIOUTE, PA VORTAC | 3600 |
| **§ 95.6573 VOR Federal Airway V573 is Amended to Read in Part** | | |
| ELMMO, AR FIX | MARKI, AR FIX | *5500 |
| *2600—MOCA | | |
| MARKI, AR FIX | HOT SPRINGS, AR VOR/DME. | |
| | NE BND | *3500 |
| | SW BND | *5500 |
| *2700—MOCA | | |
| **§ 95.6584 VOR Federal Airway V584 is Amended to Delete** | | |
| WATERVILLE, OH VOR/DME | DRYER, OH VOR/DME | *3000 |
| *2200—MOCA | | |
| **§ 95.6319 Alaska VOR Federal Airway V319 is Amended to Read in Part** | | |
| JOHNSTONE POINT, AK VOR/DME | EDELE, AK FIX. | |
| | E BND | 4400 |
| | W BND | 10000 |
| SNRIS, AK FIX | *ANCHORAGE, AK VOR/DME. | |
| | W BND | 8200 |
| | E BND | 10000 |
| *8000—MCA ANCHORAGE, AK VOR/DME, E BND | | |
| **§ 95.6322 Alaska VOR Federal Airway V322 is Amended to Read in Part** | | |
| KING SALMON, AK VORTAC | KONIC, AK FIX. | |
| | W BND | 5000 |
| | E BND | 9000 |

| AIRWAY SEGMENT | | CHANGEOVER POINTS | |
|---|---|---|---|
| FROM | TO | DISTANCE | FROM |
| **§ 95.8003 VOR Federal Airway Changeover Point is Amended to Delete Changeover Point** | | | |
| APPLETON, OH VORTAC | MANSFIELD, OH VORTAC | 28 | APPLETON. |
| **V6 is Amended to Delete Changeover Point** | | | |
| DRYER, OH VOR/DME | YOUNGSTOWN, OH VORTAC | 39 | DRYER. |
| YOUNGSTOWN, OH VORTAC | CLARION, PA VOR/DME | 20 | YOUNGSTOWN. |
| **V467 is Amended to Delete Changeover Point** | | | |
| RICHMOND, IN VORTAC | WATERVILLE, OH VOR/DME | 56 | RICHMOND. |
| **V542 is Amended to Delete Changeover Point** | | | |
| YOUNGSTOWN, OH VORTAC | TIDIOUTE, PA VORTAC | 21 | YOUNGSTOWN. |

[FR Doc. 2018–08837 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 901

**[SATS No. AL–078–FOR; Docket ID: OSMRE–2015–0005; S1D1S SS08011000 SX064A000 178S180110; S2D2S SS08011000 SX064A000 17XS501520]**

### Alabama Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Alabama regulatory program (Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Alabama proposed revisions clarifying that the venue for appeals of Alabama Surface Mining Commission decisions resides in the Circuit Court of the county in which the agency maintains its principal

office. Alabama is revising its program to be no less effective than the Federal regulations and to improve operational efficiency.

**DATES:** The effective date is May 29, 2018.

**FOR FURTHER INFORMATION CONTACT:** Bill Joseph, Acting Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, AL 35209. Telephone: (918) 5814–6431 ext. 230. Email: *bjoseph@osmre.gov.*

**SUPPLEMENTARY INFORMATION:**

I. Background on the Alabama Program
II. Submission of the Amendment
III. OSMRE's Findings
IV. Summary and Disposition of Comments
V. OSMRE's Decision
VI. Procedural Determinations

## I. Background on the Alabama Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Alabama program effective May 20, 1982. You can find background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Alabama program in the May 20, 1982, **Federal Register** (47 FR 22030). You can also find later actions concerning the Alabama program and program amendments at 30 CFR 901.10, 901.15 and 901.16.

## II. Submission of the Amendment

By letter dated June 12, 2015 (Administrative Record No. AL–0666), Alabama sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative.

We announced receipt of the proposed amendment in the October 5, 2015, **Federal Register** (80 FR 60107). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on November 4, 2015. We received four public comments (Administrative Record No. AL–0666–03) that are addressed in the Public Comments section of part IV. Summary and Disposition of Comments.

## III. OSMRE's Findings

We are approving the amendment as described below. The following are the findings we made concerning Alabama's amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. Any revisions that we do not specifically discuss below concerning non-substantive wording or editorial changes can be found in the full text of the program amendment available at *www.regulations.gov.*

### *1. Code of Alabama Section 9–16–79 Hearing and Appeals*

Alabama added new language clarifying that procedures for the Alabama Surface Mining Commission are governed by this section of the Alabama Code because the Alabama Surface Mining Commission (ASMC) is within the jurisdiction of the Alabama Surface Mining Act and the procedures for hearings and appeals may be no less effective than the Federal counterpart. This clarification is necessary to distinguish this article of the code from other sections of the Alabama Code that are exclusively governed by the Alabama Administrative Procedure Act and have no impact upon the implementation of the Alabama Surface Mining Act.

We find that Alabama's clarification does not make its rules or regulations less effective than, or inconsistent with, the Federal requirements. Therefore, we are approving Alabama's revision.

### *2. Code of Alabama Section 9–16–79 Hearing and Appeals; Procedures (4)b.*

Alabama made edits and added new language to this paragraph clarifying that the venue for appeals of Alabama Surface Mining Commission decisions resides in the Circuit Court of the county in which the agency maintains its principal office.

We find that Alabama's edits and clarifications do not make its rules inconsistent with the requirements of SMCRA section 526(e). Therefore, we are approving Alabama's revisions.

## IV. Summary and Disposition of Comments

### *Public Comments*

We asked for public comments on the amendment. As noted in Section II, we received four comments, which generally focused on two issues. The comments received are discussed below.

First, the commenters alleged that the proposed program amendment violates the venue-provisions of SMCRA as they relate to actions seeking judicial review of final decisions. Two of the commenters cited section 520(c)(1) as support for this comment. That provision states that citizen suits ''may be brought only in the judicial district in which the surface coal mining operation complained of is located.'' 30 U.S.C. 1270(c)(1).

Contrary to the commenters' assertion, this change to Alabama's program does not violate section 520(c)(1) of SMCRA. Even with the program amendment, citizen suits may still be filed by any person having an interest in the judicial district in which the surface coal mining operation complained of is located. Final decisions of the ASMC cannot be the subject of citizen suits. Instead, challenges to final decisions of the ASMC are challenged under the Alabama counterpart to section 526 of SMCRA. In contrast to section 520(c)(1), section 526(e) of SMCRA provides that an ''[a]ction of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by a court of competent jurisdiction in accordance with State law.'' Section 526(e) also makes clear that its judicial review provisions do not extend to citizen suits under section 520. 30 U.S.C. 1276(e) (''the availability of such review shall not be construed to limit the operation of the rights established in section 520 except as provided therein.''). Because the county in which the ASMC maintains its principal office is a court of competent jurisdiction in Alabama, it is not inconsistent with SMCRA for Alabama to specify that all actions challenging its decisions must be brought there.

Second, the commenters alleged that requiring judicial review of ASMC final decisions in the circuit court of the county in which the commission maintains its principal office would unfairly limit the rights of citizens, would be difficult and expensive for citizens, and would provide for potential bias based upon industry and politics.

We understand the citizens' concerns, but we do not find that they make the Alabama program inconsistent with SMCRA. For example, on the federal level, when a citizen brings a lawsuit in the ''judicial district in which the surface coal mining operation complained of is located,'' the judicial district may be made up of multiple counties or even an entire state. Even in these situations, the litigation often occurs in a county that is different than the county where either the citizen resides or the surface coal mining operation is located. Therefore, it is not inconsistent with SMCRA that the

venue is located away from the citizen's county or residence or the location of the surface coal mining operation. Because our role is solely to determine whether Alabama's proposed amendment is consistent with SMCRA—and it is—we have no basis to disapprove the amendment based on the concerns raised by the commenters.

*Federal Agency Comments*

On June 26, 2015, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Alabama program (Administrative Record No. AL–0666–03). We did not receive any comments.

*Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Alabama proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on June 26, 2015, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. AL–0666–03). The EPA did not respond to our request.

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On June 26, 2016, we requested comments on Alabama's amendment (Administrative Record No. AL–0666–03), but neither the SHPO nor the ACHP responded to our request.

## V. OSMRE's Decision

Based on the above findings, we approve the amendment Alabama sent us on June 12, 2015 (Administrative Record No. AL–0666).

To implement this decision, we are amending the Federal regulations, at 30 CFR part 901, that codify decisions concerning the Alabama program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

## VI. Procedural Determinations

*Executive Order 12630—Takings*

This rulemaking does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

*Executive Order 12866—Regulatory Planning and Review*

Pursuant to Office of Management and Budget (OMB) Guidance dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has reviewed this rule as required by section 3(a) of Executive Order 12988. The Department determined that this **Federal Register** notice meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency reviews its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** notice and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the State of Alabama drafted.

*Executive Order 13132—Federalism*

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by section 1(a) of Executive Order 13132 because it does 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.'' Instead, this rule approves an amendment to the Alabama program submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in sections 2 and 3 of the Executive Order and with the principles of cooperative federalism set forth in SMCRA. See, *e.g.,* 30 U.S.C. 1201(f). As such, pursuant to section 503(a)(1) an (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and is ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rulemaking on federally recognized Indian tribes and have determined that the rulemaking does not have substantial direct effects 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. The basis for this determination is that our decision is on a State regulatory program and does not involve Federal regulations involving Indian lands.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

Executive Order 13211 of May 18, 2001, requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rulemaking is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rulemaking does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rulemaking does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rulemaking, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rulemaking would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rulemaking is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rulemaking: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (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. This determination is based upon the fact that the State submittal, which is the subject of this rulemaking, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rulemaking will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rulemaking, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 901**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 3, 2018.

**Alfred L. Clayborne,**

*Regional Director, Mid-Continent Region.*

For the reasons set out in the preamble, 30 CFR part 901 is amended as set forth below:

## PART 901—ALABAMA

■ 1. The authority citation for part 901 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 901.15 is amended in the table by adding an entry FOR ''ASMCRA 9–16–79 and 9–16–79(4)b'' in chronological order by ''Date of final publication'' to read as follows:

**§ 901.15 Approval of Alabama regulatory program amendments.**

* * * * *

| Original amendment submission date | Date of final publication | Citation/description |
|---|---|---|
| * | * | * |
| June 12, 2015 | April 27, 2018 | ASMCRA 9–16–79 and 9–16–79(4)b. |
| * | * | * |

[FR Doc. 2018–08935 Filed 4–26–18; 8:45 am]

**BILLING CODE 4310–05–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 110

**[Docket Number USCG–2015–0549]**

**RIN 1625–AA01**

## Anchorage Grounds; Galveston Harbor, Bolivar Roads Channel, Galveston, Texas

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a new anchorage area, Anchorage Area Alpha (A) East in Bolivar Roads near Galveston, Texas. The establishment of this additional anchorage area would enhance navigational safety, support regional maritime security needs, and contribute to the free flow of commerce in the Houston-Galveston area.

**DATES:** This rule is effective May 29, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–0549 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Commander (LCDR) Navin Griffin, Sector Houston-Galveston, U.S. Coast Guard; telephone (281) 464–4736, email *Navin.L.Griffin@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

On August 15, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Anchorage Grounds; Galveston Harbor, Bolivar Roads Channel, Galveston, Texas (82 FR 38643). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this Anchorage Area. During the comment period that ended, October 16, 2017, we received no comments.

### III. Legal Authority and Need for Rule

The legal basis and authorities for this rule are found in 33 U.S.C. 471, 1221 through 1236; 33 CFR 1.05–1, Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory anchorages.

After extensive discussion, including the observations of and comments from various members of the port community, the Coast Guard has determined that the establishment of Anchorage Area (A) East in the Bolivar Roads area is necessary to address port security, port congestion, and navigation safety concerns. The proposed anchorage area was once an area utilized for spoils from dredging and is equipped to safely receive deep draft vessels. This proposed anchorage is primarily intended as an overflow

anchorage for vessels that are awaiting an exam or inspection. We are amending 33 CFR 110.197 to establish Anchorage Area (A) East in order to increase the safety of life and property on navigable waters, improve the safety of vessels operating, transiting, or anchored and moored in the vicinity, and provide for the overall safe and efficient flow of vessel traffic and commerce in the area.

The Coast Guard has ascertained the view of the Galveston, TX District and Division Engineer, Corps of Engineers, U.S. Army, about the specific provisions of this rule.

## IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 15, 2017. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a new anchorage Area known as Anchorage Area Alpha (A) East. This anchorage area is located in the Galveston Harbor and Bolivar Roads Channel, TX, just east and adjacent to established Anchorage Area (A) in 33 CFR 110.197(a)(1). The boundaries of Anchorage Area Alpha (A) East are presented in § 110.197(a)(4) in the regulatory text at the end of this document. The anchorage area is approximately 0.19 square miles.

Anchorage Area (A) East is intended for temporary use by vessels of all types. Vessels will be allowed to occupy the anchorage areas during a wide range of conditions and for a broad variety of purposes. For example, vessels would be allowed to anchor temporarily while taking on stores, transferring personnel, or engaging in bunkering operations. Vessels would also be allowed to use anchorage areas while awaiting weather and other conditions favorable to resuming their voyage. However, it is to be emphasized that this anchorage is primarily intended as an overflow anchorage for vessels that are awaiting an exam or inspection. Vessels would not be allowed to anchor so as to obstruct the passage of other vessels proceeding to and from anchorage spaces. Anchors would not be placed in the channel and no portion of the hull or rigging would be allowed to extend outside the limits of the anchorage area.

Whenever the maritime or commercial interests of the United States so require, the Captain of the Port Houston-Galveston or his designated representative may direct the movement of any vessel anchored or moored within the anchorage areas.

## 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 location and size of the proposed anchorage grounds, as well as, historical automatic identification system (AIS) data. The impacts on routine navigation are expected to be minimal because the proposed anchorage area is located outside of the established navigation channel. When not occupied, vessels would be able to maneuver in, around, and through the anchorage. Operators on our end maneuvering their vessels around the limits of the proposed anchorage area would not be significantly impacted.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 00 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

The number of small entities impacted and the extent of the impact, if any, is expected to be minimal. The anchorage area is located in an area of Bolivar Roads that is not a popular or productive fishing location. Further, the location is in an area not routinely transited by vessels heading to, or returning from, known fishing grounds. Finally, the anchorage is located in an area that is not currently used by small entities, including small vessels, for anchoring due to the depth of water naturally present in the area.

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

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

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security 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 the establishment of a permanent anchorage area in Bolivar Roads near Galveston, Texas. It is categorically excluded from further review under paragraph L59(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is 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 110**

Anchorage Grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

## PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 110.197, add paragraph (a)(4) to read as follows:

**§ 110.197 Galveston Harbor, Bolivar Roads Channel, Texas.**

(a) * * *

(4) *Anchorage Area (A) East.* The waters bounded by a line connecting the following points:

| Latitude | Longitude |
|---|---|
| 29°21′5.87″ N | 094°42′52.7″ W |
| 29°20′53.99″ N | 094°42′7.13″ W |
| 29°20′45.31″ N | 094°42′37.75″ W |
| 29°20′39.16″ N | 094°42′7.81″ W |

and thence to the point of beginning. The coordinates are based on NAD 83.

* * * * *

Dated: April 23, 2018.

**Paul F. Thomas,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 2018–08873 Filed 4–26–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2017–0857]**

## Drawbridge Operation Regulation; St. Johns River, Putnam County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations; request for comments.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Buffalo Bluff CSX Railroad Bridge across the St. Johns River, mile 94.5, at Satsuma, Putnam County, FL. This deviation will test a change to the drawbridge operation to determine whether a permanent change from manned to remote operations is feasible. This deviation will allow the bridge to operate remotely from the CSX Railroad Bridge on the Ortega River (McGirts Creek) located at mile 1.1 on the Ortega River.

**DATES:** This deviation is effective without actual notice from April 27, 2018 through 6 a.m. September 2, 2018. For the purposes of enforcement, actual notice will be used from April 23, 2018, until April 27, 2018.

Comments and related materials must reach the Coast Guard on or before August 14, 2018.

**ADDRESSES:** You may submit comments identified by docket number USCG–2017–0857 using Federal eRulemaking Portal at *http://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

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

**SUPPLEMENTARY INFORMATION:**

### I. Background, Purpose and Legal Basis

The Buffalo Bluff CSX Railroad Bridge across the St. Johns River, mile 94.5, in Satsuma, Putnam County, FL is a bascule bridge. It has a vertical clearance of 7 feet at mean high water in the closed position and a horizontal clearance of 90 feet. The bridge is currently manned and maintained in the open position. This test deviation would provide for the bridge to be remotely monitored and operated. Visual monitoring of the waterway shall be maintained with the use of cameras and the detection of vessels under the span shall be accomplished with detection sensors. Marine radio communication shall be maintained with mariners near the bridge for the safety of navigation. The remote tender may also be contacted via telephone at (386) 649–8358. The span is normally in the fully open position and will display green lights to indicate that the span is fully open. When a train approaches, the remote tender shall monitor for vessels approaching the bridge. The remote tender shall warn approaching vessels via marine radio, channel 9 VHF of a bridge lowering. Provided the sensors do not detect a vessel under the span, the tender shall initiate the span lowering sequence, which includes the sounding of a horn and the displaying of red lights. The span will remain in the down position for a minimum of eight minutes or for the entire time the approach track circuit is occupied. After the train has cleared the bridge track circuit, the span shall open and the green lights will be displayed. This will allow vessels to pass through the bridge while taking into account the reasonable needs of other modes of transportation.

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.

## II. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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

Documents mentioned in this notice as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: April 23, 2018.

**Barry L. Dragon,**

*Director, Bridge Branch, Seventh Coast Guard District.*

[FR Doc. 2018–08866 Filed 4–26–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2018–0356]**

## Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Boca Raton, 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 Camino Real (Boca Club) Bridge across the Atlantic Intracoastal Waterway, mile 1048.2, at Boca Raton, FL. The deviation is necessary to facilitate the bridge rehabilitation project. This deviation allows the bridge single-leaf operations with advanced notice for a full bridge opening.

**DATES:** This deviation is effective without actual notice from April 27, 2018 through 7 p.m. on October 9, 2018. For the purposes of enforcement, actual notice will be used from 7 a.m. on April 23, 2018, until April 27, 2018.

**ADDRESSES:** The docket for this deviation, USCG–2018–0356 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 Ruth Sadowitz, U.S. Coast Guard Sector Miami, Waterways Management Division; telephone 305–535–4307, email *ruth.a.sadowitz@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** Kiewit Infrastructure South Co., on behalf of the bridge owner, Palm Beach County, has requested a temporary deviation from the current operating regulation that governs the Camino Real (Boca Club) Bridge across the Atlantic Intracoastal Waterway, mile 1048.2, at Boca Raton, FL. The deviation is necessary to facilitate the bridge rehabilitation project. The existing bridge is a double-leaf bascule bridge with a vertical clearance of 10 feet at mean high water in the closed to navigation position and a horizontal clearance of 83 feet between the fender system.

The existing bridge operating regulation is set out in 33 CFR 117.261(aa–1). Under this temporary deviation, on April 23, 2018 through October 9, 2018, from 7 a.m. to 7 p.m. Monday through Saturday, the bridge will operate on single-leaf openings with a 6-hour advanced notice for a full opening. During non-working hours, the bridge will operate per the normal bridge operating schedule.

The Atlantic Intracoastal Waterway is used by a variety of vessels including U.S. government vessels, small commercial vessels, recreational vessels and tugs and barge traffic. The Coast Guard has carefully considered the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to provide a full opening 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.

Dated: April 23, 2018.

**Barry L. Dragon,**

*Director, Bridge Branch, Seventh Coast Guard District.*

[FR Doc. 2018–08867 Filed 4–26–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2018–0198]**

**RIN 1625–AA00**

## Safety Zones; Recurring Safety Zones in Captain of the Port Sault Sainte Marie Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is updating its recurring safety zones regulations in the Captain of the Port Sault Sainte Marie Zone. This rule updates eighteen safety zone locations, dates, and sizes, adds three safety zones, removes two established safety zones, and reformats the regulations into an easier to read

table format. These amendments will protect spectators, participants, and vessels from the hazards associated with annual marine events and firework shows, and improve the clarity and readability of the regulation.

**DATES:** This rule is effective May 29, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0198 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Junior Grade Sean V. Murphy, Chief of Waterways Management, Coast Guard Sector Sault Sainte Marie, U.S. Coast Guard; telephone 906–635–3223, email *Sean.V.Murphy@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

## I. Table of Abbreviations

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

## II. Background Information and Regulatory History

On April 18, 2011 the Coast Guard published an NPRM in the **Federal Register** (76 FR 21677) entitled ''Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Sault Sainte Marie Zone.'' The NPRM proposed to establish 20 permanent safety zones for annually recurring events in the Captain of the Port Sault Sainte Marie Zone under § 165.918. The NPRM was open for comment for 30 days.

On June 2, 2011 the Coast Guard published the Final Rule in the **Federal Register** (76 FR 31839), after receiving no comments on the NPRM. Since that time there have been changes to the events that were listed in the Final Rule and additional annual events have been established.

In response, on March 21, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Recurring Safety Zones in Captain of the Port Sault Sainte Marie Zone (83 FR 12307). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to these marine events and fireworks display. During the comment period that ended April 20, 2018, we received one comment.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 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.

The Captain of the Port Sault Sainte Marie (COTP) has determined that an amendment to the recurring safety zones list as published in 33 CFR 165.918 is necessary to: Update the location, date, and size of eighteen existing safety zones (Marquette Fourth of July Celebration Fireworks, Munising Fourth of July Celebration Fireworks, Sault Sainte Marie Fourth of July Celebration Fireworks, Mackinac Island Fourth of July Celebration Fireworks, Harbor Springs Fourth of July Celebration Fireworks, Bay Harbor Yacht Club Fourth of July Celebration Fireworks, Petoskey Fourth of July Celebration Fireworks, Boyne City Fourth of July Celebration Fireworks, Alpena Fourth of July Celebration Fireworks, Charlevoix Venetian Festival Friday Night Fireworks, Charlevoix Venetian Festival Saturday Night Fireworks, Elk Rapids Harbor Days Fireworks, Jordan Valley Freedom Festival Fireworks, Canada Day Celebration Fireworks, Festival of Fireworks Celebration Fireworks, Grand Marais Splash In, National Cherry Festival Airshow, and National Cherry Festival Finale Fireworks), establish three safety zones (Mackinaw Area Visitors Bureau Friday Night Fireworks, Nautical City Fireworks, and Traverse City Fourth of July Celebration Fireworks), remove National Cherry Festival Fourth of July Celebration Fireworks and St. Ignace Fourth of July Celebration Fireworks safety zones, and format the existing regulations into a table format. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled events and to improve the overall clarity and readability of the rule.

## IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published March 21, 2018. The comment stated that updating the safety zone regulation improves the overall safety of the fireworks displays and that it is imperative for the size, dates, and locations of the safety zones to be accurate in order to protect lives. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule updates the location, date, and size of eighteen existing safety zones (Marquette Fourth of July Celebration Fireworks, Munising Fourth of July Celebration Fireworks, Sault Sainte Marie Fourth of July Celebration Fireworks, Mackinac Island Fourth of July Celebration Fireworks, Harbor Springs Fourth of July Celebration Fireworks, Bay Harbor Yacht Club Fourth of July Celebration Fireworks, Petoskey Fourth of July Celebration Fireworks, Boyne City Fourth of July Celebration Fireworks, Alpena Fourth of July Celebration Fireworks, Charlevoix Venetian Festival Friday Night Fireworks, Charlevoix Venetian Festival Saturday Night Fireworks, Elk Rapids Harbor Days Fireworks, Jordan Valley Freedom Festival Fireworks, Canada Day Celebration Fireworks, Festival of Fireworks Celebration Fireworks, Grand Marais Splash In, National Cherry Festival Airshow, and National Cherry Festival Finale Fireworks), establish three safety zones (Mackinaw Area Visitors Bureau Friday Night Fireworks, Nautical City Fireworks, and Traverse City Fourth of July Celebration Fireworks), remove National Cherry Festival Fourth of July Celebration Fireworks and St. Ignace Fourth of July Celebration Fireworks safety zones, and format the existing regulations into a table format. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled events and to improve the overall clarity and readability of the rule. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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-day for each safety zone. Vessel traffic will be able to safely transit around all safety zones which will impact small designated areas within the COTP zone for short durations of time. 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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zones 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 Order13132.

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the update of eighteen safety zone locations, dates, and sizes, the addition of three safety zones, the removal of two safety zones, and the reformatting of regulations into an easier to read table format. 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 supporting this determination is 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 record keeping requirements, Security measures, Waterways.

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

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

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

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

■ 2. Revise § 165.918 to read as follows:

### § 165.918 Safety Zones; Recurring Safety Zones in Captain of the Port Sault Sainte Marie.

(a) *Regulations.* The following regulations apply to the safety zones listed in Table 165.918 of this section:

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within any of the safety zones listed in this section is prohibited unless authorized by the Captain of the Port Sault Sainte Marie, or a designated representative.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Sault Sainte Marie or a designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) When a safety zone established by this section is being enforced, all vessels must obtain permission from the Captain of the Port Sault Sainte Marie or a designated representative to enter, move within, or exit that safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Sault Sainte Marie or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

(b) *Suspension of enforcement.* If the event concludes earlier than scheduled, the Captain of the Port Sault Sainte Marie or a designated representative will issue a Broadcast Notice to Mariners notifying the public that enforcement of the respective safety zone is suspended.

(c) *Exemption.* Public vessels, defined as any vessel owned or operated by the United States or by State or local governments, operating in an official capacity are exempted from the requirements of this section.

(d) *Waiver.* For any vessel, the Captain of the Port Sault Sainte Marie or a designated representative may, at his or her discretion, waive any of the requirements of this section, upon finding that circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or environmental safety.

(e) *Contacting the Captain of the Port.* While a safety zone listed in this section is enforced, the Captain of the Port Sault Sainte Marie or a designated representative may be contacted via VHF Channel 16 or telephone at (906) 635–3319. Vessel operators given permission to enter or operate in a safety zone must comply with all directions given to them by the Captain of the Port Sault Sainte Marie, or a designated representative.

(f) *Notice of enforcement.* The Coast Guard will provide advance notice of the enforcement including specific date, time, and size of the safety zone being enforced in Table 165.918, by issuing a Notice of Enforcement, as well as, a Broadcast Notice to Mariners.

TABLE 165.918

[Datum NAD 1983]

| Event | Location | Event date |
|---|---|---|
| (1) Mackinaw Area Visitors Bureau Friday Night Fireworks; Mackinaw City, MI. | All U.S. navigable waters of the Straits of Mackinac within an approximate 1000-foot radius from the fireworks launch site located in position 45°46′35.48″ N, 084°43′16.20″ W. | Friday nights between late May and Early September. |
| (2) Jordan Valley Freedom Festival Fireworks; East Jordan, MI. | All U.S. navigable waters of Lake Charlevoix, near the City of East Jordan, within the arc of a circle with an approximate 1200-foot radius from the fireworks launch site in position 45°09′18″ N, 085°07′48″ W. | This event historically occurs in mid to late June. |
| (3) Grand Marais Splash In; Grand Marais, MI. | All U.S. navigable waters within the southern portion of West Bay bound within the following coordinates: 46°40′22.08″ N, 085°59′0.12″ W, 46°40′22.08″ N, 85°58′22.08″ W, and 46°40′14.64″ N, 85°58′19.56″ W, with the West Bay shoreline forming the South and West boundaries of the zone. | This event historically occurs mid to late June. |
| (4) Festivals of Fireworks Celebration Fireworks; St. Ignace, MI. | All U.S. navigable waters of East Moran Bay within an approximate 1000-foot radius from the fireworks launch site at the end of the Starline Mill Slip, centered in position: 45°52′24.62″ N, 084°43′18.13″ W. | On or around July 4th and Saturdays beginning late June to early September. |
| (5) National Cherry Festival Airshow Safety Zone; Traverse City, MI. | All U.S. navigable waters of the West Arm of Grand Traverse Bay within a box bounded by the following coordinates: 44°46′51.6″ N, 085°38′15.6″ W, 44°46′23.4″ N, 085°38′22.8″ W, 44°46′30.00″ N, 085°35′42.00″ W, and 44°46′2.34″ N, 085°35′50.4″ W. | This event historically occurs late June or early July. |
| (6) National Cherry Festival Finale Fireworks; Traverse City, MI. | All U.S. navigable waters of the West Arm of Grand Traverse Bay within the arc of a circle with an approximate 1200-foot radius from the fireworks launch site located on a barge in position 44°46′12″ N, 085°37′06″ W. | This event historically occurs late June or early July. |
| (7) Canada Day Celebration Fireworks; Sault Sainte Marie, MI. | All U.S. navigable waters of the St. Marys River within an approximate 1400-foot radius from the fireworks launch site, centered approximately 160 yards north of the U.S. Army Corp of Engineers Soo Locks North East Pier, at position 46°30′20.40″ N, 084°20′17.64″ W. | On or around July 1. |
| (8) Marquette Fourth of July Celebration Fireworks; Marquette, MI. | All U.S. navigable waters of Marquette Harbor within an approximate 1200-foot radius of the fireworks launch site, centered in position 46°32′23.0″ N, 087°23′13.1″ W. | On or around July 4th. |
| (9) Munising Fourth of July Celebration Fireworks; Munising, MI. | All U.S. navigable waters of South Bay within an approximate 800-foot radius from the fireworks launch site at the end of the Munising City Dock, centered in position: 46°24′50.08″ N, 086°39′08.52″ W. | On or around July 4th. |
| (10) Sault Sainte Marie Fourth of July Celebration Fireworks; Sault Sainte Marie, MI. | All U.S. navigable waters of the St. Marys River within an approximate 1000-foot radius around the eastern portion of the U.S. Army Corp of Engineers Soo Locks North East Pier, centered in position: 46°30′19.66″ N, 084°20′31.61″ W. | On or around July 4th. |
| (11) Mackinac Island Fourth of July Celebration Fireworks; Mackinac Island, MI. | All U.S. navigable waters of Lake Huron within an approximate 750-foot radius of the fireworks launch site, centered approximately 1000 yards west of Round Island Passage Light, at position 45°50′34.92″ N, 084°37′38.16″ W. | On or around July 4th. |
| (12) Harbor Springs Fourth of July Celebration Fireworks; Harbor Springs, MI. | All U.S. navigable waters of Lake Michigan and Harbor Springs Harbor within the arc of a circle with an approximate 1200-foot radius from the fireworks launch site located on a barge in position 45°25′30″ N, 084°59′06″ W. | On or around July 4th. |

TABLE 165.918—Continued

[Datum NAD 1983]

| Event | Location | Event date |
|---|---|---|
| (13) Bay Harbor Yacht Club Fourth of July Celebration Fireworks; Petoskey, MI. | All U.S. navigable waters of Lake Michigan and Bay Harbor Lake within the arc of a circle with an approximate 750-foot radius from the fireworks launch site located on a barge in position 45°21′50″ N, 085°01′37″ W. | On or around July 4th. |
| (14) Petoskey Fourth of July Celebration Fireworks; Petoskey, MI. | All U.S. navigable waters of Lake Michigan and Petoskey Harbor, in the vicinity of Bay Front Park, within the arc of a circle with an approximate 1200-foot radius from the fireworks launch site located in position 45°22′40″ N, 084°57′30″ W. | On or around July 4th. |
| (15) Boyne City Fourth of July Celebration Fireworks; Boyne City, MI. | All U.S. navigable waters of Lake Charlevoix, in the vicinity of Veterans Park, within the arc of a circle with an approximate 1400-foot radius from the fireworks launch site located in position 45°13′30″ N, 085°01′40″ W. | On or around July 4th. |
| (16) Alpena Fourth of July Celebration Fireworks; Alpena, MI. | All U.S. navigable waters of Lake Huron within an approximate 1000-foot radius of the fireworks launch site located near the end of Mason Street, South of State Avenue, at position 45°02′42″ N, 083°26′48″ W. | On or around July 4th. |
| (17) Traverse City Fourth of July Celebration Fireworks; Traverse City, MI. | All U.S. navigable waters of the West Arm of Grand Traverse Bay within the arc of a circle with an approximate 1200-foot radius from the fireworks launch site located on a barge in position 44°46′12″ N, 085°37′06″ W. | On or around July 4th. |
| (18) Charlevoix Venetian Festival Friday Night Fireworks; Charlevoix, MI. | All U.S. navigable waters of Lake Charlevoix, in the vicinity of Depot Beach, within the arc of a circle with an approximate 1200-foot radius from the fireworks launch site located on a barge in position 45°19′08″ N, 085°14′18″ W. | This event historically occurs in late July. |
| (19) Charlevoix Venetian Saturday Night Fireworks; Charlevoix, MI. | All U.S. navigable waters of Round Lake within the arc of a circle with an approximate 500-foot radius from the fireworks launch site located on a barge in position 45°19′03″ N, 085°15′18″ W. | This event historically occurs in late July. |
| (20) Elk Rapids Harbor Days Fireworks; Elk Rapids, MI. | All U.S. navigable waters within the arc of a circle with an approximate 750-foot radius from the fireworks launch site located on a barge in position 44°54′6.95″ N, 85°25′3.11″ W. | This event historically occurs in early August. |
| (21) Nautical City Fireworks; Rogers City. | All U.S. navigable waters within the arc of a circle with an approximate 750-foot radius from the fireworks launch site located near Harbor View Road in position 45°25′04.72″ N, 83°47′51.21″ W. | Early August. |

Dated: April 23, 2018.

**M.R. Broz,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.*

[FR Doc. 2018–08840 Filed 4–26–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF EDUCATION

## 34 CFR Parts 75 and 77

**RIN 1855–AA13**

## Definitions and Selection Criteria That Apply to Direct Grant Programs

**AGENCY:** Department of Education.

**ACTION:** Final rule.

**SUMMARY:** On July 31, 2017, the Department of Education (Department) issued a new rule in order to better align the Education Department General Administrative Regulations (EDGAR) with the definition of ''evidence-based'' in the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (ESEA). Through this document, we are adding a selection factor that was inadvertently omitted and removing an outdated definition.

**DATES:** *Effective date:* These regulations are effective April 27, 2018.

**FOR FURTHER INFORMATION CONTACT:** Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W312, Washington, DC 20202–5900. Telephone: (202) 205–5231 or by email: *kelly.terpak@ed.gov.*

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

**SUPPLEMENTARY INFORMATION:**

### Final Regulatory Changes

*Background:* On July 31, 2017, the Department published in the **Federal Register** a final rule (82 FR 35445) (2017 Rule) revising 34 CFR parts 75 and 77 to better align the regulations with the definition of ''evidence-based'' in the ESEA. In that rule, we inadvertently removed a selection factor and maintained an outdated definition. Therefore, the purpose of this document is to amend §§ 75.210(h) and 77.1(c) in order to correct those errors.

*34 CFR Part 75*

Section 75.210 General Selection Criteria

*Current Regulations:* Section 75.210(h) includes 13 factors under the ''Quality of the Project Evaluation'' selection criterion.

*Final Regulations and Reasons:* We are reinserting the selection factor under the ''Quality of the Project Evaluation'' criterion (§ 75.210(h)) focused on the extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes. This factor was inadvertently omitted from § 77.210(h), and we are making this revision to add it back in. We believe this factor continues to be an important one to include in the menu of selection criteria and factors available for use in discretionary grant programs. As noted in the 2017 Rule, the final regulations do not change the way the Secretary uses selection criteria and factors. The Secretary will continue to use selection criteria that are consistent with the purpose of the program and permitted under the applicable statutes and regulations.

*34 CFR Part 77*

Section 77.1 Definitions That Apply to All Department Programs

*Current Regulations:* Section 77.1(c) establishes definitions that, unless a statute or regulation provides otherwise, apply to the regulations in title 34 of the Code of Federal Regulations and can be used in Department grant competitions.

*Final Regulations and Reasons:* We are removing the term ''randomized controlled trial'' from § 77.1(c). We are removing this definition because, as noted in the 2017 Rule, it was our intent to replace it with the term ''experimental study,'' to align with the definition of ''evidence-based,'' in section 8101(21), specifically with regard to ''strong evidence.'' In the new definition of ''strong evidence,'' we clarified the types of studies that can qualify as experimental studies—including, but not limited to, randomized controlled trials—as provided in the applicable What Works Clearinghouse (WWC) Handbook.

*Waiver of Proposed Rulemaking and Delayed Effective Date*

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these regulations make technical changes only and do not establish substantive policy. The regulations are, therefore, exempt from notice and comment rulemaking under 5 U.S.C. 553(b)(3)(B).

The APA also generally requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). Again, because these final regulations are merely technical, there is good cause to make them effective on the day they are published.

*Executive Orders 12866, 13563, and 13771 Regulatory Impact Analysis*

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

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

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

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

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

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For Fiscal Year 2018, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. However, Executive Order 13771 does not apply to ''transfer rules'' that cause only income transfers between taxpayers and program beneficiaries, such as those regarding discretionary grant programs. The final regulations pertain to the Department's discretionary grant programs and, therefore, Executive Order 13771 is not applicable.

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

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

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

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

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

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

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

We are issuing these final regulations only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on an analysis of anticipated costs and benefits, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

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

*Potential Costs and Benefits*

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action and have determined that these regulations would not impose additional costs. We believe any additional costs imposed by these final regulations will be negligible, primarily because they reflect technical changes that do not impose additional burden. Moreover, we believe any costs will be significantly outweighed by the potential benefits of making necessary clarifications and ensuring consistency among the Education Department General Administrative Regulations and section 8101(21) of ESEA, as amended by the ESSA.

*Regulatory Flexibility Act Certification*

The Secretary certifies that these regulations do not have a significant economic impact on a substantial number of small entities.

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

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

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

**List of Subjects**

*34 CFR Part 75*

Accounting, Copyright, Education, Grant programs—education, Inventions and patents, Private schools, Reporting and recordkeeping requirements, Youth organizations.

*34 CFR Part 77*

Education, Grant programs—education, Incorporation by reference.

Dated: April 24, 2018.

**Betsy DeVos,**

*Secretary of Education.*

For the reasons discussed in the preamble, the Secretary amends parts 75 and 77 of title 34 of the Code of Federal Regulations as follows:

## PART 75—DIRECT GRANT PROGRAMS

■ 1. The authority citation for part 75 continues to read as follows:

**Authority:** 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

■ 2. Section 75.210 is amended by adding paragraph (h)(2)(xiv) to read as follows:

**§ 75.210 General selection criteria.**

* * * * *

(h) * * *

(2) * * *

(xiv) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes.

* * * * *

## PART 77—DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS

■ 3. The authority citation for part 77 continues to read as follows:

**Authority:** 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

**§ 77.1 [Amended]**

■ 4. Section 77.1(c) is amended by removing the definition of ''randomized controlled trial.''

[FR Doc. 2018–08965 Filed 4–26–18; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 8

**RIN 2900–AQ03**

### Eligibility for Supplemental Service-Disabled Veterans' Insurance

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA), in this final rule, amends its regulations governing the Service-Disabled Veterans' Insurance (S–DVI) program in order to explain that a person who was granted S–DVI as of the date of death is not eligible for supplemental S–DVI because the insured's total disability did not begin after the date of the insured's application for insurance and while the insurance was in force under premium-paying conditions.

**DATES:** This rule is effective May 29, 2018.

**FOR FURTHER INFORMATION CONTACT:** Paul Weaver, Department of Veterans Affairs Insurance Center (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842–2000, ext. 4263 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On August 23, 2017, VA published a proposed rule in the **Federal Register** (82 FR 39974). VA provided a 60-day comment period on the proposed rule, which ended on October 23, 2017. VA received comments from five individuals. The commenters stated that they believed the proposed rule would unnecessarily restrict eligibility for supplemental S–DVI; eliminate insurance coverage for veterans; and is contrary to the congressional intent of the supplemental S–DVI legislation. We address their contentions below.

**A. Insurance Coverage**

One commenter stated that the rule would eliminate insurance coverage for many veterans. The regulation does not eliminate insurance coverage for insured veterans or those eligible to be insured under supplemental S–DVI. Rather, the rule clarifies VA's longstanding practice, which is dictated by 38 U.S.C. 1912(a) and 1922A(a), by explaining which veterans are ineligible for supplemental S–DVI consistent with the governing statutes. See *Martin* v. *Shinseki,* 26 Vet. App. 451 (2014). Therefore, VA will not make any changes based on this comment.

**B. Eligibility for Supplemental S–DVI**

Four commenters stated that the rule would restrict eligibility for supplemental S–DVI. Two of the commenters stated that the rule makes a blanket assessment that a mentally incompetent veteran is ineligible for supplemental S–DVI based on the assumption that the veteran would not have applied for the coverage. Another commenter stated that the rule discriminates against veterans who are incapable of applying for supplemental S–DVI prior to their date of death.

The rule is not based upon any assumption nor does it discriminate against certain veterans. As VA explained in the proposed rule, under 38 U.S.C. 1922A(a), a S–DVI insured is not entitled to supplemental S–DVI unless the insured qualifies for waiver of premiums under 38 U.S.C. 1912(a), and a veteran granted insurance under 38 U.S.C. 1922(b) cannot qualify for a waiver of premiums under § 1912(a) because the insured's total disability does not begin after the date of the insured's application for insurance and while the insurance is in force under premium-paying conditions. See 82 FR 39975. While section 1922(b) grants S–DVI posthumously, Congress did not include provisions in section 1922A to grant supplemental S–DVI to the survivors of veterans who were unable to apply for the insurance prior to death. See *Martin,* 26 Vet. App. at 458–59. VA will not make any changes based on these comments.

Two commenters stated that VA should revise the rule to prevent abuses rather than to eliminate eligibility for Supplemental S–DVI for all veterans granted S–DVI under section 1922(b). Both commenters stated that the point of the *Martin* decision was to prevent abuse of the system. We see no reference in the court's decision for prevention of abuse. Rather, the court's holdings are based on the plain language of the statutes. See 26 Vet. App. 458–49. Any VA rule that is inconsistent with the statutes would be invalid. We therefore decline to make any changes to the rule on this basis.

**C. Congressional Intent**

One of the commenters suggested that the rule makes numerous veterans ineligible for supplemental S–DVI, which is inconsistent with the intent of Congress and VA. The Veterans Court found that the language of 38 U.S.C. 1912(a) and 1922A(a) is plain, 26 Vet. App. at 458, and therefore the literal language is the ''sole evidence of the ultimate legislative intent.'' See *Caminetti* v. *United States,* 242 U.S. 470, 490 (1917). Sections 1912(a) and 1922A(a) unambiguously provide that supplemental S–DVI is only available to a person insured under S–DVI who qualifies for a waiver of premiums under section 1912, which requires that an insured's total disability have begun after the date of the insured's application for insurance and while the insurance is in force under premium-paying conditions. The court did not disregard the limiting language of the statutes and neither may VA. Therefore, VA will not make any changes based on this comment.

Based on the rationale set forth in the **Federal Register**, VA adopts the proposed rule, without change, as a final rule.

**Executive Orders 12866, 13563, and 13771**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this final regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for ''VA Regulations Published.'' This rule is not an Executive Order 13771 regulatory action because the rule is not significant under Executive Order 12866.

**Paperwork Reduction Act**

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

**Regulatory Flexibility Act**

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

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

**Catalog of Federal Domestic Assistance**

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

**List of Subjects in 38 CFR Part 8**

Life insurance, Veterans.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jacquelyn Hayes-Byrd, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on March 20, 2018, for publication.

Dated: April 23, 2018.

**Jeffrey M. Martin,**

*Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 8 as set forth below:

## PART 8—NATIONAL SERVICE LIFE INSURANCE

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

**Authority:** 38 U.S.C. 501(a), 1901–1929, 1981, 1988, unless otherwise noted.

■ 2. Add § 8.34 to read as follows:

**§ 8.34 Ineligibility for insurance under 38 U.S.C. 1922A (supplemental Service-Disabled Veterans' Insurance) if person insured under 38 U.S.C. 1922(b).**

A person who is granted Service-Disabled Veterans' Insurance under 38 U.S.C. 1922(b) is not eligible for supplemental Service-Disabled Veterans' Insurance under 38 U.S.C. 1922A.

[FR Doc. 2018–08854 Filed 4–26–18; 8:45 am]

BILLING CODE 8320–01–P

## POSTAL REGULATORY COMMISSION

## 39 CFR Part 3020

**[Docket Nos. MC2010–21 and CP2010–36]**

## Update to Product List

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Final rule.

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

**DATES:** *Effective Date:* April 27, 2018. For applicability dates, see **SUPPLEMENTARY INFORMATION.**

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

**SUPPLEMENTARY INFORMATION:**

## Applicability Dates

January 2, 2018, Priority Mail Contract 396 (MC2018–67 and CP2018–107); January 2, 2018, Priority Mail Contract 397 (MC2018–68 and CP2018–108); January 2, 2018, Priority Mail Contract 398 (MC2018–69 and CP2018–109); January 2, 2018, Priority Mail Contract 399 (MC2018–70 and CP2018–110); January 3, 2018, Parcel Select Contract 28 (MC2018–72 and CP2018–112); January 3, 2018, Parcel Select Contract 29 (MC2018–73 and CP2018–113); January 3, 2018, Priority Mail Express Contract 57 (MC2018–74 and CP2018–114); January 3, 2018, Priority Mail Contract 400 (MC2018–75 and CP2018–116); January 4, 2018, Parcel Select Contract 27 (MC2018–71 and CP2018–111); January 4, 2018, Priority Mail Express, Priority Mail & First-Class Package Service Contract 31 (MC2018–76 and CP2018–118); January 4, 2018, Priority Mail Contract 401 (MC2018–77 and CP2018–119); January 4, 2018, First-Class Package Service Contract 89 (MC2018–78 and CP2018–120); January 4, 2018, First-Class Package Service Contract 90 (MC2018–79 and CP2018–121); January 4, 2018, Priority Mail Contract 402 (MC2018–80 and CP2018–122); January 5, 2018, Priority Mail Express & Priority Mail Contract 55 (MC2018–81 and CP2018–123); January 5, 2018, Priority Mail & First-Class Package Service Contract 67 (MC2018–82 and CP2018–124); January 5, 2018, Priority Mail & First-Class Package Service Contract 68 (MC2018–83 and CP2018–125); January 5, 2018, Priority Mail & First-Class Package Service Contract 69 (MC2018–84 and CP2018–126); January 5, 2018, Priority Mail & First-Class Package Service Contract 70 (MC2018–85 and CP2018–127); January 8, 2018, Priority Mail Express & Priority Mail Contract 56 (MC2018–86 and CP2018–128); January 8, 2018, Priority Mail Express & Priority Mail Contract 57 (MC2018–87 and CP2018–129); January 8, 2018, Priority Mail Express & Priority Mail Contract 58 (MC2018–88 and CP2018–130); January 8, 2018, Priority Mail Express & Priority Mail Contract 59 (MC2018–89 and CP2018–131); January 9, 2018, Priority Mail Express, Priority Mail & First-Class Package Service Contract 32 (MC2018–90 and CP2018–132); January 9, 2018, Priority Mail Express Contract 58 (MC2018–91 and CP2018–133); January 9, 2018, Priority Mail Express Contract 59 (MC2018–92 and CP2018–134); January 9, 2018, Priority Mail Express Contract 60 (MC2018–93 and CP2018–135); January 9, 2018, Priority Mail & First-Class Package Service Contract 71 (MC2018–94 and CP2018–136); January 11, 2018, Priority Mail & First-Class Package Service Contract 72 (MC2018–95 and CP2018–137); January 11, 2018, Priority Mail & First-Class Package Service Contract 73 (MC2018–96 and CP2018–138); January 11, 2018, First-Class Package Service Contract 91 (MC2018–97 and CP2018–139); January 11, 2018, Priority Mail Contract 403 (MC2018–98 and CP2018–140); January 11, 2018, Priority Mail Contract 404 (MC2018–99 and CP2018–141); January 11, 2018, Priority Mail Contract 405 (MC2018–100 and CP2018–142); January 11, 2018, Priority Mail Contract 406 (MC2018–101 and CP2018–143); January 11, 2018, Priority Mail Contract 407 (MC2018–102 and CP2018–144); January 11, 2018, Priority Mail Contract 408 (MC2018–103 and CP2018–145); January 12, 2018, Priority Mail Contract 409 (MC2018–104 and CP2018–146); January 12, 2018, Priority Mail Contract 410 (MC2018–105 and CP2018–147); January 12, 2018, Priority Mail Contract 411 (MC2018–106 and CP2018–148); January 12, 2018, Priority Mail Contract 412 (MC2018–107 and CP2018–149); January 16, 2018, Priority Mail Contract 415 (MC2018–110 and CP2018–152); January 16, 2018, Priority Mail Contract 416 (MC2018–111 and CP2018–153); January 16, 2018, Priority Mail Express Contract 61 (MC2018–113 and CP2018–155); January 17, 2018, Priority Mail Contract 418 (MC2018–116 and CP2018–158); January 17, 2018, Priority Mail Contract 420 (MC2018–118 and CP2018–160); January 17, 2018, Priority Mail Contract 417 (MC2018–112 and CP2018–154); January 17, 2018, Priority Mail Express & Priority Mail Contract 60 (MC2018–114 and CP2018–156); January 17, 2018, Priority Mail Express & First-Class Package Service Contract 1 (MC2018–115 and CP2018–157); January 18, 2018, Priority Mail Express & Priority Mail Contract 61 (MC2018–119 and CP2018–162); January 18, 2018, Priority Mail Express & First-Class Package Service Contract 2 (MC2018–120 and CP2018–163); January 19, 2018, Priority Mail Contract 413 (MC2018–108 and CP2018–150); January 19, 2018, Priority Mail Contract 414 (MC2018–109 and CP2018–151); January 19, 2018, Priority Mail Contract 419 (MC2018–117 and CP2018–159); February 13, 2018, Priority Mail & First-Class Package Service Contract 74 (MC2018–121 and CP2018–164); February 13, 2018, Parcel Select Contract 30 (MC2018–122 and CP2018–165); February 14, 2018, Priority Mail Contract 421 (MC2018–123 and CP2018–166); February 22, 2018, Priority Mail & First-Class Package Service Contract 75 (MC2018–124 and CP2018–169); February 28, 2018, Global Expedited Package Services (GEPS)—Non-Published Rates 13 (MC2018–125 and CP2018–170); March 6, 2018, Priority Mail Contract 422 (MC2018–126 and CP2018–172); March 9, 2018, Priority Mail & First-Class Package Service Contract 76 (MC2018–127 and CP2018–173); March 20, 2018, Priority Mail Contract 423 (MC2018–128 and CP2018–178); March 20, 2018, Priority Mail Express & Priority Mail Contract 62 (MC2018–129 and CP2018–179); March 20, 2018, Priority Mail Contract 424 (MC2018–130 and CP2018–180); March 27, 2018, Priority Mail Contract 425 (MC2018–131 and CP2018–182); March 27, 2018, Priority Mail Express & Priority Mail Contract 63 (MC2018–132 and CP2018–183).

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

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

*Changes.* The competitive product list is being updated by publishing a replacement in its entirety of 39 CFR Appendix B to Subpart A of Part 3020—Competitive Product List. The following products are being added, removed, or moved within the competitive product list:

## Competitive Product List

1. Priority Mail Contract 396 (MC2018–67 and CP2018–107) (Order No. 4324), added January 2, 2018.
2. Priority Mail Contract 397 (MC2018–68 and CP2018–108) (Order No. 4325), added January 2, 2018.
3. Priority Mail Contract 398 (MC2018–69 and CP2018–109) (Order No. 4326), added January 2, 2018.
4. Priority Mail Contract 399 (MC2018–70 and CP2018–110) (Order No. 4327), added January 2, 2018.
5. Parcel Select Contract 28 (MC2018–72 and CP2018–112) (Order No. 4328), added January 3, 2018.
6. Parcel Select Contract 29 (MC2018–73 and CP2018–113) (Order No. 4329), added January 3, 2018.
7. Priority Mail Express Contract 57 (MC2018–74 and CP2018–114) (Order No. 4330), added January 3, 2018.

8. Priority Mail Contract 400 (MC2018–75 and CP2018–116) (Order No. 4331), added January 3, 2018.
9. Parcel Select Contract 27 (MC2018–71 and CP2018–111) (Order No. 4335), added January 4, 2018.
10. Priority Mail Express, Priority Mail & First-Class Package Service Contract 31 (MC2018–76 and CP2018–118) (Order No. 4336), added January 4, 2018.
11. Priority Mail Contract 401 (MC2018–77 and CP2018–119) (Order No. 4337), added January 4, 2018.
12. First-Class Package Service Contract 89 (MC2018–78 and CP2018–120) (Order No. 4338), added January 4, 2018.
13. First-Class Package Service Contract 90 (MC2018–79 and CP2018–121) (Order No. 4339), added January 4, 2018.
14. Priority Mail Contract 402 (MC2018–80 and CP2018–122) (Order No. 4340), added January 4, 2018.
15. Priority Mail Express & Priority Mail Contract 55 (MC2018–81 and CP2018–123) (Order No. 4342), added January 5, 2018.
16. Priority Mail & First-Class Package Service Contract 67 (MC2018–82 and CP2018–124) (Order No. 4343), added January 5, 2018.
17. Priority Mail & First-Class Package Service Contract 68 (MC2018–83 and CP2018–125) (Order No. 4344), added January 5, 2018.
18. Priority Mail & First-Class Package Service Contract 69 (MC2018–84 and CP2018–126) (Order No. 4345), added January 5, 2018.
19. Priority Mail & First-Class Package Service Contract 70 (MC2018–85 and CP2018–127) (Order No. 4346), added January 5, 2018.
20. Priority Mail Express & Priority Mail Contract 56 (MC2018–86 and CP2018–128) (Order No. 4348), added January 8, 2018.
21. Priority Mail Express & Priority Mail Contract 57 (MC2018–87 and CP2018–129) (Order No. 4349), added January 8, 2018.
22. Priority Mail Express & Priority Mail Contract 58 (MC2018–88 and CP2018–130) (Order No. 4350), added January 8, 2018.
23. Priority Mail Express & Priority Mail Contract 59 (MC2018–89 and CP2018–131) (Order No. 4351), added January 8, 2018.
24. Priority Mail Express, Priority Mail & First-Class Package Service Contract 32 (MC2018–90 and CP2018–132) (Order No. 4353), added January 9, 2018.
25. Priority Mail Express Contract 58 (MC2018–91 and CP2018–133) (Order No. 4354), added January 9, 2018.
26. Priority Mail Express Contract 59 (MC2018–92 and CP2018–134) (Order No. 4355), added January 9, 2018.
27. Priority Mail Express Contract 60 (MC2018–93 and CP2018–135) (Order No. 4356), added January 9, 2018.
28. Priority Mail & First-Class Package Service Contract 71 (MC2018–94 and CP2018–136) (Order No. 4357), added January 9, 2018.
29. Priority Mail & First-Class Package Service Contract 72 (MC2018–95 and CP2018–137) (Order No. 4359), added January 11, 2018.
30. Priority Mail & First-Class Package Service Contract 73 (MC2018–96 and CP2018–138) (Order No. 4360), added January 11, 2018.
31. First-Class Package Service Contract 91 (MC2018–97 and CP2018–139) (Order No. 4361), added January 11, 2018.
32. Priority Mail Contract 403 (MC2018–98 and CP2018–140) (Order No. 4362), added January 11, 2018.
33. Priority Mail Contract 404 (MC2018–99 and CP2018–141) (Order No. 4363), added January 11, 2018.
34. Priority Mail Contract 405 (MC2018–100 and CP2018–142) (Order No. 4364), added January 11, 2018.
35. Priority Mail Contract 406 (MC2018–101 and CP2018–143) (Order No. 4365), added January 11, 2018.
36. Priority Mail Contract 407 (MC2018–102 and CP2018–144) (Order No. 4366), added January 11, 2018.
37. Priority Mail Contract 408 (MC2018–103 and CP2018–145) (Order No. 4367), added January 11, 2018.
38. Priority Mail Contract 409 (MC2018–104 and CP2018–146) (Order No. 4369), added January 12, 2018.
39. Priority Mail Contract 410 (MC2018–105 and CP2018–147) (Order No. 4370), added January 12, 2018.
40. Priority Mail Contract 411 (MC2018–106 and CP2018–148) (Order No. 4371), added January 12, 2018.
41. Priority Mail Contract 412 (MC2018–107 and CP2018–149) (Order No. 4372), added January 12, 2018.
42. Priority Mail Contract 415 (MC2018–110 and CP2018–152) (Order No. 4373), added January 16, 2018.
43. Priority Mail Contract 416 (MC2018–111 and CP2018–153) (Order No. 4374), added January 16, 2018.
44. Priority Mail Express Contract 61 (MC2018–113 and CP2018–155) (Order No. 4375), added January 16, 2018.
45. Priority Mail Contract 418 (MC2018–116 and CP2018–158) (Order No. 4378), added January 17, 2018.
46. Priority Mail Contract 420 (MC2018–118 and CP2018–160) (Order No. 4379), added January 17, 2018.
47. Priority Mail Contract 417 (MC2018–112 and CP2018–154) (Order No. 4380), added January 17, 2018.
48. Priority Mail Express & Priority Mail Contract 60 (MC2018–114 and CP2018–156) (Order No. 4381), added January 17, 2018.
49. Priority Mail Express & First-Class Package Service Contract 1 (MC2018–115 and CP2018–157) (Order No. 4382), added January 17, 2018.
50. Priority Mail Express & Priority Mail Contract 61 (MC2018–119 and CP2018–162) (Order No. 4384), added January 18, 2018.
51. Priority Mail Express & First-Class Package Service Contract 2 (MC2018–120 and CP2018–163) (Order No. 4387), added January 18, 2018.
52. Priority Mail Contract 413 (MC2018–108 and CP2018–150) (Order No. 4388), added January 19, 2018.
53. Priority Mail Contract 414 (MC2018–109 and CP2018–151) (Order No. 4389), added January 19, 2018.
54. Priority Mail Contract 419 (MC2018–117 and CP2018–159) (Order No. 4390), added January 19, 2018.
55. Priority Mail & First-Class Package Service Contract 74 (MC2018–121 and CP2018–164) (Order No. 4405), added February 13, 2018.
56. Parcel Select Contract 30 (MC2018–122 and CP2018–165) (Order No. 4406), added February 13, 2018.
57. Priority Mail Contract 421 (MC2018–123 and CP2018–166) (Order No. 4407), added February 14, 2018.
58. Priority Mail & First-Class Package Service Contract 75 (MC2018–124 and CP2018–169) (Order No. 4415), added February 22, 2018.
59. Global Expedited Package Services (GEPS)—Non-Published Rates 13 (MC2018–125 and CP2018–170) (Order No. 4423), added February 28, 2018.
60. Priority Mail Contract 422 (MC2018–126 and CP2018–172) (Order No. 4427), added March 6, 2018.
61. Priority Mail & First-Class Package Service Contract 76 (MC2018–127 and CP2018–173) (Order No. 4429), added March 9, 2018.
62. Priority Mail Contract 423 (MC2018–128 and CP2018–178) (Order No. 4436), added March 20, 2018.
63. Priority Mail Express & Priority Mail Contract 62 (MC2018–129 and CP2018–179) (Order No. 4437), added March 20, 2018.
64. Priority Mail Contract 424 (MC2018–130 and CP2018–180) (Order No. 4438), added March 20, 2018.
65. Priority Mail Contract 425 (MC2018–131 and CP2018–182) (Order No. 4445), added March 27, 2018.
66. Priority Mail Express & Priority Mail Contract 63 (MC2018–132 and CP2018–183) (Order No. 4446), added March 27, 2018.

The following negotiated service agreements have expired, or have been

terminated early, and are being deleted from the Competitive Product List:

1. Priority Mail Contract 85 (MC2014–34 and CP2014–60) (Order No. 2141).
2. Priority Mail Contract 93 (MC2014–47 and CP2014–83) (Order No. 2203).
3. Priority Mail Contract 98 (MC2015–6 and CP2015–7) (Order No. 2241).
4. Priority Mail Express Contract 20 (MC2015–12 and CP2015–15) (Order No. 2273).
5. Priority Mail Contract 99 (MC2015–9 and CP2015–12) (Order No. 2276).
6. Priority Mail Contract 106 (MC2015–25 and CP2015–34) (Order No. 2355).
7. Priority Mail Contract 107 (MC2015–26 and CP2015–35) (Order No. 2356).
8. Priority Mail Contract 113 (MC2015–33 and CP2015–43) (Order No. 2371).
9. Priority Mail Contract 117 (MC2015–37 and CP2015–48) (Order No. 2396).
10. Priority Mail Contract 115 (MC2015–35 and CP2015–46) (Order No. 2399).
11. Priority Mail Express & Priority Mail Contract 40 (MC2017–64 and CP2017–92) (Order No. 3728).
12. Priority Mail Contract 296 (MC2017–94 and CP2017–129) (Order No. 3815).

*Updated product list.* The referenced changes to the competitive product list is incorporated into 39 CFR Appendix B to Subpart A of Part 3020—Competitive Product List.

**List of Subjects in 39 CFR Part 3020**

Administrative practice and procedure, Postal Service.

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

## PART 3020—PRODUCT LISTS

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

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

■ 2. Revise Appendix B to Subpart A of Part 3020—Competitive Product List to read as follows:

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

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

Domestic Products *

Priority Mail Express
Priority Mail
Parcel Select
Parcel Return Service
First-Class Package Service
USPS Retail Ground

International Products *

Outbound International Expedited Services
Inbound Parcel Post (at UPU rates)
Outbound Priority Mail International
International Priority Airmail (IPA)
International Surface Air List (ISAL)
International Direct Sacks—M-Bags
Outbound Single-Piece First-Class Package International Service

Negotiated Service Agreements *

Domestic *

Priority Mail Express Contract 16
Priority Mail Express Contract 23
Priority Mail Express Contract 26
Priority Mail Express Contract 27
Priority Mail Express Contract 28
Priority Mail Express Contract 29
Priority Mail Express Contract 30
Priority Mail Express Contract 31
Priority Mail Express Contract 32
Priority Mail Express Contract 34
Priority Mail Express Contract 35
Priority Mail Express Contract 36
Priority Mail Express Contract 37
Priority Mail Express Contract 38
Priority Mail Express Contract 39
Priority Mail Express Contract 40
Priority Mail Express Contract 41
Priority Mail Express Contract 42
Priority Mail Express Contract 43
Priority Mail Express Contract 44
Priority Mail Express Contract 45
Priority Mail Express Contract 46
Priority Mail Express Contract 47
Priority Mail Express Contract 48
Priority Mail Express Contract 49
Priority Mail Express Contract 50
Priority Mail Express Contract 51
Priority Mail Express Contract 52
Priority Mail Express Contract 53
Priority Mail Express Contract 54
Priority Mail Express Contract 55
Priority Mail Express Contract 56
Priority Mail Express Contract 57
Priority Mail Express Contract 58
Priority Mail Express Contract 59
Priority Mail Express Contract 60
Priority Mail Express Contract 61
Parcel Return Service Contract 5
Parcel Return Service Contract 6
Parcel Return Service Contract 7
Parcel Return Service Contract 8
Parcel Return Service Contract 9
Parcel Return Service Contract 10
Priority Mail Contract 77
Priority Mail Contract 78
Priority Mail Contract 80
Priority Mail Contract 94
Priority Mail Contract 110
Priority Mail Contract 111
Priority Mail Contract 119
Priority Mail Contract 121
Priority Mail Contract 123
Priority Mail Contract 125
Priority Mail Contract 126
Priority Mail Contract 127
Priority Mail Contract 130
Priority Mail Contract 131
Priority Mail Contract 132
Priority Mail Contract 133
Priority Mail Contract 134
Priority Mail Contract 136
Priority Mail Contract 137
Priority Mail Contract 138
Priority Mail Contract 140
Priority Mail Contract 141
Priority Mail Contract 144
Priority Mail Contract 145
Priority Mail Contract 146
Priority Mail Contract 148
Priority Mail Contract 149
Priority Mail Contract 150
Priority Mail Contract 153
Priority Mail Contract 154
Priority Mail Contract 155
Priority Mail Contract 156
Priority Mail Contract 157
Priority Mail Contract 158
Priority Mail Contract 159
Priority Mail Contract 160
Priority Mail Contract 161
Priority Mail Contract 163
Priority Mail Contract 164
Priority Mail Contract 166
Priority Mail Contract 167
Priority Mail Contract 168
Priority Mail Contract 169
Priority Mail Contract 170
Priority Mail Contract 171
Priority Mail Contract 172
Priority Mail Contract 174
Priority Mail Contract 175
Priority Mail Contract 176
Priority Mail Contract 177
Priority Mail Contract 178
Priority Mail Contract 179
Priority Mail Contract 180
Priority Mail Contract 181
Priority Mail Contract 185
Priority Mail Contract 186
Priority Mail Contract 188
Priority Mail Contract 189
Priority Mail Contract 190
Priority Mail Contract 191
Priority Mail Contract 192
Priority Mail Contract 193
Priority Mail Contract 194
Priority Mail Contract 195
Priority Mail Contract 196
Priority Mail Contract 197
Priority Mail Contract 198
Priority Mail Contract 199
Priority Mail Contract 200
Priority Mail Contract 201
Priority Mail Contract 202
Priority Mail Contract 203
Priority Mail Contract 204
Priority Mail Contract 205
Priority Mail Contract 206
Priority Mail Contract 207
Priority Mail Contract 208
Priority Mail Contract 209
Priority Mail Contract 210
Priority Mail Contract 211
Priority Mail Contract 212
Priority Mail Contract 213
Priority Mail Contract 215
Priority Mail Contract 216
Priority Mail Contract 217
Priority Mail Contract 218
Priority Mail Contract 219
Priority Mail Contract 220
Priority Mail Contract 221
Priority Mail Contract 222
Priority Mail Contract 223
Priority Mail Contract 224
Priority Mail Contract 225
Priority Mail Contract 226
Priority Mail Contract 227
Priority Mail Contract 229

Priority Mail Contract 230
Priority Mail Contract 231
Priority Mail Contract 232
Priority Mail Contract 233
Priority Mail Contract 234
Priority Mail Contract 235
Priority Mail Contract 236
Priority Mail Contract 237
Priority Mail Contract 238
Priority Mail Contract 239
Priority Mail Contract 240
Priority Mail Contract 242
Priority Mail Contract 243
Priority Mail Contract 244
Priority Mail Contract 245
Priority Mail Contract 246
Priority Mail Contract 247
Priority Mail Contract 248
Priority Mail Contract 249
Priority Mail Contract 250
Priority Mail Contract 251
Priority Mail Contract 252
Priority Mail Contract 253
Priority Mail Contract 254
Priority Mail Contract 255
Priority Mail Contract 256
Priority Mail Contract 257
Priority Mail Contract 258
Priority Mail Contract 259
Priority Mail Contract 260
Priority Mail Contract 261
Priority Mail Contract 262
Priority Mail Contract 263
Priority Mail Contract 264
Priority Mail Contract 265
Priority Mail Contract 266
Priority Mail Contract 267
Priority Mail Contract 268
Priority Mail Contract 269
Priority Mail Contract 270
Priority Mail Contract 271
Priority Mail Contract 272
Priority Mail Contract 273
Priority Mail Contract 274
Priority Mail Contract 275
Priority Mail Contract 276
Priority Mail Contract 277
Priority Mail Contract 278
Priority Mail Contract 279
Priority Mail Contract 280
Priority Mail Contract 281
Priority Mail Contract 282
Priority Mail Contract 283
Priority Mail Contract 284
Priority Mail Contract 285
Priority Mail Contract 286
Priority Mail Contract 287
Priority Mail Contract 288
Priority Mail Contract 289
Priority Mail Contract 290
Priority Mail Contract 291
Priority Mail Contract 292
Priority Mail Contract 293
Priority Mail Contract 294
Priority Mail Contract 295
Priority Mail Contract 297
Priority Mail Contract 298
Priority Mail Contract 299
Priority Mail Contract 300
Priority Mail Contract 301
Priority Mail Contract 302
Priority Mail Contract 303
Priority Mail Contract 304
Priority Mail Contract 305
Priority Mail Contract 306
Priority Mail Contract 307
Priority Mail Contract 308
Priority Mail Contract 309
Priority Mail Contract 310
Priority Mail Contract 311
Priority Mail Contract 312
Priority Mail Contract 313
Priority Mail Contract 314
Priority Mail Contract 315
Priority Mail Contract 316
Priority Mail Contract 317
Priority Mail Contract 318
Priority Mail Contract 319
Priority Mail Contract 320
Priority Mail Contract 321
Priority Mail Contract 322
Priority Mail Contract 323
Priority Mail Contract 324
Priority Mail Contract 325
Priority Mail Contract 326
Priority Mail Contract 327
Priority Mail Contract 328
Priority Mail Contract 329
Priority Mail Contract 330
Priority Mail Contract 331
Priority Mail Contract 332
Priority Mail Contract 333
Priority Mail Contract 334
Priority Mail Contract 335
Priority Mail Contract 336
Priority Mail Contract 337
Priority Mail Contract 338
Priority Mail Contract 339
Priority Mail Contract 340
Priority Mail Contract 341
Priority Mail Contract 342
Priority Mail Contract 343
Priority Mail Contract 344
Priority Mail Contract 345
Priority Mail Contract 346
Priority Mail Contract 347
Priority Mail Contract 348
Priority Mail Contract 349
Priority Mail Contract 350
Priority Mail Contract 351
Priority Mail Contract 352
Priority Mail Contract 353
Priority Mail Contract 354
Priority Mail Contract 355
Priority Mail Contract 356
Priority Mail Contract 357
Priority Mail Contract 358
Priority Mail Contract 359
Priority Mail Contract 360
Priority Mail Contract 361
Priority Mail Contract 362
Priority Mail Contract 363
Priority Mail Contract 364
Priority Mail Contract 365
Priority Mail Contract 367
Priority Mail Contract 368
Priority Mail Contract 369
Priority Mail Contract 370
Priority Mail Contract 371
Priority Mail Contract 372
Priority Mail Contract 373
Priority Mail Contract 374
Priority Mail Contract 375
Priority Mail Contract 376
Priority Mail Contract 377
Priority Mail Contract 378
Priority Mail Contract 379
Priority Mail Contract 380
Priority Mail Contract 381
Priority Mail Contract 382
Priority Mail Contract 383
Priority Mail Contract 384
Priority Mail Contract 385
Priority Mail Contract 386
Priority Mail Contract 387
Priority Mail Contract 388
Priority Mail Contract 389
Priority Mail Contract 390
Priority Mail Contract 391
Priority Mail Contract 392
Priority Mail Contract 393
Priority Mail Contract 394
Priority Mail Contract 395
Priority Mail Contract 396
Priority Mail Contract 397
Priority Mail Contract 398
Priority Mail Contract 399
Priority Mail Contract 400
Priority Mail Contract 401
Priority Mail Contract 402
Priority Mail Contract 403
Priority Mail Contract 404
Priority Mail Contract 405
Priority Mail Contract 406
Priority Mail Contract 407
Priority Mail Contract 408
Priority Mail Contract 409
Priority Mail Contract 410
Priority Mail Contract 411
Priority Mail Contract 412
Priority Mail Contract 413
Priority Mail Contract 414
Priority Mail Contract 415
Priority Mail Contract 416
Priority Mail Contract 417
Priority Mail Contract 418
Priority Mail Contract 419
Priority Mail Contract 420
Priority Mail Contract 421
Priority Mail Contract 422
Priority Mail Contract 423
Priority Mail Contract 424
Priority Mail Contract 425
Priority Mail Express & Priority Mail Contract 12
Priority Mail Express & Priority Mail Contract 13
Priority Mail Express & Priority Mail Contract 17
Priority Mail Express & Priority Mail Contract 18
Priority Mail Express & Priority Mail Contract 19
Priority Mail Express & Priority Mail Contract 20
Priority Mail Express & Priority Mail Contract 21
Priority Mail Express & Priority Mail Contract 22
Priority Mail Express & Priority Mail Contract 23
Priority Mail Express & Priority Mail Contract 24
Priority Mail Express & Priority Mail Contract 25
Priority Mail Express & Priority Mail Contract 27
Priority Mail Express & Priority Mail Contract 28
Priority Mail Express & Priority Mail Contract 29
Priority Mail Express & Priority Mail Contract 30
Priority Mail Express & Priority Mail Contract 31
Priority Mail Express & Priority Mail Contract 32
Priority Mail Express & Priority Mail Contract 33

Priority Mail Express & Priority Mail Contract 34
Priority Mail Express & Priority Mail Contract 35
Priority Mail Express & Priority Mail Contract 36
Priority Mail Express & Priority Mail Contract 37
Priority Mail Express & Priority Mail Contract 38
Priority Mail Express & Priority Mail Contract 39
Priority Mail Express & Priority Mail Contract 41
Priority Mail Express & Priority Mail Contract 42
Priority Mail Express & Priority Mail Contract 43
Priority Mail Express & Priority Mail Contract 44
Priority Mail Express & Priority Mail Contract 45
Priority Mail Express & Priority Mail Contract 46
Priority Mail Express & Priority Mail Contract 47
Priority Mail Express & Priority Mail Contract 48
Priority Mail Express & Priority Mail Contract 49
Priority Mail Express & Priority Mail Contract 50
Priority Mail Express & Priority Mail Contract 51
Priority Mail Express & Priority Mail Contract 52
Priority Mail Express & Priority Mail Contract 53
Priority Mail Express & Priority Mail Contract 54
Priority Mail Express & Priority Mail Contract 55
Priority Mail Express & Priority Mail Contract 56
Priority Mail Express & Priority Mail Contract 57
Priority Mail Express & Priority Mail Contract 58
Priority Mail Express & Priority Mail Contract 59
Priority Mail Express & Priority Mail Contract 60
Priority Mail Express & Priority Mail Contract 61
Priority Mail Express & Priority Mail Contract 62
Priority Mail Express & Priority Mail Contract 63
Parcel Select & Parcel Return Service Contract 3
Parcel Select & Parcel Return Service Contract 5
Parcel Select & Parcel Return Service Contract 6
Parcel Select Contract 2
Parcel Select Contract 8
Parcel Select Contract 9
Parcel Select Contract 10
Parcel Select Contract 11
Parcel Select Contract 12
Parcel Select Contract 13
Parcel Select Contract 14
Parcel Select Contract 15
Parcel Select Contract 16
Parcel Select Contract 17
Parcel Select Contract 18
Parcel Select Contract 19
Parcel Select Contract 20
Parcel Select Contract 21
Parcel Select Contract 22
Parcel Select Contract 23
Parcel Select Contract 24
Parcel Select Contract 25
Parcel Select Contract 26
Parcel Select Contract 27
Parcel Select Contract 28
Parcel Select Contract 29
Parcel Select Contract 30
Priority Mail—Non-Published Rates
Priority Mail—Non-Published Rates 1
First-Class Package Service Contract 38
First-Class Package Service Contract 39
First-Class Package Service Contract 40
First-Class Package Service Contract 41
First-Class Package Service Contract 42
First-Class Package Service Contract 43
First-Class Package Service Contract 44
First-Class Package Service Contract 45
First-Class Package Service Contract 46
First-Class Package Service Contract 47
First-Class Package Service Contract 48
First-Class Package Service Contract 49
First-Class Package Service Contract 50
First-Class Package Service Contract 51
First-Class Package Service Contract 52
First-Class Package Service Contract 53
First-Class Package Service Contract 54
First-Class Package Service Contract 55
First-Class Package Service Contract 57
First-Class Package Service Contract 59
First-Class Package Service Contract 60
First-Class Package Service Contract 61
First-Class Package Service Contract 62
First-Class Package Service Contract 63
First-Class Package Service Contract 64
First-Class Package Service Contract 65
First-Class Package Service Contract 66
First-Class Package Service Contract 67
First-Class Package Service Contract 68
First-Class Package Service Contract 69
First-Class Package Service Contract 71
First-Class Package Service Contract 72
First-Class Package Service Contract 73
First-Class Package Service Contract 74
First-Class Package Service Contract 75
First-Class Package Service Contract 76
First-Class Package Service Contract 77
First-Class Package Service Contract 78
First-Class Package Service Contract 79
First-Class Package Service Contract 80
First-Class Package Service Contract 81
First-Class Package Service Contract 82
First-Class Package Service Contract 83
First-Class Package Service Contract 84
First-Class Package Service Contract 85
First-Class Package Service Contract 86
First-Class Package Service Contract 87
First-Class Package Service Contract 88
First-Class Package Service Contract 89
First-Class Package Service Contract 90
First-Class Package Service Contract 91
Priority Mail Express, Priority Mail & First-Class Package Service Contract 5
Priority Mail Express, Priority Mail & First-Class Package Service Contract 6
Priority Mail Express, Priority Mail & First-Class Package Service Contract 7
Priority Mail Express, Priority Mail & First-Class Package Service Contract 8
Priority Mail Express, Priority Mail & First-Class Package Service Contract 9
Priority Mail Express, Priority Mail & First-Class Package Service Contract 10
Priority Mail Express, Priority Mail & First-Class Package Service Contract 11
Priority Mail Express, Priority Mail & First-Class Package Service Contract 12
Priority Mail Express, Priority Mail & First-Class Package Service Contract 13
Priority Mail Express, Priority Mail & First-Class Package Service Contract14
Priority Mail Express, Priority Mail & First-Class Package Service Contract 15
Priority Mail Express, Priority Mail & First-Class Package Service Contract 16
Priority Mail Express, Priority Mail & First-Class Package Service Contract 17
Priority Mail Express, Priority Mail & First-Class Package Service Contract 18
Priority Mail Express, Priority Mail & First-Class Package Service Contract 19
Priority Mail Express, Priority Mail & First-Class Package Service Contract 20
Priority Mail Express, Priority Mail & First-Class Package Service Contract 21
Priority Mail Express, Priority Mail & First-Class Package Service Contract 22
Priority Mail Express, Priority Mail & First-Class Package Service Contract 23
Priority Mail Express, Priority Mail & First-Class Package Service Contract 24
Priority Mail Express, Priority Mail & First-Class Package Service Contract 25
Priority Mail Express, Priority Mail & First-Class Package Service Contract 26
Priority Mail Express, Priority Mail & First-Class Package Service Contract 27
Priority Mail Express, Priority Mail & First-Class Package Service Contract 28
Priority Mail Express, Priority Mail & First-Class Package Service Contract 29
Priority Mail Express, Priority Mail & First-Class Package Service Contract 30
Priority Mail Express, Priority Mail & First-Class Package Service Contract 31
Priority Mail Express, Priority Mail & First-Class Package Service Contract 32
Priority Mail & First-Class Package Service Contract 2
Priority Mail & First-Class Package Service Contract 4
Priority Mail & First-Class Package Service Contract 6
Priority Mail & First-Class Package Service Contract 7
Priority Mail & First-Class Package Service Contract 8
Priority Mail & First-Class Package Service Contract 9
Priority Mail & First-Class Package Service Contract 10
Priority Mail & First-Class Package Service Contract 11
Priority Mail & First-Class Package Service Contract 13
Priority Mail & First-Class Package Service Contract 15
Priority Mail & First-Class Package Service Contract 16
Priority Mail & First-Class Package Service Contract 17
Priority Mail & First-Class Package Service Contract 18
Priority Mail & First-Class Package Service Contract 19
Priority Mail & First-Class Package Service Contract 20
Priority Mail & First-Class Package Service Contract 21

Priority Mail & First-Class Package Service Contract 22
Priority Mail & First-Class Package Service Contract 23
Priority Mail & First-Class Package Service Contract 24
Priority Mail & First-Class Package Service Contract 25
Priority Mail & First-Class Package Service Contract 26
Priority Mail & First-Class Package Service Contract 27
Priority Mail & First-Class Package Service Contract 28
Priority Mail & First-Class Package Service Contract 29
Priority Mail & First-Class Package Service Contract 30
Priority Mail & First-Class Package Service Contract 31
Priority Mail & First-Class Package Service Contract 32
Priority Mail & First-Class Package Service Contract 33
Priority Mail & First-Class Package Service Contract 34
Priority Mail & First-Class Package Service Contract 35
Priority Mail & First-Class Package Service Contract 36
Priority Mail & First-Class Package Service Contract 37
Priority Mail & First-Class Package Service Contract 38
Priority Mail & First-Class Package Service Contract 39
Priority Mail & First-Class Package Service Contract 40
Priority Mail & First-Class Package Service Contract 41
Priority Mail & First-Class Package Service Contract 42
Priority Mail & First-Class Package Service Contract 43
Priority Mail & First-Class Package Service Contract 44
Priority Mail & First-Class Package Service Contract 45
Priority Mail & First-Class Package Service Contract 46
Priority Mail & First-Class Package Service Contract 47
Priority Mail & First-Class Package Service Contract 48
Priority Mail & First-Class Package Service Contract 49
Priority Mail & First-Class Package Service Contract 50
Priority Mail & First-Class Package Service Contract 51
Priority Mail & First-Class Package Service Contract 52
Priority Mail & First-Class Package Service Contract 53
Priority Mail & First-Class Package Service Contract 54
Priority Mail & First-Class Package Service Contract 55
Priority Mail & First-Class Package Service Contract 56
Priority Mail & First-Class Package Service Contract 57
Priority Mail & First-Class Package Service Contract 58
Priority Mail & First-Class Package Service Contract 59
Priority Mail & First-Class Package Service Contract 60
Priority Mail & First-Class Package Service Contract 61
Priority Mail & First-Class Package Service Contract 62
Priority Mail & First-Class Package Service Contract 63
Priority Mail & First-Class Package Service Contract 64
Priority Mail & First-Class Package Service Contract 65
Priority Mail & First-Class Package Service Contract 66
Priority Mail & First-Class Package Service Contract 67
Priority Mail & First-Class Package Service Contract 68
Priority Mail & First-Class Package Service Contract 69
Priority Mail & First-Class Package Service Contract 70
Priority Mail & First-Class Package Service Contract 71
Priority Mail & First-Class Package Service Contract 72
Priority Mail & First-Class Package Service Contract 73
Priority Mail & First-Class Package Service Contract 74
Priority Mail & First-Class Package Service Contract 75
Priority Mail & First-Class Package Service Contract 76
Priority Mail & Parcel Select Contract 1
Priority Mail & Parcel Select Contract 2
Priority Mail Express & First-Class Package Service Contract 1
Priority Mail Express & First-Class Package Service Contract 2

Outbound International *

Global Expedited Package Services (GEPS) Contracts
GEPS 3
GEPS 5
GEPS 6
GEPS 7
GEPS 8
GEPS 9
Global Bulk Economy (GBE) Contracts
Global Plus Contracts
Global Plus 1C
Global Plus 1D
Global Plus 1E
Global Plus 2C
Global Plus 3
Global Reseller Expedited Package Contracts
Global Reseller Expedited Package Services 1
Global Reseller Expedited Package Services 2
Global Reseller Expedited Package Services 3
Global Reseller Expedited Package Services 4
Global Expedited Package Services (GEPS)—Non-Published Rates
Global Expedited Package Services (GEPS)—Non-Published Rates 2
Global Expedited Package Services (GEPS)—Non-Published Rates 3
Global Expedited Package Services (GEPS)—Non-Published Rates 4
Global Expedited Package Services (GEPS)—Non-Published Rates 5
Global Expedited Package Services (GEPS)—Non-Published Rates 6
Global Expedited Package Services (GEPS)—Non-Published Rates 7
Global Expedited Package Services (GEPS)—Non-Published Rates 8
Global Expedited Package Services (GEPS)—Non-Published Rates 9
Global Expedited Package Services (GEPS)—Non-Published Rates 10
Global Expedited Package Services (GEPS)—Non-Published Rates 11
Global Expedited Package Services (GEPS)—Non-Published Rates 12
Global Expedited Package Services (GEPS)—Non-Published Rates 13
Priority Mail International Regional Rate Boxes—Non-Published Rates
Outbound Competitive International Merchandise Return Service
Agreement with Royal Mail Group, Ltd.
Priority Mail International Regional Rate Boxes Contracts
Priority Mail International Regional Rate Boxes Contracts 1
Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 1
Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 1
Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 2
Alternative Delivery Provider (ADP) Contracts ADP 1
Alternative Delivery Provider Reseller (ADPR) Contracts ADPR 1

Inbound International *

International Business Reply Service (IBRS) Competitive Contracts
International Business Reply Service Competitive Contract 1
International Business Reply Service Competitive Contract 3
Inbound Direct Entry Contracts with Customers
Inbound Direct Entry Contracts with Foreign Postal Administrations
Inbound Direct Entry Contracts with Foreign Postal Administrations
Inbound Direct Entry Contracts with Foreign Postal Administrations 1
Inbound EMS
Inbound EMS 2
Inbound Air Parcel Post (at non-UPU rates)
Royal Mail Group Inbound Air Parcel Post Agreement
Inbound Competitive Multi-Service Agreements with Foreign Postal Operators
Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1

Special Services *

Address Enhancement Services
Greeting Cards, Gift Cards, and Stationery
International Ancillary Services
International Money Transfer Service—Outbound
International Money Transfer Service—Inbound
Premium Forwarding Service
Shipping and Mailing Supplies
Post Office Box Service

Competitive Ancillary Services

Nonpostal Services *

Advertising
Licensing of Intellectual Property other than Officially Licensed Retail Products (OLRP)
Mail Service Promotion
Officially Licensed Retail Products (OLRP)
Passport Photo Service
Photocopying Service
Rental, Leasing, Licensing or other Non-Sale Disposition of Tangible Property
Training Facilities and Related Services
USPS Electronic Postmark (EPM) Program

Market Tests *

Customized Delivery
Global eCommerce Marketplace (GeM)

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2018–08845 Filed 4–26–18; 8:45 am]

**BILLING CODE 7710–FW–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R06–OAR–2017–0519; FRL–9977–04—Region 6]**

## Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution From Visible Emissions and Particulate Matter

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) submitted by the State of Texas to EPA on August 23, 2017, that pertain to particulate matter standards and outdoor burning regulations. This rulemaking action is being taken under Section 110 of the CAA.

**DATES:** This rule is effective on July 26, 2018 without further notice, unless the EPA receives relevant adverse comment by May 29, 2018. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2017–0519, at *http://www.regulations.gov* or via email to *pitre.randy@epa.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, please contact Mr. Randy Pitre, (214) 665–7299, *pitre.randy@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy Pitre, 214–665–7299, *pitre.randy@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Randy Pitre or Mr. Bill Deese at 214–665–7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

### I. Background

Section 110 of the CAA requires states to develop and submit to the EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS). These ambient standards currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. The EPA approved SIP regulations and control strategies are federally enforceable.

On August 23, 2017, the Texas Commission on Environmental Quality (TCEQ or ''the State'') submitted revisions to the Texas SIP that address Control of Air Pollution from Visible Emissions and Particulate Matter requirements found in Title 30 of the Texas Administrative Code (30 TAC), Chapter 111 (Control of Air Pollution from Visible Emissions and Particulate Matter), Subchapter B (0utdoor Burning). The submitted revisions address two sections within Chapter 111: In section 111.203 (''Definitions'') and the State added a new section 111.217, titled ''Requirements for Certified and Insured Prescribed Burn Managers.''

### II. The EPA's Evaluation

As described in the Technical Support Document (TSD) accompanying this action, the TCEQ submitted revisions to 30 TAC Chapter 111, Subchapter B, Sections 203 and 217. The submittal revises 30 TAC 111.203 by adding two definitions: ''Certified and Insured Prescribed Burn Manager'' and ''Sunrise/Sunset.'' These new definitions enhance the SIP by establishing a responsible party for prescribed fire management and add clarity. Additional edits include renumbering to account for the new definitions and minor edits that add specificity.

The submittal also revises 30 TAC 111 by adding Section 217: ''Requirements for Certified and Insured Prescribed Burn Managers.'' This section describes the obligations regarding authority to direct a burn, allowable habitats for a burn, notification procedures, proximity to city/town limits, local ordinances, meteorological and temporal conditions, and items not permissible for burning. These revisions are consistent with Table 1 to 40 CFR 50.14.

Because these revisions include requirements that protect public health and property, and reduce or eliminate an impact from prescribed burning on the NAAQS, they improve the SIP. For these reasons, we do not believe such revisions would interfere with attainment of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA, and we find these revisions approvable. For more detail, please see the TSD for this action.

### III. Final Action

We are approving the August 23, 2017, submittal that adopted amendments to the Texas SIP at 30 TAC Section 111.203 and 30 TAC Section 111.217.

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the

SIP revision if relevant adverse comments are received. This rule will be effective on July 26, 2018 without further notice unless we receive relevant adverse comment by May 29, 2018. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact Mr. Randy Pitre, 214–665–7299, *pitre.randy@epa.gov* for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 CAA; 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, the SIP is not approved to 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 26, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 19, 2018.

**Anne Idsal,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart SS—Texas

■ 2. In § 52.2270(c) the table titled ''EPA Approved Regulations in the Texas SIP'' is amended by revising the entry for section 111.203 under Chapter 111, Subchapter B and adding an entry for section 111.217.

The amendments read as follows:

### § 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

| State citation | Title/subject | State approval/ submittal date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| **Subchapter B: Outdoor Burning** | | | | |
| * | * | * | * | * |
| Section 111.203 | Definitions | 7/7/2017 | 4/27/2018, [Insert **Federal Register** citation]. | |
| * | * | * | * | * |
| Section 111.217 | Requirements for Certified and Insured Prescribed Burn Managers. | 7/7/2017 | 4/27/2018, [Insert **Federal Register** citation]. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2018–08662 Filed 4–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 82

**[EPA–HQ–OAR–2003–0118; FRL–9977–05–OAR]**

## Protection of Stratospheric Ozone: Notification of Guidance and a Stakeholder Meeting Concerning the Significant New Alternatives Policy (SNAP) Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notification of guidance and stakeholder meeting.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is providing this document to dispel confusion and provide regulatory certainty for stakeholders affected by EPA's Significant New Alternatives Policy program final rule issued on July 20, 2015, and the decision of the Court of Appeals for the District of Columbia Circuit in the case of *Mexichem Fluor, Inc.* v. *EPA*. The 2015 Rule changed the listings for certain hydrofluorocarbons in various end-uses in the aerosols, refrigeration and air conditioning, and foam blowing sectors. It also changed the listings for certain hydrochlorofluorocarbons being phased out of production under the Montreal Protocol on Substances that Deplete the Ozone Layer and section 605 of the Clean Air Act. The court vacated the 2015 Rule ''to the extent it requires manufacturers to replace HFCs with a substitute substance'' and remanded the rule to EPA for further proceedings. This document provides guidance to stakeholders that, based on the court's partial vacatur, in the near-term EPA will not apply the HFC listings in the 2015 Rule, pending a rulemaking. This document also provides the Agency's plan to begin a notice-and-comment rulemaking process to address the remand of the 2015 Rule. The Agency is also providing notice of a stakeholder meeting as part of the rulemaking process.

**DATES:** EPA will hold a stakeholder meeting on May 4, 2018 to enable stakeholders to provide input as the Agency prepares to engage in rulemaking to address the court's remand of the 2015 Rule. The meeting will be held at 9:30 a.m. to 12:30 p.m. ET on Friday, May 4, 2018 at EPA, William Jefferson Clinton East Building, Room 1153, 1201 Constitution Avenue NW, Washington, DC 20004. Information concerning this meeting will be available on the EPA website: *https://www.epa.gov/snap.* Please RSVP for this meeting by contacting Chenise Farquharson at *farquharson.chenise@epa.gov* by April 27, 2018.

**FOR FURTHER INFORMATION CONTACT:** Chenise Farquharson, Stratospheric Protection Division, (6205T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–7768; email address: *farquharson.chenise@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

This document provides information related to the EPA's Significant New Alternatives Policy (SNAP) program final rule (2015 Rule) issued on July 20, 2015 (80 FR 42870), and the decision of the Court of Appeals for the District of Columbia Circuit in the case of *Mexichem Fluor, Inc.* v. *EPA,* 866 F.3d 451 (D.C. Cir. 2017). The 2015 Rule changed the listings for certain hydrofluorocarbons (HFCs) in various end-uses in the aerosols, refrigeration and air conditioning, and foam blowing sectors. The listings were changed from acceptable, or acceptable subject to use conditions, to unacceptable, or acceptable subject to narrowed use limits (*i.e.,* acceptable only for limited uses for a specified period of time). The 2015 Rule also changed the listings for certain hydrochlorofluorocarbons (HCFCs) being phased out of production under the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol) and section 605 of the Clean Air Act (CAA). The court vacated the 2015 Rule ''to the extent it requires manufacturers to replace HFCs with a substitute substance'' and remanded the rule to EPA for further proceedings.

Through this document, EPA is taking three actions in response to the court's decision: (1) Providing guidance to stakeholders on how EPA will implement the court's partial vacatur of the 2015 Rule in the near term, pending a rulemaking; (2) providing information on the Agency's plan to address the court's remand of the 2015 Rule through rulemaking; and (3) providing notice of a stakeholder meeting to help inform the Agency as it begins developing a

proposed rule in response to the court's remand. EPA is issuing guidance to dispel confusion and provide regulatory certainty in the near term for users in the refrigeration and air conditioning, foam blowing and aerosol end-uses affected by the HFC listing changes in the 2015 Rule; thus, this document may be of interest to the following:

TABLE 1—POTENTIALLY REGULATED ENTITIES BY NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS) CODE

| Category | NAICS code | Description of regulated entities |
|---|---|---|
| Industry | 238220 | Plumbing, Heating, and Air Conditioning Contractors. |
| Industry | 324191 | Petroleum Lubricating Oil and Grease Manufacturing. |
| Industry | 325199 | All Other Basic Organic Chemical Manufacturing. |
| Industry | 325412 | Pharmaceutical Preparation Manufacturing. |
| Industry | 325510 | Paint and Coating Manufacturing. |
| Industry | 325520 | Adhesive Manufacturing. |
| Industry | 325612 | Polishes and Other Sanitation Goods. |
| Industry | 325620 | Toilet Preparation Manufacturing. |
| Industry | 325998 | All Other Misscellaneous Chemical Product and Preparation Manufacturing. |
| Industry | 326140 | Polystyrene Foam Product Manufacturing. |
| Industry | 326150 | Urethane and Other Foam Product (except Polystyrene) Manufacturing. |
| Industry | 333415 | Air Conditioning and Warm Air Heating Equipment and Commerial and Industrial Refrigeration Equipment Manufacturing. |
| Industry | 336211 | Motor Vehicle Body Manufacturing. |
| Industry | 3363 | Motor Vehicle Parts Manufacturing. |
| Industry | 336611 | Ship Building and Repairing. |
| Industry | 336612 | Boat Building. |
| Industry | 339113 | Surgical Appliance and Supplies Manufacturing. |
| Retail | 423620 | Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers. |
| Retail | 423740 | Refrigeration Equipment and Supplies Merchant Wholesalers. |
| Retail | 44511 | Supermarkets and Other Grocery (except Convenience) Stores. |
| Retail | 445110 | Supermarkets and Other Grocery (except Convenience) Stores. |
| Retail | 445120 | Convenience Stores. |
| Retail | 44521 | Meat Markets. |
| Retail | 44522 | Fish and Seafood Markets. |
| Retail | 44523 | Fruit and Vegetable Markets. |
| Retail | 445291 | Baked Goods Stores. |
| Retail | 445292 | Confectionary and Nut Stores. |
| Retail | 445299 | All Other Specialty Foods Stores. |
| Retail | 4453 | Beer, Wine, and Liqour Stores. |
| Retail | 446110 | Pharmacies and Drug Stores. |
| Retail | 44711 | Gasoline Stations with Convenience Stores. |
| Retail | 452910 | Warehouse Clubs and Supercenters. |
| Retail | 452990 | All Other General Merchandise Stores. |
| Services | 72111 | Hotels (except Casino Hotels) and Motels. |
| Services | 72112 | Casino Hotels. |
| Retail | 72241 | Drinking Places (Alcoholic Beverages). |
| Retail | 722513 | Limited-Service Restaurants. |
| Retail | 722514 | Cafeterias, Grill Buffets, and Buffets. |
| Retail | 722515 | Snack and Nonalcoholic Beverage Bars. |

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this document.

*B. How can I get copies of this document and other related material?*

1. *Docket.* EPA has not established a new docket for this document. Publicly available information on the related 2015 Rule can be found under Docket ID No. EPA–HQ–OAR–2014–0198. Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

2. *Electronic Access.* You may access this **Federal Register** document electronically from the Government Printing Office under the ''**Federal Register**'' listings at FDSys (*https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR*).

## II. How is EPA responding to the court's decision on the July 2015 SNAP final rule?

Through this document, EPA is taking three actions in response to the court's decision: (1) Providing guidance to stakeholders on how EPA will implement the court's partial vacatur of the 2015 Rule in the near term, pending a rulemaking; (2) providing information on the Agency's plan to address the court's remand of the 2015 Rule through rulemaking; and (3) providing notice of a stakeholder meeting to help inform the Agency as it begins developing a proposed rule in response to the court's remand. As previously mentioned, EPA is issuing this guidance to dispel confusion and provide regulatory certainty in the near term for users in the refrigeration and air conditioning, foam blowing and aerosol end-uses affected by the HFC listing changes in the 2015 Rule. Specifically, until EPA completes a rulemaking addressing the remand, EPA will not apply the HFC listings in the 2015 Rule. While this guidance is intended to provide a clear statement of EPA's understanding of the

court's vacatur in *Mexichem,* it is not intended to represent a definitive or final statement by the Agency on the court's decision as a whole. In fact, EPA anticipates that its actions in response to the decision will be informed by input from stakeholders and the notice-and-comment rulemaking process that will address the court's remand.

*A. Background*

The SNAP program implements section 612 of the Clean Air Act. Several major provisions of section 612 are:

1. Rulemaking

Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, hydrobromofluorocarbon, and chlorobromomethane) or class II (HCFC) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment and (2) is currently or potentially available.

2. Listing of Unacceptable/Acceptable Substitutes

Section 612(c) requires EPA to publish a list of the substitutes that it finds to be unacceptable for specific uses and to publish a corresponding list of acceptable substitutes for specific uses.

3. Petition Process

Section 612(d) grants the right to any person to petition EPA to add a substance to, or delete a substance from, the lists published in accordance with section 612(c).

4. 90-Day Notification

Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

In 1994, EPA published a rule setting forth the framework for administering the SNAP program (''1994 Framework Rule'') (59 FR 13044; March 18, 1994). Among other things, that rule established prohibitions on use of substitutes inconsistent with the SNAP listings, including a prohibition stating that ''[n]o person may use a substitute after the effective date of any rulemaking adding such substitute to the list of unacceptable substitutes.'' 40 CFR 82.174. The 1994 Framework Rule defined ''use'' broadly as ''any use of a substitute for a Class 1 or Class II ozone-depleting compound, including but not limited to use in a manufacturing process or product, in consumption by the end-user, or in intermediate uses, such as formulation or packaging for other subsequent uses.'' 40 CFR 82.172. Thus, for example, use encompasses not only the manufacture of equipment with a substitute, such as the manufacture of a foam-blowing system; it also includes the use of that foam system to blow the foam into another product, such as foam cushions, or to blow the foam as insulation in a building. EPA issued its initial listing decisions as part of the 1994 Framework Rule and has continued to list substitutes. The lists of fully acceptable substitutes are not included in the CFR but instead are available at *https://www.epa.gov/snap/snap-substitutes-sector.* All other listing decisions (*i.e.,* unacceptable or with restrictions on use) are contained in tables provided in appendices to EPA's SNAP regulations (40 CFR part 82 subpart G). There are separate tables for each of the major industrial use sectors, including adhesives, coatings and inks; aerosols; cleaning solvents; fire suppression and explosion protection; foam blowing agents; refrigeration and air conditioning; and sterilants, as well as separate tables for each type of listing: acceptable with use conditions, acceptable subject to narrowed use limits or unacceptable.

The 1994 Framework Rule, as implemented by EPA, has applied to all users (*e.g.,* product manufacturers, intermediate users, end-users) within a regulated end-use without making distinctions between product manufacturers and other users or between those who were using ozone-depleting substances (ODS) at the time a substitute was listed as unacceptable and those who were not. The 2015 Rule, like all other actions EPA has taken implementing the 1994 Framework Rule over the last quarter-century, also made no such distinctions. It simply changed the listings for various previously listed substitutes.

*B. How is EPA implementing the court's partial vacatur of the 2015 Rule in the near term, pending rulemaking?*

In *Mexichem Fluor* v. *EPA,* the court ''vacate[d] the 2015 Rule to the extent it requires manufacturers to replace HFCs with a substitute substance.'' 866 F.3d at 464. For the reasons explained below, EPA will not apply the HFC use restrictions or unacceptability listings in the 2015 Rule for any purpose prior to completion of rulemaking. EPA's implementation of the court's vacatur pending rulemaking is intended to dispel confusion and provide regulatory certainty in the near term for users in the refrigeration and air conditioning, foam blowing and aerosol end-uses affected by the HFC listing changes in the 2015 Rule.

Two chemical suppliers, Arkema and Mexichem (Petitioners), challenged the portion of the 2015 Rule that removed the listings of certain HFCs as acceptable, or acceptable subject to use conditions in certain end-uses, and listed those HFCs as unacceptable, or acceptable subject to narrowed use limits, in the same end-uses. The Petitioners raised two central arguments. First, they claimed that EPA did not have the authority to require that users of HFCs switch to another alternative. Second, they challenged the various listing decisions as ''arbitrary and capricious.'' The court rejected the Petitioners' arbitrary and capricious challenges but ruled that EPA did not have authority to ''require manufacturers to replace HFCs with a substitute substance.'' Id. at 464. The court determined that the word ''replace'' as used in CAA section 612(c) applies only to the immediate replacement of an ODS, stating that ''manufacturers 'replace' an ozone-depleting substance when they transition to making the same product with a substitute substance. After that transition has occurred, the replacement has been effectuated, and the manufacturer no longer makes a product that uses an ozone-depleting substance.'' Id. at 459. Although the court's decision mainly discusses manufacturers, footnote 1 of the court's opinion indicates that ''[the court's] interpretation of Section 612 applies to any regulated parties that must replace ozone-depleting substances within the timelines specified by Title VI.'' [1] Id. at 457.

The language of the vacatur refers to ''manufacturers'' and to the replacement of HFCs. The opinion appears to use the term ''manufacturers'' in the sense of ''product manufacturers.'' *See* Id. at 460.[2] However, nothing in the

[1] Section 612(c) provides that ''the Administrator shall promulgate rules under this section providing that it shall be unlawful to replace any class I or class II substance with any substitute substance'' where the Administrator determines that a safer alternative is available.

[2] While ''product'' is not defined in the SNAP regulations, other portions of EPA's stratospheric protection regulations distinguish between

Continued

regulatory language promulgated as part of the challenged 2015 Rule draws a distinction between product manufacturers and other users of substitutes.[3] Nor does the 2015 Rule draw a distinction between persons using HFCs and those using an ODS. The regulatory text included in the 2015 Rule is comprised solely of tables listing EPA's decision on certain substitutes for specific end-uses. Similarly, the 1994 Framework Rule distinguishes neither between product manufacturers and other users nor between someone using an HFC and someone using an ODS. For each specified end-use, the 2015 Rule, as issued, in conjunction with the 1994 Framework Rule, would prohibit any user from using a substitute listed as unacceptable—or from using, without adhering to narrowed use limits, a substitute listed as acceptable subject to such limits—after the relevant date. Thus, the SNAP regulations as currently written do not provide the distinctions that would be necessary to accommodate the letter of the court's vacatur. The narrower language used by the court does not exist in either the 2015 Rule or the 1994 Framework Rule; nor do the distinctions discussed above emerge when those two rules are read together.

The regulatory tables, which are the only regulatory text promulgated in the 2015 Rule, are comprised of individual listing decisions. Each listing of a substitute is comprised of at least four columns of information. The first column lists the regulated end-use, such as ''Retail food refrigeration (supermarket systems) (new)'' or ''Rigid Polyurethane [Foam]: Appliance.'' The second column lists the substitute or substitutes to which the listing decision applies. The third column identifies the ''decision'' (''Unacceptable'' or ''Acceptable subject to narrowed use limits'') and also identifies the date on which the listing decision will apply. The final column provides ''Further information.'' Each listing of a substitute as acceptable subject to narrowed use limits contains an additional column identifying the ''Narrowed use limits.'' This column identifies the limited uses for which the substitute remains acceptable for use (*e.g.,* ''military or space- and aeronautics-related applications'' and the time period for which use remains acceptable (*e.g.,* ''Acceptable from January 1, 2017, until January 1, 2022''). Thus, for each listing decision there is no language that could be understood as being removed or struck out by the court so that some portion of the listing decision would remain in effect pending EPA's action on remand.

While EPA could, on remand, rewrite the individual listings to create sub-listings for different types of users—*e.g.,* separating out manufacturers, or separating out those still using ODS—such additions to the 2015 Rule would require notice-and-comment rulemaking. This situation contrasts with those where a court decision affects specific regulatory language, striking some of that language while leaving the remainder untouched. Here, there is simply no regulatory language that can be parsed in that manner. Nor is waiting to address the court's vacatur until the agency can complete notice-and-comment rulemaking a satisfactory solution. The court clearly intended to vacate the 2015 Rule to some ''extent.'' The mandate has issued; accordingly, the court's decision is now in effect.

In addition, EPA is aware that regulated entities are experiencing substantial confusion and uncertainty regarding the meaning of the vacatur in a variety of specific situations. Since the court mandate issued, EPA has received a significant number of inquiries from equipment manufacturers, refrigerant producers, and various other users. Some have asked general questions regarding the effect of the partial vacatur of the 2015 Rule, while others have asked more specific questions about compliance both for those end-uses for which the compliance dates have passed and for those for which there is a future compliance date. For those end-uses with future compliance dates, these users are seeking guidance to help them make plans for future operations; if these users of HFCs would not be able to continue such use, they may need to take steps well in advance of the compliance date, such as researching and developing revised foam formulations; retooling manufacturing facilities; testing updated equipment or products to be certified to industry standards; and achieving compliance with fire codes. Other stakeholders have expressed confusion in understanding how the partial vacatur affects particular types of equipment that might fall under multiple end-uses, such as a stand-alone commercial refrigerator with foam insulation. Deferring answers to stakeholder questions until the completion of rulemaking would ignore the practical realities faced by the business community.

In addition, attempting to draw the distinctions made by the court would present practical difficulties for implementation in advance of rulemaking. First, the SNAP regulations do not address what constitutes product manufacture. EPA went through a full notice-and-comment rulemaking to address that issue with respect to appliances for the purpose of regulations implementing the HCFC phaseout under section 605 of the Clean Air Act. *See, e.g.,* ''Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import, and Export,'' 74 FR 66439–66441 (Dec. 15, 2009). In that rulemaking, EPA recognized that while some appliances are shipped fully assembled and charged, others are assembled or charged in the field. With respect to the latter, there was ambiguity as to the point of manufacture and the identity of the manufacturer. EPA provided a definition to resolve that ambiguity in the context of those regulations. Without a clear definition of product manufacture in the SNAP context, there may be considerable ambiguity about who is the ''manufacturer'' for certain products—for example, supermarket refrigeration systems—and resulting confusion about the impacts of the court's decision.

Moreover, in footnote 1 of the decision, the court indicates that the interpretation it adopts in the decision ''applies to *any regulated parties* that must replace ozone-depleting substances.'' This appears to extend the court's holding to apply to any user subject to the HFC listing changes, and not simply manufacturers. 866 F.3d at 457 (emphasis added). Implementing the vacatur more narrowly in the near term would not only raise practical implementation difficulties but likely would be inconsistent with the court's language in footnote 1.

Second, neither the 1994 Framework Rule nor the 2015 Rule addresses the date by which a manufacturer must have switched to an HFC in order to avoid being subject to the 2015 Rule listing decisions. Possible dates could include the effective date of the 2015 Rule; the applicability date of the specific listing change; or the date on which the court's mandate issued. This lack of clarity could result in confusion about whether or not the listings in the 2015 Rule apply to individual manufacturers. Even if there were a clear date that would govern, there are currently no requirements for manufacturers to document the date of

''products'' and ''substances.'' *See, e.g,* the definition of ''controlled substance'' at 40 CFR 82.3; the definitions of ''product containing'' and ''manufactured with a controlled substance'' at 40 CFR 82.106,

[3] Under the 1994 Framework Rule, EPA defined manufacturer as ''any person engaged in the direct manufacture of a substitute.'' 40 CFR 82.172. SNAP listing decisions, such as those at issue in the 2015 Rule, do not apply to manufacturers of the substitute but rather to the subsequent use of that substitute in a product or process or other use.

a change to an HFC; this lack of documentation would hinder the agency's ability to implement the rule as envisioned in the court's opinion, because it would not know whether or on what date manufacturers had made the switch.

Third, because neither the 1994 Framework Rule nor the 2015 Rule creates a distinction between users using ODS and those using substitutes, neither rule addresses more complex situations in which both types of substances may be in use. Specifically, many manufacturers own multiple facilities, have multiple production lines at a single facility, make multiple different products or product models, or make products that can operate with either an ODS or a substitute. For example, a manufacturer of supermarket refrigeration equipment currently produces new equipment designed to operate with HFC blends or other non-ODS refrigerants and may assist its customers with retrofitting or replacing parts of existing supermarket systems using HCFC–22 or HCFC blends. Future rulemaking could address the numerous questions raised by these more complex situations—*e.g.,* has a manufacturer switched to an HFC if one of multiple facilities is using an HFC or if one of multiple product lines is using an HFC? Alternatively, can the same manufacturer be considered to not yet have switched to HFCs if it still uses ODS in some of its facilities or product lines? Because the rules as written do not resolve these issues, there is no practical way to address these questions at this time.

EPA recognizes that the court vacated the 2015 Rule ''to the extent that'' it requires manufacturers to replace HFCs. Based on its expertise in administering the SNAP regulations, and its understanding of the 2015 Rule, EPA concludes that the vacatur cannot be implemented by treating specific language in the HFC listings as struck by the court. Rather, the *listing* of HFC's as unacceptable, or acceptable subject to use restrictions, *is* the means by which the 2015 Rule ''require[d] manufacturers to replace HFCs with a substitute substance.'' Vacating the 2015 Rule ''to the extent'' that it imposed that requirement *means* vacating the listings. To apply the court's holding otherwise would be to drastically rewrite the 2015 Rule, and EPA believes that it would not be appropriate to undertake such a rewrite without undergoing notice and comment rulemaking. As explained above, those entities that have historically been regulated under the SNAP program are uncertain about what the court's decision means and which actions remain subject to regulation and which do not; the agency cannot remain silent on the implications of the court's vacatur until such time as the agency can complete a notice-and-comment rulemaking because of the considerable confusion and need for certainty that currently exist. Each HFC listing, as a unit, ''requires manufacturers to replace HFCs with a substitute substance.'' EPA therefore will implement the vacatur as affecting each HFC listing change in its entirety pending rulemaking to address the remand. Thus, EPA will not apply the HFC use restrictions or unacceptability listings in the 2015 Rule for any purpose prior to completion of rulemaking. Although EPA will implement the court's vacatur by treating it as striking the HFC listing changes in the 2015 Rule in their entirety, EPA recognizes that the court rejected the arbitrary and capricious challenges to the HFC listing changes. On remand, EPA intends to consider the appropriate way to address HFC listings under the SNAP program in light of the court's opinion.

The 2015 Rule also contains HCFC listings that were not challenged by the Petitioners and that were not addressed by the court in *Mexichem.* Because those provisions were not challenged and were not addressed by the court, and because those listing decisions are severable from the HFC listings, we are choosing in the near term to continue upholding these provisions as remaining in effect. Each of the HCFC listings is a distinct unit, just as each of the HFC listings is a distinct unit. Indeed, the severability of the specific listings from each other contrasts with the *non*-severability of the particular effects of the rule on manufacturers singled out by the court in the narrower phrasing of its holding—another reason why EPA believes that footnote 1 of the opinion extends that holding to all users, in keeping with the structure of the regulations.

*C. What are EPA's plans for a rulemaking to address the court's remand?*

In *Mexichem Fluor* v. *EPA,* the court remanded the 2015 Rule to the Agency for further proceedings. While in this document EPA provides guidance on the effect of the vacatur on the 2015 Rule to address the immediate uncertainty, the larger implications of the court's opinion remanding the rule to the agency require further consideration. To address the court's remand, EPA will move forward with a notice-and-comment rulemaking and will seek input from interested stakeholders prior to developing a proposed rule.

The court's interpretation of CAA section 612 raises potentially complex and difficult implementation questions for the SNAP program. EPA may consider the following as it prepares to undertake notice-and-comment rulemaking:

- On remand, whether EPA should revisit specific provisions of the 1994 Framework Rule, such as those noted below, to establish distinctions between users still using ODS and those who have already replaced ODS:
  - The regulatory prohibitions (40 CFR 82.174) on use and introduction into interstate commerce
  - the notification requirements in the applicability section (40 CFR 82.176)
  - specific definitions, for example, the definitions of ''substitute'' and ''use'' (40 CFR 82.172). The current definition of ''substitute'' is ''. . . any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or II compound.'' The current definition of ''use'' is ''. . . any use of a substitute for a Class I or Class II ozone-depleting compound, including but not limited to use in a manufacturing process or product, in consumption by the end-user, or in intermediate uses, such as formulation or packaging for other subsequent uses.''
- Whether EPA should revisit its practice of listing substitutes as acceptable subject to use conditions. Such listings allow the substitutes to be used only if certain conditions are met to ensure risks to human health and the environment are not significantly greater than for other available substitutes. For example, EPA has established use conditions for certain refrigerants to address flammability concerns across the same refrigeration end-uses. If use conditions would only apply to users switching from an ODS, EPA may consider whether to continue to list substitutes as acceptable subject to use conditions, given that some users would not be required to abide by the use conditions.
- Whether EPA should distinguish between product manufacturers and other users, and if so, how EPA should address ambiguity about who is the manufacturer of certain products, such as those that are field-assembled or field-charged.
- Whether EPA should revisit the regulations' applicability to certain end users. Historically, the SNAP program has applied to all users within an end-use, whether a product manufacturer, a servicing technician, or an end user of

a substitute. For many end-uses, the end users have been able to rely on product manufacturers' compliance with the SNAP listings. EPA may consider how it should address the heavier burden that might fall on end users, who in some cases may be less familiar with EPA's regulations, in cases where product manufacturers may be making some products that an end user still using an ODS may not be able to purchase and use. EPA may also consider whether that heavier burden means that EPA should not apply the regulations to those end users.

• Whether EPA should clarify when the replacement of an ODS occurs: *e.g.,* on a facility-by-facility basis, or on a product-by-product basis. EPA may also consider whether to propose recordkeeping and reporting requirements to document when a user has transitioned to using a non-ODS.

This list of considerations is not intended to be exhaustive, but rather provides an indication of the areas of initial thinking. The court also mentioned other possible approaches to regulation that the Agency could consider on remand. These include whether EPA may be able to use ''retroactive disapproval'' to revise an earlier determination where faced with new developments or in light of reconsideration of the relevant facts. In addition, the court mentioned other authorities EPA could consider to regulate substitutes for class I and class II ODS, such as the Toxic Substances Control Act (TSCA) and a number of CAA authorities, including the National Ambient Air Quality Standards (NAAQS) program, the Hazardous Air Pollutants (HAP) program, the Prevention of Significant Deterioration (PSD) program, and emission standards for motor vehicles. EPA would be interested in any thoughts stakeholders may have on the viability and desirability of these approaches.

EPA appreciates there is interest from a wide variety of stakeholders in the development of a rule to address the court's decision on remand. Therefore, as an initial step, and as provided in more detail in the section below, EPA is providing notice of a stakeholder meeting. The purpose of sharing the Agency's preliminary considerations at this time is to provide a more specific roadmap to facilitate and focus the further input of our individual stakeholders. By laying out considerations raised by the court remand and its near-term plans, EPA seeks to work with stakeholders to continue to gather and exchange information that can assist the Agency as it begins to develop a proposed rule to address the court's remand of the 2015 Rule.

*D. What are EPA's plans for a stakeholder meeting?*

As indicated in the above **DATES** section, EPA will hold a stakeholder meeting on Friday, May 4, 2018, in Washington, DC from 9:30 a.m. to 12:30 p.m. to allow interested parties to provide input on what the Agency should consider as it begins developing a proposed rule in response to the court's remand of the 2015 Rule. Please follow the instructions provided to RSVP for this meeting as specified above in the **DATES** section of this document. Additional information concerning this stakeholder meeting will be available on the EPA website: *https://www.epa.gov/snap.*

Dated: April 13, 2018.

**E. Scott Pruitt,**

*Administrator.*

[FR Doc. 2018–08310 Filed 4–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 86

### Control of Emissions From New and In-Use Highway Vehicles and Engines

*CFR Correction*

■ In Title 40 of the Code of Federal Regulations, Parts 82 to 86, revised as of July 1, 2017, on page 439, in § 86.000–7, the introductory text is reinstated to read as follows:

**§ 86.000–7 Maintenance of records; submittal of information; right of entry.**

Section 86.000–7 includes text that specifies requirements that differ from § 86.091–7 or § 86.094–7. Where a paragraph in § 86.091–7 or § 86.094–7 is identical and applicable to § 86.000–7, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.091–7.'' or ''[Reserved]. For guidance see § 86.094–7.''

* * * * *

[FR Doc. 2018–09058 Filed 4–26–18; 8:45 am]

**BILLING CODE 1301–00–D**

---

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 272

**[EPA–R02–RCRA–2018–0034; FRL–9974–06—Region 2]**

### New York: Incorporation by Reference of State Hazardous Waste Management Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses the regulations entitled ''Approved State Hazardous Waste Management Programs'' to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State regulations that will be subject to EPA's inspection and enforcement. This rule does not incorporate by reference the New York hazardous waste statutes. The rule codifies in the regulations the prior approval of New York's hazardous waste management program and incorporates by reference authorized provisions of the State's regulations.

**DATES:** This regulation is effective June 26, 2018, unless EPA receives adverse written comment on this regulation by the close of business May 29, 2018. If EPA receives such comments, it will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the Federal Register approves this incorporation by reference as of June 26, 2018 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R02–RCRA–2018–0034, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

• *Email: azzam.nidal@epa.gov.*

• *Fax:* (212) 637–4437.

• *Mail:* Send written comments to Nidal Azzam, Base Program Management Section Chief, Hazardous Waste Programs Branch, Clean Air and Sustainability Division, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.

• *Hand Delivery or Courier:* Deliver your comments to Nidal Azzam, Base

Program Management Section Chief, Hazardous Waste Programs Branch, Clean Air and Sustainability Division, EPA Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID. No. EPA–R02–RCRA–2018–0034. EPA's policy is that all comments received will be included in the public docket without change, 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 *http://www.regulations.gov,* or email. The Federal *http://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 *http://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 and with any disk or CD–ROM 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 or 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/dockets*).

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy. You can inspect and copy the records related to this codification effort at EPA Region 2 by appointment only. To make an appointment please call (212) 637–3703.

**FOR FURTHER INFORMATION CONTACT:** Nidal Azzam, Base Program Management Section Chief, Hazardous Waste Programs Branch, Clean Air and Sustainability Division, EPA Region 2, 290 Broadway, 22nd Floor, New York, NY 10007; telephone number: (212) 637–3703; fax number: (212) 637–4437; email address: *azzam.nidal@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Incorporation by Reference

### *A. What is codification?*

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The State regulations authorized by EPA supplant the federal regulations concerning the same matter with the result that after authorization EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by EPA with the consequence that EPA enforces the authorized statutory provision. EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is federally enforceable. EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

### *B. What is the history of the authorization and codification of New York's hazardous waste management program?*

New York initially received final authorization for its hazardous waste management program, effective on May 29, 1986 (51 FR 17737) to implement its base hazardous waste management program. Subsequently, EPA authorized revisions to the State's program effective July 3, 1989 (54 FR 19184), May 7, 1990 (55 FR 7896), October 29, 1991 (56 FR 42944), May 22, 1992 (57 FR 9978), August 28, 1995 (60 FR 33753), October 14, 1997 (62 FR 43111), January 15, 2002 (66 FR 57679), March 14, 2005 (70 FR 1825, as corrected on April 5, 2005 (70 FR 17286)), August 31, 2009 (74 FR 31380), January 12, 2010 (75 FR 1617), and May 10, 2013 (78 FR 15299). EPA codified New York's authorized hazardous waste program effective September 30, 2002 (67 FR 49864), May 25, 2007 (72 FR 14044), and October 4, 2010 (75 FR 45489). In this action, EPA is revising subpart HH of 40 CFR part 272 to include the authorization revision actions that became effective January 12, 2010 and May 10, 2013.

### *C. What decisions have we made in this rule?*

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the New York rules described in the amendments to 40 CFR part 272 set forth below. EPA has made, and will continue to make, these documents available electronically through *www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

This action codifies EPA's authorization of revisions to New York's hazardous waste management program. This codification reflects the State program in effect at the time EPA authorized revisions to the New York hazardous waste program in final rules dated January 12, 2010 (75 FR 1617) and May 10, 2013 (78 FR 15299). The rule incorporates by reference the most recent version of the State's authorized hazardous waste management regulations. EPA has already provided notices and opportunity for comments on the Agency's decisions to authorize the New York program, and EPA is not now reopening the decision, nor requesting comments, on the New York authorizations as published in the **Federal Register** documents specified in Section B of this preamble concerning revisions to the authorized program in New York.

EPA is incorporating by reference the authorized revisions to the New York hazardous waste program by revising subpart HH to 40 CFR part 272. Title 40 CFR 272.1651 previously incorporated by reference New York's authorized hazardous waste regulations, as amended effective September 5, 2006, as well as selected provisions as found in the New York regulations dated January 31, 1992. Section 272.1651 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's implementation of the hazardous waste management

program. In addition, § 272.1651 references the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which were evaluated as part of the approval process of the hazardous waste management program under Subtitle C of RCRA.

*D. What is the effect of New York's codification on enforcement?*

EPA retains the authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized States. With respect to enforcement actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State analogs to these provisions. Therefore, the EPA is not incorporating by reference New York's inspection and enforcement authorities nor are those authorities part of New York's approved State program which operates in lieu of the Federal program. Title 40 CFR 272.1651(c)(2) lists these authorities for informational purposes, and because EPA also considered them in determining the adequacy of New York's procedural and enforcement authorities. New York's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

*E. What State provisions are not part of the codification?*

The public is reminded that some provisions of New York's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Unauthorized amendments to authorized State provisions;

(3) New unauthorized State requirements;

(4) State procedural and enforcement authorities which are necessary to establish the ability of the State's program to enforce compliance but which do not supplant the Federal statutory enforcement and procedural authorities; and

(5) Federal rules for which New York was previously authorized but which were later vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379; June 27, 2014). See 80 FR 18777 (April 8, 2015).

State provisions that are ''broader in scope'' than the Federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1651(c)(3) lists the New York statutory and regulatory provisions which are ''broader in scope'' than the Federal program and which are not part of the authorized program being incorporated by reference. This action updates that list of ''broader in scope'' provisions. While ''broader in scope'' provisions are not part of the authorized program and cannot be enforced by EPA, the State may enforce such provisions under State law.

Additionally, New York's hazardous waste regulations include amendments which have not been authorized by EPA. Since EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State's authorized hazardous waste program. Regulatory provisions that have not been authorized by EPA include amendments to previously authorized State regulations as well as new State requirements.

State regulations that are not incorporated by reference in this rule at 40 CFR 272.1651(c)(1), or that are not listed in 40 CFR 272.1651(c)(3) (''broader in scope'') or 40 CFR 272.1651(c)(2) (''procedural and enforcement authorities''), are considered new unauthorized State requirements. These requirements are not Federally enforceable.

*F. What will be the effect of Federal HSWA requirements on the codification?*

With respect to any requirement(s) pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized and which EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

The codification does not affect Federal HSWA requirements for which the State is not authorized. EPA has authority to implement HSWA requirements in all States, including States with authorized hazardous waste management programs, until the States become authorized for such requirements or prohibitions, unless EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the Federal program. A HSWA requirement or prohibition, unless identified by EPA as optional or as less stringent, supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirement implemented by EPA. However, until EPA authorizes those State requirements, EPA enforces the HSWA requirements and not the State analogs.

## II. Statutory and Executive Order Reviews

This rule codifies EPA-authorized hazardous waste requirements pursuant to RCRA section 3006 and imposes no requirements other than those imposed by State law. Therefore, this rule complies with applicable executive orders and statutory provisions as follows.

*1. Executive Order 12866: Regulatory Planning and Review* and *Executive Order 13563: Improving Regulation and Regulatory Review*—The Office of Management and Budget (OMB) has exempted this rule from its review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

*2. Paperwork Reduction Act*—This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*3. Regulatory Flexibility Act*—This rule codifies New York's authorized hazardous waste management regulations in the CFR and does not impose new burdens on small entities. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

*4. Unfunded Mandates Reform Act*—Because this rule codifies pre-existing State hazardous waste management program requirements which EPA already approved under 40 CFR part 271, and with which regulated entities must already comply, it 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).

*5. Executive Order 13132: Federalism*—Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (*i.e.,* substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various

levels of government). This action codifies existing authorized State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA.

*6. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—Executive Order 13175 (65 FR 67249, November 6, 2000) does not apply to this rule because it will not have tribal implications (*i.e.,* substantial direct effects on one or more Indian tribes, or 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).

*7. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks*—This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it is not based on environmental health or safety risks.

*8. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*—This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*9. National Technology Transfer Advancement Act*—The requirements being codified are the result of New York's voluntary participation in EPA's State program authorization process under RCRA Subtitle C. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

*10. Executive Order 12988*—As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), EPA has taken the necessary steps in this action to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

*11. Executive Order 12898*—This Order (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Because this rule codifies pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

*12. Congressional Review Act*—EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.,* as amended) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective June 26, 2018.

**List of Subjects in 40 CFR Part 272**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

**Authority:** This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 27, 2017.

**Peter D. Lopez,**

*Regional Administrator, Region 2.*

**Editorial note:** This document was received for publication by the Office of the Federal Register on April 18, 2018.

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

## PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

**Authority:** Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.1651 to read as follows:

### § 272.1651 New York State-administered program: Final authorization.

(a) *New York State authorization.* Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), New York has final authorization for the following elements as submitted to EPA in New York's base program application for final authorization which was approved by EPA effective on May 29, 1986. Subsequent program revision applications were approved effective on July 3, 1989, May 7, 1990, October 29, 1991, May 22, 1992, August 28, 1995, October 14, 1997, January 15, 2002, March 14, 2005, August 31, 2009, January 12, 2010, and May 10, 2013.

(b) *Authorization enforcement.* The State of New York has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State statutes and regulations*—(1) *Statutes and regulations that are incorporated by reference.* The New York regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* The Director of Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the New York regulations that are incorporated by reference in this paragraph from West Publishing Company, 610 Opperman Drive, P.O. Box 64526, Eagan, MN 55164–0526; Phone: 1–800–328–4880; website: *http://west.thomson.com.* You may inspect a copy at EPA Region 2, 290 Broadway, 22nd Floor, New York, NY 10007 (Phone number: (212) 637–3703), or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(i) The Binder entitled ''EPA-Approved New York Regulatory Requirements Applicable to the Hazardous Waste Management Program'', dated May 2013.

(ii) [Reserved]

(2) *Statutes and regulations that are not incorporated.* EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Environmental Conservation Laws (ECL), 1997 Replacement Volume, as revised by the 2004 Cumulative Pocket Part: Sections 1–0303(18), 3–0301(1) (introductory paragraph); 3–0301(1)(a), (b), (m), (o), (w), (x) and (cc); 3–0301(2) introductory paragraph; 3–0301(2)(a), (b), (d) through (j), (l), (m), (q) and (z); 3–0301(4); 19–0301(1) (except 19–0301(c), (e) and (f)); 19–0303(1) through (3); 19–0304; 23–2305; 23–2307; 27–0105; 27–0701; 27–0703; 27–0705; 27–0707 (except 27–0707(2-c)); 27–0711; 27–0900 through 27–0908; 27–0909

(except 27–0909(5)); 27–0910 through 27–0922; 27–1105; 70–0101; 70–0103; 70–0105 (except 70–0105(3) and 70–0105(6)); 70–0107(1) and (2); 70–0107(3) introductory paragraph; 70–0107(3)(l); 70–0109; 70–0113; 70–0115 (except (2)(c) and (d)); 70–0117 (except 70–0117(5) through (7); 70–0119; 70–0121; 71–0301; 71–1719; 71–2705; 71–2707; 71–2709 through 71–2715; 71–2717; 71–2720; and 71–2727.

(ii) McKinney's Consolidated Laws of New York, Book 1, Executive Law (EL), Article 6: Section 102.

(iii) McKinney's Consolidated Laws of New York, Book 46, Public Officers Law (POL), as amended through 2004: Sections 87 and 89.

(iv) McKinney's Consolidated Laws of New York, Book 7B, Civil Practice Law and Rules (CPLR), as amended through 2004: Sections 1013, 6301; 6311; and 6313.

(v) Electronic Signatures and Records Act (ESRA) State Technology Law (STL), Article 3, as amended effective August 17, 2009: Sections 305 and 306.

(vi) Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A–2A, as amended effective through September 5, 2006: Sections 372.1(f); 373–1.1(f) and (g); 373–1.4(b); 373–1.4(d) through (f); 373–1.6(c); 621.1 through 621.4; 621.5 (except (d)(5), (d)(6)(i), (d)(7)(i)(a), (d)(7)(i)(c) and (d)(9)); 621.6 (except (b), (d)(4) and (d)(5)); 621.7; 621.8; 621.9 (except (a)(5), (c)(2) and (e)(2)); 621.10; 621.11 (except (d)); 621.12 through 621.15; and 621.16 (except (b), (d) and (e)).

(vii) Title 9, New York Codes, Rules and Regulations (9 NYCRR), Part 540, Electronics Signature and Records Act, as amended effective May 7, 2003: Sections 540.1 through 540.6.

(3) *Statutes and regulations that are broader in scope.* The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) Environmental Conservation Laws (ECL), 1997 Replacement Volume, as revised by the 2004 Cumulative Pocket Part: Sections 27–0301; 27–0303; 27–0305; 27–0307; 27–0909(5); 27–0923; 27–0925 and 27–0926.

(ii) Environmental Conservation Laws (ECL), 1997 Replacement Volume, as revised by the 2006 Cumulative Pocket Part: Section 27–1109(6).

(iii) The following New York provisions are broader in scope because the State implements a Household Hazardous Waste program, whereas the Federal program excludes household waste from regulation as hazardous waste at 40 CFR 261.4(b)(1): Title 6, New York Codes, Rules and Regulations (6 NYCRR), as amended effective through September 5, 2006: Sections 370.2(b)(92) ''Household hazardous waste''; 370.2(b)(93) ''Household hazardous waste collection facility''; and 373–4.

(iv) At 371.4(c), New York retains K064, K065, K066, K090 and K091 as hazardous wastes while EPA has removed them from the table at 40 CFR 261.32 and no longer regulates them as hazardous wastes (64 FR 56469; October 20, 1999).

(v) In the following provisions of New York's hazardous waste regulations, the State cross-references Part 364 ''Waste Transporter Permits'' requirements, which sets forth transporter requirements regarding permit and financial liability requirements: 372.2(b)(5)(ii), 372.3(a)(1), 372.3(a)(4), 372.3(b)(6)(iv), 372.3(d)(3), 373–2.5(b)(3)(ii)(d) and (e), 373–1.7(h)(3), 373–3.5(b)(3)(ii)(d) and (e), 374–3.4(a)(2), and Appendix 30 Instructions for Generators/Item 8. These provisions referencing the Part 364 transporter permit and financial liability requirements are broader in scope than the Federal program.

(vi) New York did not adopt an analog to 40 CFR 261.4(g) that excludes certain dredged materials from the State definition of hazardous waste. Instead, the State subjects these materials to full regulation as hazardous wastes.

(vii) New York State regulations do not incorporate the Mineral Processing Secondary Materials Exclusion at 40 CFR 261.4(a)(17) and the related changes affecting 40 CFR 261.2(c)(3) and (c)(4)/Table, and 40 CFR 261.2(e)(1)(iii). Since New York did not adopt the exclusion at 40 CFR 261.4(a)(17) the State has a broader in scope program because the effect is to include materials that are not considered solid waste by EPA.

(viii) The following New York provisions are broader in scope because they include requirements associated with the regulation of PCB waste as a state-only hazardous waste: 371.4(e), 372.1(e)(9), 373–1.1(d)(1)(x), 374–2.2(a)(9), 374–2.2(b) Table 1 and Footnote 2, 374–2.5(e)(4), 374–2.6(d)(4), 374–2.7(d)(4), 376.1(g)(1)(i), and 376.4(f). PCB wastes are regulated under the Federal Toxic Substances Control Act (TSCA) at 40 CFR part 761 rather than under the Federal RCRA program.

(ix) The New York provision at 373–1.4(c) is broader in scope because it includes siting certificate requirements which are not part of the Federal program.

(x) The New York provision at 373–2.15(a)(2) is broader in scope because it subjects incinerators to not just limited portions of the State's Air regulations in the same manner as the Federal rules, but entire programs including air program-specific permits and registrations.

(xi) The New York provisions at 374–2.5(a)(2) and 374–2.6(a)(2) cross-reference 360–14.1(a)(4), which sets forth transfer facility and processor/re-refiner requirements for these types of facilities co-located at hazardous waste management facilities. These provisions referencing the Part 360 requirements are broader in scope than the Federal program because section 360–14.1(a)(4) may require used oil transfer facilities and processors/re-refiners managing non-hazardous used oil to be subject to State-only Part 360 provisions including permit requirements. The Federal program does not have an analogous permitting requirement for these types of facilities.

(4) *Vacated Federal rule.* New York provisions at 371.1(e)(1)(xvi) and 371.4(i) are no longer considered to be part of New York's authorized program because the equivalent federal requirements were vacated by a federal court. The Federal Requirements ((Hazardous Waste Combustors; Revised Standards (HSWA) (40 CFR 261.4(a)(16) and 261.38 only) were published on June 19, 1998. The New York regulations were authorized on January 11, 2005 (effective March 14, 2005). The State's authorized program was subsequently codified in 40 CFR part 272 on March 26, 2007 (effective May 25, 2007). However, the corresponding Federal rules were later vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379; June 27, 2014). Consistent with the Court's vacatur, EPA issued a new final rule removing 40 CFR 261.4(a)(16) and 261.38 from the Federal CFR (published on April 8, 2015)

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 2 and the State of New York, signed by the Commissioner of the State of New York Department of Environmental Conservation on July 20, 2001, and by the EPA Regional Administrator on January 16, 2002, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of New York in 1985 and revisions, supplements, and addenda to

that Statement dated August 18, 1988, July 26, 1989, August 15, 1991, October 11, 1991, July 28, 1994, May 30, 1997, February 5, 2001, April 2, 2004, June 13, 2008 (including three certifications), August 17, 2009, and May 22, 2012, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for ''New York'' to read as follows:

## Appendix A to Part 272—State Requirements

* * * * *

### New York

The regulatory provisions include:

Title 6, New York Codes, Rules and Regulations (6 NYCRR), Chapter IV, Quality Services, Subchapter B, Solid Wastes (Volumes A–2 and A–2A), as amended effective through September 5, 2006.

Please note: For a few regulations, the authorized regulation is an earlier version of the New York State regulation. For these regulations, EPA authorized the version of the regulations that appear in the Official Compilation of Codes, Rules and Regulations dated January 31, 1992. New York State made later changes to these regulations but these changes have not been authorized by EPA. The regulations where the authorized regulation is an earlier version of the regulation are noted below by inclusion in parentheses of January 31, 1992 after the regulatory citations.

Part 360, Subpart 360–14—Used Oil: Sections 360–14.1(b)(7) and 360–14.1(b)(8).

Part 370—Hazardous Waste Management System—General: Sections 370.1(a) (except (a)(3)); 370.1(b) through (d); 370.1(e) (except (e)(9)); 370.1(f); 370.2(a); 370.2(b)(1) through (b)(15) ''battery''; 370.2(b)(15) ''bedrock'', (January 31, 1992); 370.2(b)(17) through (b)(91); 370.2(b)(94) through (b)(125); 370.2(b)(127) through (b)(137); 370.2(b)(139) through (b)(221); 370.3 (except 370.3(c)); 370.4; 370.5 (except (b)).

Part 371—Identification and Listing of Hazardous Waste: Sections 371.1(a) through (c); 371.1(d) (except (d)(1)(ii)(c)); 371.1(e) (except 371.1(e)(1)(xvi) and (e)(2)(vi)(b)(21)); 371.1(f)(1) through (7); 371.1(f)(8) (except the phrase ''or such mixing occurs at a facility regulated under Subpart 373–4 or permitted under Part 373 of this Title''); 371.1(f)(9) and (f)(10); 371.1(g)(1) (except (g)(1)(ii)(c) and (g)(1)(v)); 371.1(g)(2) through (4); 371.1(h) through (j); 371.2; 371.3; 371.4(a) and (b); 371.4(c) (except K064, K065, K066, K090 and K091 entries); 371.4(d) and (f).

Part 372—Hazardous Waste Manifest System and Related Standards for Generators, Transporters and Facilities: Sections 372.1(a) through (d); 372.1(e)(2)(ii)(c) (January 31, 1992); 372.1(e)(2)(iii)(c) (January 31, 1992); 372.1(e)(3) through (e)(8); 372.1(g) and (h); 372.2 (except (b)(5)(ii) and (b)(9)); 372.3 (except (a)(1), (a)(4), (a)(7)(i), (a)(8), (b)(3), (b)(5)(ii), (b)(6)(iv), (b)(7)(i)(d), (c)(4) and (d)(3)); 372.5 (except (h) and (i); 372.6; 372.7(a) and (b); 372.7(c) (except (c)(1)(ii)); and 372.7(d).

Part 373, Subpart 373–1—Hazardous Waste Treatment, Storage and Disposal Facility Permitting Requirements: Sections 373–1.1(a) through (c), 373–1.1(d) (except (d)(1)(iii)(b), (d)(1)(iii)(c)(6), (d)(1)(iii)(d), (d)(1)(iv)(a) and (b), (d)(1)(x), (d)(1)(xvi), and (d)(1)(xviii)); 373–1.1(e); 373–1.1(h) and (i); 373–1.2; 373–1.3; 373–1.4(a); 373–1.4(g) and (h); 373–1.5(a) (except (a)(2)(xviii)); 373–1.5(b) and (c); 373–1.5(d) through (p) (except reserved paragraphs); 373–1.6 (except (c)); 373–1.7 through 373–1.11.

Part 373, Subpart 373–2—Final Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities: Sections 373–2.1 through 373–2.4; 373–2.5(a); 373–2.5(b) (except (b)(1)(i)(c), (b)(3)(ii)(d) and (b)(3)(ii)(e)); 373–2.5(c) through (g); 373–2.6 through 373–2.11; 373–2.12 (except 373–2.12(a)(1) and (d)); 373–2.12(a)(1) (January 31, 1992); 373–2.13; 373–2.14; 373–2.15 (except (a)(2)); 373–2.19 (except (e)(1)(ii)); 373–2.23; 373–2.24; and 373–2.27 through 373–2.31.

Part 373, Subpart 373–3—Interim Status Standards Regulations for Owners and Operators of Hazardous Waste Facilities: Sections 373–3.1 (except 373–3.1(a)(4)); 373–3.2 through 373–3.4; 373–3.5 (except 373–3.5(b)(1)(i)(c), (b)(3)(ii)(d) and (b)(3)(ii)(e)); 373–3.6 through 373–3.18; 373–3.23; and 373–3.27 through 373–3.31.

Part 374, Subpart 374–1—Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities: Sections 374–1.1; 374–1.3; 374–1.6 (except (a)(2)(iii)); 374–1.7; 374–1.8 (except reserved sections); 374–1.9; and 374–1.13.

Part 374, Subpart 374–2—Standards for the Management of Used Oil: Sections 374–2.1 (except (a)(2) ''Adjacent towns or cities'', (a)(4) ''Contract'', (a)(10) ''On-premises oil changing operation'', (a)(14) ''Retail'', (a)(15) ''Retail establishment'', (a)(16) ''Service establishment'', (a)(18) ''Total halogens'', (a)(19) ''Underground used oil tank'', and (a)(27) ''Used oil tank system''); 374–2.2; 374–2.3 (except (c)(3) through (c)(6), and (f)); 374–2.4; 374–2.5 (except (a)(2) and (e)(4)); 374–2.6 (except (a)(2) and (d)(4)); 374–2.7 (except (d)(4), (e)(5) and (e)(6)); 374–2.8; and 374–2.9.

Part 374, Subpart 374–3—Standards for Universal Waste: Sections 374–3.1 (except (f) and (g)); 374–3.2; 374–3.3; 374–3.4 (except (a)(2)); and 374–3.5 through 374–3.7.

Part 376—Land Disposal Restrictions: Sections 376.1 (except (a)(5), (a)(9), (e), (f), and (g)(1)(ii)(b)); 376.2; 376.3 (except (b)(4) and (d)(2)); 376.4 (except (c)(2), (e)(1)–(7), and (f)); and 376.5.

Appendices: Appendices 19 through 25; Appendices 27 through 30; Appendix 33; Appendix 37; Appendix 38; Appendices 40 through 49; and Appendices 51 through 55.

Copies of the New York regulations that are incorporated by reference are available from West Publishing Company, 610 Opperman Drive, P.O. Box 64526, Eagan, MN 55134–0526; Phone: 1–800–328–4880; website: *http://west.thomson.com.*

* * * * *

[FR Doc. 2018–08431 Filed 4–26–18; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### 42 CFR Part 438

### Managed Care

*CFR Correction*

■ In Title 42 of the Code of Federal Regulations, Parts 430 to 481, revised as of October 1, 2017, on page 295, in § 438.214, paragraph (c) [Reserved] is removed and ''(2) [Reserved]'' is added in its place.

[FR Doc. 2018–09060 Filed 4–26–18; 8:45 am]

BILLING CODE 1301–00–D

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 73 and 74

**[AU Docket No. 17–351; DA 18–257]**

### Auction of FM Translator Construction Permits Scheduled for June 21, 2018; Notification of Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 83

**AGENCY:** Federal Communications Commission.

**ACTION:** Final action; requirements and procedures.

**SUMMARY:** In this document, the Commission summarizes the procedures and announces upfront payments amounts and minimum opening bids for the auction of FM translator construction permits (Auction 83). The document summarized here is intended to familiarize applicants with the procedures and other requirements for participation in the auction.

**DATES:** April 16, 2018, and until 6:00 p.m. Eastern Time (ET) on April 26, 2018, each Auction 83 applicant must review, verify or update its previously-filed short-form applications (FCC Forms 175) electronically. Bidding in

Auction 83 is scheduled to start on June 21, 2018.

**FOR FURTHER INFORMATION CONTACT:** For auction legal questions, Lynne Milne in the Wireless Telecommunications Bureau's Auctions and Spectrum Access Division at (202) 418–0660. For auction process and procedures, the FCC Auction Hotline at (717) 338–2868. For FM translator service questions, James Bradshaw, Lisa Scanlan or Tom Nessinger in the Media Bureau's Audio Division at (202) 418–2700. To request materials in accessible formats (Braille, large print, electronic files, or audio format) for people with disabilities, send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 or (202) 418–0432 (TTY).

**SUPPLEMENTARY INFORMATION:** This is a summary of Commission's document (*Auction 83 Procedures Public Notice*), AU Docket No. 17–351; DA 18–257, released on March 16, 2018. The complete text of this document is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. ET Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text of this document and related documents also are available on the internet at the Commission's website: *http://wireless.fcc.gov/auctions/83,* or by using the search function for AU Docket No. 17–351 on the Commission's Electronic Comment Filing System (ECFS) web page at *http://www.fcc.gov/cgb/ecfs.*

## I. General Information

### *A. Background*

1. On February 6, 2003, the Media and Wireless Telecommunications Bureaus announced an auction filing window for applications for new FM translator stations and major modifications to authorized FM translator facilities in the non-reserved band (Channels 221 to 300). By Public Notices released May 21, 2013 and April 30, 2014, the Bureaus provided a list of all applications received during the filing window with engineering proposals that were mutually exclusive (MX) with engineering proposals in other applications submitted in the filing window. Applicants were previously given the opportunity to eliminate their mutual exclusivity with other applicants' engineering proposals by settlement or technical modification to their proposals. The Bureaus will now proceed to auction with the 43 MX groups identified in Attachment A of the *Auction 83 Procedures Public Notice.*

### *B. Construction Permits and Entities Eligible To Participate in Auction 83*

2. Auction 83 will resolve mutually exclusive applications for up to 43 new FM translator construction permits. A list of the locations and channels of these proposed stations is included as Attachment A to the *Auction 83 Procedures Public Notice.* Attachment A also sets forth the names of applicants in each MX group along with a minimum opening bid and an upfront payment amount for each construction permit in Auction 83.

3. An applicant listed in Attachment A may become qualified to bid only if it meets the additional filing, qualification and payment requirements and otherwise complies with applicable requirements described in the *Auction 83 Procedures Public Notice.* Each applicant may become a qualified bidder only for those construction permits specified for that applicant in Attachment A to the *Auction 83 Procedures Public Notice.* Each of the engineering proposals within each MX group are directly mutually exclusive with one another; therefore, no more than one construction permit will be awarded for each MX group identified in Attachment A. Once mutually exclusive applications are accepted, because mutual exclusivity exists for auction purposes, an applicant for a particular construction permit cannot obtain it without placing a bid, even if no other applicant for that construction permit becomes qualified to bid or in fact places a bid. While the *Auction 83 Comment Public Notice* had sought comment on whether certain changes made since 2003 to 47 CFR 1.2105 warranted any different approach in this context, no commenter directly addressed this issue. The Bureaus do not see any reason to depart from established precedent for Auction 83.

4. Section 1.2105(b)(2) provides that an auction applicant that undertakes a major change, including a change of ownership that would constitute an assignment or transfer of control, after the short-form application filing deadline will be disqualified from participating in bidding. In the *Auction 83 Comment Public Notice* (see 83 FR 4455, Jan. 31, 2018), the Bureaus sought comment on whether to waive 47 CFR 1.2105(b)'s prohibition on major changes with respect to transfers of control or assignments that had occurred prior to release of the *Auction 83 Comment Public Notice* and/or that have been subject to Commission review and approval by a particular date. In response to the *Auction 83 Comment Public Notice,* iHeart, the parent company of three Auction 83 applicants, filed comments supporting grant of waivers of 47 CFR 1.2105(b)(2)'s bar on major modifications to allow iHeart applicants to participate in Auction 83, and one applicant filed an opposition seeking denial of the requested relief.

5. The Bureaus decided that under the unique factual circumstances, application of the rule would be unduly burdensome to Auction 83 applicants that have completed a transfer of control or assignment that was authorized by the Commission during a period of approximately 15 years. In accordance with 47 CFR 1.3, the Bureaus waive 47 CFR 1.2105(b)(2)'s bar on major modifications for any Auction 83 applicant, such as iHeart or any other similarly-situated party, that has completed a transfer of control or assignment pursuant to a transaction that has been reviewed and approved by the Commission prior to the close of the remedial filing window on April 26, 2018. An applicant seeking to participate in Auction 83 pursuant to this relief should include with its updated Form 175 during the upcoming remedial filing window a brief explanation of any changes it has undertaken during the pendency of its Form 175, including relevant details such as citations to or file numbers of Commission authorizations for such changes.

6. In light of the amendments to the Commission's competitive bidding rules in 2015, the Bureaus also sought comment in the *Auction 83 Comment Public Notice* on how to apply 47 CFR 1.2105's provisions that prohibit the filing of multiple auction applications by applicants subject to common control. The amended rules require entities with any overlapping controlling interest to participate in an auction through just a single auction application. The only party to address this issue, iHeart, supports the Bureaus proposal to require applicants subject to common control to participate through a single bidding entity in a single application covering all of the MX engineering proposals applied for previously by the separate commonly controlled applicants. The Bureaus waived the current rule's application to the originally filed Forms 175, which pre-dated the current rule by more than a decade, and to permit applicants to come into compliance with the current rule by modifying the relevant auction applications as necessary to come into compliance. Accordingly, any Auction 83 applicants with overlapping

controlling interests will be permitted to amend their Forms 175 to participate as a single bidding entity. Specifically, on or before March 30, 2018, applicants that have a controlling interest in more than one Form 175 listed in Attachment A to the *Auction 83 Procedures Public Notice* were required to bring those commonly controlled applications into compliance with the restrictions of 47 CFR 1.2105(a)(3) by filing a written request as an attachment to an email sent to *auction83@fcc.gov.* This written request was required to identify by applicant name and applicant FCC registration number (FRN) each of that applicant's 2003 Forms 175 listed in Attachment A in which there is common control, as well as identification of the individual or entity with such common control. This email was required to request consolidation of the previously filed Forms 175 in Attachment A with common control. The request had to be signed by a person who is an authorized representative of the applicant with authority to bind that applicant. After consolidation, the remaining single applicant was required to update, certify and submit its FCC Form 175 during the remedial filing window.

*C. Rules and Disclaimers*

1. Relevant Authority

7. Applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including Commission decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees. Broadcasters should also familiarize themselves with the Commission's commercial FM translator broadcast service and competitive bidding requirements contained in 47 CFR parts 73 and 74, as well as Commission orders concerning competitive bidding. Applicants must also be thoroughly familiar with the procedures, terms and conditions contained in the *Auction 83 Procedures Public Notice* and any future public notices that may be released in this proceeding.

8. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in their public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of each applicant to remain current with all Commission rules and with all public notices pertaining to Auction 83.

2. Prohibited Communications and Compliance With Antitrust Laws

9. Starting with the initial application filing deadline on March 17, 2003, the rules prohibiting certain communications set forth in 47 CFR 1.2105(c) and 73.5002(d) and (e) apply to each applicant that filed a FCC Form 175 in Auction 83. Subject to specified exceptions, 47 CFR 1.2105(c)(1) provides that, after the deadline for filing a short-form application, all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline. Applicants are hereby placed on notice that public disclosure of information relating to bids, bidding strategies, or to post-auction market structures may violate 47 CFR 1.2105(c).

a. Entities Subject to Section 1.2105

10. An applicant for purposes of this rule includes the officers and directors of the applicant, all controlling interests in the entity submitting the FCC Form 175, as well as all holders of interests amounting to 10 percent or more of the entity, and all officers and directors of that entity. A party that submits an application becomes an applicant under the rule at the application deadline and that status does not change based on subsequent developments. Thus, an auction applicant that does not make and submit update to its Form 175 during the upcoming remedial filing window, correct deficiencies in its application, fails to submit a timely and sufficient upfront payment or does not otherwise become qualified, remains an applicant for purposes of 47 CFR 1.2105(c) and remains subject to the prohibition on certain communications until the applicable down payment deadline.

b. Scope of Prohibition on Communications; Prohibition on Joint Bidding Agreements

11. The Commission in 2015 amended 47 CFR 1.2105(c) to extend its prohibition on communications to cover all applicants for an auction regardless of whether the applicants seek permits in the same geographic area or market. Accordingly, the Commission now prohibits joint bidding arrangements, including arrangements relating to the licenses being auctioned that address or communicate, directly or indirectly, bids, bidding at the auction, bidding strategies, including arrangements regarding price or the specific construction permits or licenses on which to bid, and any such arrangements relating to the post-auction market structure. The revised rule provides limited exceptions for communications within the scope of any arrangement consistent with the exclusions from the Commissions rule prohibiting joint bidding, provided such arrangement is disclosed on the applicant's auction application. An applicant may continue to communicate pursuant to any pre-existing agreement, arrangement, or understanding that is solely operational or that provide for a transfer or assignment of licenses, provided that such agreement, arrangement or understanding does not involve the communication or coordination of bids (including amounts), bidding strategies, or the particular licenses on which to bid and provided that such agreement, arrangement or understanding is disclosed on its application.

12. In the *Auction 83 Comment Public Notice,* the Bureaus sought comment on whether waiver of certain provisions of 47 CFR 1.2105 might be appropriate or necessary in light of the passage of time since the 2003 filing of the original Auction 83 Forms 175, the rule revisions in 2015, and the business changes that applicants may have undergone. The Bureaus noted that some Auction 83 applicants and their pending applications might not be in compliance with the current 47 CFR 1.2105 provisions regarding joint bidding agreements and auction-related communications. No comment was filed on this issue in response to the *Auction 83 Comment Public Notice.* No party has filed notice of any potential violation of the provisions of 47 CFR 1.2105(c) with respect to prohibited bidding agreements or communications. Consequently, the Bureaus find no cause to waive the relevant rules.

c. Section 1.2105(c) Certification

13. By electronically submitting its Form 175, each applicant in Auction 83 certified its compliance with 47 CFR 1.2105(c) and 73.5002(d). However, the mere filing of a certifying statement as part of an application will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted. Any applicant found to have violated these communication prohibitions may be subject to sanctions.

d. Reporting Requirements

14. Section 1.2105(c)(4) requires that any applicant that makes or receives a communication that appears to violate 47 CFR 1.2105(c) must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.

e. Procedures for Reporting Prohibited Communications

15. Section 1.2105(c) requires parties to file only a single report concerning a prohibited communication and to file that report with Commission personnel expressly charged with administering the Commission's auctions. Any reports required by 47 CFR 1.2105(c) must be filed consistent with the instructions set forth in the *Auction 83 Procedures Public Notice.* For Auction 83, such reports must be filed with the Chief of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, by the most expeditious means available. Any such report should be submitted by email to Margaret W. Wiener at the following email address: *auction83@fcc.gov.* If you choose instead to submit a report in hard copy, any such report must be delivered only to: Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street SW, Room 6C217, Washington, DC 20554.

16. Section 1.2105(c) is designed to minimize the risk of inadvertent dissemination of information in such reports. A party reporting any communication pursuant to 47 CFR 1.65, 1.2105(a)(2), or 1.2105(c)(4) must take care to ensure that any report of a prohibited communication does not itself give rise to a violation of 47 CFR 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection, such as, a submission to the Commission's Office of the Secretary or to the Commission's Electronic Comment Filing System. A party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in 47 CFR 0.459. Such parties also are encouraged to coordinate with the Auctions and Spectrum Access Division staff about the procedures for submitting such reports.

f. Winning Bidders Must Disclose Terms of Agreements

17. Each applicant that is a winning bidder will be required to disclose in its long-form application the specific terms, conditions, and parties involved in any agreement it has entered into. This applies to any bidding consortia, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the competitive bidding process, including any agreement relating to the post-auction market structure. Failure to comply with the Commission's rules can result in enforcement action.

g. Antitrust Laws

18. Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of 47 CFR 1.2105(c) will not insulate a party from enforcement of the antitrust laws.

19. To the extent the Commission becomes aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, the Commission may refer such allegations to the U.S. Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, the applicant may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions, among other sanctions.

3. Due Diligence

20. The Bureaus remind each potential bidder that it is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the construction permits for commercial FM translators that it is seeking in this auction. The FCC makes no representations or warranties about the use of this spectrum or these construction permits for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC permittee in a broadcast service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC construction permit or license constitute a guarantee of business success.

21. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Bureaus strongly encourage each potential bidder to perform technical analyses and/or refresh its previous analyses to assure itself that, should it become a winning bidder for any Auction 83 construction permit, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements. The Bureaus strongly encourage each applicant to inspect any prospective transmitter sites located in, or near, the service area for which it plans to bid, confirm the availability of such sites, and to familiarize itself with the Commission's rules regarding the National Environmental Policy Act.

22. The Bureaus strongly encourage each applicant to continue to conduct its own research throughout Auction 83 in order to determine the existence of pending or future administrative or judicial proceedings—including applications, applications for modification, rulemaking proceedings, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to particular applicants or the licenses available in Auction 83 (or the terms and conditions thereof, including all applicable Commission rules and regulations) and might affect an applicant's decision on continued participation in the auction. Each applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on construction permits available in this auction. The due diligence considerations mentioned in the *Auction 83 Procedures Public Notice* do not comprise an exhaustive list of steps that should be undertaken prior to participating in this auction. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

23. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of the construction permits available in Auction 83. Each potential bidder is responsible for undertaking research to ensure that any permits won

in Auction 83 will be suitable for its business plans and needs. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

24. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, it must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into its databases.

4. Use of Auction Systems

25. The Commission makes no warranty whatsoever with respect to the FCC auction systems. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of business information, or any other loss) arising out of or relating to the existence, furnishing, functioning, or use of the FCC auction systems that are accessible to qualified bidders in connection with this auction. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the FCC auction systems.

*D. Auction Specifics*

1. Bidding Methodology and Options

26. The Commission will conduct this auction over the internet using the FCC auction bidding system. Qualified bidders are permitted to bid electronically via the internet or by telephone using the telephonic bidding option. All telephone calls are recorded.

27. The initial schedule for bidding rounds will be announced by public notice at least one week before bidding in the auction starts. Moreover, unless otherwise announced, bidding on all construction permits will be conducted on each business day until bidding has stopped on all construction permits.

2. Pre-Auction Dates and Deadlines

28. The following dates and deadlines apply:

Auction Tutorial Available (via internet)—April 12, 2018

Short-Form Application (FCC Form 175) Remedial Filing Window Opened—April 16, 2018; 12:00 noon ET

Short-Form Application (FCC Form 175) Remedial Filing Window Deadline—April 26, 2018; prior to 6:00 p.m. ET

Upfront Payments (via wire transfer)—May 31, 2018; 6:00 p.m. ET

Mock Auction—June 15, 2018

Auction Begins—June 21, 2018

3. Requirements for Participation

29. A party whose application is listed on Attachment A of the *Auction 83 Procedures Public Notice* may participate in the bidding in Auction 83 only if the applicant:

- During the remedial filing window, provides sufficient information in the data fields of its electronic FCC Form 175 that it is able to certify and submit its auction application. Instructions for submitting an updated application are provided in the *Auction 83 Procedures Public Notice.*

  - In the event that the application is found to be incomplete after Commission staff review, an applicant will have a limited opportunity to address deficiencies in its application during a resubmission window, the dates for which will be announced in a future public notice.

  - If an applicant fails to provide sufficient information in the data fields of its electronic Form 175 the applicant therefore will not able to certify and submit its Form 175. If an Auction 83 applicant fails to certify and submit its Form 175 during the remedial window, that auction application will be designated as Incomplete-Disqualified. If an application is designated as Incomplete-Disqualified, that applicant will have no further opportunity to update its application, and the applicant will be disqualified from further participation in Auction 83.

- Submits a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET on May 31, 2018, following the procedures and instructions set forth in Attachment C to the *Auction 83 Procedures Public Notice;* and

- Complies with all provisions outlined in the *Auction 83 Procedures Public Notice* and applicable Commission rules.

**II. Short-Form Application (FCC Form 175) Requirements**

*A. Updating Applicant's FCC Form 175 in Auction Application System—Remedial Filing Window Closes April 26, 2018*

30. To qualify to participate in bidding, each Auction 83 applicant must provide sufficient information in the data fields of its electronic FCC Form 175 that it is able to certify and submit its auction application, in compliance with the Commission's competitive bidding rules and the procedures and deadlines set forth in the *Auction 83 Procedures Public Notice.* Attachment B of the *Auction 83 Procedures Public Notice* contains detailed instructions for updating and verifying short-form applications.

31. Applicants must make necessary updates and certifications, and must verify short-form application information during a remedial filing window. The window opened at noon ET on April 16, 2018, and will close at 6:00 p.m. ET on April 26, 2018.

32. Each Auction 83 applicant is required to review its FCC Form 175 in the auction application system to insure that all relevant information is provided and that the information contained in the application is accurate and complete at this time. Each applicant must provide updates or revisions of previously submitted information, consistent with the requirements of 47 CFR 1.65. The auction application system will permit an applicant to navigate to the certify and submit screen in its Form 175 only after providing required disclosures of information in specified data entry fields. An applicant may also be required to upload an attachment to its Form 175 application in some circumstances. Each applicant is advised to begin its application updating process early during the remedial filing window so that it can certify and submit its FCC Form 175 prior to the close of the remedial filing window. Each Auction 83 applicant must certify and submit any updates prior to 6:00 p.m. ET on April 26, 2018.

*B. Minor Modifications to Short-Form Applications*

33. Notwithstanding the relief from 47 CFR 1.2105(b)'s major change restriction for past transactions as discussed in the *Auction 83 Procedures Public Notice,* at this stage in the application process, an Auction 83 applicant is permitted to make only minor changes to its application. Permissible minor changes include, among other things, deletion and addition of authorized bidders (to a maximum of three) and revision of

addresses and telephone numbers of the applicants and their contact persons. If revised or updated information constitutes a ''major amendment,'' as defined by 47 CFR 1.2105, such changes may result in the dismissal of the application. In this context, major amendments include a change of technical proposals, change control of the applicant, claim eligibility for a higher percentage of bidding credit, or change the identification of the application's proposed facilities as noncommercial educational after the initial application filing deadline.

*C. Maintaining Current Information in Short-Form Applications*

34. As required by 47 CFR 1.65 and 1.2105(b), an applicant must maintain the accuracy and completeness of all information furnished in its pending application and in competitive bidding proceedings to furnish additional or corrected information to the Commission within five days of a significant occurrence, or to amend a short form application no more than five days after the applicant becomes aware of the need for the amendment. Changes that cause a loss of or reduction in the percentage of bidding credit specified in the application must be reported immediately, and no later than five business days after the change occurs.

*D. Submission of Updates to Short-Form Applications*

35. Updates to short-form applications should be made electronically using the FCC auction application system whenever possible. For the change to be submitted and considered by the Commission, be sure to click on the SUBMIT button.

36. An applicant can use the auction application system outside of the remedial and resubmission filing windows to make administrative and certain other changes to its short-form application. After the resubmission filing window has closed, the system will permit applicants to modify information in most of the application's data fields.

37. If changes need to be made outside of these windows, the applicant must submit a letter briefly summarizing the changes and subsequently update its short-form application in the auction application system. Any letter describing changes to an applicant's short-form application must be addressed to Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, and submitted by email to *auction83@fcc.gov.* The email summarizing the changes must include a subject or caption referring to Auction 83 and the name of the applicant, for example, ''Re: Changes to Auction 83 Short-Form Application of ABC Corp.'' The Bureaus request that parties format any attachments to email as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Questions about short-form application amendments should be directed to the Auctions and Spectrum Access Division at (202) 418–0660.

38. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System, which was used for submitting comments regarding procedures for conducting Auction 83.

39. Applicants should note that submission of a short-form application (and any amendments thereto) constitutes a representation by the person certifying the application that he or she is an authorized representative of the applicant with authority to bind the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Applicants are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

*E. Electronic Review of Short-Form Applications*

40. During the remedial filing window, an applicant listed in Attachment A of the *Auction 83 Procedures Public Notice* must review and update its electronic FCC Form 175 in the auction application system. There is no fee to access this system. See Attachment B of the *Auction 83 Procedures Public Notice* for details on accessing the auction application system. During the remedial filing window, each Auction 83 applicant listed in Attachment A must, at a minimum, certify and submit its Form 175.

*F. Provisions Regarding Former and Current Defaulters*

41. Pursuant to the rules governing competitive bidding, each applicant must make certifications regarding whether it is a current or former defaulter or delinquent. A current defaulter or delinquent is not eligible to participate in Auction 83. An applicant is considered a current defaulter or a current delinquent when it, any of its affiliates (as defined by 47 CFR 1.2110), any of its controlling interests, or any of the affiliates of its controlling interests, is in default on any payment for any Commission construction permit or license (including a down payment) or is delinquent on any non-tax debt owed to any Federal agency as of the filing deadline for FCC Forms 175 in that auction. Accordingly, each applicant must certify under penalty of perjury on its Form 175 that the applicant, any of its affiliates, any of its controlling interests, and any of the affiliates of its controlling interests are not in default on any payment for a Commission construction permit or license (including a down payment) and are not delinquent on any non-tax debt owed to any Federal agency. For purposes of making this certification, the term controlling interest is defined in 47 CFR 1.2105(a)(4)(i). If an Auction 83 applicant has an outstanding non-tax debt to the Commission or any other federal agency, including any debts that results in a listing of the applicant on the Commission's Red Light Display System, as of the closing deadline of the remedial filing window, the applicant will be unable to make the required certification that it is not currently in default; if so, such applicant will be not eligible to participate in Auction 83 bidding.

42. An Auction 83 applicant is considered a former defaulter or a former delinquent when the applicant or any of its controlling interests (as defined by 47 CFR 1.2105(a)(4)(i)) has defaulted on any Commission construction permit or license (including a down payment) or has been delinquent on any non-tax debt owed to any Federal agency, but has since remedied all such defaults and cured all of the outstanding non-tax delinquencies prior to the remedial filing deadline in this auction. A former defaulter or a former delinquent may participate further in Auction 83 so long as it is otherwise qualified, and that applicant makes an upfront payment that is 50 percent more than would otherwise be required. An applicant must certify under penalty of perjury whether it, along with any of its controlling interests, has ever been in default on any payment for a Commission construction permit or license (including a down payment) or has ever been delinquent on any non-tax debt owed to any Federal agency, subject to the exclusions described in the *Auction 83 Procedures Public Notice.*

43. In 2015, the Commission narrowed the scope of the individuals and entities to be considered a former defaulter or a former delinquent. For purposes of the certification under 47

CFR 1.2105(a)(2)(xii), the applicant may exclude from consideration any cured default on a Commission construction permit or license or delinquency on a non-tax debt owed to a Federal agency for which any of the following criteria are met: (1) The notice of the final payment deadline or delinquency was received more than seven years before the FCC Form 175 filing deadline; (2) the default or delinquency amounted to less than $100,000; (3) the default or delinquency was paid within six months after receiving the notice of the final payment deadline or delinquency; or (4) the default or delinquency was the subject of a legal or arbitration proceeding and was cured upon resolution of the proceeding.

44. Applicants are encouraged to review previous guidance provided by the Wireless Telecommunications Bureau on default and delinquency disclosure requirements in the context of the auction short-form application process. For example, it has been determined that, to the extent that Commission rules permit late payment of regulatory or application fees accompanied by late fees, such debts will become delinquent for purposes of 47 CFR 1.2105(a) and 1.2106(a) only after the expiration of a final payment deadline. Therefore, with respect to regulatory or application fees, the provisions of 47 CFR 1.2105(a) and 1.2106(a) regarding default and delinquency in connection with competitive bidding are limited to circumstances in which the relevant party has not complied with a final Commission payment deadline. Parties are also encouraged to consult with the Wireless Telecommunications Bureau's Auctions and Spectrum Access Division staff if they have any questions about default and delinquency disclosure requirements.

45. The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission adopted rules, including a provision referred to as the red light rule, that implement its obligations under the Debt Collection Improvement Act of 1996, but the Commission's adoption of the red light rule does not alter the applicability of any of its competitive bidding rules, including the provisions and certifications of 47 CFR 1.2105 and 1.2106, with regard to current and former defaults or delinquencies.

46. The Bureaus remind each applicant, however, that the Commission's Red Light Display System, which provides information regarding debts currently owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105. Thus, while the red light rule ultimately may prevent the processing of long-form applications by auction winners, an auction applicant's lack of current red light status is not necessarily determinative of its eligibility to participate in an auction or of its upfront payment obligation.

47. Moreover, applicants in Auction 83 should note that any long-form applications filed after the close of bidding will be reviewed for compliance with the Commission's red light rule, and such review may result in the dismissal of a winning bidder's long-form application. The Bureaus strongly encourage each applicant to carefully review all records and other available federal agency databases and information sources to determine whether the applicant, or any of its affiliates (as defined in 47 CFR 1.2110), or any of its controlling interests, or any of the affiliates of its controlling interests, owes or was ever delinquent in the payment of non-tax debt owed to any federal agency.

## III. Pre-Auction Procedures

### *A. Online Tutorial on Bidding Process—Available April 12, 2018*

48. An educational auction tutorial became available on the Auction 83 web page on Thursday, April 12, 2018. The tutorial will remain available and accessible anytime for reference in connection with the procedures outlined in the *Auction 83 Procedures Public Notice.*

### *B. Revised Short-Form Applications—Due Prior to 6:00 p.m. ET on April 26, 2018*

49. During the remedial filing window, each Auction 83 applicant listed in Attachment A must, at a minimum, provide sufficient information in the data fields of the form such that it is able to certify and submit its Form 175 via the FCC's auction application system. If any information in its Form 175 or its attachments is inaccurate or otherwise needs to be updated, any such changes must be reported in its Form 175 during the upcoming remedial filing window. Attachment B of the *Auction 83 Procedures Public Notice* contains instructions for updating short-form applications in the remedial window. Updates to the short-form application must be submitted prior to 6:00 p.m. ET on April 26, 2018. No application fee is required.

50. Previously submitted short-form applications may be viewed and updated at any time from noon ET on April 16, 2018, until the filing window closes at 6:00 p.m. ET on April 26, 2018. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applications can be updated or amended multiple times until the remedial filing deadline at 6:00 p.m. ET on April 26, 2018.

51. An applicant must click on the SUBMIT button on the ''Certify & Submit'' screen to successfully submit its FCC Form 175 and any modifications; otherwise the application or changes to the application will not be received or reviewed by Commission staff.

### *C. Application Processing and Corrections of Deficiencies*

52. The Commission will process all applications for permits listed in Attachment A of the *Auction 83 Procedures Public Notice* that are certified and submitted during the remedial filing window to determine which are complete, incomplete, or incomplete-disqualified. Subsequent to the remedial filing window the Bureaus will issue a public notice identifying the status of each application. An applicant whose application is incomplete will have a limited opportunity to address deficiencies during a resubmission window, the dates for which will be announced in a future public notice. If a listed Auction 83 applicant does not certify and submit its Form 175 auction application during the remedial filing window, its application will be designated as incomplete-disqualified, and the applicant will be disqualified from further participation in Auction 83.

53. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the short-form application, unless the applicant's certifying official or contact person notifies the Commission in writing that applicant's counsel or other representative is authorized to speak on its behalf. Authorizations may be sent by email to *auction83@fcc.gov.*

### *D. Upfront Payments—Due May 31, 2018*

54. In order to be eligible to bid in this auction, a sufficient upfront payment and a complete and accurate FCC Remittance Advice Form (FCC Form 159) must be submitted prior to 6:00 p.m. ET on May 31, 2018, following the procedures outlined below and the instructions in Attachment C to the

*Auction 83 Procedures Public Notice.* After completing its short-form application, an applicant will have access to an electronic version of the FCC Form 159. This Form 159 can be printed and the completed form must be sent by fax to the FCC at (202) 418–2843.

1. Making Upfront Payments by Wire Transfer

55. Wire transfer payments must be received before 6:00 p.m. ET on May 31, 2018. No other payment method is acceptable. Specifically, the Commission will not accept checks, credit cards or automated clearing house payments. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. The BNF Account Number is specific to the upfront payments for this auction. Do not use BNF Account Number from previous auctions. The following information will be needed:

*ABA Routing Number:* 021000021
*Receiving Bank:* JP Morgan Chase
*Beneficiary:* FCC/Account #267516869
*Originating Bank Information (OBI Field):* (Skip one space between each information item) ''AUCTIONPAY''
*Applicant FCC Registration Number (FRN)*: (same as FCC Form 159, block 21)
*Payment Type Code:* (same as FCC Form 159, block 24A: ''U083'')
*FCC Code 1:* (same as FCC Form 159, block 28A: ''83'')
*Payer Name:* (same as FCC Form 159, block 2)
*Payer FCC Registration Number (FRN):* (If different from applicant FRN): #

56. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must fax a completed FCC Form 159 (Revised 2/03) to the FCC at (202) 418–2843. On the fax cover sheet, write ''Wire Transfer—Auction Payment for Auction 83.'' In order to meet the upfront payment deadline, an applicant's payment must be credited to the Commission's account for Auction 83 before the deadline.

57. Each applicant is responsible for ensuring timely submission of its upfront payment and for timely filing of an accurate and complete FCC Remittance Advice Form (FCC Form 159). An applicant should coordinate with its financial institution well ahead of the due date regarding its wire transfer. The Commission repeatedly has cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer. Each applicant also is responsible for obtaining confirmation from its financial institution that its wire transfer to JP Morgan Chase was successful and from Commission staff that its upfront payment was timely received and that it was deposited into the proper account. To receive confirmation from Commission staff, contact Gail Glasser of the Office of Managing Director's Revenue & Receivables Operations Group/Auctions at (202) 418–0578, or alternatively, Theresa Meeks at (202) 418–2945.

58. All upfront payments must be made in U.S. dollars. All upfront payments must be made by wire transfer. Upfront payments for Auction 83 go to an account number different from the accounts used in previous FCC auctions. Failure to deliver a sufficient upfront payment as instructed in the *Auction 83 Procedures Public Notice* by the deadline on May 31, 2018 will result in dismissal of the short-form application and disqualification from further participation in the auction.

2. FCC Form 159

59. An accurate and complete FCC Remittance Advice Form (FCC Form 159, Revised 2/03) must be faxed to the FCC at (202) 418–2843 to accompany each upfront payment. Proper completion of this form is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment C. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payers using the pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate.

3. Upfront Payments and Bidding Eligibility

60. Applicants must make upfront payments sufficient to obtain bidding eligibility on the construction permits on which they will bid. The Bureaus proposed in the *Auction 83 Comment Public Notice* that the amount of the upfront payment would determine a bidder's initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids in any single round. The Bureaus received no comment on the proposal that the upfront payment amount would determine a bidder's initial bidding eligibility, and this proposal is adopted.

61. Under the Bureaus' proposal, in order to bid on a particular construction permit, otherwise qualified bidders that are designated in Attachment A of the *Auction 83 Procedures Public Notice* for that construction permit must have a current eligibility level that meets or exceeds the number of bidding units assigned to that construction permit. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the construction permits designated for that applicant in Attachment A of the *Auction 83 Procedures Public Notice,* or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all construction permits designated for that applicant in Attachment A of the *Auction 83 Procedures Public Notice,* but only enough to cover the maximum number of bidding units that are associated with construction permits on which they wish to place bids and hold provisionally winning bids in any given round. (A provisionally winning bid is a bid that would become a final winning bid if the auction were to close after the given round.) The total upfront payment does not affect the total dollar amount the bidder may bid on any given construction permit.

62. In the *Auction 83 Comment Public Notice,* the Bureaus proposed an upfront payment for each construction permit, taking into account various factors related to the efficiency of the auction process and the potential value of similar spectrum, and sought comment on this proposal. The Bureaus received no comment on the specified upfront payment amounts for each construction permit in Auction 83, and the proposed upfront payment amounts are adopted. The specific upfront payment amounts and bidding units for each construction permit are set forth in Attachment A of the *Auction 83 Procedures Public Notice.*

63. In calculating its upfront payment amount, an applicant should determine the maximum number of bidding units on which it may wish to be active (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units. In order to make this calculation, an applicant should add together the bidding units for all construction permits on which it seeks to be active in any given round. Applicants should check their calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline. A qualified bidder's maximum eligibility will not exceed the sum of the bidding units associated with the total

number of construction permits identified for that applicant in Attachment A of the *Auction 83 Procedures Public Notice.*

64. Applicants that are former defaulters, as described in the *Auction 83 Procedures Public Notice,* must pay upfront payments 50 percent greater than non-former defaulters. For this classification as a former defaulter or a former delinquent, defaults and delinquencies of the applicant itself and its controlling interests are included. For this purpose, the term controlling interest is defined in 47 CFR 1.2105(a)(4)(i). If a former defaulter fails to submit a sufficient upfront payment to establish eligibility to bid on at least one of the construction permits designated for that applicant in Attachment A of the *Auction 83 Procedures Public Notice,* that applicant will not be eligible to participate further in Auction 83. This applicant will retain its status as an applicant in Auction 83, and will remain subject to 47 CFR 1.2105(c) and 73.5002(d).

65. If an applicant is a former defaulter, it must calculate its upfront payment for all of its identified construction permits by multiplying the number of bidding units on which it wishes to be active by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

*E. Auction Registration*

66. At least one week before the beginning of bidding in the auction, the Bureaus will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants with submitted FCC Form 175 applications that are deemed timely filed, accurate, and substantially complete, provided that such applicants have timely submitted an upfront payment that is sufficient to qualify them to bid.

67. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the SecurID® tokens that will be required to place bids, the web address and instructions for accessing and logging in to the auction bidding system, an FCC assigned username (User ID) for each authorized bidder, and the Auction Bidder Line phone number.

68. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, if this mailing is not received by noon on Thursday, June 14, 2018, the contact, certifier or authorized bidder listed on that applicant's Form 175 needs to call the Auctions Hotline at (717) 338–2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

69. In the event that SecurID® tokens are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacements. To request replacement of these items, call Technical Support at (877) 480–3201, option nine; (202) 414–1250; or (202) 414–1255 (TTY).

*F. Remote Electronic Bidding*

70. The Commission will conduct this auction over the internet, and telephonic bidding will be available as well. Only qualified bidders are permitted to bid. Each applicant should indicate its bidding preference, electronic or telephonic, on its FCC Form 175. In either case, each authorized bidder must have its own SecurID® token, which the Commission will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID® tokens, while applicants with two or three authorized bidders will be issued three tokens. For security purposes, the SecurID® tokens, bidding system web address, FCC assigned username, and the telephonic bidding telephone number are only mailed to the contact person at the contact address listed on the FCC Form 175. Each SecurID® token is tailored to a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 83.

*G. Mock Auction—June 19, 2018*

71. All qualified bidders will be eligible to participate in a mock auction on Tuesday, June 19, 2018. The mock auction will enable bidders to become familiar with the FCC auction bidding system prior to the auction. The Bureaus strongly recommend that all bidders participate in the mock auction. Details will be announced by public notice.

## IV. Auction

72. The first round of bidding for Auction 83 will begin on Thursday, June 21, 2018. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released at least one week before the start of the auction.

*A. Auction Structure*

1. Simultaneous Multiple Round Auction

73. In the *Auction 83 Comment Public Notice,* the Bureaus proposed to auction all construction permits listed in Attachment A of the *Auction 83 Procedures Public Notice* in a single auction using the Commission's standard simultaneous multiple-round auction format. This type of auction offers every construction permit for bid at the same time and consists of successive bidding rounds in which qualified bidders may place bids on individual construction permits. The Bureaus received no comment on this proposal, and this proposal is adopted. Unless otherwise announced, bids will be accepted on all construction permits in each round of the auction until bidding stops on every construction permit.

2. Eligibility and Activity Rules

74. As discussed in the *Auction 83 Procedures Public Notice,* the Bureaus will use upfront payments to determine initial (maximum) bidding eligibility (as measured in bidding units) for Auction 83. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may be active. As noted earlier, each construction permit is assigned a specific number of bidding units as listed in Attachment A of the *Auction 83 Procedures Public Notice.* Bidding units assigned to each construction permit do not change as prices rise during the auction. Upfront payments are not attributed to specific construction permits. Rather, a bidder may place bids on any of the construction permits for which it is designated an applicant in Attachment A of the *Auction 83 Procedures Public Notice* as long as the total number of bidding units associated with those construction permits does not exceed its current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount and therefore its initial bidding eligibility, an applicant must determine the maximum number of bidding units on which it may wish to bid or hold provisionally winning bids in any single round, and submit an upfront payment amount covering that total number of bidding units. At a minimum, an applicant's upfront payment must cover the bidding units for at least one of the

construction permits for which it is designated an applicant in Attachment A of the *Auction 83 Procedures Public Notice.* The total upfront payment does not affect the total dollar amount a bidder may bid on any given construction permit. The Bureaus received no comments on the bidding eligibility proposals, and these proposals are adopted.

75. In order to ensure that an auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction.

76. A bidder's activity level in a round is the sum of the bidding units associated with construction permits covered by the bidder's new bids in the current round and provisionally winning bids from the previous round. A provisionally winning bid is a bid that would become a final winning bid if the auction were to close after the given round.

77. The Bureaus received no comment on the activity rule proposal. Therefore, the Bureaus adopt the following activity requirement: A bidder is required to be active on 100 percent of its current eligibility during each round of the auction. That is, a bidder must either place a bid or be a provisionally winning bidder during each round of the auction. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

3. Activity Rule Waivers

78. In the *Auction 83 Comment Public Notice,* the Bureaus proposed that each bidder in the auction be provided with three activity rule waivers. The Bureaus received no comment on this issue.

79. Therefore, the Bureaus adopt this proposal to provide bidders with three activity rule waivers. Bidders may use an activity rule waiver in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's eligibility despite its activity in the current round being below the required minimum activity level. An activity rule waiver applies to an entire round of bidding, not to a particular construction permit. Activity rule waivers can be either proactive or automatic. Activity rule waivers are principally a mechanism for a bidder to avoid the loss of bidding eligibility in the event that exigent circumstances prevent it from bidding in a particular round.

80. The FCC auction bidding system will assume that a bidder that does not meet the activity requirement would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder's activity level is below the minimum required unless (1) the bidder has no activity rule waivers remaining or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the activity requirement. If a bidder has no waivers remaining and does not satisfy the required activity level, the bidder's current eligibility will be permanently reduced, possibly curtailing or eliminating the ability to place additional bids in the auction.

81. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the *reduce eligibility* function in the FCC auction bidding system. In this case, the bidder's eligibility would be permanently reduced to bring it into compliance with the activity rule described in the *Auction 83 Procedures Public Notice.* Reducing eligibility is an irreversible action; once eligibility has been reduced, a bidder cannot regain its lost bidding eligibility.

82. Also, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively were to apply an activity rule waiver (using the *proactive waiver* function in the FCC auction bidding system) during a bidding round in which no bid is placed, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver applied by the FCC auction bidding system in a round in which there is no new bid or no proactive waiver will not keep the auction open.

4. Auction Stopping Rule

83. For Auction 83, the Bureaus proposed to employ a simultaneous stopping rule approach, which means all construction permits remain available for bidding until bidding stops on every construction permit. Specifically, bidding will close on all construction permits after the first round in which no bidder submits any new bid or applies a proactive waiver.

84. The Bureaus also sought comment on alternative versions of the simultaneous stopping rule for Auction 83. (1) The auction would close for all construction permits after the first round in which no bidder applies a waiver or places any new bid on a construction permit for which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the provisionally winning bidder would not keep the auction open under this modified stopping procedure. (2) The auction would close for all construction permits after the first round in which no bidder applies a proactive waiver or places any new bid on a construction permit that already has a provisionally winning bid. Thus, absent any other bidding activity, a bidder placing a new bid on an FCC-held construction permit (a construction permit that does not have a provisionally winning bid) would not keep the auction open under this modified stopping procedure. (3) The auction would close using a modified version of the simultaneous stopping procedure that combines options (1) and (2). (4) The auction would close after a specified number of additional rounds (special stopping procedure) to be announced by the Bureaus. If the Bureaus invoke this special stopping procedure, they will accept bids in the specified final round(s), after which the auction will close. (5) The auction would remain open even if no bidder places any new bids or applies a waiver. In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a waiver.

85. The Bureaus proposed to exercise these options only in certain circumstances, for example, where the auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. Before exercising these options, the Bureaus are likely to attempt to change the pace of the auction. For example, the Bureaus may adjust the pace of bidding by changing the number of bidding rounds per day and/or the minimum acceptable bids. The Bureaus proposed to retain the discretion to exercise any of these options with or without prior announcement during the auction. The Bureaus received no comment on these proposals and adopt them for Auction 83.

5. Auction Delay, Suspension, or Cancellation

86. The Bureaus received no comment on their proposals in the *Auction 83 Comment Public Notice* regarding auction delay, suspension, or cancellation, and adopt them. By public notice and/or by announcement through the FCC auction bidding system, the Bureaus may delay, suspend, or cancel bidding in the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the beginning of the current round or from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. The Bureaus emphasize that they will exercise this authority solely at their discretion, and not as a substitute for situations in which bidders may wish to apply their activity rule waivers.

*B. Bidding Procedures*

1. Round Structure

87. The initial schedule of bidding rounds will be announced in the public notice listing the qualified bidders, which is released at least one week before the start of bidding in the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted each day.

88. In the *Auction 83 Comment Public Notice,* the Bureaus proposed to retain the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureaus received no comment on these proposals, and adopt them for Auction 83. The Bureaus may change the amount of time for the bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors.

2. Reserve Price and Minimum Opening Bids

89. A reserve price is an absolute minimum price below which a construction permit or license will not be sold in a specific auction. In the *Auction 83 Comment Public Notice,* the Bureaus did not propose to establish reserve prices for the construction permits listed in Attachment A. The Bureaus did not receive comment on this proposal, and adopt it.

90. A minimum opening bid is the minimum bid price set at the beginning of the auction below which no bids are accepted. The Bureaus in the *Auction 83 Comment Public Notice* sought comment on specifically proposed minimum opening bid amounts for each construction permit listed in Attachment A to the *Auction 83 Procedures Public Notice.* Specifically, a minimum opening bid was proposed for each construction permit by taking into account various factors relating to the efficiency of the auction and the potential value of the spectrum, including the type of service and class of facility offered, market size, population covered by the proposed broadcast facility, industry cash flow data, and recent broadcast transactions.

91. The Bureaus received no comment on the proposed minimum opening bid amounts, and therefore the Bureaus adopt the minimum opening bid amounts proposed in the *Auction 83 Comment Public Notice.* The specific minimum opening bid amounts for each of the construction permits are again specified in Attachment A to the *Auction 83 Procedures Public Notice.*

3. Bid Amounts

92. In the *Auction 83 Comment Public Notice,* the Bureaus proposed that in each round, if the bidder has sufficient eligibility to place a bid on the particular construction permit, an eligible bidder will be able to place a bid on a given construction permit in any of up to nine different amounts. Under the proposal, the FCC auction bidding system interface will list the nine acceptable bid amounts for each construction permit. The Bureaus received no comment on this proposal; therefore, it is adopted.

93. For calculation of the nine acceptable bid amounts for each construction permit, the Bureaus did not receive any comment on a proposal to use 10 percent for a minimum acceptable bid increment percentage and to use 5 percent for an additional bid increment percentage. Therefore, the Bureaus will begin the auction with a minimum acceptable bid increment percentage of 10 percent and an additional bid increment percentage of 5 percent.

94. In Auction 83, the minimum acceptable bid amount for a construction permit will be equal to its minimum opening bid amount until there is a provisionally winning bid for the construction permit. After there is a provisionally winning bid for a construction permit, the minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount by one plus the minimum acceptable bid percentage, *i.e.,* provisionally winning bid amount * 1.10, rounded under the Commission's standard rounding procedures for auctions as described in the *Auction 83 Procedures Public Notice.*

95. In Auction 83, the FCC auction bidding system will calculate the eight additional bid amounts by multiplying the minimum acceptable bid amount by the additional bid increment percentage of 5 percent, and that result (rounded) is the additional increment amount. The first additional acceptable bid amount equals the minimum acceptable bid amount plus the additional increment amount. The second additional acceptable bid amount equals the minimum acceptable bid amount plus two times the additional increment amount; the third additional acceptable bid amount is the minimum acceptable bid amount plus three times the additional increment amount, etc. Because the additional bid increment percentage is 5 percent, the calculation of the additional increment amount is (minimum acceptable bid amount) * (0.05), rounded. The first additional acceptable bid amount equals (minimum acceptable bid amount) + (additional increment amount); the second additional acceptable bid amount equals (minimum acceptable bid amount) + (2 * (additional increment amount)); the third additional acceptable bid amount equals (minimum acceptable bid amount) + (3 * (additional increment amount)); etc.

96. The Bureaus proposed to retain the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, the additional bid increment percentage, and the number of acceptable bid amounts if the Bureaus determine that circumstances so dictate. Further, the Bureaus proposed to retain the discretion to do so on a construction permit-by-construction permit basis. The Bureaus also proposed to retain the discretion to limit (a) the amount by which a minimum acceptable bid for a construction permit may increase compared with the corresponding provisionally winning bid, and (b) the amount by which an additional bid amount may increase compared with the immediately preceding acceptable bid amount. For example, the Bureaus could set a $1,000 limit on increases in minimum acceptable bid amounts over provisionally winning bids. Thus, if calculating a minimum acceptable bid using the minimum acceptable bid

percentage results in a minimum acceptable bid amount that is $1,200 higher than the provisionally winning bid on a construction permit, the minimum acceptable bid amount would instead be capped at $1,000 above the provisionally winning bid.

97. The Bureaus did not receive any comment on their proposals to retain the discretion to change bid amounts as described in the *Auction 83 Procedures Public Notice,* if they determine that circumstances so dictate. The Bureaus adopt these proposals. If the Bureaus exercise this discretion, they will alert bidders by announcement in the FCC auction bidding system during the auction.

4. Provisionally Winning Bids

98. The FCC auction bidding system at the end of each bidding round will determine a *provisionally winning bid* for each construction permit based on the highest bid amount received for that permit. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same construction permit at the close of a subsequent round. Provisionally winning bids at the end of the auction become the winning bids.

99. In the *Auction 83 Comment Public Notice,* the Bureaus proposed to use a pseudo-random number generator to select a single provisionally winning bid in the event of identical high bid amounts being submitted on a construction permit in a given round (*i.e.,* tied bids). No comments were received on this proposal. Hence, the Bureaus adopt this tied bids proposal.

100. Accordingly, the FCC auction bidding system will assign a pseudo-random number to each bid upon submission. The tied bid with the highest pseudo-random number wins the tiebreaker, and becomes the provisionally winning bid. The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to close with no other bids being placed, the winning bidder would be the one that placed the provisionally winning bid. If the construction permit receives any bids in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the construction permit.

101. A provisionally winning bid will be retained until there is a higher bid on the construction permit at the close of a subsequent round. As a reminder, provisionally winning bids count toward activity for purposes of the activity rule.

5. Bidding

102. All bidding will take place remotely either through the FCC auction bidding system or by telephonic bidding. There will be no on-site bidding during Auction 83. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. The length of a call to place a telephonic bid may vary; please allow a minimum of ten minutes.

103. An Auction 83 bidder's ability to bid on specific construction permits is determined by two factors: (1) The construction permits designated for that applicant in Attachment A of the *Auction 83 Procedures Public Notice* and (2) the bidder's eligibility. The bid submission screens will allow bidders to submit bids on only those construction permits designated for that applicant in Attachment A of the *Auction 83 Procedures Public Notice.*

104. In order to access the bidding function of the FCC auction bidding system, bidders must be logged in during the bidding round using the passcode generated by the SecurID® token and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print a *round summary* for each round after they have completed all of their activity for that round.

105. If a bidder has sufficient eligibility to place a bid on the particular construction permit, eligible bidders will be able to place bids on a given construction permit in any of up to nine pre-defined bid amounts in each round. For each construction permit, the FCC auction bidding system will list the acceptable bid amounts in a drop-down box. Bidders use the drop-down box to select from among the acceptable bid amounts. The FCC auction bidding system also includes an *upload* function that allows text files containing bid information to be uploaded.

106. Until a bid has been placed on a construction permit, the minimum acceptable bid amount for that permit will be equal to its minimum opening bid amount. Once there are bids on a permit, minimum acceptable bids for the following round will be determined as described in the *Auction 83 Procedures Public Notice.*

107. During a round, an eligible bidder may submit bids for as many construction permits as it wishes (providing that it is eligible to bid on the specific permits), remove bids placed in the current bidding round, or permanently reduce eligibility. If multiple bids are submitted for the same construction permit in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidding units associated with construction permits for which the bidder has removed bids do not count towards current activity.

6. Bid Removal and Bid Withdrawal

108. In the *Auction 83 Comment Public Notice,* the Bureaus explained bid removal procedures in the FCC auction bidding system. Each qualified bidder has the option of removing any bids placed in a round provided that such bids are removed before the close of that bidding round. By removing a bid within a round, a bidder effectively unsubmits the bid. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity because a removed bid no longer counts toward bidding activity for the round. Once a round closes, a bidder may no longer remove a bid.

109. In the *Auction 83 Comment Public Notice,* the Bureaus proposed to prohibit bidders from withdrawing any bid after close of the round in which that bid was placed. The Bureaus received no comment on this issue of bid withdrawal. Accordingly, the Bureaus will prohibit bid withdrawals in Auction 83. Bidders are cautioned to select bid amounts carefully because no bid withdrawals will be allowed, even if a bid was mistakenly or erroneously made.

7. Round Results

110. Reports reflecting bidders' identities for Auction 83 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

111. Bids placed during a round will not be made public until the conclusion of that round. After a round closes, the Bureaus will compile reports of all bids placed, current provisionally winning bids, new minimum acceptable bid amounts for the following round, whether the construction permit is FCC-held, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access.

8. Auction Announcements

112. The Commission will use auction announcements to report necessary information such as schedule changes. All auction announcements will be available by clicking a link in the FCC auction bidding system.

## V. Post-Auction Procedures

113. Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing deadlines for submitting down payments, final payments, and long-form applications (FCC Forms 349).

### *A. Down Payments*

114. Within ten business days after release of the auction closing public notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction 83 to twenty percent of the net amount of its winning bids (gross bids less any applicable new entrant bidding credits).

### *B. Final Payments*

115. Each winning bidder will be required to submit the balance of the net amount for each of its winning bids within ten business days after the applicable deadline for submitting down payments.

### *C. Long-Form Applications (FCC Form 349)*

116. The Commission's rules currently provide that within thirty days following the close of bidding and notification to the winning bidders, unless a longer period is specified by public notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 349, Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station) and required exhibits for each construction permit won through Auction 83. Winning bidders claiming new entrant status must include an exhibit demonstrating their eligibility for the bidding credit. The Commission's rules also provide that a winning bidder in a commercial broadcast spectrum auction is required to submit an application filing fee with its post-auction long-form application. Further instructions on these and other filing requirements will be provided to winning bidders in the auction closing public notice. An Auction 83 applicant that has its long-form application dismissed will be deemed to have defaulted and will be subject to default payments under 47 CFR 1.2104(g) and 1.2109(c).

### *D. Default and Disqualification*

117. Any winning bidder that defaults or is disqualified after the close of the auction (*i.e.,* fails to remit the required down payment by the specified deadline, fails to submit a timely long-form application, fails to make a full and timely final payment, or is otherwise disqualified) is liable for default payments as described in 47 CFR 1.2104(g)(2). This payment consists of a deficiency payment, equal to the difference between the amount of the Auction 83 bidder's winning bid and the amount of the winning bid the next time a construction permit covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

118. In the *Auction 83 Comment Public Notice,* the Bureaus proposed to set the percentage of the applicable bid to be assessed as an additional payment for any Auction 83 default at 20 percent of the applicable bid. The Bureaus received no comment on this proposal, and it is therefore adopted.

119. Finally, in the event of a default, the Commission has the discretion to re-auction the construction permit or offer it to the next highest bidder (in descending order) at its final bid amount. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing authorizations held by the applicant.

### *E. Refund of Remaining Upfront Payment Balance*

120. All refunds of upfront payment balances will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. To access the refund form, bidders are encouraged to use the Refund Information icon found on the *Auction Application Manager* page or through the Refund Form link available on the *Auction Application Submit Confirmation* page in the FCC auction application system. After the required information is completed on the blank form, the form should be printed, signed, and submitted to the Commission by mail or fax as instructed below.

121. If a bidder has elected not to complete the Refund Form through the Auction Application Manager page, the Commission is requesting that all information listed below be supplied in writing.

Name, address, contact and phone number of Bank
ABA Number
Account Number to Credit
Name of Account Holder
FCC Registration Number (FRN)

The refund request must be submitted by fax to the Revenue & Receivables Operations Group/Auctions at (202) 418–2843 or by mail to:

Federal Communications Commission, Financial Operations, Revenue & Receivables Operations Group/Auctions, Gail Glasser, 445 12th Street SW, Room 1–C864, Washington, DC 20554.

**Note:** Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Gail Glasser at (202) 418–0578 or Theresa Meeks at (202) 418–2945.

## VI. Final Regulatory Flexibility Certification

122. The Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, requires that a regulatory flexibility analysis be prepared for a notice-and-comment rulemaking proceeding, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The RFA generally defines the term small entity as having the same meaning as the terms small business, small organization, and small governmental jurisdiction. In addition, the term small business has the same meaning as the term small business concern under the Small Business Act, 5 U.S.C. 601(3). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). 15 U.S.C 632.

123. As required by the RFA, an Initial Regulatory Flexibility Certification (IRFC) was incorporated in the January 16, 2018, public notice seeking comment on competitive bidding procedures to be used in Auction 83. A summary of this public notice was published at 83 FR 4455, Jan. 31, 2018. The *Auction 83 Procedures Public Notice* implements competitive bidding rules adopted by the Commission in multiple notice-and-comment rulemaking proceedings, as well as establishes by the Bureaus, on delegated authority, additional procedures for competitive bidding in Auction 83 for certain FM translator construction permits. More specifically, the Public Notice provides an overview of the procedures, terms and conditions governing Auction 83 and the post-auction application and payment processes. The Public Notice also

provides instructions for Auction 83 applicants to review, verify and update their previously filed short-form applications during the upcoming Remedial Window, as required. In addition, the Public Notice addresses three filings submitted by parties in response to the Auction 83 Comment Public Notice.

124. Auction 83 is a closed auction, therefore the specific competitive bidding procedures and minimum opening bid amounts described in the *Auction 83 Comment Public Notice* will affect only the 57 individuals or entities listed in Attachment A to the *Auction 83 Procedures Public Notic*e who are eligible to complete the remaining steps to become qualified to bid in this auction. The latest available U.S. Census Bureau data show that there were 2,849 radio station firms that operated in 2012. Of that number 2,806 firms operated with annual receipts below the SBA's small business size standard of firms having $38.5 million or less in annual receipts. The 57 eligible individuals or entities for Auction 83 include firms of all sizes and constitute approximately two percent of all firms that operated and of firms meeting the SBA small business size standard. Consequently, because the proposed procedures and minimum opening bid amounts would affect a maximum of 57 radio station firms, or approximately two percent of the total, and not all 57 are small entities, the Bureaus find that a substantial number of small entities would not be affected by these competitive bidding procedures or minimum opening bid amounts contained in the *Auction 83 Procedures Public Notice.* Therefore, the Bureaus certify that these competitive bidding procedures and minimum opening bid amounts announced in the *Auction 83 Procedures Public Notice* will not have a significant economic impact on a substantial number of small entities.

125. The Bureaus will send a copy of the *Auctions 83 Procedures Public Notice,* including this Final Regulatory Flexibility Certification, in a Report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the *Auctions 83 Procedures Public Notice* and this Final Regulatory Flexibility Certification will be sent to the Chief Counsel for Advocacy of the SBA pursuant to 5 U.S.C. 605(b).

Federal Communications Commission.

**Gary Michaels,**

*Deputy Chief, Auctions and Spectrum Access Division, WTB.*

[FR Doc. 2018–08635 Filed 4–26–18; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 54

**[WC Docket Nos. 10–90, 14–58, 14–259; FCC 16–64]**

## Connect America Fund, ETC Annual Reports and Certifications, Rural Broadband Experiments

**AGENCY:** Federal Communications Commission.

**ACTION:** Technical amendments.

**SUMMARY:** This document corrects errors in the final rules portion of a **Federal Register** document that adopted rules to implement a competitive bidding process for Phase II of the Connect America Fund that will harness market forces to expand broadband in targeted rural areas. The document was published in the **Federal Register** on July 7, 2016.

**DATES:** Effective April 27, 2018.

**FOR FURTHER INFORMATION CONTACT:** Alexander Minard, Wireline Competition Bureau, (202) 418–7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the FCC's Erratum, FCC 18–297, released on March 26, 2018. This summary contains technical amendments to a **Federal Register** summary, 81 FR 44414 (July 7, 2016). The full text of the Commission's Report and Order, WC Docket Nos. 10–90, 14–58; 14–259; FCC 16–64, released on March 26, 2016 is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554.

### Technical Amendments

### List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Accordingly, 47 CFR part 54 is corrected by making the following correcting amendments:

## PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

■ 2. In § 54.315, revise paragraph (c)(2)(iv)(A) to read as follows:

**§ 54.315 Application process for phase II support distributed through competitive bidding.**

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(A) That is among the 100 largest non-U.S. banks in the world, determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit (determined on a U.S. dollar equivalent basis as of such date);

* * * * *

■ 3. In § 54.804, revise paragraph (d)(2)(iv)(A) to read as follows:

**§ 54.804 Application process.**

* * * * *

(d) * * *

(2) * * *

(iv) * * *

(A) That is among the 100 largest non-U.S. banks in the world, determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit (determined on a U.S. dollar equivalent basis as of such date);

* * * * *

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2018–08887 Filed 4–26–18; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF DEFENSE

## Defense Acquisition Regulations System

## 48 CFR Parts 225 and 252

## Foreign Acquisition; Solicitation Provisions and Contract Clauses

*CFR Correction*

■ In Title 48 of the Code of Federal Regulations, Chapter 2 (Parts 201 to 299), revised as of October 1, 2017, on page 179, in 225.872–1, in paragraph (a), and on page 465, in 252.225–7021, under TRADE AGREEMENTS–BASIC (DEC 2016), under *Qualifying country,* ''Czech Republic'' is added in alphabetical order.

[FR Doc. 2018–09059 Filed 4–26–18; 8:45 am]

BILLING CODE 1301–00–D

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**49 CFR Part 243**

**[Docket No. FRA–2009–0033, Notice No. 6]**

**RIN 2130–AC70**

## Training, Qualification, and Oversight for Safety-Related Railroad Employees

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** In response to a petition for reconsideration of a final rule, FRA is amending its regulations on Training, Qualification, and Oversight for Safety-Related Railroad Employees by delaying the regulations' implementation dates an additional year. FRA previously delayed the regulations' implementation dates for one year in a final rule published May 3, 2017 (May 2017 Final Rule).

**DATES:** This regulation is effective June 26, 2018.

**ADDRESSES:** You may send comments, identified by docket number FRA–2009–0033 and RIN 2130–AC70, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments;
- *Mail:* Docket Management Facility, U.S. DOT, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590;
- *Hand Delivery:* The Docket Management Facility is located in Room W12–140, West Building Ground Floor, U.S. DOT, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- *Fax:* 202–493–2251.

*Instructions:* All submissions must include the agency name and docket number (Federal Railroad Administration, FRA–2009–0033) or Regulatory Identification Number (RIN) for this rulemaking (2130–AC70). All comments received will be posted without change to *http://www.regulations.gov;* this includes any personal information. Please see the Privacy Act heading in the ''Supplementary Information'' section of this document for Privacy Act information related to any submitted comments or materials.

*Docket:* For access to the docket to read background documents, petitions for reconsideration, or comments received, go to *http://www.regulations.gov* and follow the online instructions for accessing the docket or visit the Docket Management Facility described above.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Castiglione, Staff Director—Human Performance Division, Federal Railroad Administration, 4100 International Plaza, Suite 450, Fort Worth, TX 76109–4820 (telephone: 817–447–2715); or Alan H. Nagler, Senior Trial Attorney, Federal Railroad Administration, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–493–6038).

**SUPPLEMENTARY INFORMATION:** On November 7, 2014, FRA published a final rule (2014 Final Rule) that established minimum training standards for each category and subcategory of safety-related railroad employees and required railroad carriers, contractors, and subcontractors to submit training programs to FRA for approval. *See* 79 FR 66459. The 2014 Final Rule was required by section 401(a) of the Rail Safety Improvement Act of 2008 (RSIA), Public Law 110–432, 122 Stat. 4883 (Oct. 16, 2008), codified at 49 U.S.C. 20162. The Secretary of Transportation delegated the authority to conduct this rulemaking and implement the rule to the Federal Railroad Administrator. 49 CFR 1.89(b).

In the preamble to the 2014 Final Rule, FRA noted the importance of establishing implementation dates and providing incentives for the early filing of model programs to improve the efficiency and effectiveness of the review process. FRA recognized it was paramount to give model program developers sufficient time to develop programs and receive FRA approval. FRA also recognized that employers would not use those model programs unless the employers were given reasonable time to consider those programs before the employers' deadline for implementation. Consequently, the 2014 Final Rule provided model program developers with an incentive to file all model programs by May 1, 2017—eight months before the first employers would have been required to submit model programs and two years before smaller employers (*i.e.,* those employers with less than 400,000 total employee work hours annually) would have been required to submit their model programs. *See* 79 FR 66459, 66503–66504. The incentive to submit early was a guarantee from FRA that the model program would be considered approved so it could be implemented within 180 days after the date of submission unless FRA identified that all or part of the program did not conform to the rule's requirements.

After publishing the 2014 Final Rule, FRA took significant steps to educate the regulated community on its requirements and assist with the development of model training plans. For example, on March 20, 2017, FRA added information to its website to more broadly disseminate information about the 2014 Final Rule's requirements. *See https://www.fra.dot.gov/Page/P1023.*[1] Moreover, when the American Short Line and Regional Railroad Association (ASLRRA) requested FRA's help in developing its model programs for its members, FRA shared training documents it uses to train the agency's personnel on Federal rail safety requirements. FRA then made those same FRA training documents available on FRA's website because others in the regulated community would likely find them useful.

During FRA outreach on the 2014 Final Rule, FRA heard concerns from ASLRRA and the National Railroad Construction and Maintenance Association, Inc. (NRC), which were two of the associations identified in the 2014 Final Rule's Regulatory Impact Analysis (RIA) as likely model program developers. These two associations represent most of the 1,459 employers FRA projected would adopt model training programs rather than develop their own.[2] Although ASLRRA had submitted several model training programs to FRA, and had made significant strides towards completing some programs, ASLRRA still had a significant number of training programs left to develop and submit.

Based on ASLRRA's and NRC's concerns about their ability to submit their model training programs by the May 1, 2017, deadline, and the significant impact that not meeting the deadline would have on the costs associated with the rule and FRA's approval process, FRA issued the May 2017 Final Rule extending each of the implementation dates in the 2014 Final Rule by one year.

### Petition for Reconsideration

On May 22, 2017, ASLRRA filed a petition for reconsideration of the May 2017 Final Rule. ASLRRA's petition was

[1] Additional details about each of those steps are contained in the May 2017 Final Rule. *See* 82 FR 20549 (May 3, 2017).

[2] The RIA for the 2014 Final Rule provided the estimated costs and benefits, and explained FRA based this analysis on the premise that ''most small railroads and contractors will use consortiums or model training programs developed by industry associations . . . thereby minimizing costs.'' RIA at 15. In the RIA, FRA estimated that 1,459 railroads and contractors would use model programs.

the only petition FRA received, and FRA did not receive any comments on the May 2017 Final Rule or ASLRRA's petition.

In the petition, ASLRRA states that the association will need more than a one-year delay on each of the implementation dates in the 2014 Final Rule and requested that the one-year extension be extended further by another year. In the petition, ASLRRA states that it represents over 500 Class II and III railroads and has assumed the responsibility for preparing model training programs for its member railroads' use. ASLRRA asserts that it still has a significant number of model programs left to develop and submit.

ASLRRA states in its petition that it is utilizing a large group of volunteer safety professionals from the ranks of its Safety and Training Committee to develop the model programs. ASLRRA is using these volunteers because the association asserts it would not otherwise have the resources to complete the task. With the commitments it received from volunteers, ASLRRA has mapped out a schedule to complete the model training programs by fall 2018.[3] ASLRRA's estimated completion date would mean that many of its model programs would likely not be completed by the May 1, 2018, deadline afforded by the May 2017 Final Rule.

Further, ASLRRA's petition states that extending the one-year delay will allow adequate time to comply with FRA's review and approval process and thereby assure its members that its model programs have been approved by FRA. According to ASLRRA the additional one-year extension will also allow each railroad adequate time to consider how it will implement each of the model programs it will adopt and whether it will need to adapt the programs to address any unique aspects of its operations.

**FRA's Response**

In response to ASLRRA's petition, FRA published a notice of proposed rulemaking on December 20, 2017. *See* 82 FR 60355. In that notice, FRA proposed to delay each of the implementation dates in the May 2017 Final Rule by an additional year, thereby delaying each of the implementation dates in the 2014 Final Rule by a total of two years. FRA provided a 30-day period for filing written comments; however, the only comment received during the comment period was from ASLRRA in support of its petition and the proposed rule. No adverse comments were received.

In the proposed rule, FRA's response to ASLRRA's petition explained how delaying each of the implementation dates would improve compliance, reduce significant cost impacts associated with the rule, and prevent complicating the approval process. The basis for the proposed rule is the same basis for this final rule.

In sum, the additional one-year delay of the implementation dates should allow all model training program developers and other regulated entities to meet the rule's deadlines. FRA understands that many regulated entities were on schedule to meet the original deadlines in the 2014 Final Rule, or were preparing to meet the deadlines delayed by the May 2017 Final Rule. For those regulated entities that are prepared to move forward in advance of any deadline, there is certainly no prohibition against doing so and implementing a more robust training program should benefit the overall safety of those employers who are early adopters.

In consideration of the foregoing, FRA delays each of the implementation dates in the May 2017 Final Rule by an additional year, thereby delaying each of the implementation dates in the 2014 Final Rule by a total of two years.

**Section-by-Section Analysis**

*Subpart B—Program Components and Approval Process*

Section 243.101 Employer Program Required

The implementation dates in this section are delayed by a total of two years from the 2014 Final Rule so all employers have additional time to develop and submit training programs. Specifically, in paragraphs (a)(1) and (b) the implementation dates are changed to January 1, 2020, and likewise, in paragraph (a)(2) the implementation date is changed to May 1, 2021. This final rule thereby delays each implementation date an additional year from the May 2017 Final Rule.

Section 243.105 Optional Model Program Development

The implementation date in paragraph (a)(3) of this section is delayed by a total of two years from the 2014 Final Rule so that all model program developers have additional time to submit model programs, while also potentially benefiting from an expedited FRA review process. As amended, each model program submitted to FRA before May 1, 2019, is considered approved and may be implemented 180 days after the date of the submission, unless FRA otherwise advises that all or part of the program does not conform to the rule's requirements. This final rule thereby delays the implementation date an additional year from the May 2017 Final Rule.

Section 243.111 Approval of Programs Filed by Training Organizations or Learning Institutions

FRA is amending paragraph (b) of this section so that each training organization or learning institution that has provided training services to employers covered by this part has in total an additional two years from the 2014 Final Rule to continue to offer such training services without FRA approval. As amended, a training organization or learning institution that has provided training services to employers covered by this part before January 1, 2019, may continue to offer such training services without FRA approval until January 1, 2020. This final rule thereby delays both dates an additional year from the May 2017 Final Rule.

*Subpart C—Program Implementation and Oversight Requirements*

Section 243.201 Employee Qualification Requirements

The implementation dates in this section are delayed by a total of two years from the 2014 Final Rule so all employers have additional time to designate each of their existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in such occupational category or subcategory.

In paragraph (a)(1), the implementation date is changed to September 1, 2020, and likewise, in paragraph (a)(2) the implementation date is changed to January 1, 2022. This final rule thereby delays each implementation date an additional year from the May 2017 Final Rule. Further, the dates used for referencing total employee work hours for purposes of applying each paragraph are modified accordingly by adding an additional year from the May 2017 Final Rule.

In paragraph (b), the implementation date is changed to January 1, 2020—an additional year from the May 2017 Final Rule.

In paragraphs (e)(1) and (2), the implementation dates for refresher training are also delayed by a total of two years from the 2014 Final Rule. Thus, the implementation date in

[3] Interested parties can view that schedule at *https://www.regulations.gov/document?D=FRA-2009-0033-0039.*

paragraph (e)(1) is changed to January 1, 2022, and the completion of that refresher training for each employee is required no later than December 31, 2024. In paragraph (e)(2), each employer with less than 400,000 total employee work hours annually is required to implement a refresher training program by May 1, 2023, and complete that refresher training for each employee by no later than December 31, 2025. This final rule thereby delays each implementation date in this paragraph an additional year from the May 2017 Final Rule.

**Regulatory Impact and Notices**

*Executive Orders 12866, 13563, 13771, and DOT Regulatory Policies and Procedures*

This final rule is a non-significant regulatory action within the meaning of Executive Order 12866 and DOT policies and procedures. *See* 44 FR 11034 (Feb. 26, 1979). The final rule also follows the direction of Executive Order 13563, which emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Finally, the final rule follows the guidance of Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), which directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.'' FRA identified this final rule as a deregulatory effort to comply with E.O. 13771. For more information on Executive Order 13771, see the Office of Management and Budget's (OMB) April 5, 2017 ''Memorandum: Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs.' ''

In 2014, FRA published a Final Rule which established minimum training standards for each category and subcategory of safety-related railroad employee, as required by section 401(a) of the RSIA. FRA believes that by delaying the implementation dates of the 2014 Final Rule, this final rule will reduce the regulatory burden on the railroad industry. In May 2017, FRA issued a Final Rule which delayed each of the implementation dates in the 2014 Final Rule by one year. This final rule will extend the implementation deadlines by a total of two years from the 2014 Final Rule, one year of which has already been granted in the May 2017 Final Rule. This final rule will be beneficial for regulated entities by granting additional time to comply with the 2014 Final Rule.

The costs arising from part 243 over the 20-year period evaluated include: The costs of revising training programs to include ''hands-on'' training where appropriate, as well as the costs of creating entirely new training programs for any employer that does not have one already; the costs of customizing model training programs for those employers that choose to adopt a model program rather than create a new program; the costs of annual data review and analysis required in order to refine training programs; the costs of revising programs in later years; the costs of additional time new employees may have to spend in initial training; the costs of additional periodic oversight tests and inspections; the costs of additional qualification tests; and the costs of additional time all safety-related railroad employees may have to spend in refresher training.

FRA believes that additional hands-on and refresher training found in the 2014 Final Rule will reduce the frequency and severity of some future accidents and incidents. Expected safety benefits were calculated using full accident costs, which are based on past accident history, the values of preventing future fatalities and injuries sustained, and the cost of property damage. (Full accident costs are determined by the number of fatalities and injuries multiplied by their respective prevention valuations, and the cost of property damage.)

By delaying the implementation dates of the 2014 Final Rule a total of two years, railroads and other entities subject to the rule will realize a cost savings. These entities will not incur costs during the first two years of this analysis. Also, costs incurred in future years will be discounted an extra two years, which will decrease the present value burden. The present value of costs will be less than if these entities were required to adhere to the original implementation dates. FRA has estimated this cost savings to be approximately $40.6 million, at a 3-percent discount rate, and $37.2 million, at a 7-percent discount rate. The table below shows the costs estimated at the 2014 Final Rule stage as well as the costs with the two-year implementation delay.

| | Present value (3%) | Present value (7%) |
|---|---|---|
| Total costs (2-year delay) | $250,309,438 | $169,902,295 |
| 2014 Final Rule costs | 290,932,418 | 207,068,184 |
| Two-year-delay cost savings | 40,622,980 | 37,165,889 |

*Regulatory Flexibility Act and Executive Order 13272; Initial Regulatory Flexibility Assessment*

FRA has determined and certifies that this final rule is not expected to have a significant impact on a substantial number of small entities. The requirements of this final rule apply to employers of safety-related railroad employees, whether the employers are railroads, contractors, or subcontractors. Although a substantial number of small entities are subject to this final rule, it provides relief by extending all of the implementation dates in the 2014 Final Rule, as amended by the May 2017 Final Rule. Thus, the economic impact of this final rule is not significant because it provides only additional time for all entities to comply with the 2014 Final Rule.

This final rule has no direct impact on small units of government, businesses, or other organizations. State rail agencies are not required to participate in this program. State owned railroads will receive a positive impact by having additional time to comply.

*Paperwork Reduction Act*

There are no new collection of information requirements contained in this final rule and, in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* the recordkeeping and reporting requirements already contained in the 2014 Final Rule have been approved by OMB. The OMB approval number is OMB No. 2130–0597. Thus, FRA is not required to seek additional OMB approval under the Paperwork Reduction Act.

*Federalism Implications*

This final rule will not have a substantial 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. Thus in accordance with Executive Order 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

*International Trade Impact Assessment*

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

*Environmental Impact*

FRA has evaluated this final rule in accordance with its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this final rule is not a major FRA action, requiring the preparation of an environmental impact statement or environmental assessment, because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. *See* 64 FR 28547 (May 26, 1999).

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this final rule that might trigger the need for a more detailed environmental review. As a result, FRA finds that this final rule is not a major Federal action significantly affecting the quality of the human environment.

*Unfunded Mandates Reform Act of 1995*

Pursuant to section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law). Section 202 of the Act (2 U.S.C. 1532) further requires that before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in 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 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement detailing the effect on State, local, and tribal governments and the private sector. This final rule will not result in such an expenditure, and thus preparation of such a statement is not required.

*Energy Impact*

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). FRA evaluated this final rule in accordance with Executive Order 13211, and determined that this regulatory action is not a ''significant energy action'' within the meaning of the Executive Order.

Executive Order 13783, ''Promoting Energy Independence and Economic Growth,'' requires Federal agencies to review regulations to determine whether they potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. 82 FR 16093 (March 31, 2017). FRA determined this final rule will not burden the development or use of domestically produced energy resources.

*Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**List of Subjects in 49 CFR Part 243**

Administrative practice and procedure, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

**The Final Rule**

For the reasons discussed in the preamble, FRA is amending 49 CFR part 243 as follows:

## PART 243—TRAINING, QUALIFICATION, AND OVERSIGHT FOR SAFETY-RELATED RAILROAD EMPLOYEES [AMENDED]

■ 1. The authority citation for part 243 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20131–20155, 20162, 20301–20306, 20701–20702, 21301–21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

## Subpart B—Program Components and Approval Process—[Amended]

■ 2. In § 243.101, revise paragraphs (a) and (b) to read as follows:

### § 243.101 Employer program required.

(a)(1) Effective January 1, 2020, each employer conducting operations subject to this part with 400,000 total employee work hours annually or more shall submit, adopt, and comply with a training program for its safety-related railroad employees.

(2) Effective May 1, 2021, each employer conducting operations subject to this part with less than 400,000 total employee work hours annually shall submit, adopt, and comply with a training program for its safety-related railroad employees.

(b) Except for an employer subject to the requirement in paragraph (a)(2) of this section, an employer commencing operations subject to this part after January 1, 2020, shall submit a training program for its safety-related railroad employees before commencing operations. Upon commencing operations, the employer shall adopt and comply with the training program.

* * * * *

■ 3. In § 243.105, revise paragraph (a)(3) to read as follows:

### § 243.105 Optional model program development.

(a) * * *

(3) Each model training program submitted to FRA before May 1, 2019, is considered approved and may be implemented 180 days after the date of submission unless the Associate Administrator advises the organization, business, or association that developed

and submitted the program that all or part of the program does not conform.

* * * * *

■ 4. In § 243.111, revise paragraph (b) to read as follows:

**§ 243.111 Approval of programs filed by training organizations or learning institutions.**

* * * * *

(b) A training organization or learning institution that has provided training services to employers covered by this part before January 1, 2019, may continue to offer such training services without FRA approval until January 1, 2020. The Associate Administrator may extend this period at any time based on a written request. Such written requests for an extension of time to submit a program should contain any factors the training organization or learning institution wants the Associate Administrator to consider before approving or disapproving the extension.

* * * * *

## Subpart C—Program Implementation and Oversight Requirements—[Amended]

■ 5. In § 243.201, revise paragraphs (a)(1) and (2), (b), and (e)(1) and (2) to read as follows:

**§ 243.201 Employee qualification requirements.**

(a) * * *

(1) By no later than September 1, 2020, each employer with 400,000 total employee work hours annually or more in operation as of January 1, 2020, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

(2) By no later than January 1, 2022, each employer with less than 400,000 total employee work hours annually in operation as of January 1, 2021, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

(b) Except for an employer subject to the requirement in paragraph (a)(2) of this section, an employer commencing operations after January 1, 2020, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory before beginning operations, and only permit designated employees to perform safety-related service in that category or subcategory. Any person designated shall have met the requirements for newly hired employees or those assigned new safety-related duties in accordance with paragraph (c) of this section.

* * * * *

(e) * * *

(1) Beginning January 1, 2022, each employer with 400,000 total employee work hours annually or more shall deliver refresher training at an interval not to exceed 3 calendar years from the date of an employee's last training event, except where refresher training is specifically required more frequently in accordance with this chapter. If the last training event occurs before FRA's approval of the employer's training program, the employer shall provide refresher training either within 3 calendar years from that prior training event or no later than December 31, 2024. Each employer shall ensure that, as part of each employee's refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

(2) Beginning May 1, 2023, each employer with less than 400,000 total employee work hours annually shall deliver refresher training at an interval not to exceed 3 calendar years from the date of an employee's last training event, except where refresher training is specifically required more frequently in accordance with this chapter. If the last training event occurs before FRA's approval of the employer's training program, the employer shall provide refresher training either within 3 calendar years from that prior training event or no later than December 31, 2025. Each employer shall ensure that, as part of each employee's refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

**Juan D. Reyes, III,**

*Chief Counsel.*

[FR Doc. 2018–08941 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–06–P

# Proposed Rules

Federal Register
Vol. 83, No. 82
Friday, April 27, 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 929

**[Doc. No. AMS–SC–18–0017; SC18–929–3 PR]**

## Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Proposed Amendment to Marketing Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule invites comments on a proposed amendment to Marketing Order No. 929, which regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The Cranberry Marketing Committee (Committee), recommended adding authority to accept contributions from domestic sources. Contributed funds would be used solely for research and development activities authorized under the marketing order and would be free from any encumbrances as to their usage by the donor.

**DATES:** Comments must be received by June 26, 2018.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov*. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*. All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Geronimo Quinones, Marketing Specialist, or Julie Santoboni, Branch Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@ams.usda.gov* or *Julie.Santoboni@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov*.

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rulemaking is issued under Marketing Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. Part 929 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

Section 608c(17) of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorizes amendment of the Order through this informal rulemaking action. The Agricultural Marketing Service (AMS) will consider all timely-filed comments received in response to this rule, and based on all the information available, will determine if Order amendment is warranted. If AMS determines amendment of the Order is warranted, a subsequent proposed rule and referendum order would be issued, and producers and processors of cranberries regulated within the production area would be allowed to vote for or against the proposed amendment. AMS would then issue a final rule effectuating the amendment if it is approved by producers and processors in the referendum.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This proposed rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) amended section 608c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The amendment of section 608c(17) of the Act and additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable,

and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

AMS has considered these factors and has determined that this proposed amendment is not unduly complex and its nature is appropriate for utilizing the informal rulemaking process to amend the Order. A discussion of the potential regulatory and economic impacts on affected entities is discussed later in the ''Initial Regulatory Flexibility Analysis'' section of this proposed rule.

The Committee, which is responsible for the local administration of the order and is comprised of growers of cranberries operating within the production area, unanimously recommended this proposal following deliberations at a public meeting. The proposed amendment would give the Committee authority to receive and use voluntary contributions from domestic sources to fund production research, marketing research, and market development projects, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption or efficient production of cranberries, as authorized under § 929.45, Research and development.

Currently, program operations are solely financed through assessments collected from handlers regulated under the Order. Sources not affiliated with the Order have expressed an interest in supporting many of the research and development projects currently funded by the Order but the Committee has had to decline these offers. This proposal would provide authority to accept financial contributions from domestic sources. With the additional funding, more research and development projects could be undertaken.

This proposal would add a new section, § 929.43, Contributions, to the Order which would authorize the Committee to accept voluntary financial contributions. Such contributions could only be accepted from domestic sources and would be free from any encumbrances or restrictions on their use by the donor. When received, the Committee would retain complete control of their use and the contributed funds would only be used to fund program activities authorized under § 929.45, Research and development.

**Initial Regulatory Flexibility Analysis**

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

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

There are approximately 1,100 cranberry growers in the regulated area and approximately 65 cranberry handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to industry and Committee data, the average grower price for cranberries during the 2016–17 crop year was $23.50 per barrel, and total sales were around 9.5 million barrels. The value for cranberries that crop year totaled $223,250,000 ($23.50 per barrel multiplied by 9.5 million barrels). Taking the total value of production for cranberries and dividing it by the total number of cranberry growers (1,100) provides an average return per grower of $202,955. Based on USDA's Market News reports, the average free on board (f.o.b.) price for cranberries was around $30.00 per barrel. Multiplying the f.o.b. price by total utilization of 9.5 million barrels results in an estimated handler-level cranberry value of $285 million. Dividing this figure by the number of handlers (65) yields an estimated average annual handler receipt of $4.3 million, which is below the SBA threshold for small agricultural service firms. Therefore, the majority of growers and handlers of cranberries may be classified as small entities.

The Committee's proposed amendment was unanimously recommended at a public meeting. If the proposal is approved in a referendum, there would be no direct financial effect on growers or handlers. This proposal would provide the Committee authority to accept additional funding. With the potential for additional funding, more research and promotional projects could be undertaken. Therefore, it is anticipated that both small and large producer and handler businesses would benefit from implementation of the proposed rule. Additionally, a past referendum concerning a similar action was supported by most eligible producers and processors. However, that referendum failed due to an oversight by processors not casting their ballot in a timely manner (82 FR 36991).

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by the OMB and assigned OMB No. 0581–0189, ''Generic Fruit Crops.'' No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large cranberry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Committee's meeting was widely publicized throughout the cranberry production area. All interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations on all issues.

The Committee meeting was public, and all entities, both large and small, were encouraged to express their views on this proposal.

Finally, interested persons are invited to submit comments on the proposed amendment to the Order, including comments on the regulatory and information collection impacts of this action on small businesses.

Following the analysis of any comments received on the amendment proposed in this rule, AMS will evaluate all available information and determine whether to proceed. If appropriate, a proposed rule and referendum order would be issued, and producers and processors would be provided the opportunity to vote for or against the proposed amendment. Information about the referendum, including dates and voter eligibility requirements, would be published in a future issue of the **Federal Register**. A final rule would then be issued to effectuate the amendment, if favored by producers and processors participating in the referendum.

AMS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

**General Findings**

These findings are supplementary to the findings and determinations which were previously made in connection with the issuance of the Order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The Order as proposed to be amended and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. The Order as proposed to be amended regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing order;

3. The Order as proposed to be amended is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. The Order as proposed to be amended prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of cranberries produced or handled in the production area; and

5. All handling of cranberries produced in the production area as defined in the Order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

A 60-day comment period is provided to allow interested persons to respond to this proposal. Any comments received on the amendment proposed in this rulemaking will be analyzed, and if AMS determines to proceed based on all the information presented, a referendum would be conducted to determine support for the proposed amendment. If appropriate, a final rule would then be issued to effectuate the amendment favored by producers and processors participating in the referendum.

**List of Subjects in 7 CFR Part 929**

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is proposed to be amended as follows:

## PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

■ 1. The authority citation for 7 CFR part 929 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Add § 929.43 to read as follows:

**§ 929.43 Contributions.**

The Committee may accept voluntary contributions to pay expenses incurred pursuant to § 929.45, Research and development. Such contributions may only be accepted if they are sourced from domestic contributors and are free from any encumbrances or restrictions on their use by the donor. The Cranberry Marketing Committee shall retain complete control of their use.

* * * * *

Dated: April 19, 2018.

**Bruce Summers,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2018–08526 Filed 4–26–18; 8:45 am]

BILLING CODE 3410–02–P

---

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 929

**[Doc. No. AMS–SC–18–0012; SC18–929–2 PR]**

## Cranberries Grown in States of Massachusetts, et al.; Establishment of 2018–19 Seasonal Volume Regulation

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule invites comments on a recommendation to establish a grower allotment percentage for the 2018–19 crop year under the marketing order for cranberries grown in the production area (Order). This proposed action would limit the quantity of cranberries from the 2018–19 crop a handler may purchase from, or handle on behalf of, growers, and would allow for the diversion of processed products from that year. This proposed action would also specify handlers subject to the regulation, revise the definition of outlets for excess fruit, revise dates by which certain actions are due, and establish exemptions to the proposed action.

**DATES:** Comments must be received by May 29, 2018.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, proposes amendments to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposal

is issued under Marketing Agreement and Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. Part 929 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Cranberry Marketing Committee (Committee) locally administers the Order and is comprised of growers of cranberries operating within the production area, and a public member.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Order provisions provide that the Committee may recommend and implement, subject to USDA approval, volume control regulation which would decrease the available supply of cranberries whenever the Secretary of Agriculture (Secretary) finds that ''such regulation will tend to effectuate the declared policy of the Act.'' Accordingly, this proposed rule would establish a marketable quantity and grower allotment percentage for cranberries produced during the 2018–19 crop year, beginning September 1, 2018, and ending August 31, 2019.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule invites comments on the establishment of a marketable quantity and grower allotment percentage for the 2018–19 crop year. This proposal is the result of the Committee's recommendations made during its August 4, and August 31, 2017, meetings, and a February 18, 2018, email vote. The proposal would establish a marketable quantity of 7.275 million barrels and a grower allotment percentage of 75 percent. This proposed action would also allow handlers to process up to 50 percent of the excess cranberries they receive above their growers' allotment, provided they divert an equivalent amount of 2018–19 cranberry processed products. It would also establish an exemption for organically grown cranberries, specify handlers subject to the regulation, revise the definition of outlets for excess fruit, and revise dates by which certain actions are due.

The Committee also recommended an exemption for organically grown cranberries, and an exemption of 2,500 barrels for each grower. After much consideration, USDA determined the recommended grower exemption of 2,500 barrels should be revised. Consequently, this proposal does not include the exemption of 2,500 barrels for each grower and instead proposes to exempt handlers that processed less than 125,000 barrels during the 2017–18 fiscal year, or handlers that did not have carryover inventory at the end of the 2017–18 fiscal year. Accordingly, growers delivering their fruit to exempt handlers would not be subject to the allotment.

In addition, in a February 18, 2018 vote by email, the Committee voted unanimously to adjust reporting dates associated with the proposed allotment regulation. These changes were previously discussed and supported by the Committee at a meeting on April 22, 2014 as part of the consideration of another volume regulation for which a rule was not issued.

The recommendations included in this proposed rule would adjust supply to more closely meet market demand, improve grower and handler returns, and help reduce inventory.

Sections 929.49 and 929.52 provide, in part, authority to establish a marketable quantity and grower allotment percentage. Section 929.14 defines marketable quantity as the volume of cranberries needed to meet market demand and provide for an adequate carryover into the next season. The allotment percentage is derived by dividing the marketable quantity by the total of all growers' sales histories. Section 929.48 outlines procedures for computing a grower's sales history.

Section 929.49 also prescribes how the grower allotment percentage is calculated and distributed to growers and handlers. Each grower's allotment volume is calculated by multiplying the individual's sales history by the allotment percentage. A grower's allotment is the total volume a handler may purchase from, or handle on behalf of, that grower during a year of volume regulation. Cranberries received by a handler that exceed the sum of their growers' allotments can be used to fill unused allotment. Any remaining cranberries are defined as excess cranberries as defined in § 929.59, which also outlines the procedures and dates by which excess cranberries are to be diverted. Section 929.61 prescribes outlets for excess cranberries, which are further defined in § 929.104.

In addition, § 929.50 provides authority for the transfer of sales history and annual allotment. Section 929.51 requires the Committee to consider market conditions, including supply and demand, prior to recommending an allotment percentage, and that any recommendation be made by March 1. Section 929.58(a) provides the authority to exempt from any or all requirements the handling of cranberries in such minimum quantities as the Committee, with the approval of the Secretary, may prescribe. Section 929.58(b) provides, in part, the authority to exempt from any or all requirements the handling of cranberries of such forms or types, including organic cranberries, as the Committee, with the approval of the Secretary, may prescribe.

Domestic cranberry production has been increasing over the past few years, up from 8.0 million barrels in 2012 to 9.6 million barrels in 2016. During the last few years, demand has remained relatively flat, and has not kept pace with the increases in supply. This has led to increasing levels of inventories. Ending inventory levels increased from 5.8 million barrels in 2012 to 9.7 million barrels in 2016.

Demand for cranberries is inelastic, meaning changes in consumer price have a minimal effect on total sales. However, grower prices are very sensitive to changes in supply. Consequently, higher inventory levels place downward pressure on grower prices for cranberries and reduce grower returns. Data reviewed by the

Committee indicates that the price per barrel received by some growers has fallen from $30 a barrel in 2011 to $10 a barrel in 2016. With the cost of production estimated at approximately $35 a barrel, for many growers returns have fallen below the cost of production.

The Committee met on August 4, 2017, and again on August 31, 2017, and discussed the estimated levels of supply and demand and how market conditions were impacting the industry. The Committee discussed the approximate levels of production for the 2017–18 season, forecasting production at approximately 9.1 million barrels. Carryover inventory was estimated at approximately 9.9 million barrels and foreign acquired cranberries were expected to provide an additional 2.1 million barrels, for a total available supply of approximately 21.1 million barrels for the year. After accounting for shrinkage, the Committee agreed on an adjusted supply of 20.4 million barrels for the 2017–18 crop year.

Using these numbers, with estimated sales of 9.5 million barrels for 2017–18, the Committee calculated a potential carryover for the 2018–19 season of 10.9 million barrels. This is an approximately one million barrel increase from the carryover inventory for the 2017–18 crop year. Based on these numbers, carryover inventory for the 2018–19 crop year would be approximately 115 percent of annual sales.

In discussing market conditions, the Committee recognized that sales have been relatively flat. The Committee also noted supply has been exceeding demand by about one million barrels a year. Using crop and sales estimates similar to 2017–18, and the estimated carryover from the 2017–18 season of 10.9 million barrels, the potential carryover supply at the end of the 2018–19 crop year could increase by another one million barrels to 11.9 million if no action is taken to regulate supply.

In reviewing these numbers, the Committee agreed the industry is faced with a large inventory that continues to build. To address the problems associated with oversupply and to try to stabilize grower returns, the Committee discussed the need to establish volume regulation. The Committee considered several options, including establishing free and restricted percentages under a handler withholding for the 2017–18 crop year, establishing a grower allotment for the 2018–19 season, or recommending both regulations.

Considering the levels of inventory and low grower returns, the Committee voted to recommend a handler withholding, setting the free and restricted percentages of 85 percent and 15 percent, respectively, for the 2017–18 season. The proposed rule to establish these percentages was published in the **Federal Register** on January 2, 2018 (83 FR 72). The Committee estimated that the 15 percent restriction would remove approximately one million barrels from inventory, helping to maintain inventories at current levels. While the Committee recognized a small restriction would not immediately balance supply with demand, even a small restriction would remove a portion of the volume from the market and help prevent an additional increase in inventory.

With the proposed handler withholding removing an estimated one million barrels from the market, the industry would still have approximately 10 million barrels remaining in inventory. Given the static demand and anticipated market conditions for the 2018–19 fiscal year, the Committee also recommended establishing a grower allotment percentage for the 2018–19 fiscal year.

The Committee discussed various levels of restriction, being sensitive to the impact volume control could have on small growers and handlers. Some small handlers are able to sell all their production each year and do not maintain an inventory. Several Committee members stated a large restriction would place a hardship on these small handlers. However, the Committee also recognized that volume control measures could help increase grower returns by helping to align supply with demand.

In addition, establishing an allotment regulation can help growers reduce production costs. Growers could choose to take bogs out of production, or reduce inputs such as fertilizer and pesticides in order to reduce their production volume to match their allotment. These and other steps could help growers reduce their costs of production for the 2018–19 crop.

Based on the information available, the Committee recommended establishing a marketable quantity of 7.275 million barrels and an allotment percentage of 75 percent for the 2018–19 crop year. With volume regulation, returns are expected to be higher than without volume regulation. This increase is beneficial to all growers and handlers regardless of size, and enhances total revenues in comparison to no volume regulation. Establishing an allotment percentage allows the industry to help stabilize supplies. This proposal could remove a potential 2 million barrels from supply, reduce industry inventory, and increase industry returns. This proposed rule would add a new § 929.253 to establish the marketable quantity and grower allotment.

The Committee also recommended that handlers have the option to receive cranberries over their grower allotment and process up to 50 percent of the excess cranberries received rather than divert them in fresh form, as currently required. Handlers that do so would need to divert an amount of 2018–19 cranberry processed products equivalent to the volume of excess cranberries processed.

The Committee made this recommendation recognizing that processing fresh fruit to produce one of its top-selling items, sweetened dried cranberries (SDC), results in juice concentrate as a by-product. A significant amount of current inventory is in the form of juice concentrate. By allowing handlers to process a portion of the excess cranberries they receive, more fresh cranberries would be available to produce products requiring whole cranberries, such as SDC, and the diversion of concentrate would help prevent additional build-up of inventory. Handlers would still have the option to divert fresh berries as excess supply.

To allow for the diversion of processed products, § 929.104(b), which currently prohibits the handling of excess fruit, would be removed. To ensure the diversion of processed products in lieu of fresh cranberries is correctly accounted for, the final rule for volume regulation for the 2017–18 season (83 FR 14350) adds guidance under § 929.107 along with a conversion table. The table recognizes different conversion equivalencies of cranberries to processed product based on the volume of Brix concentrate.

Brix is the method for measuring the amount of sugar contained in the cranberry products, and the industry average for concentrate is 50 Brix. The Committee acknowledged that the Brix level can vary depending on the growing region and farming practices. The proposed table would help ensure that the diversion of processed product in lieu of fresh berries is applied equitably among all handlers.

Using the proposed conversion table, handlers could determine the amount of cranberry concentrate they would need to divert, in lieu of fresh berries, to cover the fresh cranberry equivalent of any excess cranberries processed. Juice concentrate should comprise the vast majority of processed product used for diversion. Should requests be made to use other processed products for

diversion, conversion rates for those products would be provided by the Committee based on information provided by the requesting handler.

For example, a grower with a sales history of 1,000 barrels would have an allotment of 750 barrels (1,000 × .75). If the grower delivered all 1,000 barrels to the handler, the handler would have 250 barrels of excess fruit. Under this proposed rule, the handler could divert 250 barrels of fresh fruit to approved outlets or divert half (125 barrels of fresh fruit) and process half, diverting a 125 barrel equivalent in 2018–19 processed product.

The Committee also recommended changes to date requirements currently specified in the Order. Section 929.59(b) currently states that ''{p}rior to January 1, or such other date as recommended by the committee and approved by the Secretary, handlers holding excess cranberries shall submit to the committee a written plan outlining procedures for the systematic disposal of such cranberries in the outlets prescribed in § 929.61.'' The Committee agreed the date for submitting disposal plans should be extended in order to give handlers more time to consider how to divert their excess cranberries. Therefore, the Committee recommended changing the deadline prescribed in § 929.59(b) from January 1 to March 1 of the regulated season.

Section 929.59(c) states that ''{p}rior to March 1, or such other date as recommended by the committee and approved by the Secretary, all excess cranberries shall be disposed of pursuant to § 929.61.'' Given the change in the due date for the diversion plans, the Committee agreed that this date should also be changed to provide handlers with enough time to comply with this requirement. Therefore, the Committee recommended changing the date by which diversion is to be completed from March 1 to August 31. This proposed rule would add a new § 929.159 to make these date changes.

Section 929.62(a) requires each grower to file a report with the Committee by January 15 of each year providing the following information: Total acreage harvested and whether owned or leased; total commercial cranberry sales in barrels from such acreage; the amount of acres either in production but not harvested, or taken out of production, and the reason(s) why; the amount of new or replanted acreage coming into production; the name of the handler(s) to whom commercial cranberry sales were made; and such other information as may be needed for implementation and operation of this section. Growers might not have all necessary information to complete the report by the current deadline. Therefore, the Committee recommended changing the grower reporting date from January 15 to March 1.

The Committee also recommended organically grown cranberries be exempt from this proposed regulation as they serve a niche market and represent a very small portion of the total crop. All other cranberry production, including fresh cranberries, would be subject to regulation under the grower allotment volume regulation.

To address the burden the volume regulation would have on small growers and handlers, the Committee also recommended providing an exemption of 2,500 barrels for all growers. Under the Committee's recommendation, the exemption would be applied following the calculation of a grower's allotment. However, after much consideration, USDA determined the exemption recommendation should be revised. Rather than provide an exemption of 2,500 barrels for each grower, this proposed action would exempt small handlers who processed less than 125,000 barrels from the allotment requirement. Further, handlers who did not have carryover inventory at the end of the 2017–18 fiscal year would also be exempt from the allotment requirement. Accordingly, growers delivering their fruit to exempt handlers would not be subject to the allotment.

These changes would allow handlers who have matched their production with market demand to continue to serve their customer base and maintain their market share. Small growers would also have the option of delivering their fruit to handlers who are not subject to the regulation. Handlers subject to the allotment percentage should be able to meet any market shortfalls by utilizing cranberries or cranberry products available in inventory. The provision allowing handlers to process a portion of their excess cranberries should also help provide some flexibility.

With this proposed action, only those handlers carrying inventory would be subject to meeting the allotment requirement. In reviewing the Committee's recommendation and other available industry information, USDA has determined that existing inventories in excess of 9 million barrels are putting the most downward pressure on returns to both growers and handlers. Consequently, this proposal would put more focus on reducing the volume in inventory.

Section 929.125 provides authority for a grower to request a review by an appeals subcommittee if the grower is dissatisfied with his or her sales history calculation provided by the Committee. The grower must request the review within 30 days after receipt of the Committee's determination of sales history and must submit documentation showing why he or she believes the calculation is inaccurate. Within 15 days after notification of the appeals subcommittee's decision, if the grower is not satisfied with the decision, the grower may further appeal to the Secretary.

A grower may transfer all or part of their allotment to another grower, provided that the transferred allotment remains assigned to the same handler. Transfers of allotment between growers having different handlers may occur with the consent of both handlers. All such transfers would have to be reported to the Committee. After all allotment transfers have occurred, any unused allotment would be transferred to the Committee. The Committee would then redistribute any unused allotment to handlers having excess cranberries in an amount proportionate to each handler's total allotment. These provisions help ensure that excess supply is utilized, to the extent possible, through unfilled allotment.

The Committee considered the estimated level of production and anticipated demand, and determined that without some action on the part of the Committee, inventory levels would continue to increase throughout the 2018–19 season. The Committee believes using the volume control authorities in the Order would help stabilize marketing conditions for cranberries by helping to adjust supply to meet market demand and improve grower returns.

Accordingly, this proposal would establish a grower allotment at 75 percent for the 2018–19 season. It would also give handlers the option to process up to 50 percent of the excess cranberries they receive above their growers' allotment, provided they divert an equivalent amount of 2018–19 cranberry processed products. This proposed rule would also exempt organically grown cranberries, specify handlers subject to the regulation, revise the definition of outlets for excess fruit, and revise dates by which certain actions are due.

**Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly,

AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 1,100 cranberry growers in the regulated area and approximately 65 cranberry handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to industry and Committee data, the average grower price for cranberries during the 2016–17 season was $23.50 per barrel and total sales were approximately 9.5 million barrels. The value for cranberries that year totaled $223,250,000 ($23.50 per barrel multiplied by 9.5 million barrels). Taking the total value of production for cranberries and dividing it by the total number of cranberry growers provides an average return per grower of $202,955. Using the average price and utilization information, and assuming a normal distribution, the majority of cranberry growers receive less than $750,000 annually.

According to USDA's Market News report, the average free on board (f.o.b.) price for cranberries was approximately $30.00 per barrel. Multiplying the f.o.b. price by total utilization of 9.5 million barrels results in an estimated handler-level cranberry value of $285 million. Dividing this figure by the number of handlers (65) yields an estimated average annual handler receipt of $4.3 million, which is below the SBA threshold for small agricultural service firms. Therefore, the majority of producers and handlers of cranberries may be classified as small entities.

While cranberry production has continued to rise, demand has failed to keep pace, and inventories have been increasing. In an industry such as cranberries, product can be stored in inventory for long periods of time. Large inventories are costly to maintain, difficult to market, and have a price-depressing effect. When supply outpaces demand and results in high levels of inventories, grower and handler returns can be negatively impacted.

Demand for cranberries is inelastic, meaning changes in price have a minimal effect on total sales volume. However, grower prices are very sensitive to changes in supply. A grower allotment program results in a decrease in supply as handlers can only purchase a portion of a grower's production, which is based on the grower's past sales history. Even a small shift in supply can have a positive effect on grower prices. Therefore, using a grower allotment program to reduce supply should increase grower prices and revenues.

This proposed rule would establish a grower allotment of 75 percent for the 2018–19 crop year. It would also allow handlers to process up to 50 percent of the excess cranberries they receive above their growers' allotment, provided they divert an equivalent amount of 2018–19 cranberry processed products. In addition, this proposal would exempt organically grown cranberries, specify handlers subject to the regulation, revise the definition of outlets for excess fruit, and revise dates by which certain actions are due. These actions are designed to help stabilize marketing conditions, reduce burdensome inventories, and improve grower and handler returns. This rule revises §§ 929.104 and 929.105 and establishes new §§ 929.159 and 929.253. The authority for these actions is provided for in §§ 929.48, 929.49, 929.51, 929.52, 929.58, 929.59, 929.61, and 929.62. These changes are based on Committee recommendations from meetings on August 4 and August 31, 2017, and a February 18, 2018, email vote.

While these actions could result in some additional costs to the industry, the benefits are expected to outweigh them. The purpose of establishing an allotment percentage is to address oversupply conditions and to stabilize grower prices. The industry has a significant volume in inventory, and this has had a negative impact on grower and handler returns. Without volume control, inventories would likely continue to increase, further lowering returns.

Inventories have significantly increased since 2011. In 2011, existing inventories were around 4.6 million barrels. By the end of the 2016–17 season, inventories were approximately 9.9 million barrels, and by the end of the 2017–18 season, inventories are projected to be approximately 10.9 million barrels. Inventories as a percentage of total sales have also been increasing from approximately 50 percent in 2010 to approximately 103 percent in 2016, and could reach an anticipated 115 percent after the 2017–18 season. These inventories have had a depressing effect on grower prices, which for many growers have fallen below their cost of production.

Retail demand for cranberries is highly inelastic, which indicates changes in consumer prices do not result in significant changes in the quantity demanded. Consumer prices are also not significantly impacted by minor changes in cranberry supplies. Therefore, this action should have little or no effect on consumer prices and should not result in a reduction in retail sales. However, even a small shift in supply could increase grower and handler returns. The use of allotment percentages would likely have a positive impact on grower and handler returns for this crop year.

This proposal would result in some fruit being taken off the market. However, a sufficient amount of fruit would still be available to supply all aspects of the market. In addition, allowing handlers the option to process up to 50 percent of the excess cranberries they receive above their growers' allotment, provided they divert an equivalent amount of 2018–19 cranberry processed products, would provide handlers some additional flexibility and may help reduce inventories of juice concentrate, one of the largest segments of existing inventory.

There are also secondary outlets available for excess fruit, including foreign markets except Canada, charitable institutions, nonhuman food use, and research and development projects. While these alternatives may provide different levels of return than sales to primary markets, they play an important role for the industry. In addition, if demand is greater than anticipated, there are significant amounts of fruit in inventory that could be utilized to meet demand.

This action would also exempt small handlers who processed less than 125,000 barrels in 2017–18 from the allotment percentage. Consequently, small handlers whose acquired volume is 125,000 barrels or less would be exempt from the allotment volume restriction. This would reduce the burden the volume restriction has on small handlers and their growers.

In addition, handlers who did not have carryover inventory at the end of the 2017–18 fiscal year would also be exempt from the allotment percentage. This would allow handlers that have matched their production with market demand to continue to serve their customer base and maintain their

market share. Handlers subject to the restriction should be able to meet any shortfalls by utilizing cranberries or cranberry products they have in inventory.

Further, making the recommendation to regulate the volume handled under a grower allotment program could result in some cost savings for growers depending upon what actions they may take to adjust supply.

As the allotment represents a percentage of the grower's sales history, the costs, when applicable, are proportionate and should not place an extra burden on small entities as compared to large entities. Likewise, growers and handlers, regardless of size, would benefit from the stabilizing effects of this proposal.

One alternative considered by the Committee was not to impose a volume regulation during the 2018–19 crop year. However, Committee members believed that inventory levels were such that some form of volume control was necessary to help stabilize marketing conditions.

The Committee also considered other allotment percentage levels. However, some members were concerned that setting an allotment percentage that was too restrictive could negatively impact small growers. The Committee also considered not recommending a provision to allow a percentage of excess cranberries to be processed into cranberry products. The Committee determined that allowing handlers to process up to 50 percent of the excess cranberries they receive above their growers' allotment would provide additional volumes of fresh cranberries for processing and would provide handlers some flexibility while not adding additional juice concentrate to the existing inventory levels. Therefore, for the reasons mentioned above, these alternatives were rejected by the Committee.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189, Generic Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large cranberry growers or handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

AMS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, the Committee's meetings were widely publicized throughout the cranberry industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the August 4, 2017 and August 31, 2017 meetings were public meetings and all entities, both large and small, were able to express views on these issues. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

**List of Subjects in 7 CFR Part 929**

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is proposed to be amended as follows:

## PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

■ 1. The authority citation for 7 CFR part 929 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

### Subpart B—Administrative Requirements

■ 2. In § 929.104, revise paragraph (a) and remove and reserve paragraph (b) to read as follows:

(a) In accordance with § 929.61, excess cranberries may be diverted only to the following noncommercial or noncompetitive outlets:

* * * * *

■ 3. In § 929.105, add paragraph (c) to read as follows:

* * * * *

(c) Beginning with crop year 2018–19, the due date for the grower report required under § 929.62(a) is changed to March 1.

■ 4. Add § 929.159 to read as follows:

**§ 929.159 Excess cranberries.**

(a) Beginning with crop year 2018–19, handlers holding excess cranberries shall submit to the Committee a written plan outlining procedures for the systematic disposal of such cranberries as specified in § 929.59(b) by March 1.

(b) Beginning with crop year 2018–19, all excess cranberries shall be diverted as specified in § 929.59(c) prior to August 31.

■ 5. Add § 929.253 to read as follows:

**§ 929.253 Marketable quantity and allotment percentage for the 2018–19 crop year.**

(a) The marketable quantity for the 2018–19 crop year is set at 7.275 million barrels and the allotment percentage is designated at 75 percent.

(b) Organically grown fruit shall be exempt from the volume regulation requirements of this section. Small handlers who processed less than 125,000 barrels during the 2017–18 fiscal year are exempt from the volume regulation requirements of this section. Any handler who did not have carryover inventory at the end of the 2017–18 fiscal year is also exempt from the volume regulation requirements of this section.

(c) Handlers have the option to process up to 50 percent of the excess cranberries received over their growers' allotments into dehydrated cranberries or other processed products. Handlers utilizing this option shall divert an amount of 2018–19 processed products equivalent to the volume of excess cranberries processed as provided for in § 929.107. The remaining volume of excess cranberries must be diverted as whole fruit.

Dated: April 19, 2018.

**Bruce Summers,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2018–08528 Filed 4–26–18; 8:45 am]

**BILLING CODE 3410–02–P**

## SMALL BUSINESS ADMINISTRATION

## 13 CFR Part 121

## Small Business Size Standards: Revised Size Standards Methodology

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notification of availability of white paper; comment request.

**SUMMARY:** The U.S. Small Business Administration (SBA or Agency) advises the public that it has revised its white paper explaining how it establishes, reviews and modifies small business size standards. The revised white paper, entitled ''SBA's Size Standards Methodology (April, 2018),'' (Revised Methodology) is available for review and comments. This notification discusses the comments SBA received on the methodology that was applied to the recent review of size standards under the Jobs Act and Agency's responses, followed by a description of major changes to the methodology and their impacts on size standards.

**DATES:** SBA must receive comments to this revised methodology on or before June 26, 2018.

**ADDRESSES:** The revised ''Size Standards Methodology (2017)'' (Revised Methodology) White Paper is available on the SBA's website at *https://www.sba.gov/size-standards-methodology* and on the Federal rulemaking portal at *https://www.regulations.gov.* Comments may be submitted on the Revised Methodology, identified by Docket number SBA–2018–0004, by one of the following methods: (1) Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments, (2) Mail/Hand Delivery/Courier: U.S. Small Business Administration, Khem R. Sharma, Chief, Office of Size Standards, 409 Third Street SW, Mail Code 6530, Washington, DC 20416, or (3) Email at *sizestandards@sba.gov.*

SBA will post all comments on *https://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *https://www.regulations.gov,* please submit the information to Khem R. Sharma, Chief, Office of Size Standards, 409 Third Street SW, Mail Code 6530, Washington, DC 20416, or send an email to *sizestandards@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination of whether it will publish the information or not.

**FOR FURTHER INFORMATION CONTACT:** Khem R. Sharma, Chief, Office of Size Standards, (202) 205–7189 or *sizestandards@sba.gov.*

**SUPPLEMENTARY INFORMATION:** The revised white paper, entitled ''SBA's Size Standards Methodology'' describes the SBA's methodology for establishing, reviewing and adjusting its small business size standards pursuant to the Small Business Act (Act) and related legislative guidelines. Under the Act (Pub. L. 85–536, as amended), the SBA's Administrator has authority to establish small business size standards for Federal government programs. The white paper provides a detailed description of the size standards methodology. SBA welcomes comments and feedback on the Revised Methodology, which SBA intends to apply to the forthcoming five-year comprehensive review of size standards required by section 1344(a)(2) of the Small Business Jobs Act of 2010 (Jobs Act), Public Law 111–240, Sep. 27, 2010.

To determine eligibility for Federal small business assistance programs, SBA establishes small business definitions (commonly referred to as size standards) for private sector industries in the United States. SBA's existing size standards use two primary measures of business size: Average annual receipts and number of employees. Financial assets and refining capacity are used as size measures for a few specialized industries. In addition, the SBA's Small Business Investment Company (SBIC), 7(a), Certified Development Company (CDC/504) Programs determine small business eligibility using either the industry based size standards or net worth and net income based alternative size standards. Presently, there are 28 different industry based size standards, covering 1,031 North American Industry Classification System (NAICS) industries and 14 ''exceptions.'' Of these, 531 are based on average annual receipts, 509 on number of employees (one of which also includes barrels per day total refining capacity), and five on average assets.

In 2007, SBA initiated a comprehensive review of size standards. Subsequently, Congress passed the Small Business Jobs Act in 2010 (Jobs Act) (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010) requiring SBA to review, every five years, all size standards and make necessary adjustments to reflect market conditions. SBA recently completed the first five-year review of size standards under the Jobs Act and will start the next five-year review in the near future. Usually, once every five years, SBA adjusts all monetary based size standards for inflation. The SBA's latest inflation adjustment to size standards became effective on July 14, 2014 (79 FR 33647 (June 12, 2014)). SBA also updates its size standards, also every five years, to adopt the Office of Management and Budget's (OMB's) quinquennial NAICS revisions to its table of small business size standards. SBA adopted the OMB's 2017 NAICS revisions for its size standards, effective October 1, 2017 (82 FR 44886 (September 27, 2017)).

As part of the comprehensive size standards review initiated in 2007, SBA established a detailed methodology explaining how SBA establishes, reviews and adjusts size standards based on industry and Federal contracting factors. In 2009, SBA published a document in the **Federal Register** notifying the public that SBA's ''Size Standards Methodology'' White Paper (Methodology) is available on the SBA's website at *www.sba.gov/size* for review and comments (74 FR 53940 (October 21, 2009)). Specifically, in the notification and in all subsequent proposed rules revising size standards for various NAICS Sectors, SBA sought comments on a number of issues concerning its Methodology, such as whether there are alternative methodologies that SBA should consider; whether there are alternative or additional factors or data sources that SBA should evaluate; whether SBA's approach to establishing small business size standards makes sense in the current economic environment; whether SBA's applications of anchor size standards are appropriate in the current economy; whether there are gaps in SBA's Methodology because of the lack of comprehensive data; and whether there are other facts or issues that SBA should consider. The comment period for the Methodology was open from October 21, 2009 to September 30, 2015.

SBA also sought comments on a number of policy questions that the Agency has to consider when developing a methodology for establishing, evaluating and revising its small business size standards, such as how high a small business size standard should be, should there be a single measure of business size for all

industries (*i.e.,* employees or annual receipts), should there be a fixed number of ''bands'' of size standards or a separate size standard for each industry, and should employee based size standards be adjusted to account for labor productivity growth and technology similar to the adjustment of monetary based size standards for inflation.

SBA received 17 comments specifically on its Methodology and many comments addressing the different aspects of the Methodology as applied to various proposed rules on both receipts-based and employee-based size standards. These comments and SBA's responses are discussed below.

**Comments on Primary Factors**

1. *Average size:* One commenter noted that the accuracy of the weighted average would increase if the size groupings for higher employment and receipts levels were more refined. A few commenters suggested using the median firm size, rather than average firm size.

*SBA's response:* SBA agrees, but increasing the number of size groupings for higher employment and receipts levels will increase the amounts of data that will be suppressed for the disclosure restriction. As the number of firms declines with receipts or employment levels in every industry, more granular size groupings would result in only a very few firms in higher size groupings, thereby causing employment and receipts levels to be suppressed to ensure confidentiality. A sizeable number of cells are already suppressed in the existing size groupings, especially at the 6-digit NAICS industry levels that SBA uses as the bases for size standards. When industry data on firm sizes are found or likely to be very skewed, SBA will consider using the median firm size, instead of the average.

2. *Start-up costs and entry barriers:* One commenter argued that average assets is not a good measure of start-up costs and entry barriers, such as product differentiation, brand reputations, patents, intellectual property, economies of scale, and the need for specialized capital goods, especially in services industries. Data on asset size are not publicly available for many private companies and, where they are available, the data will not provide useful quantitative information on the magnitude of start-up costs and entry barriers across industries, the commenter added. For these reasons, the commenter recommended that SBA should consider dropping average assets as a proxy for start-up costs and entry barriers as one of the primary factors in size standards analysis.

Another commenter argued that while using average assets may be a useful method for assessing barriers to entry into the commercial market, it fails to capture the extensive administrative and compliance requirements associated with Federal contracts, the different skills required for Federal contracts as compared to the commercial market, and the size of contracts, all of which also act as significant entry barriers to the Federal market. The commenter recommended that SBA also evaluate the unique costs of entering the Federal marketplace.

*SBA's response:* Given the lack of actual data on various measures of start-up costs and entry barriers, including product differentiation, economies of scale, *etc.,* SBA believes that average assets size does serve as a reasonable proxy for start-up costs and entry barriers. Industries with high average assets are likely to have higher capital requirements and greater barriers for new firms to enter the market, thereby supporting higher size standards, all else being equal. The evaluation of more, not fewer, factors will result in more robust and analytically sound size standards.

SBA agrees that these are several important factors determining businesses' ability to enter the Federal market and they should be considered when evaluating size standards. However, there exists no readily available data in a form to be able to formalize these factors in the size standards methodology. Given the lack of data, SBA believes that evaluation of small business Federal market share relative to small business share of the industry total revenues would provide a fairly good indication of how successful small businesses are in participating in the Federal market. In addition, SBA also looks at the distribution of Federal contracts by firm size and size of contracts, when appropriate.

3. *Industry competition:* One commenter noted that evidence does not support using a 40 percent cut off of the four-firm concentration ratio (CR4) as a dividing line between competitive industries and oligopolistic industries or ones that are characterized by market dominance from a few firms. The commenter suggested that SBA should consider all CR4 values, not just those above the 40 percent threshold, as a measure of industry competition in establishing size standards. It would be methodologically more sound to use the CR4 statistic directly in the size standard interpolations to avoid double counting the receipts of the four largest firms, the commenter added.

Another, an industry association representing engineering firms, recommended that SBA consider using the ''8-firm concentration ratio,'' which it claimed is also a widely accepted tool for measuring market share (although no references were provided to support this claim) for evaluating industry competition. The commenter stated that the 8-firm concentration ratio provides a more accurate picture of market share controlled by the largest firms in an industry. According to the association, using the 8-firm concentration ratio, SBA may find that the largest firms control more than 40 percent in more industries than using the 4-firm concentration ratio and SBA may have to increase size standards for those industries.

*SBA's response:* SBA is aware of various measures (*e.g.,* 4-firm ratio, 8-firm ratio, Herfindahl-Hirschman index, *etc.*) that are used to measure industry competition and dominance. Because the 4-firm concentration ratio is simple for the public to understand and has long been used and accepted as an industry factor in size standards analysis, SBA continued using it until the recently completed comprehensive size standards review. This is also the most widely used measure in the relevant literature, as described in its Methodology. For these reasons, in the past SBA used the 40 percent 4-firm concentration ratio as the dividing line between the competitive industries and concentrated industries. Further, the special tabulation of the 2002 Economic Census that SBA used for developing the Methodology and the 2007 Economic Census tabulation SBA used in the recently completed comprehensive size standards review only included data to compute the 4-firm concentration ratio, not the 8-firm concentration ratio. However, using the 2012 Economic Census Tabulation, SBA has evaluated the appropriateness of using the 8-firm concentration ratio in the Revised Methodology to be used in the forthcoming review of size standards.

In response to the comment as well as based on its own evaluation of the current methodology, in the Revised Methodology, SBA is proposing to use all values of the 4-firm concentration ratios directly in the analysis, as opposed to using only 40 percent and above. Accordingly, as explained in the Revised Methodology, the industries with lower 4-firm concentration ratios will be assigned lower size standards and those with higher 4-firm concentration ratios higher size

standards, all else remaining the same. SBA also repeated the same analysis using the 8-firm concentration ratio. Because the results based on the 4-firm concentration ratio were found to be quite comparable to the results based on the 8-firm concentration ratio, SBA has decided to continue using the 4-firm concentration ratio as the measure of industry competition.

4. *Federal contracting factor:* While commenters generally supported SBA's approach to assigning higher size standards for industries where small businesses are underrepresented in the Federal market relative to their share in the industry's total receipts, they offered suggestions for improvement. For example, one commenter expressed concern with reconciling SBA's approach to assigning a size standard based on Federal contracting factor and imposing a cap for the maximum size standard when the current size standard is at or near the maximum level. If SBA established a fixed increment in size standards levels with no maximum cap, it would provide the flexibility to increase size standards, when necessary, based on the Federal contracting factor, the commenter noted. Another commenter stressed the need to consider barriers to enter to Federal market as a factor in size standards analysis. A few commenters to the proposed rules for various NAICS sectors recommended giving the Federal contracting factor a greater weight to reflect administrative and compliance requirements and different skills required for Federal contracts, and size of contracts.

One commenter recommended that SBA should assess the extent to which contracts are being set aside within specific industries. The commenter argued that a higher size standard may not necessarily lead to a higher small business share in Federal market in an industry if small business set-asides are not used in that particular industry. SBA's goal should be to spread all small business contracting opportunities across all industries, because raising size standards may not have any impact if Federal agencies are over-relying on set-aside contracts only in a handful of industries to meet their small business contracting goals.

One commenter on construction size standards suggested that SBA should consider median size of Federal contracts when establishing size standards. The current method does not consider the Federal contracting trends in particular markets, the commenter noted. Either the bundling or contract consolidation should be curtailed or size standards increased, the commenter added.

*SBA's response:* In the Revised Methodology, SBA is not applying a fixed number of size standards levels or ''bands'' and is letting the data determine an appropriate size standard for each NAICS industry, with appropriate rounding as explained elsewhere in this document and the Revised Methodology. However, SBA will continue its policy of capping the maximum size standard at a certain level. As noted earlier, allowing the data to determine a size standard without a cap would result in very high size standards for some industries, enabling very large businesses, possibly with billions in revenue or tens of thousands of employees, to qualify as small at the expense of genuine small businesses that need Federal help the most.

Federal contracting is one of the factors SBA evaluates, along with industry data and other relevant considerations, when reviewing a size standard. The SBA's Methodology permits, if necessary, a higher weight to the Federal contracting factor. However, SBA is concerned that giving an excessive weight to Federal procurement may produce skewed results with unintended adverse impact on small businesses. For procurement sensitive industries, SBA might consider giving a greater weight to the Federal contracting factor, and possibly evaluating additional data related to Federal contracts, where appropriate. For the recently completed comprehensive size standards review, SBA considered the Federal procurement factor for those industries that received $100 million or more in total Federal contracts annually and showed a large disparity between small business shares in the Federal market and the industry's total sales.

While SBA agrees that small business opportunities should spread across all industries, it does not believe that size standards are the only factor driving Federal agencies' small business set-aside decisions in the various industries. SBA's size standards establish eligibility for the small business set-aside opportunities that Federal agencies provide in a particular industry, but they do not dictate how the agencies make their set-aside decisions. The number of set-asides in each industry can be a function of many factors, including the nature, scope, types, volume, and costs of goods and services the agencies need to procure. It should also be noted that the current 23 percent small business contracting goal only applies to total procurements government-wide, not to individual industries.

As mentioned earlier, there is a lack of data on administrative and compliance requirements and different skills required to participate in government contracting for SBA to be able to formalize these factors and assign a specific weight for the Federal contracting factor for specific industries. Implicitly, in the recently completed comprehensive size standards review, SBA gave more weight to the Federal contracting factor in some industries than in others by assigning higher size standards for those industries that had $100 million or more in annual Federal contracting and a lower small business share in the Federal market relative to their share in industry's total sales. In the Revised Methodology, SBA is reducing that threshold to $20 million, thereby resulting in more industries being evaluated for Federal market conditions.

SBA does not agree that it does not consider Federal contracting trends when establishing size standards. SBA compares the small business share of Federal contracts with the small business share of total receipts for each industry. Specifically, if the small business share of contract dollars is substantially lower than the small business share of total receipts, SBA proposes a size standard that is higher than the current standard.

**Comments on Measures of Business Size**

One commenter to the SBA's Methodology recommended that SBA use the measure of firm size that best represents the magnitude of a business operation within an industry and that indicates the level of the business activity generated by firms. Accordingly, the commenter argued that subcontracting should support the number of employees as a measure of business size for size standards, not average annual receipts as SBA proposed. The commenter contended that when there is subcontracting, receipts leads to double counting and does not provide a good measure of the level of real economic activity. SBA's justification of using receipts when there is subcontracting conflicts with its justification to use employees when there exists variation in the degree of vertical integration, the commenter added.

Several commenters to the proposed rule for NAICS Sector 54 (76 FR 14323 (March 16, 2011)) argued that number of employees is a better measure of business size, especially for architectural and engineering industries

where ''pass throughs'' are high and receipts are much more sensitive to business cycles, costs of materials, and inflation in the economy. One commenter to the Sector 48–49 proposed rule (76 FR 27935 (May 13, 2011)) suggested that SBA take into account the costs of materials and labor and establish size standards in terms of gross profits, instead of total receipts. One commenter to the Sector 23 proposed rule (77 FR 42197 (July 18, 2012)) argued that small business size standards for construction industries should be based on number of full time equivalent (FTE) employees, rather than on average annual receipts. Receipts are a ''misleading indicator'' for size of construction companies due to sharp increases in material costs, the commenter noted. In addition, the commenter maintained that a construction company's gross receipts are inflated relative to the size standard as subcontracting and material costs that could account for as much as 85 percent of work being performed.

One commenter to the Sector 31–33 proposed rule (79 FR 54146 (September 10, 2014)) suggested to include, in addition to employee counts, other criteria for establishing size standards for manufacturing industries, such as business tenure (5 years), subcontracting limitations, revenue limits ($30 million), and net worth limits ($5 million).

*SBA's Response*

First, Congress directs SBA to establish size standards for manufacturing concerns using number of employees and service concerns using average annual receipts. 15 U.S.C. 632(a)(2)(C). Further, for industries where subcontracting or ''pass throughs'' are common, an employee based size standard may encourage businesses to excessively outsource Federal work to other businesses in order to remain within the size standard. Under the receipts based standard, businesses are not allowed to deduct the value of any work outsourced.

SBA also does not accept the suggestion to establish size standards in terms of gross profits. For a vast majority of industries, SBA uses either average annual receipts or number of employees as a measure of business size for size standards purposes. If a size standard were established in terms of gross profits, a company with hundreds of millions of revenues and thousands of employees can qualify as small under a profits-based size standard. It is not unusual for very lager companies to have little or negative profit over the course of business cycles. Such a firm would clearly be ''dominant'' in the industry and thus not a small business under the statutory requirement that a small business is one that is independently owned and operated and not dominant in its field of operation. Moreover, a firm's profits can be manipulated and thus would be an inconsistent and misleading measure of firm's size for size standards purposes.

SBA disagrees that receipts based standards do not properly reflect the size of companies in the construction industry. Receipts, as a representative of the overall value of a company's entire portfolio of work completed in a given period of time, are a better measure of the size of a construction company to determine its eligibility for Federal assistance. Annual receipts measure the total value of a company's completed work. Under SBA's prime contractor performance requirements (*see* 13 CFR 125.6, limitations on subcontracting), a general construction company needs to perform as little as 15 percent of the value of work and a specialty trade contractor can perform as little as 25 percent of the work with their own resources. SBA is concerned that employee based size standards could encourage construction companies near the size standard to subcontract more work to others to bypass the limitations on subcontracting and remain technically a small business. Regardless of the amount of work a company subcontracts to others, it is still part of its annual revenue, because the company is responsible for the entire contract. In other words, under a receipts based size standard, the company cannot deduct subcontracting costs from the average annual receipts calculation. Under the employee based size standard, companies would not count their subcontractors' employees to calculate their total number of employees. A company that subcontracts a lot of its work to others will have a considerably fewer employees than one that performs most of its work in-house.

Regarding the comment that receipts are not an appropriate measure of size for construction businesses because they are too sensitive to increases in material costs and fluctuations in market conditions, SBA adjusts all monetary based size standards at least every five years and more frequently if necessary. Similarly, to minimize the impacts of fluctuations in market conditions, SBA calculates the receipts for size standards purposes as the average annual receipts over the preceding three completed fiscal years.

In 2004, SBA proposed to replace average annual receipts with number of employees as the measure of size standards for most industries, including construction (*see* 69 FR 13129 (March 19, 2004)). Commenters in the construction industry generally opposed SBA's proposal for a number of reasons, such as those SBA states above. In addition, because employee based size standards are based on the average number of employees per pay period for the preceding 12 calendar months, businesses would have to recalculate their size every month. Receipts, on the other hand, are calculated as the annual average over last three fiscal years and need to be updated only annually. This allows for fluctuations in market conditions. Employment data from the U.S. Census Bureau (Economic Census and County Business Patterns) and from other Federal statistical agencies (such as Bureaus of Economic Analysis and Labor Statistics) that SBA uses in its size standards analysis are based on total head counts of part-time, temporary and full-time employees, not based on FTEs. In other words, part-time employees are counted the same as full-time employees. In addition, using FTEs as a measure of size may increase reporting and record keeping requirements for small businesses to qualify for Federal programs. Thus, SBA is not adopting FTEs as a measure of size standards.

Incorporation of net worth into SBA's table of size standards is not practicable. It is not a value that lends itself to comparing businesses in a particular industry. A company's net worth can be affected by a number of things, such as debt, repurchased corporate stock, *etc.* Furthermore, data on net worth is not available by industry. Other criteria proposed by the commenter would, SBA believes, be too nebulous, temporary, and subjective and therefore not useful when establishing size standards that usually must remain static and in place for a number of years. Establishing small business eligibility based on the combination of multiple criteria (such as revenue limit, net worth limit, and employee count), as suggested by the commenter, would create unnecessary complexity to and confusion with size standards.

**Comments on Data Sources and Issues**

SBA received a number of comments on various data sources it uses to evaluate industry and Federal procurement factors in developing or reviewing size standards, in particular the Economic Census and Federal Procurement Data System—Next Generation (FPDS–NG). Specifically,

commenters contended that the Economic Census data that SBA uses in size standards analysis did not adequately reflect the conditions in their industries and recommended using alternative data sources. However, with a few exceptions, commenters did not provide alternative data or sources. When alternative data or their sources were provided, such data was either not complete or not representative of the overall industry. A few commenters pointed out that the Economic Census data were outdated and did not reflect current industry structure. Some commented that the Economic Census includes revenues from non-Federal work, international work, and work in non-primary industry in revenues for primary industry, thereby distorting average firm size and estimated size standards.

One commenter stated that the FPDS–NG data does not provide a complete picture of small business participation in the Federal marketplace. Specifically, the commenter pointed out that there exist no data on work that large prime contractors subcontracted to small businesses, on work subcontracted to large firms by small prime contractors, and on the size of firms performing Federal work within small and large business categories. Citing these problems, the commenter stated that there is no way of knowing exactly how successful and competitive small businesses are in the Federal market under the current size standards. Additionally, the commenter contented that due to the lack information on the exact sizes of businesses receiving Federal contracts, it is difficult to estimate the impact of size standards changes on small business participation in Federal market.

*SBA's Response*

The Economic Census is the most comprehensive data source available to evaluate industry characteristics. The Economic Census data provides a complete and actual representation of an industry structure, because, by law, all firms are required to respond to the Economic Census. For these reasons, SBA will continue to use the Economic Census as the principal source of industry data for its size standards analyses and reviews. However, the Agency will give due considerations to alternative data provided by the industry participants, especially if such data is representative of the entire industry in question.

The Economic Census tabulations that SBA receives from the U.S. Census Bureau are based on primary industry at the establishment level. Establishments doing some work in an industry may not be included in that industry if that is not their primary work. SBA is aware of this and other problems with the Economic Census data. For industries where such problems are significant, SBA also evaluates the System for Award Management (SAM) and FPDS–NG data to evaluate industry characteristics. While SBA is attentive to a substantial lag that exists between the times when Economic Census data is collected and when the data becomes available, the Economic Census is still the latest and most comprehensive data source available out there for evaluating all industries in a consistent manner.

SBA does not agree that industry's revenues reported in the Economic Census are distorted for size standards analysis because they include non-federal, non-primary and overseas activities. First, revenues that U.S. companies generate in foreign countries are not, by design, included in the Economic Census. Second, including revenues from non-federal or non-primary activities in an industry's revenues is consistent with how SBA calculates revenues for size standards purposes. In other words, when calculating a company's total revenues for size standards purposes, revenues that the company has received from all sources (including Federal, state, and private work, and work related to non-primary industries) must be counted. *See* 13 CFR 121.104.

SBA is aware that the FPDS–NG data does not contain information on subcontracting. The Electronic Subcontracting Reporting System (eSRS) collects data on subcontracting activity, but those data are not available by NAICS industry. However, despite these and other issues as discussed in the Revised Methodology, SBA believes that FPDS–NG is still the best data source available for assessing the small business participation in the Federal marketplace. Prior to 2013 when FPDS–NG data did not include exact size of the companies receiving contracts, SBA obtained size of contract recipients by merging the FPDS–NG data with employees and revenues information from SAM, formerly Central Contractor Registration (CCR). By using this analysis in conjunction with the share of small businesses in the Federal market relative to their share in overall industry total sales, SBA assessed the impacts of proposed size standards changes on small business participation in the Federal market. Now, SBA estimates the impacts of size standards changes by using small business goaling data, which includes the actual size of contract recipients.

**Comments on Small Business Size Definitions and Related Issues**

A number of commenters to the proposed rules for various NAICS sectors asserted that SBA's small business size standards did not represent ''truly small'' businesses. Many stated that SBA's size standards included up to 99 percent of all businesses as small. One commenter added that SBA's small business definitions are much larger than those used by other countries (such as Australia and European Union) and by the U.S Congress, for example, for the Affordable Health Care Act.

*SBA's Response*

SBA acknowledges that in some industries its size standards could include up to 97–99 percent of all firms as small. However, while that might appear to be a large segment of an industry in terms of the percentage of firms, for a majority of industries small businesses only account for less than 50 percent of total industry receipts and less than 25 percent of total Federal contract dollars. It is not uncommon for a small number of large firms to have a high percentage of industry receipts and employees and to obtain the bulk of Federal contacts. These are important considerations when establishing or reviewing small business size standards. Additionally, while SBA's size standards include more than 90 percent of firms for most industries, the Agency ensures that no business concern that qualifies as ''small'' is dominant in its industry.

Common dictionary definitions of what is ''small'' are not relevant to why and how SBA establishes small business size standards. SBA's definition of a small business concern is more than a general meaning of the word ''small'' in a dictionary. In addition, numeric small business size standards are just one component of what constitutes a small business concern under SBA's regulations. SBA's size standards set thresholds on how large a business concern can be and still qualify as small for various Federal government programs. If a firm (together with its affiliates) meets both SBA's definition of a business concern (*see* 13 CFR 121.105) and its numeric size thresholds (§ 121.201), it is a small business concern; if it does not meet both SBA's definition of a business concern and its numeric size thresholds, it is considered ''other than small.'' The ''dictionary'' definitions of ''small'' usually speak in very general terms. However, under SBA's size standards, a company that qualifies as ''small'' in one industry may

not qualify as ''small'' in another industry, because being small is relative to other business concerns in the same field of operation.

What constitutes a small business in other countries does not apply and has no relevance to SBA's small business definitions and U.S. Government programs that use them. Likewise, SBA's small business size standards are not relevant to programs of other countries. Depending on their economic and political realities, other countries have their own programs and priorities that can be very different from those in the U.S. Accordingly, small business definitions other countries use for their government programs can be vastly different from those established by SBA for U.S. Government programs. From time to time, the U.S. Congress has used different thresholds, sometimes below the SBA's thresholds, to define small firms under certain laws or programs, but those thresholds apply only to those laws and programs and generally are of no relevance to SBA's size standards. SBA establishes size standards, in accordance with the Small Business Act, for purposes of establishing eligibility for Federal small business procurement and financial assistance programs. The primary statutory definition of a small business is that the firm is not dominant in its field of operation. Accordingly, rather than representing the smallest size within an industry, SBA's size standards generally designate the largest size that a business concern can be relative to other businesses in the industry and still qualify as small for Federal government programs that provide benefits to small businesses.

**Comments on Mid-Sized Business Concerns**

Several comments to the proposed rule for NAICS Sector 54 recommended a number of alternatives to enable currently large but formerly small firms (which they called as ''mid-sized'' businesses) to obtain Federal contracts. Those alternatives and SBA's responses are discussed below.

Define as small businesses all those which are not dominant in their field of operation, in accordance with the section 3(a)(1) of the Small Business Act. For example, consider the average size of the largest or dominant businesses in an industry and determine the size standard as a percentage of that average.

*SBA's response:* SBA does not adopt this recommendation. As described in its Methodology and all proposed rules, in establishing or modifying size standards, SBA considers various industry factors (*e.g.,* average size, industry concentration, and distribution of firms by size) to identify the small business segment of an industry. The Small Business Act (Act) provides that a business concern defined as small cannot be dominant in its field of operation. SBA has implemented this provision of the Act by ensuring that a size standard based on its industry analysis does not include a business concern that is dominant in its industry. For this, SBA generally evaluates the market share of a firm that qualifies as small under a proposed or revised size standard and distribution of firms by size. If the results show the largest or potentially dominant firms qualifying as small under the proposed or revised size standard, SBA lowers the size standard. The legislative history of the Act does not imply that a firm that is not dominant in its field can automatically be defined as small. Size standards based on the average size of the largest or dominant businesses in an industry could result in a size standard that will enable extremely large businesses to qualify as small, thereby hurting truly small businesses that need the Federal assistance the most.

Develop multi-tiered employee size standards based on the size of a Federal contract, such as a size standard of 50 employees for contracts valued at less than $5 million, of 51–150 employees for contracts valued at $5 million to $50 million, . . . , and of 1,001–2,000 employees for contracts valued at $500 million or more.

*SBA's response:* While this approach may offer Federal contracting opportunities for various small and mid-sized businesses, SBA does not adopt this recommendation for several reasons. First, SBA believes that such tiered size standards within each industry would add significant complexity to size standards, which many believe are already too complex. Second, in order for the tiered size standards approach to work, Congress would need to establish new small business procurement goals for each tier to ensure that small businesses at different tiers have a fair access to Federal contracts. Third, this would warrant much more burdensome system and reporting and requirements (*e.g.,* SAM and FPDS–NG) than those that currently exist and the small business Federal procurement programs would become significantly more complex to administer. Fourth, the Small Business Act authorizes SBA to establish one definition of what is a small business concern, not tiered definitions of what is ''small,'' ''medium,'' and so forth. Fifth, past programs that applied the tiered small business approaches, such as the Very Small Business Program and the Emerging Small Business category under the CompDemo Program were not successful and were eventually repealed by Congress.

Establish separate size standards for Federal contracting. Commenters stated that Federal contracting imposes restrictions on business practices and operations not included in the commercial market. They argued that given the differences between commercial and government work, a separate set of size standards are warranted for Federal procurement.

*SBA's response:* SBA does not adopt this recommendation. Federal procurement is already one of the primary factors SBA considers when developing or reviewing size standards. However, giving an excessive weight to Federal procurement may produce size standards that are likely to be biased in favor of more successful Federal contractors, which in turn would reduce contracting opportunities for smaller and emerging businesses. For procurement sensitive industries, however, SBA may consider giving a greater weight to the Federal contracting factor and possibly evaluating additional data related to Federal contracts. Additionally, in a number of industries, SBA has established separate size standards for Federal contracts of very specific types of goods and services, which are usually known as ''exceptions'' in the SBA's table of size standards.

SBA is also concerned that if separate size standards for Federal procurement are appreciably higher than the current size standards, that may cause significant disadvantage to very small businesses when they compete for Federal small business set-aside contracts.

Calculate average annual receipts based on five years. The commenter also recommended calculating average annual receipts over the preceding five years, instead of three. The commenter alleged that this would allow small businesses to plan and increase capacity before entering full and open competition and provide longer transition time from small business status to other than small business status. In addition, small businesses with large temporary increases in revenues for one or two years would not lose their small business status.

*SBA's response:* SBA does not adopt this comment. SBA believes that calculating average annual receipts over three years ameliorates fluctuations in receipts due to variations in economic conditions. SBA maintains that three years should reasonably balance the problems of fluctuating receipts with the overall capabilities of firms that are about to exceed the size standard.

Extending the averaging period to five years would allow a business to greatly exceed the size standard for some years and still be eligible for Federal assistance, perhaps at the expense of other smaller businesses. Such a change is more likely to benefit successful small business graduates by allowing them to prolong their small business status, thereby reducing opportunities for currently defined small businesses.

**Comments on Tiered Size Standards**

Several comments to the Sector 54 proposed rule recommended that SBA establish some form of tiered size standards for Federal contracting, including a ''micro-business'' category to help truly small businesses that are way below the current size standards. Similarly, one commenter on the Sector 48–49 proposed rule stated that more than two-thirds of companies registered in SAM have fewer than 20 employees and argued that those are the companies that need Federal support the most. The commenter suggested that, for goods producing industries, businesses with fewer than 20 employees should be classified as ''small business'' and contracts valued at $150,000 or less should be set-aside only for those businesses. Similarly, according to the commenter, businesses with 20–40 employees should be classified as ''medium sized small business'' and contracts between $150,000 and $500,000 should be reserved for those businesses. For services industries, less than $100,000 in sales should be labeled as ''small business,'' $300,000 as ''medium sized small business'' and $500,000 or more as ''large small business,'' the commenter suggested. A commenter to the proposed rule for Sector 44–45 also suggested that SBA designate a separate sub-group of truly small businesses and give them special preference when competing for smaller government contracts.

*SBA's Response*

SBA does not adopt the commenters' suggestions to establish ''micro-business'' or ''tiered'' size standards for several reasons. First, SBA is concerned that very small or ''micro'' size standards, such as those suggested by the commenters, may not adequately capture the small business segment in an industry that small business programs are intended to help. The size standards should be such that small businesses are able to grow and develop to an economically viable size while remaining eligible for Federal assistance. If size standards were set too low, small businesses will quickly outgrow the size standards and be forced to compete with significantly larger businesses for Federal contracts under full and open competition. However, as stated elsewhere in this document, SBA is also equally concerned about setting size standards too high, as doing so could put smaller businesses at a disadvantage in competing for Federal opportunities. Second, such tiered size standards would add significant complexity to size standards, which many believe are already too complex. Third and most importantly, the Small Business Act requires SBA to establish one definition of what is a small business concern, not what is ''very small,'' ''small,'' ''medium-sized,'' and so forth. Also, as stated elsewhere, for tiered size standards to work and benefit small businesses, Congress needs to enact small business contracting goals for various tiers to ensure that small businesses at each tier have a fair share of Federal contracts.

**Comments on Fixed Number of Size Standards**

Commenters generally supported SBA's Methodology and its proposal to use a fixed number of size levels to simplify size standards. There were a few who opposed fixed size levels and believed, because of wide gaps between the two successive size levels, calculated size standards could be larger or smaller than they should otherwise be.

One commenter contended that the Methodology does not provide a convincing economic basis for restricting size standards to a small number of fixed levels or ''bands''. Similarly, it does not provide a reasoned, evidence-driven basis for instituting a 1,000-emplpyee cap that is substantially below the 1,500-employee size standard currently used for 17 industries, the commenter added. The commenter argued that the imposition of the 1,000-employee cap for employee based size standards appears arbitrary. The Methodology would be more transparent and better reflect the economic characteristics of the industry if SBA let the data and analytical results determine the maximum size standard for an industry, the commenter suggested. The maximum size standard should be a conclusion of the SBA's review and analysis of the data instead of being imposed as a constraint in the analysis and there is no reason to set an artificial cap on size standards, the commenter noted. Such a cap can only serve to restrict the SBA from providing support to small businesses that it intended to help.

*SBA's Response*

The fixed size standard levels were developed to simplify size standards. There were 31 different levels of receipts based size standards at the start of the comprehensive size standards review, which SBA believed were both unnecessary and difficult to justify analytically with the available industry data. Thus, SBA adopted the fixed size standards approach and sought comments on whether more or fewer size standard levels are more appropriate.

In response to these comments and the amendment to the Small Business Act (section 3(a)(8)) under the National Defense Authorization Act of Fiscal Year 2013 (NDAA 2013) (Pub. L. 112–239, Section 1661, Jan. 2, 2013) requiring SBA to not limit the number of size standards, SBA has relaxed the limitation on the number of small business size standards in the Revised Methodology. Specifically, SBA is proposing to assign a separate size standard to each NAICS industry, with a calculated receipts based size standard rounded to the nearest $500,000 and a calculated employee based size standard rounded to the nearest 50 employees for Manufacturing and industries in other sectors (except Wholesale and Retail Trade) and to the nearest 25 employees for Wholesale and Retail Trade. However, SBA has established the minimum and maximum size standard levels as its policy decisions such that businesses that qualify as small have adequate capabilities and resources to be able to perform government contracts and do not outcompete smaller businesses in accessing Federal assistance. Letting the data and analytical formulae alone determine the maximum size standard, as the commenter recommended, would result in a size standard for some industries that would enable quite large businesses, possibly with billions of revenues and thousands of employees, to qualify as small at the expense of smaller businesses that need Federal assistance the most.

To be consistent with SBA's policy of not lowering any size standards in the recent comprehensive size standards, SBA retained the 500-employee minimum and 1,500-employee maximum size standards for all industries in the Manufacturing Sector and for most industries with employee based size standards not in Sectors 31–33, 42, and 44–45, although in the Methodology SBA had proposed setting the minimum size standard for those industries at 250 employees and the maximum size standard at 1,000

employees. Further, lowering a manufacturing size standard below 500 employees would conflict with the 500-employee size standard for non-manufacturers under the SBA's nonmanufacturer's rule.

**Comments on Anchor Size Standards**

Some commenters to the Sector 54 proposed rule questioned the rationale for using $7 million as an anchor for receipts based standards. Similarly, a few commenters to the proposed rules for employee based size standards questioned 500 employees as an anchor for employees based size standards. One commenter to the proposed rule on employee based size standards for industries not part of Sectors 31–33, 42 and 44–45 argued that SBA's use of ''anchor size standard'' approach as a basis for evaluating characteristics of individual industries violated the statutory requirement on using common size standards.

*SBA's Response*

SBA provided a detailed justification for using the ''anchor'' size standard approach in its Methodology. In fact, SBA has been using the ''anchor'' approach since the 1980s when reviewing and modifying size standards without much concern from the public. The use of the ''anchor'' served an important function by ensuring that the characteristics of all industries are consistently evaluated relative to the same baseline level. Additionally, when the Methodology was prepared, the $7 million anchor was the size standard for a majority of the industries that have receipts based size standards and 500-employee anchor applied to most industries that have employee based size standards. However, in response to the above comments and its own evaluation of the Methodology, in the Revised Methodology SBA is replacing the ''anchor'' approach with a ''percentile'' approach to evaluating characteristics individual industries, as explained elsewhere in this document.

**Comments on Levels of Size Standards**

A few questioned the SBA's Methodology on the ground that calculated size standards are generally much higher than average firm size for the industry. Some expressed concerns regarding the use of simple average firm size, instead of median firm size, and averaging of size standards over different factors. One commenter stated that the SBA's Methodology of averaging size standards supported by different factors to calculate an overall size standard may result in loss of information and contended that the averaging procedure hurts companies in the $25.5 million to $35.5 million annual revenue range. The commenter believed that perhaps assigning different weights to different factors would provide better results, but did not offer any specific suggestions on those weights.

*SBA's Response*

The purpose of evaluating various industry characteristics is to describe quantitatively the structure of an industry. Since no single characteristic or factor can adequately describe industry structure, SBA evaluates several factors (such as average firm size, industry concentration, and distribution of market shares by size) to best obtain a full representation of industry structure. In addition, in most cases, equating the size standard to the average or median firm size can result in an unacceptably low size standard that may not adequately capture the small business segment of the industry that small business programs are intended to assist. Thus, for most industries, size standards are generally higher than the simple average or median firm size so that small businesses have room to grow and develop to an economically viable size while still remaining eligible for Federal assistance. If size standards were too low, small businesses would quickly outgrow the size standards and be forced to compete with significantly larger businesses for Federal contracts on a full and open basis. SBA is also equally concerned about setting size standards too high, as doing so could put smaller businesses at a disadvantage in competing for Federal opportunities.

SBA disagrees that calculating an industry's overall size standard as the average of size standards supported by each factor results in loss of information. In fact, this procedure preserves information provided by different factors, as opposed to basing the size standard only on one or two factors. Moreover, if the size standard was based on the largest value supported by any of the factors, it would put smaller companies at a competitive disadvantage. If warranted, SBA's Methodology allows assigning different weights to different factors.

**Other Comments**

One commenter agreed with the Agency's position that lowering size standards under current economic conditions is not in the best interests of small business, but felt that increasing size standards by 180–300 percent at one time was also not in the best interests of small business. He stated that size standards should be raised between 50–75 percent and recommended a complete review of SBA's loan data, small business participation in Federal contracting, and other relevant factors within 2–3 years to determine if another increase is appropriate.

One commenter to the proposed rule on Sector 44–45 (74 FR 53924 (October 21, 2009)) suggested that there should be only one revenue based and only one employee based size standard, regardless of NAICS industry. Another commenter on the proposed rule on Sector 21 (77 FR 72766 (December 6, 2012)) suggested that all size standards should be capped at $7 million in average annual receipts.

Two commenters on the Sector 31–33 proposed rule supported SBA's proposed five employee based size standard levels for Manufacturing and successive differences of 250 employees rather than 500 employees. However, one suggested that SBA should establish an additional level of 250 employees as the minimum size standard and set the maximum employee based standard at 1,000 employees. A lower size standard would protect emerging manufacturers that are not able to compete with established larger businesses, the commenter maintained. Both commenters argued that the Agency should lower size standards when the analysis supports lowering them. One argued that not lowering size standards would encourage manufacturers not to upgrade their facilities with advanced manufacturing techniques and allow larger manufacturers to compete with true small manufacturers. While one commenter suggested that SBA should not adjust employee based size standards for labor productivity growth and focus on protecting emerging businesses instead, the other pointed out that the lack of data on labor productivity would make adjusting size standards based on labor productivity difficult. One commenter supported weighing all factors equally, while the other suggested weighing some factors more than others for certain industries.

Some commenters believed that SBA's Methodology was too complicated and difficult to understand.

*SBA's Response*

SBA agrees that the proposed increases to size standards were quite significant for some industries and the Agency had sought comments if the increases to size standards should be limited to certain amounts. Comments generally supported the Methodology, industry and program data it evaluated and its proposed increases to size

standards. SBA believes that the changes in industry structure since the last comprehensive review of size standards nearly 30 years ago may have resulted in large increases to size standards for some industries. The Small Business Jobs Act of 2010 requires SBA to review all size standards at least once every five years and make adjustments to reflect market conditions. Prior to the next review, SBA will assess the impact of size standards revisions adopted in the current review.

Using only one receipts based standard and only one employee standard would conflict with the statutory requirement that ''the [SBA] Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.'' (15 U.S.C. 632(a)(3).) The relevant data show significant differences among industries and SBA believes that varying the size standard by industry not only complies with the Act, but it also serves the best interests of small businesses in that sector.

Some of the issues the commenters raised regarding the minimum and maximum employee based size standards are addressed in the Revised Methodology. For example, SBA will continue to cap the maximum employee size standards for Manufacturing and industries in other sectors (except Wholesale and Retail Trade) at 1,500 employees, but will set the minimum employee size standard at 250 employees instead of 500. Additionally, the difference between the two successive employee size standards for those industries will be reduced to 50 employees. Employee size standards for Wholesale and Retail Trade will vary from 50 employees to 250 employees with an interval of 25 employees. With respect to SBA's policy of not lowering size standards, SBA provided a detailed explanation in each rulemaking with respect to why lowering size standards was not in the best interest of small businesses during the times of weak economic conditions that prevailed when SBA was reviewing size standards Specifically, SBA was concerned that lowering size standards (including the minimum and maximum levels) would have caused numerous small businesses to lose their eligibility for Federal programs when they needed Federal assistance the most and run counter to various legislative and Administration's measures that were implemented to help small businesses and the economy.

SBA's Methodology provides a vast array of information on its size standards analysis from a general description of the analytical approach to rigorous mathematical expressions of the calculation of industry factors. While some portions of the document are of somewhat technical nature, the public should be able to understand the general description of the various factors and data sources SBA uses when reviewing size standards.

**Changes in the Revised Methodology**

The Revised Methodology, available for review and comment on the SBA's website at *https://www.sba.gov/size-standards-methodology* as well as at *https://www.regulations.gov,* describes in details how SBA establishes, evaluates and adjusts its small business size standards pursuant to the Small Business Act (Act) and related legislative guidelines. Specifically, the document provides a brief review of the legal authority and early legislative and regulatory history of small business size standards, followed by a detailed description of the size standards analysis.

Section 3(a) of the Small Business Act; 15 U.S.C. 632(a) (Pub. L. 85–536, 67 Stat. 232, as amended), provides the SBA's Administrator (Administrator) with authority to establish small business size standards for Federal government programs. The Administrator has discretion to determine precisely how the Administrator should establish small business size standards. The Act and its legislative history highlight three important considerations for establishing size standards. First, size standards should vary from industry to industry according to differences among industries. 15 U.S.C. 632(a)(3). Second, a firm that qualifies as small shall not be dominant in its field of operation. 15 U.S.C. 632(a)(1). Third, pursuant to 15 U.S.C. 631(a), the policies of the Agency should assist small businesses as a means of encouraging and strengthening their competitiveness in the economy. These three considerations continue to form the basis for the SBA's methodology for establishing, reviewing, or revising small business size standards.

*Industry Analysis*

SBA examines the structural characteristics of an industry as a basis to assess industry differences and the overall degree of competitiveness of an industry and of firms within the industry. As described more fully in the Revised Methodology document, SBA generally evaluates industry structure by analyzing four primary factors—average firm size (both simple and weighted average), degree of competition within an industry (4-firm concentration ratio), start-up costs and entry barriers (average assets as a proxy), and distribution of firms by size (Gini coefficient). This approach to assessing industry characteristics that SBA has applied historically remains very much intact in the Revised Methodology. As the fifth primary factor, SBA assesses the ability of small businesses to compete for Federal contracting opportunities under the current size standards. For this, SBA examines the small business share of total Federal contract dollars relative to the small business share of total industry's receipts for each industry. SBA also considers other secondary factors as they relate to specific industries and interests of small businesses, including technological change, competition among industries, industry growth trends, and impacts of the size standards on SBA programs.

While the factors SBA uses to examine industry structure remain intact, its approach to assessing the differences among industries and translating the results to specific size standards has changed in the Revised Methodology. Specifically, in response to the public comments against the ''anchor'' size standards approach applied in the latest review of size standards (discussed above), recent amendment to the Act limiting the use of common size standards (*see* section 3(a)(7)) of the Act) under the National Defense Authorization Act of Fiscal Year 2013 (NDAA 2013) (Public Law 112–239, Section 1661, Jan. 2, 2013), and SBA's own review of the Methodology, in the Revised Methodology, SBA replaces the ''anchor'' approach with a ''percentile'' approach as an analytical framework for assessing industry differences and deriving a size standard supported by each factor for each industry.

Under the ''anchor'' approach, SBA generally compared the characteristics of each industry with the average characteristics of a group of industries associated with the ''anchor'' size standard. For the recent review of size standards, the $7 million was the ''anchor'' for receipts based size standards and 500 employees was the ''anchor'' for employee based size standards (except for Wholesale Trade and Retail Trade). If the characteristics of a specific industry under review were similar to the average characteristics of industries in the anchor group, SBA generally adopted the anchor as the appropriate size standard for that

industry. If the specific industry's characteristics were significantly higher or lower than those for the anchor group, SBA assigned a size standard that was higher or lower than the anchor. To determine a size standard above or below the anchor size standard, SBA evaluated the characteristics of a second comparison group. For industries with receipts based size standards, the second comparison group consisted of industries with size standards between $23 million and $35.5 million, with the weighted average size standard for the group equaling $29 million. For manufacturing industries and other industries with employee based size standards (except for Wholesale Trade and Retail Trade), the second comparison group included industries with a size standard of 1,000 employees or 1,500 employees, with the weighted average size standard of 1,323 employees. Using the anchor size standard and average size standard for the second comparison group, SBA computed a size standard for an industry's characteristic (factor) based on the industry's position for that factor relative to the average values of the same factor for industries in the anchor and second comparison groups.

In the past, including the recent review of size standards, the anchor size standards applied to a large number of industries, making them a good reference point for evaluating size standards for individual industries. For example, at the start of the recent review of size standards, the $7 million (now $7.5 million due to the adjustment for inflation in 2014) anchor standard was the size standard for more than 70 percent of industries that had receipts based size standards. Similarly, a similar proportion of industries with employee based size standards had the 500-employee anchor standard. However, when the characteristics of those industries were evaluated individually, for a large majority of them the results yielded a size standard different from the applicable anchor. Consequently, now just 24 percent industries with receipts based size standards and 22 percent of those with employee based size standards have the anchor size standards. Additionally, section 3(a)(7)) of the Act limits the SBA's ability to create common size standards by grouping industries below the 4-digit NAICS level. The ''anchor'' approach would entail grouping industries from different NAICS sectors, thereby making it inconsistent with the statute.

Under the ''percentile'' approach, in the Revised Methodology, SBA will rank each industry within a group of industries with the same measure of size standards using each of the four industry factors. As stated earlier, these four industry factors are average firm size, average assets size as proxy for startup costs and entry barriers, industry competition (4-firm concentration ratio), and distribution of firms by size (Gini coefficient). As detailed in the Revised Methodology, the size standard for an industry for a specific factor will be derived based on where the factor of that industry falls relative to other industries sharing the same measure of size standards. If an industry ranks high for a specific factor relative to most other industries, all else remaining the same, a size standard assigned to that industry for that factor will be higher than those for most industries. Conversely, if an industry ranks low for a specific factor relative to most industries in the group, a lower size standard will be assigned to that industry. Specifically, for each industry factor, an industry is ranked and compared with the 20th percentile and 80th percentile values of that factor among the industries sharing the same measure of size standards (*i.e.,* receipts or employees). Combining that result with the 20th percentile and 80th percentile values of size standards among the industries with the same measure of size standards, SBA computes a size standard supported by each industry factor for each industry. The Revised Methodology provides detailed illustration of the statistical analyses involved in this approach.

*Number of Size Standards*

To simplify size standards, in its Methodology used in the recent review, SBA applied a limited number of fixed size standards: eight revenue based size standards and eight employee based size standards. In response to comments against the fixed size standards approach (as discussed above) and section 3(a)(8) of the Act requiring SBA to not limit the number of size standards, in the Revised Methodology, SBA has relaxed the limitation on the number of small business size standards. Specifically, SBA will calculate a separate size standard for each NAICS industry, with a calculated receipts-based size standard rounded to the nearest $500,000 and a calculated employee-based size standard rounded to the nearest 50 employees for Manufacturing and industries in other sectors (except Wholesale Trade and Retail Trade) and to the nearest 25 employees for Wholesale Trade and Retail Trade.

However, as a policy decision, SBA will continue to maintain the minimum and maximum size standard levels. Accordingly, SBA will not generally propose or adopt a size standard that is either below the minimum or above the maximum level, even though the calculations might yield values below the minimum or above the maximum level. The minimum size standard generally reflects the size a small business should be to have adequate capabilities and resources to be able to compete for and perform Federal contracts. On the other hand, the maximum size standard represents the level above which businesses, if qualified as small, would cause significant competitive disadvantage to smaller businesses when accessing Federal assistance. SBA's proposed minimum and maximum size standards are shown in Table 1, ''Minimum and Maximum Receipts and Employee Based Size Standards,'' below.

TABLE 1—MINIMUM AND MAXIMUM RECEIPTS AND EMPLOYEE BASED SIZE STANDARDS

| Type of size standards | Minimum | Maximum |
|---|---|---|
| Receipts-based size standards (excluding agricultural industries in Subsectors 111 and 112) | $5 million | $40 million. |
| Receipts-based size standards for agricultural industries in Subsectors 111 and 112 | $1 million | $5 million. |
| Employee-based standards for Manufacturing and other industries (except Wholesale and Retail Trade). | 250 employees | 1,500 employees. |
| Employee-based size standards in Wholesale and Retail Trade | 50 employees | 250 employees. |

With respect to receipts based size standards, SBA is proposing $5 million and $40 million, respectively, as the minimum and maximum size standard levels (except for most agricultural industries in Subsectors 111 and 112).

These levels reflect the current minimum receipts-based size standard of $5.5 million and the current maximum of $38.5 million, rounded for simplicity. Section 1831 of NDAA 2017 amended the Act directing SBA to establish and review size standards for agricultural enterprises in the same manner it establishes and reviews size standards for all other industries. However, the evaluation of the industry data from the 2012 Census of Agriculture seems to suggest that $5 million minimum and $40 million maximum size standards would be too high for agricultural industries in Subsectors 111 and 112. Accordingly, SBA proposes $1 million as the minimum size standard for industries in Subsector 111 (Crop Production) and Subsector 112 (Animal Production and Aquaculture). A vast majority of agricultural industries in those subsectors currently have a $750,000 receipts-based size standard, which was established by Congress in 2000 (Pub. L. 106–554, 114 Stat. 2763, Dec. 21, 2000). Considering inflation since then, that is equivalent to a little over $1 million today. Based on the evaluation of the industry data, SBA is proposing $5 million as the maximum size standard for agricultural industries in those two subsectors. Regarding employee based size standards, SBA's proposed minimum and maximum levels for manufacturing and other industries (excluding Wholesale and Retail Trade) reflect the current minimum and maximum size standards among those industries. For employee based size standards for wholesale and retail trade industries, the proposed minimum and maximum values are the same as what SBA proposed in its 2009 Methodology.

*Evaluation of Federal Contracting Factor*

For some relevant industries, SBA considers Federal contracting as one of the primary factors when establishing, reviewing, or revising size standards. To choose which industries in which to consider the Federal contracting factor, under the previous methodology, SBA evaluated Federal contracting factor for industries with $100 million or more in Federal contract dollars annually for the latest three fiscal years. However, the latest FPDS–NG data suggests that the $100 million threshold used in the previous methodology is too high, rendering the Federal contracting factor irrelevant for about 73 percent of industries (excluding wholesale trade and retail trade industries that are not used for Federal contracting purposes), including those for which the Federal contracting factor is significant (*i.e.,* the small business share of industry's total receipts exceeding the small business share of industry's total contract dollars by 10 percentage points or more). Thus, SBA determined that the threshold should be lowered. In this revised methodology, SBA generally evaluates the Federal contracting factor for industries with $20 million or more in Federal contract dollars annually for the latest three fiscal years. Under the $20 million threshold, excluding wholesale trade and retail trade industries, nearly 50 percent of all industries would be evaluated for the Federal contracting factor as compared to about 27 percent under the $100 million level.

For each industry averaging $20 million or more in Federal contract dollars annually, SBA compares the small business share of total Federal contract dollars to the share of total industrywide receipts attributed to small businesses. In general, if the share of Federal contract dollars awarded to small businesses in an industry is significantly smaller than the small business share of total industry's receipts, keeping everything else the same, a justification would exist for considering a size standard higher than the current size standard. In cases where small business share of the Federal market is already appreciably high relative to the small business share of the overall market, it would generally support the current size standards.

In the Methodology used in the recent review of size standards, SBA evaluated the Federal contracting factor only for those industries that averaged $100 million or more in Federal contracts annually. The latest FPDS–NG data suggests that the $100 million threshold is too high, rendering the Federal contracting factor irrelevant for about 73 percent of industries. Accordingly, in the Revised Methodology, SBA evaluates the Federal contracting factor for industries (except those in Wholesale Trade and Retail Trade) averaging $20 million or more in Federal contract dollars annually. Because NAICS codes in Wholesale Trade and Retail Trade do not apply to Federal procurement, SBA does not consider the Federal contracting factor for evaluating size standards industries in those sectors.

*Evaluation of Industry Competition*

For the reasons provided in the Revised Methodology, SBA continues to use the 4-firm concentration ratio as a measure of industry competition. In the past, SBA did not consider the 4-firm concentration ratio as an important factor in size standards analysis when its value was below 40 percent. If an industry's 4-firm concentration ratio was 40 percent or higher, SBA used the average size of the four largest firms as a primary factor in determining a size standard for that industry. In response to the comment as well as based on its own evaluation of industry factors, in the Revised Methodology, SBA is proposing to apply all values of the 4-firm concentration ratios directly in the analysis, as opposed to using the 40 percent rule. Based on the 2012 Economic Census data, the 40 percent rule applies only to about one-third of industries for which 4-firm ratios are available. For the same reason, SBA is also dropping the average firm size of the four largest firms. Moreover, the four-firm average size is found to be highly correlated with the weighted average firm size, which is used as a measure of average firm size.

*Summary of and Reasons for Changes*

Table 2, ''Summary of and Reasons for Changes,'' below, summarizes what has changed from the current methodology to the revised one and impetus for such changes, specifically whether the changes reflect the statutory requirements, public comments on the current methodology, or analytical improvements/refinements based on SBA's own review of the methodology.

TABLE 2—SUMMARY OF AND REASONS FOR CHANGES

| Process/factor | Current | Revised | Reason |
|---|---|---|---|
| Industry analysis ..... | ''Anchor'' approach. Average characteristics of industries with so called ''anchor'' size standards formed the basis for evaluating individual industries. | ''Percentile'' approach. The 20th percentile and 80th percentile values for industry characteristics form the basis for evaluating individual industries. | • Section 3(a)(7)) of the Small Business Act limits use of common size standards only to the 4-digit NAICS level.<br>• The percentage of industries with ''anchor'' size standards decreased from more than 70 percent at the start of the recent size standards review to less than 25 percent today.<br>• Some public comments objected to the ''anchor'' approach as being outdated and not reflective of current industry structure. |
| Number of size standards. | The calculated size standards were rounded to one of the predetermined fixed size standards levels. There were eight fixed levels each for receipts-based and employee based standards. | Each NAICS industry is assigned a specific size standard, with a calculated receipts-based standard rounded to the nearest $500,000 and a calculated employee-based standard rounded to 50 employees (to 25 employees for Wholesale and Retail Trade). | • Section 3(a)(8) of the Small Business Act mandates SBA to not limit the number of size standards and to assign an appropriate size standard for each NAICS industry.<br>• Some public comments also raised concerns with the fixed size standards approach. |
| Federal contracting factor. | Evaluated the small business share of Federal contracts vis-à-vis the small business share of total receipts for each industry with $100 million or more in Federal contracts annually. | Each industry with $20 million or more in Federal contracts annually is evaluated for the Federal contracting factor. | • The $100 million threshold excludes about 73 percent of industries from the consideration of the Federal contracting factor. Lowering that threshold to $20 million increases the percentage of industries that will be evaluated for the Federal contracting factor to almost 50 percent.<br>• Evaluating more industries for the Federal contracting factor also improves the analysis of the industry's competitive environment pursuant to section 3(a)(6) of the Small Business Act. |
| Industry competition | Was considered as significant factor if the 4-firm concentration ratio was 40 percent or more and 4-firm average formed the basis for the size standard calculation for that factor. | Considers all values of the 4-firm concentration ratio and calculates the size standard based directly on the 4-firm ratio. Industries with a higher (lower) 4-firm concentration ratio will be assigned a higher (lower) standard. | • Some commenters opposed using the 40 percent threshold and recommended using all values of the 4-firm concentration ratio.<br>• The 4-firm average is highly correlated with the weighted average. |

*Impacts of Changes in the Methodology*

To determine how the above changes in the methodology would affect size standards across various industries and sectors, SBA estimated new size standards using both the ''anchor'' approach and the ''percentile'' approach for each industry (except those in Sectors 42 and 44–45, and Subsectors 111 and 112). For receipts-based size standards, the anchor group consisted of industries with the $7.5 million size standard, and the higher size standard group included industries with the size standard of $25 million or higher, with the weighted average size standard of $33.2 million for the group. Similarly, for employee-based size standards the anchor group comprised industries with the 500-employee size standard, and higher size standard group comprised industries with size standard of 1,000 employees or above, with the weighted average size standard of 1,182 employees. These and 20th percentile and 80th percentile values for receipts-based and employee-based size standards are shown, below, in Table 3, ''Reference Size Standards under Anchor and Percentile Approaches.''

TABLE 3—REFERENCE SIZE STANDARDS UNDER ANCHOR AND PERCENTILE APPROACHES

| | Anchor approach | | Percentile approach | |
|---|---|---|---|---|
| | Anchor level | Higher level | 20th percentile | 80th percentile |
| Receipts standard ($ million) ..... | $7.5 | $33.2 | $7.5 | $32.5 |
| Employee standard (no. of employees) ..... | 500 | 1,182 | 500 | 1,250 |

Under the anchor approach, we derived the average value of each industry factor for industries in the anchor groups as well as those in the higher size standard groups. In the percentile approach, the 20th percentile and 80th percentile values were computed for each industry factor. These results are presented, below, in Table 4, ''Industry Factors under Anchor and Percentile Approaches.'' As shown in the table, generally, the anchor values are comparable with the 20th percentile values and higher level values are comparable with the 80th percentile values.

TABLE 4—INDUSTRY FACTORS UNDER ANCHOR AND PERCENTILE APPROACHES

| | Anchor approach | | Percentile approach | |
|---|---|---|---|---|
| | Anchor level | Higher level | 20th percentile | 80th percentile |
| **Industry factors for receipts-based size standards, excluding Subsectors 111 and 112** | | | | |
| Simple average receipts size ($ million) | 0.78 | 7.09 | 0.83 | 7.65 |
| Weighted average receipts size ($ million) | 18.07 | 724.84 | 19.42 | 834.75 |
| Average assets size ($ million) | 0.35 | 4.73 | 0.34 | 5.17 |
| 4-firm concentration ratio (%) | 10.4 | 34.5 | 7.9 | 42.4 |
| Gini coefficient | 0.679 | 0.830 | 0.686 | 0.835 |
| **Industry factors for employee-based size standards, excluding Sectors 42 and 44–45** | | | | |
| Simple average firm size (no. of employees) | 33.4 | 98.2 | 29.6 | 122.7 |
| Weighted average firm size (no. of employees) | 232.2 | 1,362.6 | 251.3 | 1,581.6 |
| Average assets size ($ million) | 4.82 | 23.29 | 3.92 | 40.62 |
| 4-firm concentration ratio (%) | 24.8 | 50.3 | 24.8 | 61.7 |
| Gini coefficient | 0.770 | 0.842 | 0.760 | 0.853 |

Under the anchor approach, using the anchor size standard and average size standard for the higher size standard group, SBA computed a size standard for an industry's characteristic (factor) based on that industry's position for that factor relative to the average values of the same factor for industries in the anchor and higher size standard groups. Similarly, for the percentile approach, combining the factor value for an industry with the 20th percentile and 80th percentile values of size standards and industry factors among the industries with the same measure of size standards, SBA computed a size standard supported by each industry factor for each industry. Under the both approaches, a calculated receipts-based size standard was rounded to the nearest $500,000 and a calculated employee-based size standard was rounded to the nearest 50 employees.

With respect to the Federal contracting factor, for each industry averaging $20 million or more in Federal contracts annually, SBA considered under both approaches the difference between the small business share of total industry receipts and that of Federal contract dollars under the current size standards. Specifically, under the Revised Methodology, the existing size standards would increase by certain percentages when the small business share of total industry receipts exceeds the small business share of total Federal contract dollars by 10 percentage points or more. Those percentage increases, detailed in the Revised Methodology, to existing size standards generally reflect receipts and employee levels needed to bring the small business share of Federal contracts at par with the small business share of industry receipts.

The results were generally similar between the two approaches in terms of changes to the existing size standards, with size standards increasing for some industries and decreasing for others under both approaches. Most impacted sector was NAICS Sector 23 (Construction), with a majority of industries experiencing decreases to the current size standard affecting about 1 percent of all firms in that sector under both approaches. Other negatively impacted sectors under both approaches were Sector 31–33 (Manufacturing), Sector 48–49 (Transportation and Warehousing), and Sector 51 (Information), affecting, respectively, 0.1 percent, 0.6 percent, and less than 0.1 percent of total firms in those sectors, with slightly higher impacts under the percentile approach. All other sectors would see moderate positive impacts under both approaches, impacting 0.1–0.2 percent of all firms in most of those sectors. Overall, the changes to size standards as the result of the changes in the methodology, if adopted, would have a minimal impact on number businesses that qualify as small under the existing size standards. Excluding NAICS Sectors 42 and 44–45 and Subsectors 111 and 112, 97.74 percent of businesses would qualify as small under the new calculated size standards using the ''anchor'' approach vs. 97.69 percent qualifying under the ''percentile'' approach in the Revised Methodology. Under the current size standards, 97.73 percent of businesses are classified as small.

## Alternative Size Standards Methodologies Considered

The Revised Methodology presents the current size standards methodology employed by SBA. Certainly other methodologies may be developed by applying different assumptions, data sources, and objectives. Over the years, SBA has refined its methodology within a consistent conceptual framework based on the analysis of industry and relevant program data. Several alternative methodologies have been suggested to SBA. In critiquing these, SBA has continued to believe that its historical methodology is sound and adequate because it has resulted in size standards that have been widely accepted by the public and found to be effective in providing Federal assistance to small businesses. Below is a brief description and evaluation of four alternative methodologies suggested to SBA.

### *Financial Performance Analysis*

Industry and financial analysts assess the economic viability of businesses using various financial performance indicators, such as return to capital (assets), gross margins, net worth, *etc.* Several private organizations and government agencies aggregate financial data at the firm level to derive the corresponding data at the industry level. Pursuant to the Small Business Act aimed at assisting businesses that are competitively disadvantaged, financial performance indicators may provide an alternative basis for developing small business size standards.[1]

This approach may provide a basis for identifying businesses, which, due to their size, may be underperforming relative to established industry norms. This, in turn, would form a basis for establishing size standard levels that can target businesses that are in need of Federal assistance.

[1] *See* Jim Blum (1991) for evaluation of financial performance analysis as an alternative tool for establishing size standards. Jim was a MBA intern under Gary Jackson, Director of Size Standards.

The major disadvantage of the financial performance analysis approach is, however, the lack of robust and consistent data across industries for several reasons. First, financial data are not available for all industries at the 6-digit NAICS level, especially the distribution of businesses by size. Second, data at the industry level or by size class may be based only on a limited sample of businesses. Third, financial data are also likely to be riddled with measurement errors and accounting holes. These problems as well as concerns related to how businesses are classified in an industry and the treatment of affiliates may limit the applicability of available financial data to size standards analysis. More importantly, there is not necessarily a robust correlation between financial performance measures and size of a business. For example, during economic downturns even very large businesses may perform very poorly in terms of financial indicators, thereby potentially qualifying them as small businesses under size standards based on financial measures.

Given above problems with financial data and possibilities of very large businesses of being qualified as small based on financial indicators, SBA has determined that a financial performance analysis alone is not applicable to developing small business size standards. However, SBA will explore if certain financial indicators can be incorporated into the existing size standards methodology as additional factors.

*Size Standards Based on Program Objectives*

Federal contracting and some SBA financial programs have established specific objectives (targets) in providing assistance to small businesses. Some industrial economists suggest that varying size standards may serve as a tool in ensuring that small businesses are receiving the targeted level of Federal assistance.[2]

The advantage of this approach is that SBA and other Federal agencies can identify and estimate gaps between their predetermined objectives and current levels of attainment for an individual industry or a group of industries. Based on these gaps and the expected impacts of changes in current levels of size standards on program objectives, revised levels of size standards can be established. If an industry's gap in attainment of an objective is positive, its size standard can be reduced. Similarly, if the gap is negative, the level of associated size standard can be increased. Through repeated (iterative) adjustments of size standards this way would result in higher degrees of attainment of various objectives and produce uniform levels of size standards for similar groups of industries.

There are several serious flaws with this approach. First, the size standard becomes a function of a size of business supporting some predetermined levels of program objectives instead of identifying businesses that are, due to their size and other reasons, in a competitively disadvantaged position and need Federal assistance. Second, the approach generates fluctuating size standards based on past trends of small business assistance as opposed to those based on current needs of small businesses. Third, this approach assumes that the decision to approve a loan or award a contract is based primarily on the size of a business size rather than its credit worthiness or capabilities to execute Federal contracts. Fourth, the necessary data to evaluate the size standards are not available on a timely basis. For example, detailed industry data are available only once every five years. Similarly, verified Federal contacting data usually have least one year time lag. Finally, this approach would require establishing size standards on a program-by-program basis, thereby making size standards more complex and confusing to users.

For the above reasons, SBA does not apply this approach for establishing size standards. The Agency feels that a size standards methodology must focus on identifying businesses that are in need of assistance as opposed to what level of assistance is provided under a particular program. SBA considers the small business participation in Federal contracting and SBA financial programs as one of the five factors in its current methodology. The frequent adjustment of size standards under this approach would create a high level of uncertainty among small businesses and overwhelm the regulatory process. This approach would be more appropriate as a program evaluation tool rather than a size standards methodology.

*Size Standards Based on General and Administrative Workforce*

A size standard for an industry may also be developed by examining the level of general and administrative workforce needed for a business to be competitive and calculating the amount of revenues at that level of workforce. General and administrative workers do not directly contribute to revenues of a business and must be supported by revenues generated from the goods and services produced. Total revenues needed to support the general and administrative workforce for a competitive business can be calculated based on average overhead rates, general and administrative compensation, fess, direct labor costs, materials, and subcontractor costs for a relevant industry.

This approach takes into consideration at what size a business becomes competitive. It attempts to identify the size of business that has overcome the competitive disadvantages associated with size.

The primary disadvantage of this approach is its reliance on an assumption that there exists a level of general and administrative workforce for a business to be competitive. There are no data sources that objectively provide that information. This approach also suffers from several methodological flaws, the most significant of which is inferring specific business level experience to the industry level. The type of data necessary to perform the calculation may be biased towards large businesses that are more likely to report such data.

SBA does not use this approach because of the degree of arbitrariness of the underlying assumption. Moreover, this approach is likely to result in a much higher level of size standard, while an industry comprises a large number of competitive businesses below that level.

*Size Standards Based on Qualitative Characteristics*

While most size standards methodologies tend to define a small business in quantitative terms (*e.g.,* the number of employees, annual receipts, amount of assets, *etc.*), some business analysts and industry economists have also attempted to define a small business in qualitative terms. Under this approach, certain characteristics are used to differentiate businesses that are small from those that are not small. Some of the most commonly cited characteristics in the literature include the management and ownership structure of the business, control and decision making process, and sources of financing. Specifically, small businesses tend to share the following characteristics: They are independently owned and operated; they are closely controlled by owners/managers who also contribute most of the operating

[2] CONSAD. Proposed Options for Settings Business Size Standards.

capital; and principal decision making functions rest with owners/managers.[3]

This approach resolves the inherent arbitrariness associated a strict numerical definition. It also focuses on the notion of what factors distinguish a business as small relative to a competitively viable business operation.

The most obvious disadvantage of this approach rests with the ability of SBA to verify the small business status. An on-site review of the business would have to be conducted to determine small business status. Also, businesses would not have definitive criteria to quickly assess their small business status. The difficulty of obtaining a consensus on what characteristics to examine and their interpretation would render the implementation of a qualitative small business size standard more contentious than a numerical approach.

The requirement to establish a definitive and easily verifiable small business size standard precludes this approach as an alternative size standards methodology for SBA.

**Request for Comments**

In addition to comments on the various policy issues, SBA welcomes comments from the public on a number of other issues concerning its size standards methodology. Specifically, SBA invites feedback and suggestions on the following:

• Should SBA establish size standards that are higher than industry's entry-level business size? SBA generally sets size standards higher than the entry-level business size to enable small businesses to compete against others of their size and (often) considerably larger businesses for Federal contracts set aside for small businesses. It is important that small businesses be able to apply for and be eligible for SBA's various business development programs that have additional requirements, such as a minimum number of years in business to qualify for its 8(a) Business Development Program. This precludes setting size standards at too low a level or at the entry-level size. Additionally, establishing size standards at the industry entry-level firm size would cause small businesses to outgrow their eligibility very quickly, thereby lacking sufficient cushion or experience to succeed outside of the small business market and leading to their demise. Finally, size standards must be above the entry-level size to ensure small businesses have necessary resources and capabilities to be able to perform and meet Federal government contracting requirements.

• Should size standards vary from program to program? In other words, should SBA establish one set of standards for SBA loan programs, another for Federal procurement, or yet another for other Federal programs? SBA had, in the 1980s, established different size standards for different programs. The result had been that some firms were small for some programs and large for others. Such size standards were very confusing to users and caused unnecessary and unwanted complexity in their application. The statutory guidance encourages an industry-by-industry analysis and not a program-by-program analysis when developing small business size definitions. While the characteristics and needs of a particular SBA program may necessitate the deviation from the uniform size standards, the Agency will continue its general policy of favoring one set of size standards for all programs. However, SBA has established 13 special size standards for some activities within certain industries for Federal government purposes. Similarly, for industries in Wholesale Trade and Retail Trade, SBA has established industry specific size standards for SBA's loan and Federal nonprocurement programs and a common 500-employee size standard for Federal procurement under the nonmanufacturer rule. Additionally, for SBA's SBIC, 7(a), and CDC/504 Programs businesses can qualify either based on industry specific size standards for their primary industries or based a tangible net worth and net income based alternative size standard.

• Should size standards apply nationally or should they vary geographically? The data SBA obtains from the Economic Census are national data. While the Economic Census does publish a Geographic Series of the data, application of those data to evaluating and establishing size standards would be cumbersome and time consuming at best, resulting in a very complex set of size standards that would likely be unusable. For example, in Federal contracting, how would a contracting officer set the size standard on a contracting opportunity? Would it depend on the contracting officer's location? On the location of the Agency's headquarters? On the place of delivery of the product or service? What about multiple delivery locations? On the location of the prospective contractor? On the location of the prospective contractor's headquarters? What if that were not in the U.S.? What about subcontractors, since size standards apply to their contracts as well? The same questions could be asked about them, which would affect a prime contractor's ability to bid. Would this encourage firms to relocate based upon perceived favorable size standards? That would defeat the purpose behind geographic distinctions. The undue complexity and resulting confusion would render geographic size standards unusable, for all practical purposes.

• Should there be a single basis for size standards—*i.e.,* should SBA apply the number of employees, receipts, or some other basis to establish its size standards for all industries? SBA considered having a single basis for its size standards in the past. In 2004, SBA proposed to establish all size standards based on number of employees. This proposal received mixed comments from the public SBA withdrew the proposal. Commenters viewed either that either receipts was a more suitable measure of size for many industries or that the proposed employment levels were too low.

• Should there be a ceiling beyond which a business concern cannot be considered as small? In other words, should there be a maximum size standard? SBA has not increased its employee based standards beyond the 1,500-employee level. However, receipts based size standards have gradually increased over time and the highest standard stands at $38.5 million today. This is a policy decision that the Agency should make—is there a size beyond which a business is not small?

• Should there be a fixed number of size standard ranges or ''bands'' as SBA applied for the recently completed comprehensive size standards review? This was one of the issues to which SBA sought comments in the recent review and generally received favorable comments from the public. However, NDAA 2013 amended the statute requiring SBA not to limit the number of size standards and assign the appropriate size standard to each NAICS industry. Similarly, should SBA establish a common size standard for related industries even though the data may support different size standards for individual industries?

• Should SBA consider adjusting employee based size standards for labor productivity growth or increased automation? Just as firms in industries with receipts based standards may lose small business eligibility due to inflation, firms in industries with employee based standards may gain eligibility due to improvement in labor productivity. While the original $1 million receipts based size standard has

[3] *See* Holmes and Gibson (2001) for a detailed analysis of various quantitative and qualitative definitions of small business.

now increased to $7.5 million due to adjustments for inflation, the 500-employee manufacturing size standard set at the inception of SBA has remained the same.

• Should SBA consider lowering its size standards? SBA receives periodic comments from the public that its standards are too high in certain industries or for certain types of Federal contracting opportunities. The comments generally concern the competitive edge that large small businesses have over the ''truly small businesses'' (a phrase heard frequently from commentators). This has always been a challenging issue, one that SBA has had to deal with over the years. SBA's size standards appear large to the smallest of small businesses while larger small businesses often request even higher size standards. In the recently completed comprehensive size standards review, in view of weak economic conditions and various measures Federal Government implemented to stimulate employment and economic growth, SBA decided to not lower size standards even if the data supported lowering them. This issue is partly tied to Federal procurement trends of contracts getting larger over time, and they are often out of the reach of the ''truly small businesses.''

• Should SBA size standards be specific, *i.e.,* to the precise dollar calculated based on the data and information it evaluates? Or should SBA recognize that there are other factors that go into establishing size standards, such as the fact that the data SBA evaluates is not static, industries change over the years, and even within a given year.

• Should SBA round off its calculated size standards for the various industries? If so, should SBA always round up? To what level? If not, what about those industries that do not get increases in size standards when others are? What should be the cut-off point for rounding either one way or the other?

• SBA's new percentile approach to evaluating industry characteristics, which will replace the ''anchor'' size standards approach the Agency used in the past.

• Alternative methodologies for determining small business size standards.

• How SBA's size standards impact competition in general and within a specific industry?

• Alternative or additional factors that SBA should consider.

• Whether SBA's approach to small business size standards makes sense in the current economic environment.

• Whether there are gaps in SBA's methodology because of the lack of comprehensive industry and Federal market data.

• Alternative or other factors or data sources SBA should consider when establishing, reviewing, or modifying size standards.

SBA encourages the public to review and comment on the Revised Methodology, which is available at *https://www.sba.gov/size-standards-methodology* as well as at *https://www.regulations.gov.* SBA will thoroughly evaluate and consider all comments and suggestions when finalizing the Revising Methodology, which the Agency will apply in the forthcoming, second five-five year review of size standards as required by the Jobs Act.

Dated: April 13, 2018.

**Linda E. McMahon,**

*Administrator.*

[FR Doc. 2018–08418 Filed 4–26–18; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2018–0301; Product Identifier 2017–NM–112–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all Airbus Model A300 series airplanes, Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes), and Model A310 series airplanes. This proposed AD was prompted by a report of yellow hydraulic system failure, including both braking accumulators, due to failure of the parking brake operated valve (PBOV). This proposed AD would require replacement of a certain PBOV with a different PBOV. We are proposing this AD to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by June 11, 2018.

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

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

• *Fax:* 202–493–2251.

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

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0301; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0301; Product Identifier 2017–NM–112–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

**Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2017–0153, dated August 17, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A300 series airplanes, Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes), and Model A310 series airplanes. The MCAI states:

An occurrence was reported where yellow hydraulic system, including both braking accumulators, was lost. This was confirmed by ECAM [electronic centralized aircraft monitor] warnings and single chimes during taxiing. Normal braking on green hydraulic circuit was used until aeroplane stopped at parking position. A few seconds later, the aeroplane slowly accelerated, until colliding with a wall and a bus. The crew reported that the parking brake was selected and full braking pedals were applied, but with no effect since normal braking was inhibited after Parking Brake was set to ON. Investigation results identified that this occurrence was due to failure of the parking brake operated valve (PBOV), Part Number (P/N) A25315–1.

This condition [parking brake failure], if not corrected, could lead to further incidents, possibly resulting in damage to the aeroplane and injury to persons on the ground.

Prompted by this event, Airbus issued Service Bulletin (SB) A300–32–0467, SB A310–32–2151, SB A300–32–6117 and SB A300–32–9023, as applicable, to provide instructions for in-service installation of the PBOV P/N A25315020–2 introduced by Airbus Modification 13201 for A300/A310/A300–600 and Airbus Modification 19601 for A300–600ST.

For the reason described above, this [EASA] AD requires replacement of the PBOV P/N A25315–1 by PBOV P/N A25315020–2.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0301.

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

Airbus has issued Service Bulletin A300–32–0467, dated July 4, 2017; Service Bulletin A300–32–6117, dated July 4, 2017; and Service Bulletin A310–32–2151, dated July 4, 2017. This service information describes procedures for replacing the PBOV. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination and Requirements of This Proposed AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

**Costs of Compliance**

We estimate that this proposed AD affects 147 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| PBOV replacement | 6 work-hours × $85 per hour = $510 | $4,764 | $5,274 | $775,278 |

**Authority for This Rulemaking**

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

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

**Regulatory Findings**

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

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

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

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Airbus:** Docket No. FAA–2018–0301; Product Identifier 2017–NM–112–AD.

**(a) Comments Due Date**

We must receive comments by June 11, 2018.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 F4–605R and F4–622R airplanes.

(5) Model A300 C4–605R Variant F airplanes.

(6) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a report of yellow hydraulic system failure, including both braking accumulators, due to failure of the parking brake operated valve (PBOV). We are issuing this AD to prevent failure of the PBOV, which could result in no braking capability during ground operations, possibly leading to damage to the airplane and injury to people on the ground.

**(f) Compliance**

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

**(g) PBOV Replacement**

Within 60 months after the effective date of this AD, replace the PBOV having part number (P/N) A25315–1 with a PBOV having P/N A25315020–2, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–32–0467, dated July 4, 2017; Airbus Service Bulletin A300–32–6117, dated July 4, 2017; or Airbus Service Bulletin A310–32–2151, dated July 4, 2017; as applicable.

**(h) Parts Prohibition**

(1) After modification of an airplane as required by paragraph (g) of this AD, do not install any PBOV having P/N A25315–1 on that airplane.

(2) For an airplane that, as of the effective date of this AD, has a PBOV having P/N A25315020–2 installed: As of the effective date of this AD do not install any PBOV having P/N A25315–1 on that airplane.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017–0153, dated August 17, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0301.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on April 11, 2018.

**Dionne Palermo,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2018–08653 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–13–P

---

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2018–0300; Product Identifier 2017–NM–134–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A318, A319, and A320 series airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –253N, and –271N airplanes. This proposed AD was prompted by a revision of an airworthiness limitations document that specifies more restrictive maintenance requirements and airworthiness limitations. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate revised fuel airworthiness limitations. We are proposing this AD to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by June 11, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

**Examining the AD Docket**

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0300; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3223.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0300; Product Identifier 2017–NM–134–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

**Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2017–0169, dated September 7, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A318, A319, and A320 series airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –253N, and –271N airplanes. The MCAI states:

> The Fuel Airworthiness Limitations (FAL) for Airbus A320 family aeroplanes, which are approved by EASA, are currently defined and published in the Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 5 document. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in a fuel tank explosion and consequent loss of the aeroplane.
>
> * * * the Federal Aviation Administration (FAA) published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published interim Policy INT/POL/25/12. In response to these regulations, Airbus conducted a design review to develop FAL for Airbus A320 family aeroplanes.
>
> The FAL were specified in Airbus A318/A319/A320/A321 FAL document ref. 95A.1931/05 at issue 04 for A318/A319/A320/A321 aeroplanes. This document was approved by EASA and is now referenced in Airbus A318/A319/A320/A321 ALS Part 5 to comply with EASA policy statement (EASA D2005/CPRO).
>
> Previously, EASA issued AD 2014–0260 [which corresponds to FAA AD 2016–20–12, Amendment 39–18678 (81 FR 72507, October 20, 2016) (''AD 2016–20–12'')] to require accomplishment of all FAL-related actions as described in ALS Part 5 at Revision 01. ALS Part 5 Revision 02 and 03 were not mandated because no significant changes were introduced with these Revisions. The new ALS Part 5 Revision 04 (hereafter referred to as 'the ALS' in this [EASA] AD) includes new and/or more restrictive requirements and extends the applicability to model A320–251N, A320–271N, A321–251N, A321–253N and A321–271N aeroplanes.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2014–0260, which is superseded, and requires implementation of the actions specified in the ALS.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0300.

**Relationship of This Proposed AD to AD 2016–20–12**

This NPRM would not supersede AD 2016–20–12. Rather, we have determined that a stand-alone AD would be more appropriate to address the changes in the MCAI. This NPRM would require revising the maintenance or inspection program to incorporate the new maintenance requirements and airworthiness limitations. Accomplishment of the proposed actions would then terminate all requirements of AD 2016–20–12.

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

Airbus has issued Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 5 Fuel Airworthiness Limitations (FAL), Revision 04, dated April 6, 2017. This service information describes fuel system airworthiness limitations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination and Requirements of This Proposed AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type designs.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this proposed AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

**Differences Between This Proposed AD and the MCAI or Service Information**

The MCAI specifies that if there are findings from the ALS inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement.

Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

**Airworthiness Limitations Based on Type Design**

The FAA recently became aware of an issue related to the applicability of ADs that require incorporation of an ALS revision into an operator's maintenance or inspection program.

Typically, when these types of ADs are issued by civil aviation authorities of other countries, they apply to all airplanes covered under an identified type certificate (TC). The corresponding FAA AD typically retains applicability to all of those airplanes.

In addition, U.S. operators must operate their airplanes in an airworthy condition, in accordance with 14 CFR 91.7(a). Included in this obligation is the requirement to perform any maintenance or inspections specified in the ALS, and in accordance with the ALS as specified in 14 CFR 43.16 and 91.403(c), unless an alternative has been approved by the FAA.

When a type certificate is issued for a type design, the specific ALS, including revisions, is a part of that type design, as specified in 14 CFR 21.31(c).

The sum effect of these operational and maintenance requirements is an obligation to comply with the ALS defined in the type design referenced in the manufacturer's conformity statement. This obligation may introduce a conflict with an AD that requires a specific ALS revision if new airplanes are delivered with a later revision as part of their type design.

To address this conflict, the FAA has approved alternative methods of compliance (AMOCs) that allow operators to incorporate the most recent ALS revision into their maintenance/inspection programs, in lieu of the ALS revision required by the AD. This eliminates the conflict and enables the operator to comply with both the AD and the type design.

However, compliance with AMOCs is normally optional, and we recently became aware that some operators choose to retain the AD-mandated ALS revision in their fleet-wide maintenance/inspection programs, including those for new airplanes delivered with later ALS revisions, to help standardize the maintenance of the fleet. To ensure that operators comply with the applicable ALS revision for newly delivered airplanes containing a later revision than that specified in an AD, we plan to limit the applicability of ADs that mandate ALS revisions to those airplanes that are subject to an earlier revision of the ALS, either as part of the type design or as mandated by an earlier AD.

This proposed AD therefore would apply to Airbus Model A318, A319, and A320 series airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –253N, and –271N airplanes with an original certificate of airworthiness or original export certificate of airworthiness that was issued on or before the date of approval of the ALS revision identified in this proposed AD. Operators of airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued after that date must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet.

**Costs of Compliance**

We estimate that this proposed AD affects 1,250 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

**Authority for This Rulemaking**

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

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

**Regulatory Findings**

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

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

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

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus:** Docket No. FAA–2018–0300; Product Identifier 2017–NM–134–AD.

**(a) Comments Due Date**

We must receive comments by June 11, 2018.

**(b) Affected ADs**

This AD affects AD 2016–20–12, Amendment 39–18678 (81 FR 72507, October 20, 2016) (''AD 2016–20–12'').

**(c) Applicability**

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before April 6, 2017.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, –233, –251N, and –271N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –253N, and –271N airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

**(e) Reason**

This AD was prompted by a revision of an airworthiness limitations document that specifies more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

**(f) Compliance**

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

**(g) Revision of Maintenance or Inspection Program**

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 5 Fuel Airworthiness Limitations (FAL), Revision 04, dated April 6, 2017. The initial compliance times for new or revised tasks are the minimum intervals or times specified in Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 5 Fuel Airworthiness Limitations (FAL), Revision 04, dated April 6, 2017, or within 30 days after the effective date of this AD, whichever occurs later.

**(h) No Alternative Actions, Intervals, or Critical Design Configuration Control Limitations (CDCCLs)**

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

**(i) Terminating Action for AD 2016–20–12**

Accomplishing the actions required by this AD terminates all requirements of AD 2016–20–12.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(k) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017–0169, dated September 7, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0300.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3223.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on April 11, 2018.

**Dionne Palermo,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2018–08649 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2018–0303; Product Identifier 2018–NM–006–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Fokker Services B.V. Airplanes

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. This proposed AD was prompted by a report that the retraction actuator eye-end of a Goodrich main landing gear (MLG) failed. This proposed AD would require a one-time general visual inspection of the left-hand (LH) and right-hand (RH) MLG retraction actuators and replacement if necessary. We are proposing this AD to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by June 11, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* internet *http://www.myfokkerfleet.com.*

You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

**Examining the AD Docket**

You may examine the AD docket on the internet at *http://*

*www.regulations.gov* by searching for and locating Docket No. FAA–2018–0303; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0303; Product Identifier 2018–NM–006–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

## Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0001, dated January 4, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. The MCAI states:

> An occurrence was reported where, following take-off after gear up selection, the retraction actuator eye-end (P/N [part number] 41518–3) of a Goodrich MLG failed. After the LG UNSAFE indication, the flight crew successfully selected gear down and locked by applying the alternate extension procedure, and an uneventful landing was made. Investigation results showed that the final overload fracture of the eye-end was preceded by fatigue cracks, believed to have been caused by interference between the MLG retraction actuator eye-end and the actuator bracket. It was also highlighted that the affected eye-end had been installed incorrectly, *i.e.* with the grease nipple located on the lower side, thus causing damage to the eye-end due to interference with the bracket. Further investigations revealed other occurrences of interference between retraction actuator eye-end and bracket with resulting damage.
>
> This condition, if not detected and corrected, could prevent retraction of the MLG and/or its complete extension, possibly resulting in damage to the aeroplane during landing, and consequent injury to occupants.
>
> To address this potential unsafe condition, Fokker Services published SBF100–32–168 to provide inspection and replacement instructions.
>
> For the reasons described above, this AD requires a one-time [general visual] inspection [for deficiencies] (check the eye-end for presence of interference/damage and for orientation of the greasing nipple) of the MLG retraction actuators, left-hand (LH) and right-hand (RH) sides, and, depending on findings, replacement.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0303.

## Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–32–168, dated May 22, 2017. This service information describes procedures for a one-time general visual inspection for deficiencies of the Goodrich MLG retraction actuators and replacement of the actuator if necessary (*e.g.,* if the retraction actuator greasing nipple is not located on the upper side MLG retraction actuator eye-end or if interference damage or evidence of removed damage is present on the eye-end of the MLG retraction actuator). This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

## FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

## Costs of Compliance

We estimate that this proposed AD affects 5 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection | 1 work-hour × $85 per hour = $85 per inspection cycle. | $0 | $85 per inspection cycle | $425 per inspection cycle. |

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replacement | 1 work-hour × $85 per hour = $85 | $0 | $85. |

## Authority for This Rulemaking

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

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

## Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Fokker Services B.V.:** Docket No. FAA–2018–0303; Product Identifier 2018–NM–006–AD.

**(a) Comments Due Date**

We must receive comments by June 11, 2018.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers, if equipped with Goodrich main landing gear (MLG), part number (P/N) 41050–x (all dashes) or P/N 41060–x (all dashes).

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a report that the retraction actuator eye-end of a Goodrich MLG failed. We are issuing this AD to address failure of the retraction actuator eye-end of a Goodrich MLG, which could prevent retraction of the MLG and/or its complete extension, possibly resulting in damage to the airplane during landing, and consequent injury to occupants.

**(f) Compliance**

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

**(g) Definition**

For the purposes of this AD, a ''serviceable part'' is a serviceable retraction actuator with an eye-end that does not have any indication of interference or damage, as specified in the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–168, dated May 22, 2017.

**(h) Inspection and Corrective Action**

Within 12 months after the effective date of this AD, perform a general visual inspection of the left-hand (LH) and right-hand (RH) MLG retraction actuators for deficiencies (*i.e.,* check for the presence of interference damage, including evidence of removed damage, and for the orientation of the greasing nipple). If any deficiency is found, before further flight, replace the affected MLG retraction actuator with a serviceable part in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–168, dated May 22, 2017.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Fokker Services B.V.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0001, dated January 4, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0303.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(3) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* internet *http://www.myfokkerfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on April 11, 2018.

**Dionne Palermo,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2018–08650 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 110

**[Docket Number USCG–2016–0916]**

**RIN 1625–AA01**

## Anchorages; Captain of the Port Puget Sound Zone, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; withdrawal.

**SUMMARY:** The Coast Guard is withdrawing its notice of proposed rulemaking entitled ''Anchorages; Captain of the Port Puget Sound Zone, WA'' that we published on February 10, 2017. The Coast Guard is withdrawing this rulemaking in response to public comments and to better analyze potential impacts to tribal treaty rights, especially treaty fishing rights.

**DATES:** The notice of proposed rulemaking is withdrawn on April 27, 2018.

**ADDRESSES:** The docket for this withdrawn rulemaking is available by searching docket number USCG–2016–0916 using the Federal portal at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of inquiry, call or email LCDR Christina Sullivan, U.S. Coast Guard Sector Puget Sound; telephone 206–217–6042, email *SectorPugetSoundWWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

FR Federal Register
NPRM Notice of Proposed Rulemaking

### II. Background

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on February 10, 2017 (82 FR 10313), entitled ''Anchorages; Captain of the Port Puget Sound Zone, WA.'' In the NPRM, we proposed the creation of several new anchorages, holding areas, and a non-anchorage area as well as the expansion of one existing general anchorage in the Puget Sound area, as detailed in the proposed regulatory text. The Coast Guard received feedback from concerned citizens, commercial entities, environmental groups, and from Indian Tribal Governments and tribal officials regarding the proposed rulemaking. These comments were made available in the docket. Based on the information received from the tribes in the docket, the Coast Guard is withdrawing the proposed rulemaking at this time so as to better analyze tribal impacts before conducting further rulemaking on anchorages in Puget Sound. The Coast Guard actively exercises its authority to manage vessel traffic in the Puget Sound in a safe and effective manner, both historically and at present. The Coast Guard is committed to improving the navigational safety of all Puget Sound waterway users, and is continually engaged in efforts to improve safety through coordination with waterways users.

The Coast Guard provided notice of its intent to withdraw the rulemaking and also its intent not to schedule consultation with the tribes on the proposed rulemaking in light of the withdrawal. In that published notification (82 FR 54307, November 17, 2017), the Coast Guard requested comment on whether or not withdrawal is appropriate, and also if tribal consultation was still necessary in light of the Coast Guard's stated intent to withdraw the proposed rule.

### III. Discussion of Comments

The Coast Guard received nine written submissions in response to its request for comment on its intent to withdraw the proposed rule; six concerned citizens, two on behalf of coalitions of environmental groups, and one from a federally recognized tribe. Of the nine commenters, one commenter supported the withdrawal, three commenters indicated that withdrawal is not supported without an environmental impact statement being done, one commenter supported continuing with the rule so long as an environmental impact study is conducted, and four commenters made no affirmative or negative comment on withdrawal of the proposed rule, but requested an environmental impact statement. The Coast Guard is withdrawing its proposed rulemaking based on the comments received and in order to better analyze the impacts to tribal treaty rights, especially treaty fishing rights.

All commenters requested or emphasized the importance of an environmental impact statement. The Coast Guard will follow all applicable laws and regulations, including the National Environmental Policy Act, with respect to any anchorages rulemaking in the Puget Sound that may be conducted in the future.

Two commenters requested the Coast Guard conduct an environmental impact statement on the use of uncodified anchorages before withdrawing the current proposed rule. The Coast Guard's withdrawal of the proposed anchorage rule is not a government action for which an environmental impact statement on the uncodified anchorages is required.

Two commenters indicated that tribal consultation is appropriate within the proposal area with respect to the proposed rule, two commenters deferred to tribal governments on the issue of whether tribal consultation on this rule is appropriate, and one tribe commented that it had previously engaged with the Coast Guard on a government-to-government basis and submitted comments on the proposed rule. The Coast Guard is committed to upholding its responsibilities as the federal trustee of the tribes' interests, and will conduct formal government-to-government consultation when required under Executive Order 13175. The Coast Guard is withdrawing the current proposed rulemaking and has engaged with the tribes to address broader treaty rights issues in processes outside this rulemaking. As a result of the above actions, the Coast Guard will not conduct consultation on this specific rulemaking.

### IV. Withdrawal

The Coast Guard has determined that withdrawing the proposed rule is appropriate based on the new information received from the tribes in the docket. Accordingly, the Coast Guard is withdrawing the ''Anchorages; Captain of the Port Puget Sound Zone, WA'' proposed rulemaking announced in an NPRM published February 10, 2017 (82 FR 10313). As noted, the Coast Guard has the authority and ability to manage vessel traffic in the Puget Sound in a safe and effective manner. We are committed to improving the navigational safety of all Puget Sound waterway users, and will continually consider ways to do so in an effective and least burdensome manner consistent with tribal treaty fishing rights.

Dated: April 23, 2018.

**David G. Throop,**

*Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.*

[FR Doc. 2018–08871 Filed 4–26–18; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 9

**RIN 2900–AQ12**

## Veterans' Group Life Insurance Increased Coverage

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** Current statutory provisions provide Veterans' Group Life Insurance (VGLI) insureds under the age of 60 with the opportunity to increase their VGLI coverage by $25,000 not more than once in each 5-year period beginning on the 1-year anniversary of the date a person becomes insured under VGLI. The Department of Veterans Affairs (VA) proposes to amend its VGLI regulations to establish a permanent regulatory framework for such elections of increased coverage. The proposed rule would also clarify that coverage increases in an amount less than $25,000 are available only when existing VGLI coverage is within $25,000 of the Servicemembers' Group Life Insurance current maximum of $400,000, and any increases of less than $25,000 must be only in an amount that would bring the insurance coverage up to the statutory maximum.

**DATES:** *Comment Date:* Comments must be received by VA on or before June 26, 2018.

**ADDRESSES:** Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to the Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AQ12 Veterans' Group Life Insurance Increased Coverage.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll free number.) In addition, during the comment period, comments are available online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Karen Naccarelli, Department of Veterans Affairs Insurance Center (310/290B), P.O. Box 13399, Philadelphia, PA 19101, (215) 381–3029. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** Before the passage of the Veterans' Benefits Act of 2010, Public Law 111–275, 404, 124 Stat. 2864, 2879–2880 (2010), the maximum amount of VGLI coverage available to a former member (also referred to as ''the insured'' hereafter) was limited to the amount of Servicemembers' Group Life Insurance (SGLI) coverage in force at the time of separation from service. *See* 38 U.S.C. 1977(a)(1). Section 404 of the Veterans' Benefits Act of 2010 amended the governing statute, 38 U.S.C. 1977, to authorize insureds who are under 60 years of age and who have less than the statutory maximum of SGLI coverage to elect in writing to increase coverage by $25,000 not more than once in each 5-year period beginning on their 1-year VGLI coverage anniversary date. Section 404 enables former members to keep pace with changing economic conditions by purchasing adequate amounts of life insurance to protect their families. Section 404 added to 38 U.S.C. 1977(a) a new paragraph (3), which took effect April 11, 2011. To promptly implement this statutory change, VA adopted interim procedures for increasing VGLI coverage. *See* ''Servicemembers' and Veterans' Group Life Insurance Handbook,'' ch. 12, para. 12.01, on the VA Insurance website at *http://www.benefits.va.gov/INSURANCE/resources_handbook_ins_chapter12.asp* (outlining the interim process). Since the 2011 change in law, 70,569 VGLI insureds have participated in VGLI increased coverage opportunities as of the end of calendar year 2016, electing additional coverage in the amount of $1,764,710,000. The proposed regulation is intended to establish a permanent regulatory framework for affording additional VGLI coverage under section 404.

VA proposes to exercise the Secretary's authority under 38 U.S.C. 501 and amend its regulations to establish a permanent regulatory framework for affording VGLI insureds the opportunity to purchase increased coverage pursuant to 38 U.S.C. 1977(a)(3). Under 38 U.S.C. 1977(b)(2), VGLI is only renewable on a ''five-year term basis,'' while subsection (a)(3) provides for elections of increased coverage of $25,000 not more than once in each 5-year period beginning on the 1-year anniversary of the date a person becomes insured under VGLI. *See* 38 U.S.C. 1977. Because the statutory language does not specify the invitation period(s) for VGLI insureds to elect increased coverage, VA proposes to amend 38 CFR 9.2 to address the gap. Proposed § 9.2(b)(5) would provide that the VGLI insured's first opportunity to increase coverage would be on the one-year VGLI coverage anniversary date, the earliest date permissible under the authorizing statute. The insured could subsequently elect to increase coverage on the 5-year anniversary date from the first VGLI coverage increase election opportunity and on each 5-year anniversary from the date of the last VGLI coverage increase opportunity thereafter.

The proposed amendment of § 9.2 is consistent with 38 U.S.C. 1977(a)(3), which states that the insured has the opportunity to increase coverage ''[n]ot more than once in each five-year period beginning on the 1-year anniversary of the date a person becomes insured under Veterans' Group Life Insurance.'' As stated, the authorizing statute is silent about if and when an insured will be notified about the opportunity to increase coverage. Accordingly, VA's proposed regulation is intended, in part, to address this gap in the statutory language. Specifically, the proposed regulation would provide that after VGLI enrollment, the insurer will invite insureds to increase coverage not less than 120 days prior to the 1-year anniversary from initial VGLI coverage and not less than 120 days prior to each 5-year anniversary date from the date of the last VGLI coverage increase election opportunity, until the former member has elected the SGLI statutory maximum (currently $400,000) or has attained the age of 60 years, whichever occurs first.

In addition, VA seeks to make clear in this proposed rule that insureds must elect increased coverage within 120 days prior to their VGLI one-year anniversary date and/or within 120 days prior to each subsequent 5-year anniversary date from the last VGLI coverage increase election opportunity. VA has determined that the 120-day period is a reasonable period of time for insureds to review their financial needs and make informed decisions regarding whether to request additional coverage. As such, the proposed regulation would allow VGLI insureds to elect increased coverage within 120 days prior to the 1-year anniversary date and within 120 days prior to each 5-year anniversary date from the date of the last VGLI increase opportunity as long as the insured remains eligible to do so, *i.e.,* is under the statutory coverage limit and under 60 years of age.

For example, if a former member purchased $300,000 in VGLI coverage effective April 11, 2017, the former member would be eligible to request an additional $25,000 of VGLI coverage beginning 120 days prior to April 11, 2018. The increased coverage would be effective April 11, 2018. The next opportunity to increase coverage would be April 11, 2023, the first 5-year anniversary date from the last VGLI coverage increase election opportunity. Subsequently, the former member would have the opportunity to buy an additional $25,000 in VGLI coverage once every five years for as long as the

former member was under 60 years of age and held $400,000 or less in VGLI coverage. *See* 38 U.S.C. 1977(a)(3).

The proposed regulation would afford the insured the earliest opportunity to increase coverage permitted under the statute, namely on the one-year anniversary after coverage begins and on each subsequent 5-year anniversary date from the last VGLI increase election opportunity. *See* 38 U.S.C. 1977(b)(2). Moreover, the proposed amendment would ensure that such increases in coverage would occur during predictable periods. This would allow both the insured and the insurer to plan for any potential changes in the in-force coverage amount and the corresponding premiums. This aspect of predictability about the timing of coverage elections would support the goal of managing the VGLI program based on sound actuarial principles, while also affording insureds ample opportunities to elect increased coverage if they choose to do so. Under the proposed regulatory amendment, insureds could make assessments about future financial plans and the insurer could apply the increased coverage amount(s) at predictable intervals, namely at the time of the first year anniversary date after coverage began or at the time of each subsequent 5-year anniversary date(s) of the last VGLI coverage increase election opportunity. The insurer would apply any increased coverage from the date of the 1-year anniversary and/or from any 5-year anniversary date from the most recent VGLI coverage increase election opportunity.

By limiting opportunities to increase VGLI coverage to the initial, 1-year coverage anniversary date and every 5-year anniversary date of the last VGLI coverage increase election opportunity thereafter, VA would provide insureds the opportunity to meet their financial needs while mitigating the potentially negative impact of adverse selection in the VGLI program. Adverse selection occurs when individuals use their superior knowledge of their insurability to minimize the period of time over which they are likely to pay premiums for coverage. Such a practice unfairly shifts the premium paying burden to other individuals paying premiums for coverage over a longer period of time and potentially undermines the financial health of the program to the detriment of all insureds. Insurance programs rely on a pooling of risks, and premium rates are set according to the expected mortality of the insurance pool. If a disproportionate number of insureds in substandard health enter the program or carry higher coverage amounts than healthier individuals in the program, the increased mortality experience will exceed that upon which the premium rates are based and could impact the program negatively by driving up the cost of premiums for all program participants. Consistent with industry practices designed to keep premium rates affordable, insurance providers typically limit changes in policies to certain defined periods of time, such as open seasons or during renewal periods. By limiting VGLI coverage changes only at established intervals, such as the initial, 1-year anniversary from the coverage date and each 5-year anniversary date from the last VGLI coverage increase election opportunity thereafter, VA would ensure that VGLI insureds have ample opportunity to increase coverage in a manner that is both consistent with industry practice and beneficial to insureds.

As it relates to the amount of increased coverage elected at one time, the statutory language of 38 U.S.C. 1977(a)(3) provides that an increase in coverage is generally allowable in intervals of $25,000; however, the statute is silent as to the options available to VGLI insureds who have coverage of more than $375,000, *i.e.,* within less than $25,000 of the current statutory maximum. To address this gap in the statutory language, VA's proposed rule would also clarify that increases of less than $25,000 shall be permitted only when VGLI coverage in force is within less than $25,000 of the statutory maximum. In such circumstances, coverage increases in an amount less than $25,000 would only be allowed in the amount required to increase coverage up to the current statutory maximum of $400,000. For example, if an insured has coverage of $380,000, the proposed rule would permit an increase of $20,000 in order to bring the insured's coverage up to the current SGLI maximum of $400,000. If not for this exception, those within less than $25,000 of the statutory maximum coverage amount would be forever barred from increasing their coverage because doing so would result in coverage in excess of the SGLI maximum of $400,000, which is not permitted by law. VA's proposed rule would seek to avoid this harsh result and make permanent the current, interim policy that allows insureds with more than $375,000 coverage the opportunity to elect additional coverage up to the statutory maximum. There is flexibility in this area because 38 U.S.C. 1977(b)(5) authorizes the Secretary to set terms and conditions for VGLI that he determines to be reasonable and practicable. The exception outlined above is both permissible within the scope of the statute and furthers its intent to allow up to $400,000 in VGLI coverage.

**Unfunded Mandates**

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

**Paperwork Reduction Act**

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

**Executive Orders 12866, 13563, and 13771**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.'' This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

**Regulatory Flexibility Act**

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

**Catalog of Federal Domestic Assistance**

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

**List of Subjects in 38 CFR Part 9**

Life insurance; Military personnel; Veterans.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jacquelyn Hayes-Byrd, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 23, 2018, for publication.

Dated: April 23, 2018.

**Jeffrey M. Martin,**

*Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 9 as follows:

## PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

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

**Authority:** 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

■ 2. In § 9.2, add new paragraph (b)(5) to read as follows:

**§ 9.2 Effective date; applications.**

* * * * *

(b) * * *

(5) Pursuant to 38 U.S.C. 1977(a)(3), former members under the age of 60 can elect to increase their Veterans' Group Life Insurance coverage by $25,000, up to the existing Servicemembers' Group Life Insurance maximum. The insured's first opportunity to elect to increase coverage is on the one-year Veterans' Group Life Insurance coverage anniversary date. Thereafter, the insured could elect to increase coverage on the five-year anniversary date of the first VGLI coverage increase election opportunity and subsequently every five years from the anniversary date of the insured's last VGLI coverage increase election opportunity. Increases of less than $25,000 are only available when existing Veterans' Group Life Insurance coverage is within less than $25,000 of the Servicemembers' Group Life Insurance maximum and any increases of less than $25,000 must be only in the amount needed to bring the insurance coverage up to the statutory maximum allowable amount of Servicemembers' Group Life Insurance. The eligible former members must apply for the increased coverage through the administrative office, within 120 days of invitation prior to the initial one-year anniversary date or within 120 days prior to each subsequent five-year coverage anniversary date from the first VGLI coverage increase election opportunity. The increased coverage will be effective from the anniversary date immediately following the election.

* * * * *

[FR Doc. 2018–08855 Filed 4–26–18; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R08–OAR–2018–0136; FRL–9976–44—Region 8]

## Approval and Promulgation of Air Quality Implementation Plans; State of Montana; Revisions to PSD Permitting Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to fully approve the State Implementation Plan (SIP) revision submitted by the State of Montana on October 14, 2016. Montana's October 14, 2016 submittal revises their prevention of significant deterioration (PSD) regulations. This action is being taken under section 110 of the Clean Air Act (CAA) (Act).

**DATES:** Written comments must be received on or before May 29, 2018.

**ADDRESSES:** Submit your comments, identified by EPA–R08–OAR–2018–0136 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, *leone.kevin@epa.gov.*

**I. Background**

In Montana's letter from Governor Steve Bullock to EPA Regional

Administrator Shaun McGrath (governor's letter) dated September 21, 2016, Montana referenced two actions for the EPA to consider for approval into Montana's federally approved SIP: (1) Revisions to PSD Permitting Provisions; and (2) Montana's 2015 Revised 8-hour ozone NAAQS initial designations. Montana's 2015 revised 8-hour ozone NAAQS initial designations is not part of Montana's SIP, and therefore does not require action under CAA section 110. In this proposed rulemaking action, the EPA is proposing full approval of Montana's revision to their PSD permitting provisions, and the EPA is taking no action on Montana's 2015 revised 8-hour ozone NAAQS initial designations.

*Montana's October 14, 2016 Submittal*

Section 165(e)(2) of the federal Clean Air Act (CAA) requires a proposed major emitting facility to conduct monitoring for, among other emissions, particulate matter with a diameter of less than 2.5 micrometers ($PM_{2.5}$).

On May 16, 2008, EPA promulgated the rule, ''Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (73 FR 28321) (the 2008 $PM_{2.5}$ New Source Review (NSR) Implementation Rule) and on October 20, 2010 EPA promulgated the rule, ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (75 FR 64864) (the 2010 Increment Rule). The 2010 Increment Rule adopted regulations setting the SMC for $PM_{2.5}$ at 4 micrograms per cubic meter averaged over 24 hours. A SMC may be used to exempt sources from preconstruction monitoring when modeled impacts from the proposed facility, or the existing air quality level in the area of the proposed source, is less than the SMC.

The Board of Environmental Review of the State of Montana (the Board) revised Administrative Rules of Montana (ARM) 17.8.818(7)(a)(iii) to adopt the same SMC for $PM_{2.5}$ as the federal regulation, effective October 14, 2011 (See docket—MAR Notice No. 17–322.). These revisions, which were submitted to the EPA on August 21, 2012, addressed the requirements of the 2008 $PM_{2.5}$ NSR Implementation Rule and the 2010 Increment Rule, including setting the SMC for $PM_{2.5}$ at 4 micrograms per cubic meter, averaged over a 24-hour period. Subsequently, portions of the 2010 Increment rule were vacated by the federal courts (*Sierra Club* v. *EPA,* 705 F. 3d 458 (D.C. Cir. 2013)). Among other things, the court vacated the $PM_{2.5}$ SMC as not allowed by the CAA. On December 9, 2013, the EPA promulgated the rule ''Prevention of Significant Deterioration for Particulate Matter Less Than 2.5 Micrometers—Significant Impact Levels and Significant Monitoring Concentration: Removal of Vacated Elements.'' (78 FR 73698). This rulemaking revised the affected NSR–PSD rules accordingly, in which the EPA amended 40 CFR 51.166(i)(5)(i)(c) and 52.21(i)(5)(i)(c) to reduce the SMC to 0 micrograms per cubic meter and eliminate the 24-hour averaging period.

Because the EPA amended its SMC regulations, the Montana Department of Environmental Quality (MDEQ) requested the Board to amend its rule, ARM 17.8.818(7)(a)(iii). However, the MDEQ did not recommend that the Board remove the 24-hour averaging period for the $PM_{2.5}$ SMC from the rule. On March 24, 2015, Montana submitted SIP revisions to the EPA which addressed the court's decisions (except for removing the 24-hour averaging period); this submittal superseded and replaced these aspects of Montana's August 21, 2012 submittal.

In response to Montana's March 24, 2015 SIP revisions, on April 20, 2016 (81 FR 23180), the EPA published a final rulemaking titled: ''Air Quality State Implementation Plans; Approvals and Promulgations: Montana; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 $NO_2$, 2010 $SO_2$, and 2012 $PM_{2.5}$ National Ambient Air Quality Standards.'' Under section 110(k)(4) of the CAA, the EPA may conditionally approve a SIP based on a commitment from a state to adopt specific enforceable measures within 1 year from the date of final approval. In the EPA's April 20, 2016 rulemaking, the EPA took final action to approve revisions in the March 24, 2015 submittal to ARM 17.8.818(7)(a)(iii) on the condition that the State adopts and submits specific revisions within 1 year of EPA's final action on these infrastructure submittals; specifically to remove the phrase ''24-hour average'' in ARM 17.8.818(7)(a)(iii).[1] Montana submitted this amendment to their rules to EPA within 1 year, on October 14, 2016, and the EPA is proposing action on Montana's October 14, 2016 submittal in this rulemaking. Upon the EPA finding a timely meeting of Montana's commitment in full, the EPA's April 20, 2016 conditional approval of the SIP revisions would convert to a final approval of Montana's plan. In this action, the EPA proposes that Montana's October 14, 2016 submittal meets Montana's obligation under the conditional approval of ARM 17.8.818(7)(a)(iii) in our April 20, 2016 final rulemaking action.

[1] *See* ''Section 128 and 2012 $PM_{2.5}$ Cover Letter and PSD Commitment Letter'' submitted to EPA on December 17, 2015, contained within this docket.

## II. What are the changes that EPA is proposing action to approve?

We are proposing to approve changes to Montana's SIP—in particular the revisions to ARM 17.8.818(7)(a)(iii)—as submitted on October 14, 2016. We are proposing to approve the changes that are consistent with the CAA and the EPA regulations as follows:

1. CAA section 110(a)(2)(C), which requires each state plan to include ''a program to provide for . . . the regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that [the NAAQS] are achieved, including a permit program as required in parts C and D of this subchapter'';

2. CAA section 110(a)(2)(A), requires that SIPs contain enforceable emissions limitations and other control measures. Under section CAA section 110(a)(2), the enforceability requirement in section 110(a)(2)(A) applies to all plans submitted by a state. Montana's regulations in ARM 17.8 create enforceable obligations for sources;

3. CAA section 110(i) (with certain limited exceptions) prohibits states from modifying SIP requirements for stationary sources except through the SIP revision process. As described in Section I, Montana fulfilled this requirement;

4. CAA section 110(l), provides that the EPA cannot approve a SIP revision that interferes with any applicable requirement of the Act. The revisions to ARM 17.8.818 would not interfere with sections 110(a)(2) and 110(i) of the Act, as they are in compliance with current federal regulations;

5. CAA section 161, which requires a SIP to contain emission limitations to prevent significant deterioration of air quality in regions designated as attainment or unclassifiable; and

6. Montana's SIP revision complies with the requirements of 40 CFR 51.166 as the plan imposes the regulatory requirements on individual sources, as required by the regulatory provisions.

## III. Proposed Action

The EPA is proposing to approve a revision to Montana's SIP as submitted by the State of Montana on October 14, 2016, which remove ''24-hour average'' from ARM 17.8.818(7)(a)(iii).

## IV. Incorporation by Reference

In this action, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing the incorporation by reference of a change to the State of Montana's SIP regarding removing ''24-hour average'' from ARM 17.8.818(7)(a)(iii). The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- 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 CAA; and
- Does not provide the 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed 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 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 13, 2018.

**Douglas Benevento,**

*Regional Administrator, Region 8.*

[FR Doc. 2018–08624 Filed 4–26–18; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R08–OAR–2018–0148; FRL–9977–00—Region 8]**

## Approval and Promulgation of Air Quality Implementation Plans; South Dakota; Revisions to the Permitting Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of South Dakota on October 4, 2017, related to South Dakota's Air Pollution Control Program. The October 4, 2017 submittal updates certain dates of incorporation by reference and reorganizes and revises certain rules. In this rulemaking, we are proposing action on all portions of the October 4, 2017 submittal, except for those portions of the submittal which do not belong in the SIP. This action is being taken under section 110 of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before May 29, 2018.

**ADDRESSES:** Submit your comments, identified by EPA–R08–OAR–2018–0148 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, *leone.kevin@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. The EPA's Evaluation of South Dakota's Submission—Air Pollution Control Program Chapter 74:36

*October 4, 2017 Submittal*

*A. Chapter 74:36:01—Definitions*

Chapter 74:36:01 defines the terms used throughout Article 74:36—Air Pollution Control Program. There are six definitions in Chapter 74:36:01 that reference federal regulations. The sections in Chapter 74:36:01 that are being updated to the version of the federal reference specified in the Code of Federal Regulations (CFR) as of July 1, 2016, involve the following: 74:36:01:01(8); 74:36:01:01(29);

74:36:01:01(67); 74:36:01:05(1); and 74:36:01:20(5), (7) and (8).

*B. Chapter 74:36:02—Ambient Air Quality*

Chapter 74:36:02 established air quality goals and ambient air quality standards for South Dakota. The sections in Chapter 74:36:02 that are being updated to the version of the federal reference specified in the CFR as of July 1, 2016, involve the following: 74:36:02:02; 74:36:02:03; 74:36:02:04; and 74:36:02:05.

*C. Chapter 74:36:03—Air Quality Episodes*

Chapter 74:36:03 identifies the contingency plan the South Dakota Department of Environment and Natural Resources (DENR) will follow during an air pollution emergency episode. The sections in Chapter 74:36:03 that are being updated to the version of the federal reference specified in the CFR as of July 1, 2016, involve the following: 74:36:03:01 and 74:36:03:02.

*D. Chapter 74:36:04—Operating Sources for Minor Sources*

Chapter 74:36:04 is South Dakota's minor source air quality operating permit program. South Dakota is proposing to remove the first two sentences in 74:36:04:04 (Standard of issuance of a minor source operating permit). The removed language refers to air pollution dispersion modeling and other dispersion techniques.

South Dakota's minor source air quality program initially was both a construction and operating permit program. South Dakota separated the construction portion from the minor source air quality operating permit program in calendar year 2010 by developing an independent construction permit program as outlined in Chapter 74:36:20 (Construction Permits for New Sources or Modifications). On June 27, 2014, the EPA took final action to approve Chapter 74:36:20 (79 FR 36419). The construction permit program in Chapter 74:36:20 identifies the requirements for air pollution dispersion modeling. Therefore, this language is no longer needed in South Dakota's minor air quality operating permit program 74:36:04:04.

*E. Chapter 74:36:05—Operating Sources for Part 70 Sources*

We are not taking action on revisions to this chapter as South Dakota's Title V operating permit programs is not part of the SIP.

*F. Chapter 74:36:06—Regulated Air Pollutant Emissions*

Chapter 74:36:06 identifies South Dakota's regulated air pollutants which are established to ensure South Dakota's air quality is in compliance with the federal national ambient air quality standards (NAAQS). Section 74:36:06:07 (Open burning practices prohibited) references 74:10:05:11.04, which was repealed on January 12, 2012. This section was replaced with 74:12:04:11. Changes are proposed to correct the reference to this section.

*G. Chapter 74:36:07—New Source Performance Standards*

We are not taking action on revisions to this chapter. New Source Performance Standards (NSPS) are not part of the SIP.

*H. Chapter 74:36:08—National Emission Standards for Hazardous Air Pollutants*

We are not taking action on revisions to this chapter. National Emission Standards for Hazardous Air Pollutants (NESHAPs) are not part of the SIP.

*I. Chapter 74:36:09—Prevention of Significant Deterioration (PSD)*

Chapter 74:36:09 is South Dakota's PSD preconstruction program for major sources located in areas of the state that attain the federal NAAQS. The sections in Chapter 74:36:09 that are being updated to the version of the federal reference specified in the CFR as of July 1, 2016, involve the following: 74:36:09:02 and 74:36:09:03.

In addition, on November 7, 2016, the EPA published a final rulemaking action titled ''Rescission of Preconstruction Permits Issued under the Clean Air Act.'' (81 FR 78043, see docket) This rulemaking revised 40 CFR 52.21(w). The corresponding changes to 40 CFR 52.21(w) are outlined at 81 FR 78043. South Dakota has revised 74:36:09:02(6) to incorporate by reference the November 7, 2016 changes to 40 CFR 52.21(w).

Specifically, 81 FR 78043 revised 40 CFR 52.21(w)(2) to remove the July 30, 1987, date restriction; revised 40 CFR 52.21(w)(3) to change the word ''shall'' to ''may'' and revised 40 CFR 52.21(w)(1) to appropriately cross reference paragraph (r) and not paragraph (s) of the EPA's PSD regulations.

*J. Chapter 74:36:10—New Source Review*

Chapter 74:36:10 is South Dakota's New Source Review (NSR) preconstruction permit program for major sources in areas of the state that are not attaining the NAAQS. All of South Dakota is in attainment with the federal standards; therefore, there are no facilities that require a preconstruction permit under this program.

The sections in Chapter 74:36:10 that are being updated to the version of the federal reference specified in the CFR as of July 1, 2016, involve the following: 74:36:10:02; 74:36:10:03.01; 74:36:10:05; 74:36:10:07; and 74:36:10:08.

*K. Chapter 74:36:11—Performance Testing*

Chapter 74:36:11 identifies the performance testing requirements used by permitted facilities to demonstrate compliance with permit limits. The section in Chapter 74:36:11 that is being updated to the version of the federal reference specified in the CFR as of July 1, 2016, involves 74:36:11:01.

*L. Chapter 74:36:12—Control of Visible Emissions*

Chapter 74:36:12 identifies visible emission limits for units that emit air pollution. The sections in Chapter 74:36:12 that are being updated to the version of the federal reference specified in the CFR as of July 1, 2016, involve the following: 74:36:12:01 and 74:36:12:03.

*M. Chapter 74:36:13—Continuous Emission Monitoring Systems*

We are not taking action on revisions to this chapter. Continuous Emission Monitoring Systems are part of South Dakota's Title V program and are not part of the SIP.

*N. Chapter 74:36:16—Acid Rain Program*

We are not taking action on revisions to this chapter. The Acid Rain Program is not part of the SIP.

*O. Chapter 74:36:18—Regulations for State Facilities in the Rapid City Area*

The section in Chapter 74:36:18 that is being updated to the version of the federal reference specified in the CFR as of July 1, 2016, involves 74:36:18:10.

*P. Chapter 74:36:20—Construction Permits for New Sources or Modifications*

Chapter 74:36:20 requires an air quality construction permit for new or modified sources that do not meet the requirements for obtaining a preconstruction permit in Chapters 74:36:09 and 74:36:10.

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference specified in the CFR as of July 1, 2016. These proposed changes involve section 74:36:20:05 (Standard for Issuance of a Construction Permit).

South Dakota is proposing to revise section 74:36:20:05 to clarify that air dispersion modeling for new or modified minor sources is one of several information items that may be required by the department for inclusion in a permit application. This proposed change to the SIP is a clarification and does not modify the standard for issuance of a construction permit's substantive requirements. The standard in Section 74:36:20:05 requires that ''[a] construction permit for a new source or modification to an existing source may be issued only if it has been shown that the operation of the new source or modification to an existing source will not prevent or interfere with the attainment or maintenance of an applicable national ambient air quality standard.'' Statutory requirements under CAA section 110(l) provide that the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. South Dakota's rules provide for several methods and data (ambient monitoring data, emissions inventories, air dispersion modeling, or a combination of these data in a comprehensive analysis) to make the required determination as to whether a project would interfere with attainment or maintenance of the NAAQS. In addition to requirements in Section 74:36:20:05, Section 74:36:20:07 specifies the required contents of a complete application for a construction permit, and includes ''[t]he results of any dispersion modeling required by the department'' and ''[a]ny other information requested by the department that is relevant to determining compliance with that act or the Clean Air Act.'' Therefore, the revisions to 74:36:20:05 will not interfere with any applicable requirement concerning attainment and reasonable further progress with the NAAQS.

*Q. Chapter 74:36:21—Regional Haze Program*

Chapter 74:36:21 contains the requirements South Dakota agreed to as part of the South Dakota Regional Haze Program. The EPA approved sections 74:36:21 through 74:36:21:12 into South Dakota's SIP.

The sections in Chapter 74:36:21 that are being updated to the version of the federal reference specified in the CFR as of July 1, 2016, involve the following: 74:36:21:02(8); 74:36:21:04; 74:36:21:05; and 74:36:21:09.

South Dakota has also proposed changes to include that a construction permit for a new major source or modification to a major source will be issued only after the source has demonstrated that it will not contribute to adverse impact on visibility in any mandatory Class I federal area. Changes include guidance for performing air dispersion modeling if air dispersion modeling is required to demonstrate no adverse impact on visibility. These changes are located in section 74:36:21:04 (Visibility Impact Analysis).

## II. What is the EPA proposing to approve?

*A. What the EPA Is Not Acting On*

The EPA is not acting on revisions to 74:36:05 (Operating Permits for Part 70 Sources), 74:36:07 (New Source Performance Standards), 74:36:08 (National Emission Standards for Hazardous Air Pollutants), 74:36:13 (Continuous Emission Monitoring System) and 74:36:16 (Acid Rain), because these sections are not part of the SIP.

*B. What the EPA Is Acting On*

The EPA is proposing to approve all revisions as submitted by the State of South Dakota on October 4, 2017, as described in section I. of this proposed rulemaking, with the exception of the revisions mentioned in section II. A. of this rulemaking.

The revisions are in compliance with federal requirements, including: (1) CAA section 110(a)(2)(c), which requires states to include a minor NSR program in their SIP to regulate modifications and new construction of stationary sources within the area as necessary to assure the NAAQS are achieved; (2) The regulatory requirements under 40 CFR 51.160, including section 51.160(b), which requires states to have legally enforceable procedures to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the NAAQS; and (3) the statutory requirements under CAA section 110(l), which provides that the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

## III. Incorporation by Reference

In this action, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing the incorporation by reference of changes to the State of South Dakota's SIP regarding their Air Pollution Control Program in Chapter 74:36. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 CAA; and

• Does not provide the 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed 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 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 19, 2018.

**Douglas Benevento,**

*Regional Administrator, Region 8.*

[FR Doc. 2018–08676 Filed 4–26–18; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R6–OAR–2017–0519; FRL–9977–03—Region 6]**

### Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution From Visible Emissions and Particulate Matter

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act, the Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) submitted by the State of Texas to the EPA on August 23, 2017, that pertain to regulations to control air pollution from visible emissions and particulate matter.

**DATES:** Written comments should be received on or before May 29, 2018.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2017–0519, at *http://www.regulations.gov* or via email to *pitre.randy@epa.gov.* For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy Pitre, (214) 665–7299, *pitre.randy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the final rules section of this issue of the **Federal Register**, the EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 19, 2018.

**Anne Idsal,**

*Regional Administrator, Region 6.*

[FR Doc. 2018–08661 Filed 4–26–18; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 272

**[EPA–R02–RCRA–2018–0034; FRL–9974–05—Region 2]**

### New York: Incorporation by Reference of State Hazardous Waste Management Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to revise the codification of New York's authorized hazardous waste program which is set forth in the regulations entitled ''Approved State Hazardous Waste Management Programs''. EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that EPA will enforce under the Solid Waste Disposal Act, as amended and commonly referred to as the Resource Conservation and Recovery Act (RCRA).

**DATES:** Send your written comments by May 29, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R02–RCRA–2018–0034, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

• *Email: azzam.nidal@epa.gov.*

• *Fax:* (212) 637–4437.

• *Mail:* Send written comments to Nidal Azzam, Base Program Management Section Chief, Hazardous Waste Programs Branch, Clean Air and Sustainability Division, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.

• *Hand Delivery or Courier:* Deliver your comments to Nidal Azzam, Base Program Management Section Chief, Hazardous Waste Programs Branch, Clean Air and Sustainability Division, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R02–RCRA–2018–0034. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://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 *http://www.regulations.gov,* or email. The Federal *http://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 *http://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 and with any disk or CD–ROM 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 or 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/dockets*).

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy. You can inspect a copy of the records related to this codification effort at EPA Region 2 by appointment only. To make an appointment please call (212) 637–3703.

**FOR FURTHER INFORMATION CONTACT:** Nidal Azzam, Base Program Management Section Chief, Hazardous Waste Programs Branch, Clean Air and Sustainability Division, EPA Region 2, 290 Broadway, 22nd floor, New York, NY 10007; telephone number: (212) 637–3748; fax number: (212) 637–4437; email address: *azzam.nidal@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the ''Rules and Regulations'' section of this **Federal Register**, the EPA is codifying and incorporating by reference the State's hazardous waste program as a direct final rule. EPA did not make a proposal prior to the direct final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this codification and incorporation by reference in the preamble to the direct final rule. Unless we get written comments which oppose this incorporation by reference during the comment period, the direct final rule will become effective on the date indicated, and we will not take further action on this proposal. If we get comments that oppose these actions, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

For additional information, please see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: December 27, 2017.

**Peter D. Lopez,**

*Regional Administrator, Region 2.*

**Editorial Note:** This document was received for publication by the Office of the Federal Register on April 18, 2018.

[FR Doc. 2018–08429 Filed 4–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register
Vol. 83, No. 82
Friday, April 27, 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

### Submission for OMB Review; Comment Request

April 24, 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 May 29, 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), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

#### Animal and Plant Health Inspection Service

*Title:* Importation of Eggplant from Israel.

*OMB Control Number:* 0579–0350.

*Summary of Collection:* Under the Plant and Protection Act (7 U.S.C. 7701), the Secretary of Agriculture is authorized to carry out operation or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States not known to be widely distributed throughout the United States. APHIS' fruits and vegetables regulations allow the importation of commercial shipments of fresh eggplant from Israel. As a condition of entry, the eggplant must be grown under a system approach that would include requirements for pest exclusion at the production site, fruit fly trapping inside and outside the production site, and pest-excluding packinghouse procedures.

*Need and Use of the Information:* APHIS uses the following information activities to allow for the importation of commercial consignments of fresh eggplant from Israel into the United States while continuing to provide protection against the introduction of quarantine pests: Trapping Records, Labeling of Boxes, Inspection and Approval of Pest-Exclusionary Structures, Phytosanitary Certificates, Grower Registrations, Pest Detection Notification, Treatment Approvals, Emergency Action Notification, and Notice of Arrival. Failure to collect this information would cripple APHIS' ability to ensure that eggplant from Israel is not carrying plant pests.

*Description of Respondents:* Foreign Federal Government, Business and other for-profit.

*Number of Respondents:* 4.

*Frequency of Responses:* Reporting; Third Party Disclosure; Recordkeeping: On occasion.

*Total Burden Hours:* 180.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2018–08927 Filed 4–26–18; 8:45 am]

BILLING CODE 3410–34–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Ohio Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Ohio Advisory Committee (Committee) will hold a meeting via web conference on Thursday May 24, 2018, from 4–5 p.m. EDT for the purpose of discussing/approving their advisory memorandum to the Commission on voting rights in the state.

**DATES:** The meeting will be held on Thursday May 24, 2018, at 4:00 p.m. EDT.

*Public Call Information:* (audio only) Dial: 877–874–1588, Conference ID: 7338819.

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

**SUPPLEMENTARY INFORMATION:** Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll free number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the

regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Ohio Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=268*). Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit Office at the above email or street address.

**Agenda**

Welcome and Roll Call
Advisory Memorandum: Voting Rights in Ohio
Public Comment
Adjournment

Dated: April 24, 2018.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2018–08953 Filed 4–26–18; 8:45 am]

**BILLING CODE 6335–01–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Nevada State Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Nevada Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Thursday, May 31, 2018, for the purpose of narrowing down the scope of their project on policing.

**DATES:** The meeting will be held on Thursday, May 31, 2018, at 1:00 p.m. PT.

*Public Call Information:* Dial: 888–527–7033, Conference ID: 7669093.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 888–527–7033, conference ID number: 7669093. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committee/meetings.aspx?cid=261*. Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

I. Welcome
II. USCCR Announcement
III. Discuss Project Scope
IV. Discuss Project Timeline
V. Public Comment
VI. Next Steps
VII. Adjournment

Dated: April 24, 2018.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2018–08954 Filed 4–26–18; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### U.S. Census Bureau

### Proposed Information Collection; Comment Request; 2020 Census New Construction Program

**AGENCY:** U.S. Census Bureau, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** To ensure consideration, written comments must be submitted on or before June 26, 2018.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *PRAcomments@doc.gov*). You may also submit comments, identified by Docket Number USBC–2018–0007, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe Portable Document Format (PDF) file formats only.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robin A. Pennington, Decennial Census Management Division Program Management Office, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233 or via email at *Robin.A.Pennington@census.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Overview

The 2020 Census New Construction Program is one of the seven (7) voluntary geographic partnership programs that collect residential addresses to update the U.S. Census Bureau's Master Address File (MAF). To deliver questionnaires, locate residences, and tabulate statistics by localities, the Census Bureau must have accurate addresses and boundaries. The Census Bureau also uses its geographic database to link demographic data from surveys and the decennial census to locations and areas, such as cities, congressional and legislative districts, and counties.

The census block is the geographic building block for all Census Bureau geographic boundaries. Geographic programs such as the Redistricting Data Program update the boundaries of census blocks. The addresses collected in the 2020 Local Update of Census Addresses Operation (LUCA), the New Construction Program, and other geocoding processes place households in a specific census block.

While the geographic programs differ in requirements, time frame, and participants, the New Construction Program and the other geographic programs all follow the same basic process:

1. The Census Bureau invites eligible participants to the program.
2. If they elect to participate in the program, participants receive program materials, in this case, user guides, address templates, spatial data in PDF or shapefile format, and/or free, customized mapping software.
3. Participants review the materials and submit their addresses in the Census Bureau's predefined format.
4. The Census Bureau updates its address list with updates from participants.
5. The Census Bureau uses its address list to conduct the 2020 Census and tabulate statistics.

## II. Abstract

The Census Bureau is requesting clearance to conduct the New Construction Program from February 2019 through December 2019. The purpose of the New Construction Program is to obtain city-style addresses for newly built housing units in blocks where census questionnaires or mailing packages are delivered and households are expected to use a self-response mode to complete the census.

The Census Bureau conducts LUCA and the New Construction Program as successive partnership operations to assure the completeness and accuracy of the Census Bureau's address list. These operations allow participating governments the opportunity to provide input to improve the Census Bureau's address list and to ensure accurate and complete enumeration of their communities. LUCA and the New Construction Program are complementary; however, there is no dependency on either program for participation in the other.

- LUCA participants who agree to receive the address list for their jurisdiction receive Title 13 protected materials. Participants review the address list and submit their validated or revised address list to the Census Bureau between spring and summer 2018.
- The Census Bureau processes and validates the LUCA updates using a combination of independent address sources, such as the United States Postal Service's list of delivery addresses or the 2020 Census Address Canvassing operation. Upon completion of the LUCA address validations by April of 2019, the Census Bureau provides address-level feedback to partners, allowing them to appeal any determination made by the Census Bureau to the Office of Management and Budget (OMB) LUCA Appeals Office.
- In spring 2019, the Census Bureau invites tribal, state, and local governments to participate in the New Construction Program. The Census Bureau will provide a list of governments eligible for participation in the New Construction Program by fall 2018. The Census Bureau confines the scope of the New Construction Program to the submission of addresses for newly constructed living quarters that began or will begin construction in the year leading up to the census. The Census Bureau does not provide Title 13 protected materials to the participants of the New Construction Program. Between June and August 2019, tribal, state, and local governments identify addresses for housing units, group quarters, and transitory locations for which construction began during or after March 2019 that are expected to be closed to the elements (final roof, windows, and doors) and potentially inhabitable by Census Day, April 1, 2020. No other updates, including streets or boundaries, will be accepted.

Through the New Construction Program, the Census Bureau improves the accuracy and completeness of the address list used to conduct the 2020 Census by utilizing the expertise of tribal, state, and local governments. The Census Address List Improvement Act of 1994 (Pub. L. 103–430) strengthened the Census Bureau's partnership capabilities with participating governments by expanding the methods the Census Bureau uses to collect address information from tribal, state, and local governments. The New Construction Program does not provide Title 13 protected addresses to participants, however, when participants submit address data for new housing to be included in the 2020 Census, the Census Bureau will protect the submitted data under Title 13, U.S.C. Section 9 provides for the confidential treatment of census-related information, including individual address and structure coordinates. Participation in the New Construction Program is voluntary.

The New Construction Program includes four phases:

1. New Construction Program Invitation Phase.
2. New Construction Program Participant Review Materials.
3. New Construction Program Address Updates.
4. Closeout.

*New Construction Program Invitation Phase*

The Census Bureau will mail the New Construction Program invitation letter and registration form in April 2019 to approximately 32,000 eligible participants that includes federally recognized American Indian tribal governments with reservations and/or off-reservation trust lands, states, and local governments. Based on the 2010 Census New Construction Program, the Census Bureau estimates 6,550 out of the 32,000 invited governments will participate. To participate, interested governments must respond to the invitation package by completing and returning the registration form to the Census Bureau by June 2019. Participants must also identify the format of the maps or spatial data that they wish to receive from the Census Bureau. The estimated time burden for this stage is one hour per participant.

*New Construction Program Participant Review Materials*

During summer 2019, the Census Bureau will deliver review materials to registered governments. Governments will receive the materials they selected on the registration form. Participating governments will be required to submit full address data for qualifying structures, including individual unit numbers for multiunit structures (*e.g.,* Apt. 1, Apt. 2, Unit 1, and Unit 2), and geographic information such as the census tract and block numbers, or geographic coordinates.

The typical New Construction Program Participant Review Materials package will contain the following:

1. New Construction Program Quick Start Document.
2. New Construction Program User Guide.
3. New Construction Program Address List Template.
4. Geographic Update Partnership Software (GUPS).
5. New Construction Program Map PDFs (for geocoding purposes only).
6. New Construction Program spatial shapefiles (for geocoding purposes only).

Participants must submit their New Construction Program address list to the Census Bureau within 45 calendar days of receipt of the New Construction Program materials. The New Construction Program addresses must be returned in the Census Bureau's predefined format, and each address must be geocoded or assigned to the census tract and block in which it is located as shown on the New Construction Program PDF or digital (shapefile) maps. This stage will occur between August and September 2019. The average estimated time burden to add, review, and submit the New Construction Program address list to the Census Bureau is 47 hours per participant.

*New Construction Program Address Updates*

From September through November 2019, the Census Bureau will process all files received from participants. Files that are submitted in the proper format and with complete geocoding data are compared against the Census Bureau's census address list, extracted from the MAF, to check for any addresses already on the list. The Census Bureau will add the addresses to the census address list and MAF, if needed, and mail decennial census forms to any participant-supplied addresses that were not already in the census address list. The census enumeration process will determine the final housing unit status and population for each unit.

*Closeout*

The Census Bureau provides a closeout letter to governments that registered to participate and provided updates as well as a thank you letter to governments that provided updates. Closeout occurs between December 2019 and January 2020.

## II. Method of Collection

The Census Bureau will collect the New Construction Program participants' contact information and product media preference when participants fill out the electronic or printed forms. To prepare and submit their list of new living quarters addresses, the New Construction Program participants can opt to receive:

- GUPS with Census Bureau spatial data.
- PDF maps.

Participants may also use their own software to create a computer-readable list of addresses in the prescribed format. Participants will use the Census Bureau provided maps or spatial data as a reference for assigning census tract and block codes (geocodes) for each submitted address.

## III. Data

*OMB Control Number:* 0607–XXXX.
*Form Number(s):* NC_RForm_2020.
*Type of Review:* Regular submission.
*Affected Public:* Federally recognized tribes, states, local governments (counties, incorporated places, functioning minor civil divisions).
*Estimated Number of Respondents:*
*Program Invitation:* 32,000.
*Participant Material Review:* 6,550.
*Estimated Time per Response:*
*Program Invitation:* 1 hour.
*Participant Material Review:* 47 hours.
*Estimated Total Hour Burden:*
*Program Invitation:* 32,000 hours.
*Participant Material Review:* 307,850 hours.
*Estimated Total Annual Burden Hours:* 339,850 hours.

| Stage of review | Estimated number of respondents | Estimated time per response (hours) | Total estimated hour burden |
|---|---|---|---|
| Program Invitation | 32,000 | 1 | 32,000 |
| Participant Material Review | 6,550 | 47 | 307,850 |
| Total | | | 339,850 hours. |

*Estimated Total Annual Cost to Public:* $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13, U.S.C., Section 141(a).

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer.*

[FR Doc. 2018–08964 Filed 4–26–18; 8:45 am]

BILLING CODE 3510–07–P

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

**[Docket No.: 180301235–8235–01]**

### National Cybersecurity Center of Excellence (NCCoE) Data Integrity Building Block

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The National Institute of Standards and Technology (NIST) invites organizations to provide products and technical expertise to support and demonstrate security platforms for two data integrity projects within the Data Integrity Building Block. The two projects are (1) Data

Integrity: Identifying and Protecting Assets Against Ransomware and Other Destructive Events and (2) Data Integrity: Detecting and Responding to Ransomware and Other Destructive Events. This notice is the initial step for the National Cybersecurity Center of Excellence (NCCoE) in collaborating with technology companies to address cybersecurity challenges identified under the Data Integrity Building Block. Participation in the building block is open to all interested organizations and organizations may participate in one or both data integrity projects.

**DATES:** Collaborative activities will commence as soon as enough completed and signed letters of interest have been returned to address all the necessary components and capabilities, but no earlier than May 29, 2018.

**ADDRESSES:** The NCCoE is located at 9700 Great Seneca Highway, Rockville, MD 20850. Letters of interest must be submitted to *di-nccoe@nist.gov* or via hardcopy to National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Organizations whose letters of interest are accepted in accordance with the process set forth in the **SUPPLEMENTARY INFORMATION** section of this notice will be asked to sign a separate consortium Cooperative Research and Development Agreement (CRADA) with NIST for each Data Integrity Building Block project. An NCCoE consortium CRADA template can be found at: *http://nccoe.nist.gov/node/138*.

**FOR FURTHER INFORMATION CONTACT:** Timothy McBride via email to *timothy.mcbride@nist.gov;* by telephone 301–975–0214; or by mail to National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Additional details about the Data Integrity Building Block are available at *https://nccoe.nist.gov/projects/building-blocks/data-integrity*.

**SUPPLEMENTARY INFORMATION:** Interested parties must contact NIST to request a letter of interest template to be completed and submitted to NIST. Letters of interest will be accepted on a first come, first served basis. Parties interested in participating in both data integrity projects must submit a separate letter of interest for each data integrity project. When the building block has been completed, NIST will post a notice announcing the completion of the building block and informing the public that it will no longer accept letters of interest for this building block on the NCCoE Data Integrity Building Block website at *https://nccoe.nist.gov/projects/building-blocks/data-integrity/identify-protect* for Data Integrity: Identifying and Protecting Assets Against Ransomware and Other Destructive Events, and at *https://nccoe.nist.gov/projects/building-blocks/data-integrity/detect-respond* for Data Integrity: Detecting and Responding to Ransomware and Other Destructive Events.

*Background:* The NCCoE, part of NIST, is a public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. The NCCoE brings together experts from industry, government, and academia under one roof to develop practical, interoperable cybersecurity approaches that address the real-world needs of complex Information Technology (IT) systems. By accelerating dissemination and use of these integrated tools and technologies for protecting IT assets, the NCCoE will enhance trust in U.S. IT communications, data, and storage systems; reduce risk for companies and individuals using IT systems; and encourage development of innovative, job-creating cybersecurity products and services.

*Process:* NIST is soliciting responses from all sources of relevant security capabilities (see below) to enter into a Cooperative Research and Development Agreement (CRADA) to provide products and technical expertise to support and demonstrate security platforms for the Data Integrity Building Block. The full building block can be viewed at: *https://nccoe.nist.gov/projects/building-blocks/data-integrity*.

Interested parties should contact NIST using the information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. NIST will then provide each interested party with a letter of interest template, which the party must complete, certify that it is accurate, and submit to NIST. NIST will contact interested parties if there are questions regarding the responsiveness of the letters of interest to the building block objective or requirements identified below. NIST will select participants who have submitted complete letters of interest on a first come, first served basis within each category of product components or capabilities listed below up to the number of participants in each category necessary to carry out this building block. However, there may be continuing opportunity to participate even after initial activity commences. Selected participants will be required to enter into a consortium CRADA with NIST (for reference, see **ADDRESSES** section above). NIST published a notice in the **Federal Register** on October 19, 2012 (77 FR 64314) inviting U.S. companies to enter into National Cybersecurity Excellence Partnerships (NCEPs) in furtherance of the NCCoE. For this demonstration project, NCEP partners will not be given priority for participation.

*Building Block Objective:* Establish tools and procedures to defend, detect, and respond to data integrity events.

A detailed description of the Data Integrity Building Block is available at: *https://nccoe.nist.gov/projects/building-blocks/data-integrity.*

*Requirements:* Each responding organization's letter of interest should identify which security platform component(s) or capability(ies) it is offering. Responding organizations must submit a separate letter of interest and sign a separate consortium CRADA for each project the responding organization is interested in joining. Letters of interest should not include company proprietary information, and all components and capabilities must be commercially available. Components are listed in section 3 of each of the data integrity projects (1) Data Integrity: Identifying and Protecting Assets Against Ransomware and Other Destructive Events, and (2) Data Integrity: Detecting and Responding to Ransomware and Other Destructive Events (for reference, please see the link in the PROCESS section above) and include, but are not limited to:

- For Data Integrity: Identifying and Protecting Assets Against Ransomware and Other Destructive Events:
  - Secure storage
  - File integrity checking mechanisms backup capability for databases, VMs, and file systems
  - Vulnerability management and identification software
  - Signature based vulnerability detection
  - Behavior based vulnerability detection
  - Zero-day vulnerability detection
  - Log collection software
  - Asset inventory software
  - Asset management
  - Asset discovery
  - Maintenance software (including software versioning and distribution technology)
  - Software versioning
  - Software distribution
  - Update verification
- For Data Integrity: Detecting and Responding to Ransomware and Other Destructive Events
  - Integrity monitoring
  - Event detection
  - Malicious software detection

- Unauthorized activity detection
- Anomalous activity detection
- Logging and data correlation software
- Reporting capability
- Vulnerability management
- Forensics/analytics tools
- Mitigation and containment software

Each responding organization's letter of interest should identify how their products address one or more of the following desired solution characteristics in section 3 of each of the Data Integrity projects (1) Data Integrity: Identifying and Protecting Assets Against Ransomware and Other Destructive Events, and (2) Data Integrity: Detecting and Responding to Ransomware and Other Destructive Events (for reference, please see the link in the PROCESS section above):

1 For Data Integrity: Identifying and Protecting Assets Against Ransomware and Other Destructive Events:
- Inventory assets both part of the enterprise and the solution itself
- Be secure against integrity attacks against hosts
- Be secure against integrity attacks that occur on the network
- Support secure backups
- Provide protected network and remote access
- Provide audit capabilities

2 For Data Integrity: Detecting and Responding to Ransomware and Other Destructive Events:
- Detect unauthorized or malicious activity on the network
- Detect unauthorized or malicious mobile code (such as web technologies like JavaScript, VBScript, and other code executed but loaded from an external site)
- Detect unauthorized or malicious executables
- Detect unauthorized or malicious behavior
- Report unauthorized or malicious activity on the network
- Report unauthorized or malicious mobile code events
- Report unauthorized or malicious executables
- Report unauthorized or malicious behavior
- Analyze the impact of unauthorized or malicious activity on the network
- Analyze the impact of unauthorized or malicious mobile code events
- Analyze the impact of unauthorized or malicious executables
- Analyze the impact of unauthorized or malicious behavior
- Mitigate the impact of unauthorized or malicious activity on the network
- Mitigate the impact of unauthorized or malicious mobile code events
- Mitigate the impact of unauthorized or malicious executables
- Mitigate the impact of unauthorized or malicious behavior
- Contain unauthorized or malicious activity on the network
- Contain unauthorized or malicious mobile code events
- Contain unauthorized or malicious executables
- Contain unauthorized or malicious behavior

Responding organizations need to understand and, in their letters of interest, commit to provide:

1. Access for all participants' project teams to component interfaces and the organization's experts necessary to make functional connections among security platform components
2. Support for development and demonstration of the Data Integrity Building Block in NCCoE facilities which will be conducted in a manner consistent with the following standards and guidance: FIPS 200, FIPS 201 (for the Data Integrity: Identifying and Protecting Assets Against Ransomware and Other Destructive Events Project), SP 800–53, FIPS 140–2, SP 800–37, SP 800–57, SP 800–61, SP 800–83, SP 800–150, SP 800–160, and SP 800–184.

Additional details about the Data Integrity Building Block are available at: *https://nccoe.nist.gov/projects/building-blocks/data-integrity.*

NIST cannot guarantee that all of the products proposed by respondents will be used in the demonstration. Each prospective participant will be expected to work collaboratively with NIST staff and other project participants under the terms of the consortium CRADA in the development of the Data Integrity Building Block. Prospective participants' contribution to the collaborative effort will include assistance in establishing the necessary interface functionality, connection and set-up capabilities and procedures, demonstration harnesses, environmental and safety conditions for use, integrated platform user instructions, and demonstration plans and scripts necessary to demonstrate the desired capabilities. Each participant will train NIST personnel, as necessary, to operate its product in capability demonstrations. Following successful demonstrations, NIST will publish a description of the security platform and its performance characteristics sufficient to permit other organizations to develop and deploy security platforms that meet the security objectives of the Data Integrity Building Block. These descriptions will be public information.

Under the terms of the consortium CRADA, NIST will support development of interfaces among participants' products by providing IT infrastructure, laboratory facilities, office facilities, collaboration facilities, and staff support to component composition, security platform documentation, and demonstration activities.

The dates of the demonstration of the Data Integrity Building Block capability will be announced on the NCCoE website at least two weeks in advance at *http://nccoe.nist.gov/.* The expected outcome of the demonstration is to improve data integrity within the enterprise. Participating organizations will gain from the knowledge that their products are interoperable with other participants' offerings.

For additional information on the NCCoE governance, business processes, and NCCoE operational structure, visit the NCCoE website *http://nccoe.nist.gov/.*

**Kevin A. Kimball,**

*Chief of Staff.*

[FR Doc. 2018–08829 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration (NOAA)

### National Sea Grant Advisory Board (NSGAB); Public Meeting of the National Sea Grant Advisory Board

**AGENCY:** Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the NSGAB. NSGAB members will discuss and provide advice on the National Sea Grant College Program (Sea Grant), specifically to review and approve the 2018 Biennial Report to Congress, and any other matters as described in the agenda found on the Sea Grant website at *http://seagrant.noaa.gov/WhoWeAre/Leadership/NationalSeaGrantAdvisoryBoard/UpcomingAdvisoryBoardMeetings.aspx.*

**DATES:** The announced meeting is scheduled for Monday, May 14, 2018, from 3:00 p.m. to 4:30 p.m. ET.

**ADDRESSES:** The meeting will be held via conference call and webinar. Public access is available at 1315 East-West Highway, Bldg.3, Room #01303, Silver Spring, MD 20910. In order to attend in person or via conference call/webinar, please R.S.V.P to Donna Brown (contact information below) by Friday, May 4, 2018.

**FOR FURTHER INFORMATION CONTACT:** For any questions concerning the meeting, please contact Ms. Donna Brown, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11717, Silver Spring, Maryland, 20910, 301–734–1088 or *Donna.Brown@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

*Status:* The meeting will be open to public participation with a 10-minute public comment period on Monday, May 14, 2018 at 4:10 p.m. ET. (check agenda using link in the Summary section to confirm time.)

The NSGAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by Ms. Donna Brown by Monday, May 7, 2018 to provide sufficient time for NSGAB review. Written comments received after the deadline will be distributed to the NSGAB, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-serve basis.

*Special Accommodations:* These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Donna Brown by Friday, May 4, 2018. The NSGAB, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Pub. L. 94–461, 33 U.S.C. 1128). The NSGAB advises the Secretary of Commerce and the Director of Sea Grant with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice.

Dated: April 19, 2018.

**David Holst,**

*Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2018–08931 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–KA–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XG041**

### Programmatic Environmental Impact Statement for the Marine Mammal Health and Stranding Response Program

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

**ACTION:** Notice of intent to prepare a Programmatic Environmental Impact Statement (PEIS); request for comments; correction.

**SUMMARY:** This notice contains corrections to the scoping meeting times published on April 2, 2018, in the **DATES** section of a notice of intent for the Marine Mammal Health and Stranding Response Program (MMHSRP) to prepare a PEIS. This action is necessary to correct an error in the times of the in-person scoping meeting and webinars published in the **Federal Register**.

**DATES:** This correction is applicable as of April 27, 2018.

**FOR FURTHER INFORMATION CONTACT:** Stephen Manley, NMFS, Office of Protected Resources, 301–427–8402, *Stephen.Manley@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

A notice of intent for the MMHSRP to prepare a PEIS published on April 2, 2018 (83 FR 13955). This correction replaces the meeting times in the notice.

#### Need for Correction

As published, in the **DATES** section, on page 13956 of the **Federal Register**, the times of the in-person scoping meeting on May 18, 2018, and scoping webinar on May 21, 2018, were incorrect. This correction does not change NMFS' intent to prepare a PEIS for the MMHSRP. The correct dates and times of the public scoping meeting and webinars are as follows:

**DATES:** Comments must be received by June 1, 2018. Those wishing to attend either the webinars or in-person meeting must register at *https://mmhsrp-peis.eventbrite.com.* Scoping meetings are scheduled as follows:

1. May 1, 2018, 3 p.m. EDT—Webinar (Registration Required)
2. May 15, 2018, 3:30 p.m. EDT—Webinar (Registration Required)
3. May 18, 2018, 10:30 a.m. EDT—(valid ID compliant with the REAL ID Act required)—NOAA Science Center, 1301 East West Highway, Silver Spring, MD
4. May 21, 2018, 3:00 p.m. EDT—Webinar (Registration Required)

Dated: April 24, 2018.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2018–08892 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XG132**

### Takes of Marine Mammals Incidental To Specified Activities; Taking Marine Mammals Incidental to the South Basin Improvements Project at the San Francisco Ferry Terminal

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received a request from the San Francisco Bay Area Water Emergency Transportation Authority (WETA) for authorization to take marine mammals incidental to Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

**DATES:** Comments and information must be received no later than May 29, 2018.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Fowler@noaa.gov.*

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-

megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Amy Fowler, 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: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* 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 (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 preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

## Summary of Request

On January 22, 2018, NMFS received a request from WETA for an IHA to take marine mammals incidental to expansion and improvements at the downtown San Francisco ferry terminal. The application was determined to be adequate and complete on April 10, 2018. WETA's request is for take of seven species of marine mammals by Level B harassment only. This authorization would be valid from June 1, 2018 to May 31, 2019. Neither WETA nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to WETA for similar work (82 FR 29521, June 29, 2017). WETA complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA and information regarding their monitoring results may be found in the ''Estimated Take'' section.

## Description of Proposed Activity

### *Overview*

WETA is proposing to expand berthing capacity at the Downtown San Francisco Ferry Terminal, located at the San Francisco Ferry Building, to support existing and future planned water transit services operated on San Francisco Bay by WETA and WETA's emergency operations.

The Downtown San Francisco Ferry Terminal Expansion Project would eventually include phased construction of three new water transit gates and overwater berthing facilities, in addition to supportive landside improvements, such as additional passenger waiting and queueing areas, circulation improvements, and other water transit-related amenities. The new gates and other improvements would be designed to accommodate future planned water transit services between Downtown San Francisco and Antioch, Berkeley, Martinez, Hercules, Redwood City, Richmond, and Treasure Island, as well as emergency operation needs. According to current planning and operating assumptions, WETA will not require all three new gates (Gates A, F, and G) to support existing and new services immediately. As a result, WETA is planning that project construction will be phased. The first phase will include construction of Gates F and G, as well as other related improvements in the South Basin.

### *Dates and Duration*

In-water construction activities (*i.e.,* pile driving) will be scheduled to be completed during the authorized work window for construction in San Francisco Bay established by the Long-Term Management Strategy. In the project area, the authorized in-water work window is June 1 through November 30. WETA estimates the project may take up to 41 days of activity within the in-water work window. This proposed authorization would be valid from June 1, 2018 through May 31, 2019.

### *Specific Geographic Region*

The San Francisco ferry terminal is located in the western shore of San Francisco Bay (see Figure 1 of WETA's application). The ferry terminal is five blocks north of the San Francisco-Oakland Bay Bridge (Bay Bridge). More

specifically, the South Basin of the terminal is located between Pier 14 and the ferry plaza. San Francisco Bay and the adjacent Sacramento-San Joaquin Delta make up one of the largest estuarine systems on the continent. The Bay has undergone extensive industrialization, but remains an important environment for healthy marine mammal populations year round. The area surrounding the proposed activity is an intertidal landscape with heavy industrial use and boat traffic.

*Detailed Description of Specific Activity*

The project supports existing and future planned water transit services operated by WETA and regional policies to encourage transit uses. Furthermore, the project addresses deficiencies in the transportation network that impede water transit operation, passenger access, and passenger circulation at the Ferry Terminal.

The project will accommodate the existing and future planned water transit service outlined in WETA's Implementation and Operations Plan for the San Francisco Bay Area. The addition of two new gates will accommodate an expansion of WETA services from 5,100 to 19,160 passengers per weekday by the year 2035; and an increase in peak-period WETA vessel arrivals from 14 to approximately 30. In addition to regularly scheduled ferry transit, facility improvements would allow for increased capacity for emergency use. With the improvements in place, WETA will have the capacity to evacuate approximately 7,200 passengers per hour from its four gates.

The new gates (Gates F and G) will be built similarly. Each gate will be designed with an entrance portal—a prominent doorway providing passenger information and physically separating the berthing structures from the surrounding area. The entrance portal will also contain doors, which can be secured.

Berthing structures will be provided for each new gate, consisting of floats, gangways, and guide piles. Figure 3 of WETA's application depicts a simulated view of the proposed berthing structures. The steel floats will be approximately 42 feet (ft) wide by 135 ft long. The steel truss gangways will be approximately 14 ft wide and 105 ft long. The gangway will be designed to rise and fall with tidal variations while meeting Americans with Disabilities Act (ADA) requirements. The gangway and the float will be designed with canopies, consistent with the current design of Gates B and E. The berthing structures will be fabricated offsite and floated to the project area by barge.

Six steel guide piles will be required to secure each float in place. In addition, dolphin piles may be used at each berthing structure to protect against the collision of vessels with other structures or vessels. A total of up to 14 dolphin piles may be installed, consisting of ten new dolphin piles and four relocated dolphin piles.

Chock-block fendering will be added along the East Bayside Promenade, to adjacent structures to prevent collision. The chock-block fendering will consist of square, 12-inch-wide, polyurethane-coated, pressure-treated wood blocks that are connected along the side of the adjacent pier structure, and supported by polyurethane-coated, pressure-treated wood piles.

In addition, the existing Gate E float will be moved 43 ft to the east, to align with the new gates and the East Bayside Promenade. The existing six 36-inch (in) diameter steel guide piles will be removed using vibratory extraction, and reinstalled to secure the Gate E float in place. Because of Gate E's new location, to meet ADA requirements, the existing 90 ft steel truss gangway will be replaced with a longer, 105 ft gangway.

TABLE 1—SUMMARY OF PILE INSTALLATION

| Project element | Pile diameter (in) | Pile length (ft) | Number of piles | Schedule (days) |
|---|---|---|---|---|
| Embarcadero Plaza, East Bayside Promenade, and Interim Access Structure. | 30 | 135 to 155 | 18 | Up to 9. |
| Embarcadero Plaza, East Bayside Promenade, and Interim Access Structure. | 24 | 135 to 155 | 30 | Up to 15. |
| Gates E, F, and G Dolphin Piles | 36 | 145 to 155 | 10 (two at each of the floats for protection, two between each of the floats). | Up to 5. |
| Gate F and G Guide Piles | 36 | 140 to 150 | 12 (six per gate) | Up to 6. |
| Gate E Guide Piles | 36 | 145 to 155 | 6 | Up to 3. |
| Barrier Piles near Pier 14 | 24 | 135 to 155 | 5 | Up to 3. |
| Total | | | 81 piles | 41. |

Construction of the project improvements requires pile driving. Pile driving for the project includes impact or vibratory pile driving associated with construction of the berthing structures, the Embarcadero Plaza, and East Bayside Promenade. Much of the pile driving associated with the project was completed in 2017 and was covered under a previous IHA. All pile driving completed in 2017 was vibratory; no impact pile driving was conducted. The pile sizes and numbers that will be driven in 2018 are detailed in Table 1. Pile driving will occur during daylight hours only and one hammer will be used at a time. Vibratory driving may install up to four piles per day and impact driving may install up to three piles per day but a conservative estimate of two piles per day is used to estimate the duration of the project. Vibratory driving of 24-in and 30-in piles may take up to 15 minutes per pile while vibratory driving of 36-in piles may take up to 20 minutes per pile. Piles driven with an impact hammer will require an estimated 1800 strikes per pile, regardless of pile size. Underwater sound and acoustic pressure resulting from pile driving could affect marine mammals by causing behavioral avoidance of the construction area, and/or injury to sensitive species.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'').

**Description of Marine Mammals in the Area of Specified Activities**

Sections 4 and 5 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR;

*www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*www.fisheries.noaa.gov/find-species*).

Table 2 lists all species with expected potential for occurrence near downtown San Francisco and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. 2016 SARs (Caretta *et al.,* 2017). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2016 SARs (Caretta *et al.,* 2017).

TABLE 2—MARINE MAMMALS IN THE VICINITY OF DOWNTOWN SAN FRANCISCO

| Common name | Scientific name | Stock | ESA/MMPA status; strategic (Y/N) [1] | Stock abundance (CV, Nmin, most recent abundance survey) [2] | PBR | Annual M/SI [3] |
|---|---|---|---|---|---|---|
| **Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)** | | | | | | |
| **Family Eschrichtiidae** | | | | | | |
| Gray whale | *Eschrichtius robustus* | Eastern North Pacific | -/-; N | 20,990 (0.05, 20,125, 2011). | 624 | 132 |
| **Family Balaenopteridae (rorquals)** | | | | | | |
| *Humpback whale* | *Megaptera novaeangliae* | California/Oregon/Washington. | E/D; Y | 1,918 (0.03, 1,876, 2014). | 11 | >6.5 |
| **Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | | | |
| **Family Delphinidae** | | | | | | |
| Bottlenose dolphin | *Tursiops truncatus* | California Coastal | -/-; N | 453 (0.06, 346, 2011) | 2.7 | >2 |
| **Family Phocoenidae (porpoises)** | | | | | | |
| Harbor porpoise | *Phocoena phocoena* | San Francisco-Russian River. | -/-; N | 9,886 (0.51, 6,625, 2011). | 66 | 0 |
| **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 |
| Northern fur seal | *Callorhinus ursinus* | California | -/-; N | 14,050 (n/a, 7,524, 2013). | 451 | 1.8 |
| *Guadalupe fur seal* | *Arctocephalus townsendi.* | Mexico to California | T/D; Y | 20,000 (n/a, 15,830, 2010). | 542 | >3.2 |
| **Family Phocidae (earless seals)** | | | | | | |
| Pacific harbor seal | *Phoca vitulina richardii* | California | -/-; N | 30,968 (n/a, 27,348, 2012). | 1,641 | 43 |
| Northern elephant seal | *Mirounga angustirostris* | California Breeding | -/-; 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; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

**Note—**Italicized species are not expected to be taken or proposed for authorization.

All species that could potentially occur in the proposed survey areas are included in Table 2. However, the temporal and/or spatial occurrence of humpback whales and Guadalupe fur seals is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. Humpback whales are rare visitors to the interior of San Francisco Bay. A recent, seasonal influx of humpback whales inside San Francisco Bay near the Golden Gate was recorded from April to November in 2016 and 2017 (Keener 2017). The Golden Gate is outside of this project's action area and humpback whales are not expected to be present during the project. Guadalupe fur seals occasionally range into the waters of Northern California and the Pacific Northwest. The Farallon Islands (off central California) and Channel Islands (off southern California) are used as haulouts during these movements (Simon 2016). Juvenile Guadalupe fur seals occasionally strand in the vicinity of San Francisco, especially during El Niño events. Most strandings along the California coast are animals younger than two years old, with evidence of malnutrition (NMFS 2017c). In the rare event that a Guadalupe fur seal is detected within the Level A or Level B harassment zones, work will cease until the animal has left the area (see ''Proposed Mitigation'').

*Gray Whale*

Gray whales are large baleen whales. They grow to approximately 50 ft in length and weigh up to 40 tons. They are one of the most frequently seen whales along the California coast, easily recognized by their mottled gray color and lack of dorsal fin. Adult whales carry heavy loads of attached barnacles, which add to their mottled appearance. Gray whales are divided into the Eastern North Pacific and Western North Pacific stocks. Both stocks migrate each year along the west coast of continental North America and Alaska. The Eastern North Pacific stock is much larger and is more likely to occur in the San Francisco Bay area. With the exception of an unusual mortality event in 1999 and 2000, the population of Eastern North Pacific stock has increased over the last 20 years and has been stable since the 1990s (NMFS 2015c).

Gray whales are the only baleen whale known to feed on the sea floor, where they scoop up bottom sediments to filter out benthic crustaceans, mollusks, and worms (NMFS 2015c). They feed in northern waters primarily off the Bering, Chukchi, and western Beaufort Seas during the summer. Between December and January, late-stage pregnant females, adult males, and immature females and males migrate southward to breeding areas around Mexico. The northward migration occurs between February and March. Coastal waters just outside San Francisco Bay are considered a migratory Biological Important Area for the northward progression of gray whales (Calambokidis *et al.,* 2015). During this time, recently pregnant females, adult males, immature females, and females with calves move north to the feeding grounds (Calambokidis *et al.,* 2014). A few individuals enter into the San Francisco Bay during their northward migration. Some gray whales summer along the west coast of North America to forage and are additionally defined as the Pacific Coast Feeding Group. This group is separately monitored between June 1 and November 1 between northern California and northern British Columbia by the International Whaling Commission (IWC 2012; Calambokidis *et al.,* 2015). The Pacific Coast Feeding Group has increased in abundance estimates since the 1990s and has been stable since 2003 (Calambokidis *et al.,* 2014).

*Bottlenose Dolphin*

Since the 1982–83 El Niño, which increased water temperatures off California, bottlenose dolphins have been consistently sighted along the central California coast (NMFS 2017b). The northern limit of their regular range is currently the Pacific coast off San Francisco and Marin Country and they occasionally enter San Francisco Bay, sometimes foraging for fish in Fort Point Cove, just inside the Golden Gate Bridge. The California Coastal Stock is frequently seen in nearshore waters (NMFS 2017b). Members of the California Coastal stock are transient and make movements up and down the coast into some estuaries, throughout the year.

*Harbor Porpoise*

Harbor porpoises generally occur in groups of two to five individuals and are considered to be shy, relatively nonsocial animals. The harbor porpoise has a small body, with a short beak and medium-sized dorsal fin. They can grow to approximately 5 ft and 170 pounds. Distribution of harbor porpoises is discontinuous due to a habitat preference of continental shelf waters. Harbor porpoises are typically found in waters less than 250 ft deep along the coast and in bays, estuaries, and harbors. Their prey consists of demersal and benthic species, such as schooling fish and cephalopods (NMFS 2014).

*California Sea Lion*

California sea lions are sexually dimorphic eared seals (family *Otariidae*). Males can reach up to 8 ft long and weigh 700 pounds whereas females are smaller, approximately 6 ft long and 200 pounds. California sea lions breed in southern California and along the Channel Islands during the spring. Although most females remain in southern California waters year-round, males and some subadult females range widely and occupy protected embayments like San Francisco Bay throughout the year (Caltrans 2012). Pupping does not occur in San Francisco Bay. They are extremely intelligent and social, and spend much of their time aggregated at communal haulouts. Group hunting is common and they may cooperate with other species, such as dolphins, when hunting large schools of fish. California sea lions feed on a variety of fish and squid species (NMFS 2015b).

During El Niño events, there is an increase in pup and juvenile mortality, which in turn affects future age and sex classes. Additionally, because there are fewer females present in the population after such events, pup production is further limited. Declines in pup production observed in 2000 and 2003 can be attributed in part to previous El Niño events, which affected the number of reproductive females in the population, and in part to domoic poisoning and an infestation of hook worms, which caused an increase in pup mortality (NMFS 2017a). There was an unusual mortality event declared in 2013 due to a high number of strandings with reasons unknown, but hypothesized to be associated with low forage fish availability close to pupping areas (NMFS 2015b). Despite intermittent years of increased pup mortality, statistical analyses of pup counts between 1975 and 2011 determined an approximate 5.4 percent annual increase between 1975 and 2008 (NMFS 2017a).

Although there is little information regarding the foraging behavior of the California sea lion in the San Francisco Bay, they have been observed foraging on a regular basis in the shipping channel south of Yerba Buena Island. Foraging grounds have also been identified for pinnipeds, including sea lions, between Yerba Buena Island and Treasure Island, as well as off the Tiburon Peninsula (Caltrans 2001). California sea lions in the San Francisco Bay may be feeding on Pacific herring (*Clupea harengus pallasii*), northern

anchovy (*Engraulis mordax*), or other prey species (Caltrans 2013).

*Northern Fur Seal*

The range of the northern fur seal extends from southern California, north to the Bering Sea and west to the Okhotsk Sea and Honshu Island, Japan (NMFS 2015e). There are two stocks of northern fur seal, the California stock and the Eastern Pacific stock. The Eastern Pacific stock is listed as strategic and depleted under the MMPA but the California stock is not (NMFS 2015e). Both the Eastern Pacific and California stocks forage in offshore waters outside San Francisco Bay. During the breeding season, the majority of the worldwide population is found on the Pribilof Islands in the Southern Bering Sea, with the remaining animals spread throughout the North Pacific Ocean. On the coast of California, small breeding colonies are present at San Miguel Island off southern California and the Farallon Islands off central California (NMFS 2015e). Northern fur seals are a pelagic species and are rarely seen near the shore away from breeding areas.

*Harbor Seal*

The Pacific harbor seal is one of five subspecies of *Phoca vitulina,* or the common harbor seal. They are a true seal, with a rounded head and visible ear canal. Males and females are similar in size and can exceed 6 ft and 300 pounds. Harbor seals generally do not migrate annually. They display year-round site fidelity, although they have been known to swim several hundred miles to find food or suitable breeding habitat.

Harbor seals have the broadest range of any pinniped, inhabiting both the Atlantic and Pacific oceans. In the Pacific, they are found in nearshore coastal and estuarine habitats form Baja California to Alaska, and from Russia to Japan. Of the three recognized populations of harbor seals along the west coast of the continental U.S., the California stock occurs in California coastal waters.

Harbor seals forage in shallow waters on a variety of fish and crustaceans that are present throughout San Francisco Bay, and therefore could occasionally be found foraging in the action area. They are opportunistic, general foragers (Gibble 2011). In San Francisco Bay, harbor seals forage in shallow, intertidal waters on a variety of fish, crustaceans, and a few cephalopods. The most numerous prey items identified in harbor seal fecal samples from haulouts in San Francisco Bay include yellow fin goby (*Acanthogobius flavimanus*), northern anchovy, Pacific herring, staghorn sculpin (*Leptocottus armatus*), plainfin midshipman (*Porichthys notatus*), and white croaker (*Genyonemus lineatas*) (Harvey and Torok 1994).

Although solitary in the water, harbor seals come ashore at haulouts to rest, socialize, breed, nurse, molt, and thermoregulate. Habitats used as haulout sites include tidal rocks, bayflats, sandbars, and sandy beaches (Zeiner *et al.,* 1990). Haulout sites are relatively consistent from year to year (Kopec and Harvey 1995) and females have been recorded returning to their own natal haulout to breed (Cunningham *et al.,* 2009). Although harbor seals haul out at approximately 20 locations around San Francisco Bay, there are three primary sites: Mowry Slough in the South Bay, Corte Madera Marsh and Castro Rocks in the North Bay, and Yerba Buena Island in the Central Bay (Grigg 2008; Gibble 2011). Yerba Buena Island is the closest haulout to the project, located approximately 1.5 miles from the project location. Harbor seals use Yerba Buena Island year-round, with the largest numbers seen during winter months, when Pacific herring spawn (Grigg 2008). During marine mammal monitoring for construction of the new Bay Bridge, harbor seal counts at Yerba Buena Island ranged from zero to a maximum of 188 individuals (Caltrans 2012). Higher numbers may occur during molting and breeding seasons.

*Northern Elephant Seal*

Northern elephant seals are common on California coastal mainland and island sites where they pup, breed, rest, and molt. The largest rookeries are on San Nicolas and San Miguel Islands in the Northern Channel Islands. In the vicinity of San Francisco, elephant seals breed, molt, and haul out at Año Nuevo Island, the Farallon Islands, and Point Reyes National Seashore (Lowry *et al.,* 2014). Both sexes make two foraging migrations each year, one after breeding and the second after molting (Stewart and DeLong 1995). Adults reside in offshore pelagic waters when not breeding or molting. Northern elephant seals haul out to give birth and breed from December through March, and pups remain onshore or in adjacent shallow water through May, when they may occasionally make brief stops in San Francisco Bay (Caltrans 2015b).

*Marine Mammal Hearing*

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten 1999; Au and Hastings 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibels (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- *Low-frequency cetaceans (mysticetes):* Generalized hearing is estimated to occur between approximately 7 hertz (Hz) and 35 kilohertz (kHz);
- *Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids):* Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- *High-frequency cetaceans (porpoises, river dolphins, and members of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data):* Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz;
- *Pinnipeds in water; Phocidae (true seals):* Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz; and
- *Pinnipeds in water; Otariidae (eared seals):* Generalized hearing is estimated to occur between 60 Hz and 39 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating

that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Seven marine mammal species (three cetacean and four pinniped (two otariid and two phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, one is classified as a low-frequency cetacean (gray whale), one is classified as a mid-frequency cetacean (bottlenose dolphin), and one is classified as a high-frequency cetacean (harbor porpoise).

**Potential Effects of Specified Activities on Marine Mammals and Their Habitat**

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

*Description of Sound Sources*

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the dB scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions;
- *Precipitation:* Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times;
- *Biological:* Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz; and
- *Anthropogenic:* Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the SLs (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary

by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

The underwater acoustic environment at the ferry terminal is likely to be dominated by noise from day-to-day port and vessel activities. This is a highly industrialized area with high-use from small- to medium-sized vessels, and larger vessel that use the nearby major shipping channel. Underwater sound levels for water transit vessels, which operate throughout the day from the San Francisco Ferry Building ranged from 152 dB to 177 dB (WETA 2003a). While there are no current measurements of ambient noise levels at the ferry terminal, it is likely that levels within the basin periodically exceed the 120 dB threshold and, therefore, that the high levels of anthropogenic activity in the basin create an environment far different from quieter habitats where behavioral reactions to sounds around the 120 dB threshold have been observed (*e.g.,* Malme *et al.,* 1984, 1988).

In-water construction activities associated with this project would include impact and vibratory pile driving. The sounds produced by these activities fall into one of two general sound types: Pulsed and non-pulsed (defined in the following section). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI 1986; Harris 1998; NIOSH 1998; ISO 2003; ANSI 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI 1995; NIOSH 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards 2002; Carlson *et al.,* 2005).

*Acoustic Impacts*

Please refer to the information given previously (*Description of Sound Sources*) regarding sound, characteristics of sound types, and metrics used in this document. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following; temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Gotz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to WETA's construction activities.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.,* permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that WETA's activities may result in such effects (see below for further discussion). Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002, 2005b). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and

tolerance and does not represent physical injury (*e.g.,* Ward 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.,* 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several dB above a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller 1974) that inducing mild TTS (a 6-dB TS approximates TTS onset; *e.g.,* Southall *et al.,* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as impact pile driving pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack 2007). WETA's activities do not involve the use of devices such as explosives or mid-frequency active sonar that are associated with these types of effects.

*Temporary threshold shift*—TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale [*Delphinapterus leucas*], harbor porpoise, and Yangtze finless porpoise [*Neophocoena asiaeorientalis*]) and three species of pinnipeds (northern elephant seal, harbor seal, and California sea lion) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (*e.g.,* Finneran *et al.,* 2002; Nachtigall *et al.,* 2004; Kastak *et al.,* 2005; Lucke *et al.,* 2009; Popov *et al.,* 2011). In general, harbor seals (Kastak *et al.,* 2005; Kastelein *et al.,* 2012a) and harbor porpoises (Lucke *et al.,* 2009; Kastelein *et al.,* 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007) and Finneran and Jenkins (2012).

*Behavioral effects*—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period,

impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007; NRC 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark 2000; Costa *et al.,* 2003; Ng and Leung 2003; Nowacek *et al.;* 2004; Goldbogen *et al..,* 2013a,b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.,* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005b, 2006; Gailey *et al.,* 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007b). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold 1996; Stone *et al.,* 2000; Morton and Symonds 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil 1997; Fritz *et al.,* 2002; Purser and Radford 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

*Stress responses*—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle 1950;

Moberg 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg 1987; Blecha 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC 2003).

*Auditory masking*—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007b; Di Iorio and Clark 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore 2014). Masking can be tested directly in captive species (*e.g.,* Erbe 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

*Acoustic Effects, Underwater*

*Potential Effects of Pile Driving*—The effects of sounds from pile driving might include one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure

should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock) which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.,* 2008). Potential effects from impulsive sound sources like pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.,* 1973).

*Hearing Impairment and Other Physical Effects*— Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing TSs. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). Based on the best scientific information available, the SPLs for the construction activities in this project are below the thresholds that could cause TTS or the onset of PTS (Table 3).

*Non-auditory Physiological Effects*— Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving or removal to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

*Disturbance Reactions*

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries). Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

*Auditory Masking*

Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving and removal is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid pulses occurring for approximately fifteen minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately one and a half hours per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

*Acoustic Effects, Airborne*

Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving and removal that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

Airborne noise will primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. We

recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would previously have been 'taken' as a result of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple instances of exposure to sound above NMFS' thresholds for behavioral harassment are not believed to result in increased behavioral disturbance, in either nature or intensity of disturbance reaction. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

*Anticipated Effects on Habitat*

The proposed activities at the Ferry Terminal would not result in permanent negative impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish and may affect acoustic habitat (see masking discussion above). There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving and removal in the area. However, other potential impacts to the surrounding habitat from physical disturbance (*i.e.,* increased turbidity) are also possible.

*Pile Driving Effects on Potential Prey (Fish)*

Construction activities would produce continuous (*i.e.,* vibratory pile driving) sounds and pulsed (*i.e.* impact driving) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan 2001, 2002; Popper and Hastings 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality.

The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the project.

*Pile Driving Effects on Potential Foraging Habitat*

The area likely impacted by the project is relatively small compared to the available habitat in San Francisco Bay. Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the San Francisco ferry terminal and nearby vicinity in San Francisco Bay.

The duration of the construction activities is relatively short. The construction window is six months long, with construction expected to take no more than 41 days. Each day, construction would only occur for a few hours during the day. Impacts to habitat and prey are expected to be minimal based on the short duration of activities.

In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

**Estimated Take**

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' 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 acoustic sources (*i.e.,* impact and vibratory pile driving). Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* bubble curtain, soft start, shutdowns, etc.—discussed in detail below in Proposed Mitigation section), Level A harassment is neither anticipated nor proposed to be authorized. As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the proposed take estimate.

*Acoustic Thresholds*

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be

reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

*Level B Harassment for non-explosive sources*—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns and impact pile driving) or intermittent (*e.g.,* scientific sonar) sources.

WETA's proposed activity includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 μPa (rms) are applicable.

*Level A harassment for non-explosive sources*—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). WETA's proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

**Table 3. Thresholds Identifying the Onset of Permanent Threshold Shift.**

| | PTS Onset Acoustic Thresholds* (Received Level) | |
|---|---|---|
| **Hearing Group** | **Impulsive** | **Non-impulsive** |
| **Low-Frequency (LF) Cetaceans** | *Cell 1* $L_{pk,flat}$: 219 dB $L_{E,LF,24h}$: 183 dB | *Cell 2* $L_{E,LF,24h}$: 199 dB |
| **Mid-Frequency (MF) Cetaceans** | *Cell 3* $L_{pk,flat}$: 230 dB $L_{E,MF,24h}$: 185 dB | *Cell 4* $L_{E,MF,24h}$: 198 dB |
| **High-Frequency (HF) Cetaceans** | *Cell 5* $L_{pk,flat}$: 202 dB $L_{E,HF,24h}$: 155 dB | *Cell 6* $L_{E,HF,24h}$: 173 dB |
| **Phocid Pinnipeds (PW) (Underwater)** | *Cell 7* $L_{pk,flat}$: 218 dB $L_{E,PW,24h}$: 185 dB | *Cell 8* $L_{E,PW,24h}$: 201 dB |
| **Otariid Pinnipeds (OW) (Underwater)** | *Cell 9* $L_{pk,flat}$: 232 dB $L_{E,OW,24h}$: 203 dB | *Cell 10* $L_{E,OW,24h}$: 219 dB |

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure ($L_{pk}$) has a reference value of 1 μPa, and cumulative sound exposure level ($L_E$) has a reference value of 1μPa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

*Ensonified Area*

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

Level B Harassment

*In-Water Disturbance during Vibratory Pile Driving*—Level B behavioral disturbance may occur incidental to the use of a vibratory hammer due to propagation of underwater noise during installation of new steel piles. A total of 81 steel piles will be installed at the Ferry Terminal. During the 2017 construction season, all piles were installed using a vibratory hammer. The hydroacoustic monitoring conducted for vibratory driving during the 2017 season has been used to establish the expected source values of piles driven during the 2018 construction season. The SLs were measured at 10 m for the 30- and 36-in piles and between 9 and 15 m for the 24-in piles. The SLs for 24-in piles were calculated using the measured values from 9 to 15 m normalized to 10 m. The maximum peak, maximum rms, and mean SEL values for each of the pile types (24-, 30-, and 36-in steel piles) were used as the SLs to estimate take from vibratory driving. These values are provided in Table 4.

TABLE 4—SOUND SOURCE LEVELS BY PILE TYPE

| Pile size and installation method | Source level at 10 m (dB re 1 μPa) | | |
|---|---|---|---|
| | Peak | RMS | SEL |
| 24-in Vibratory | 183 | 165 | 160 |

TABLE 4—SOUND SOURCE LEVELS BY PILE TYPE—Continued

| Pile size and installation method | Source level at 10 m (dB re 1 μPa) | | |
|---|---|---|---|
| | Peak | RMS | SEL |
| 24-in Impact [1 2] | 193 | 180 | 167 |
| 30-in Vibratory | 181 | 157 | 153 |
| 30-in Impact [1 2] | 200 | 180 | 167 |
| 36-in Vibratory | 191 | 173 | 159 |
| 36-in Impact [1 2] | 200 | 183 | 173 |

[1] Caltrans 2009.
[2] Impact SLs include 10 dB reduction due to bubble curtain.

Additionally, monitoring conducted during 2017 construction established that for vibratory pile driving in the project area, the transmission loss is greater than the standard value of 15 used in typical take calculations. For estimating take from vibratory pile driving, Level B harassment zones are calculated using the average transmission loss measured in 2017 minus one standard deviation of those measurements (22.26 − 3.51 = 18.75). Using the calculated transmission loss model (18.75logR), the in-water Level B harassment zones were determined for each pile size (Table 5). For 24-in steel piles driven with a vibratory hammer, the Level B harassment zone is expected to be 2,512 m (8,421 ft). For 30-in piles, the Level B harassment zone is expected to be 940 m (3,084 ft). For 36-in piles, the Level B harassment zone is expected to be 6,709 m (22,011 ft).

*In-Water Disturbance during Impact Pile Driving*—As stated previously, all piles installed in the 2017 construction season were installed solely using a vibratory hammer. However, the use of an impact hammer to install piles may be required; therefore, the effects of impact pile driving is discussed here. Level B behavioral disturbance may occur incidental to the use of an impact hammer due to the propagation of underwater noise during the installation of steel piles. Piles will be driven to approximately 120 to 140 ft below Mean Lower Low Water (MLLW). Installation of these pipe piles may require up to 1,800 strikes per piles from an impact hammer using a DelMag D46–32, or similar diesel hammer, producing approximately 122,000 foot-pounds maximum energy per blow, and 1.5 seconds per blow average.

Other projects constructed under similar circumstances were reviewed to estimate the approximate noise produced by the 24-, 30-, and 36-in steel piles. These projects include the driving of similarly sized piles at the Alameda Bay Ship and Yacht project, the Rodeo Dock Repair project, and the Amorco Wharf Repair Project (Caltrans 2012). Bubble curtains will be used during the installation of these piles, which, based on guidance provided by Caltrans for a mid-sized steel piles (with a diameter greater than 24 but less than 48 in), is expected to reduce noise levels by 10 dB rms (Caltrans 2015a).

Because no impact pile driving was used in the 2017 construction season, no site-specific transmission loss measurements exist for this project. The Practical Spreading Loss Model (15logR) is used to determine the Level B harassment zones for each pile size (Table 5). Both 24- and 30-in steel piles have a SL of 180 dB rms re 1 μPa and therefore have the same Level B harassment zone of 215 m (705 ft). For 36-in piles, the Level B harassment zone is expected to be 341 m (1,120 ft).

TABLE 5—PILE DRIVING SOURCE LEVELS AND LEVEL B HARASSMENT ZONES

| Pile size and installation method | Source level (dB re 1 μPa rms) | Level B threshold (dB re 1 μPa rms) | Propagation (xLogR) | Distance to Level B threshold (m) | Area of Level B harassment zone (square km) |
|---|---|---|---|---|---|
| 24-in Vibratory | 165 | 120 | 18.75 | 2,512 | 7.30 |
| 24-in Impact | [a] 180 | 160 | 15 | 215 | 0.08 |
| 30-in Vibratory | 157 | 120 | 18.75 | 940 | 1.08 |
| 30-in Impact | [a] 180 | 160 | 15 | 215 | 0.08 |
| 36-in Vibratory | 173 | 120 | 18.75 | 6,709 | 33.5 |
| 36-in Impact | [a] 183 | 160 | 15 | 341 | 0.18 |

[a] Impact source levels include 10 dB reduction due to bubble curtain.

Level A Harassment

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources (such as impact and vibratory pile driving), NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

TABLE 6—INPUTS FOR DETERMINING DISTANCES TO CUMULATIVE PTS THRESHOLDS

| Pile size and installation method | Source level at 10 m (SEL) | Source level at 10 m (rms) | Propagation (xLogR) | Number of strikes per pile | Number of piles per day | Activity duration (seconds) |
|---|---|---|---|---|---|---|
| 24-in Vibratory | ..... | 165 | 18.75 | ..... | 4 | 900 |
| 24-in Impact | [a] 167 | ..... | 15 | 1,800 | 3 | ..... |
| 30-in Vibratory | ..... | 157 | 18.75 | ..... | 4 | 900 |
| 30-in Impact | [a] 167 | ..... | 15 | 1,800 | 3 | ..... |
| 36-in Vibratory | ..... | 173 | 18.75 | ..... | 4 | 1,200 |
| 36-in Impact | [a] 173 | ..... | 15 | 1,800 | 2 | ..... |

[a] Source level includes 10 dB reduction due to bubble curtain.

TABLE 7—RESULTING LEVEL A ISOPLETHS

| Pile size and installation method | Distance to Level A threshold (m) | | | | |
|---|---|---|---|---|---|
| | Low-frequency cetaceans | Mid-frequency cetaceans | High-frequency cetaceans | Phocid pinnipeds | Otariid pinnipeds |
| 24-in Vibratory | 12 | 2 | 17 | 8 | <1 |
| 24-in Impact | 264 | 9 | 314 | 141 | 10 |
| 30-in Vibratory | 4 | <1 | 6 | 3 | <1 |
| 30-in Impact | 264 | 9 | 314 | 141 | 10 |
| 36-in Vibratory | 38 | 5 | 52 | 26 | 3 |
| 36-in Impact | 505 | 18 | 602 | 270 | 20 |

The resulting PTS isopleths assume an animal would remain stationary at that distance for the duration of the activity. The largest isopleths result from impact pile driving. All piles installed in the 2017 construction season were driven solely using a vibratory hammer indicating that vibratory driving will be the most likely method of installation in the 2018 season. Given the short duration within a day that impact driving may be conducted and the mitigation measures proposed by WETA, Level A take is neither expected nor proposed to be authorized.

*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.

Gray Whale

Caltrans Richmond-San Rafael Bridge project monitors recorded 12 living and two dead gray whales in the surveys performed in 2012. All sightings were in either the Central or North Bay, and all but two sightings occurred during the months of April and May. One gray whale was sighted in June and one in October. The Oceanic Society has tracked gray whale sightings since they began returning to San Francisco Bay regularly in the late 1990s. Most sightings occurred just a mile or two inside of the Golden Gate, with some traveling into San Pablo Bay in the northern part of the San Francisco Bay (Self 2012). The Oceanic Society data show that all age classes of gray whales enter San Francisco Bay and they enter as singles or in groups of up to five individuals (Winning 2008). It is estimated that two to six gray whales enter San Francisco Bay in any given year.

Bottlenose Dolphin

Bottlenose dolphins are most often seen just within the Golden Gate or just east of the bridge when they are present in San Francisco Bay, and their presence may depend on the tides (GGCR 2016). Beginning in the summer of 2015, one to two bottlenose dolphins have been observed frequently swimming in the Oyster Point area of South San Francisco (GGCR 2016, 2017; Perlman 2017). Despite this recent occurrence, this stock is highly transitory in nature and is not expected to spend extended periods of time in San Francisco Bay. However, the number of sightings in the Central Bay has increased, suggesting that bottlenose dolphins are becoming more of a resident species.

Harbor Porpoise

In the last six decades, harbor porpoises have been observed outside of San Francisco Bay. The few porpoises that entered were not sighted past the Central Bay close to the Golden Gate Bridge. In recent years, however, there have been increasingly common observations of harbor porpoises in central, North, and South San Francisco Bay. According to observations by the Golden Gate Cetacean Research team as part of their multi-year assessment, over 100 porpoises may be seen at one time entering San Francisco Bay and over 600 individual animals have been documented in a photo-ID database. Porpoise activity inside San Francisco Bay is thought to be related to tide-dependent foraging, as well as mating behaviors (Keener 2011; Duffy 2015). Sightings are concentrated in the vicinity of the Golden Gate Bridge and Angel Island, with fewer numbers sighted south of Alcatraz and west of Treasure Island (Keener 2011).

California Sea Lion

In San Francisco Bay, sea lions haul out primarily on floating K docks at Pier 39 in the Fisherman's Wharf area of the San Francisco Marine. The Pier 39 haulout is approximately 1.5 miles from the project vicinity. The Marine Mammal Center (TMMC) in Sausalito, California has performed monitoring surveys at this location since 1991. A maximum of 1,706 sea lions was seen hauled out during one survey effort in 2009 (TMMC 2015). Winter numbers are generally over 500 animals (Goals Project 2000). In August to September, counts average from 350 to 850 (NMFS 2004). Of the California sea lions observed, approximately 85 percent were male. No pupping activity has been observed at this site or at other locations in the San Francisco Bay (Caltrans 2012). The California sea lions usually frequent Pier 39 in August after

returning from the Channel Islands (Caltrans 2013). In addition to the Pier 39 haulout, California sea lions haul out on buoys and similar structures throughout San Francisco Bay. They are mainly seen swimming off the San Francisco and Marin shorelines within San Francisco Bay, but may occasionally enter the project area to forage.

Northern Fur Seal

Juvenile northern fur seals occasionally strand during El Niño events (TMMC 2016). In normal years, TMMC admits about five northern fur seals that strand on the central California coast. During El Niño years, this number dramatically increases. For example, during the 2006 El Niño event, 33 fur seals were admitted. Some of these stranded animals were collected from shorelines in San Francisco Bay (TMMC 2016). The shoreline in the vicinity of the project is developed waterfront, consisting of piers and wharves where northern fur seals are unlikely to strand.

Pacific Harbor Seal

Long-term monitoring studies have been conducted at the largest harbor seal colonies in Point Reyes National Seashore and Golden Gate National Recreation Area since 1976. Castro Rocks and other haulouts in San Francisco Bay are part of the regional survey area for this study and have been included in annual survey efforts. Between 2007 and 2012, the average number of adults observed ranged from 126 to 166 during the breeding season (March through May), and from 92 to 129 during the molting season (June through July) (Truchinski *et al.,* 2008; Flynn *et al.,* 2009; Codde *et al.,* 2010, 2011, 2012; Codde and Allen 2015). Marine mammal monitoring at multiple locations inside San Francisco Bay was conducted by the California Department of Transportation (Caltrans) from May 1998 to February 2002, and determined that at least 500 harbor seals populate San Francisco Bay (Green *et al.,* 2002). This estimate agrees with previous seal counts in the San Francisco Bay, which ranged from 524 to 641 seals from 1987 to 1999 (Goals Project 2000).

Yerba Buena Island is the nearest harbor seal haulout site, with as many as 188 individuals observed hauled out. Harbor seals are more likely to be hauled out in the late afternoon and evening, and are more likely to be in the water during the morning and early afternoon. Tidal stage is a major controlling factor of haulout use by harbor seals, with more seals present during low tides than high tide periods (Green *et al.,* 2002). Therefore, the number of harbor seals in the vicinity of Yerba Buena Island will vary throughout the work period.

Northern Elephant Seal

Northern elephant seals are seen frequently on the California coast. Elephant seals aggregate at various sites along the coast to give birth and breed from December through March. Pups remain onshore or in adjacent shallow water through May. Adults make two foraging migrations each year, one after breeding and the second after molting (Stewart and DeLong 1995). Most strandings occur in May as young pups make their first trip out to sea. When those pups return to their rookery sites to molt in late summer and fall, some make brief stops in San Francisco Bay. Approximately 100 juvenile elephant seals strand in San Francisco Bay each year, including individual strandings at Yerba Buena Island and Treasure Island (fewer than 10 strandings per year) (Caltrans 2015b).

*Take Calculation and Estimation*

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

While impact pile driving may be used during this project, all piles in the previous year of construction were installed completely with vibratory pile driving. Impact driving take calculations are included for informational purposes (Tables 8 and 9). However, only vibratory pile driving take calculations are conservatively used for the take estimation in this IHA as vibratory driving is the most likely method of pile installation and results in greater Level B harassment zones.

Gray Whale

Gray whales occasionally enter San Francisco Bay during their northward migration period of February and March. Pile driving is not proposed to occur during this time and gray whales are not likely to be present at other times of the year. It is estimated that two to six gray whales enter the Bay in any given year, but they are unlikely to be present during the work period (June 1 through November 30). However, individual gray whales have occasionally been observed in San Francisco Bay during the work period, and therefore it is estimated that, at most, one gray whale may be exposed to Level B harassment during two days of pile driving if they enter the Level B harassment zones (Table 12).

Bottlenose Dolphin

When bottlenose dolphins are present in San Francisco Bay, they are more typically found close to the Golden Gate. Recently, beginning in 2015, two individuals have been observed frequently in the vicinity of Oyster Point (GGCR 2016, 2017; Perlman 2017). The average reported group size for bottlenose dolphins is five. Reports show that a group normally comes into San Francisco Bay and transits past Yerba Buena Island once per week for approximately a two week stint, then leaves (NMFS 2017b). Assuming the dolphins come into San Francisco Bay three times per year, the group of five dolphins would make six passes through the Level B harassment zone for a total of 30 takes (Table 12).

Harbor Porpoise

A small but growing population of harbor porpoises uses San Francisco Bay. Porpoises are usually spotted in the vicinity of Angel Island and the Golden Gate Bridge (Keener 2011), but may use other areas of the Central Bay in low numbers. During construction activities in 2017, marine mammal observers recorded eight sightings of harbor porpoises, including a group of two to three individuals that was seen three times over the course of the pile-driving season. Harbor porpoises generally travel individually or in small groups of two or three (Sekiguchi 1995), and a pod of up to four individuals was observed in the area south of Yerba Buena Island during the 2017 Bay Bridge monitoring window. A pod of four harbor porpoises could potentially enter the Level B harassment zone on as many as eight days of pile driving, for 32 total takes (Table 12).

California Sea Lion

Caltrans has conducted monitoring of marine mammals in the vicinity of the Bay Bridge for 16 years. From those data, Caltrans has produced at-sea density estimates for California sea lions of 0.09 animals per square kilometer (0.23 per square mile) for the summer-late fall season (Caltrans 2016). Marine mammal monitoring observations from the 2017 construction season were used to calculate a project-specific estimate of take per driving day (1.29 animals per day). Observations from marine mammal monitoring in 2017 were assumed to represent the occurrence of California sea lions along the waterfront while the Caltrans density represents the occurrence of California sea lions in open water in the bay. The two numbers were combined to calculate the daily

average take over the entire Level B harassment zone (Table 8).

TABLE 8—ESTIMATED DAILY CALIFORNIA SEA LION TAKES

| Pile size and installation method | Area of Level B harassment zone (square km) | At-sea density (animals per square km) [a] | Takes per day from density | Takes per day from 2017 monitoring | Total daily Level B takes |
|---|---|---|---|---|---|
| 24-in Vibratory | 7.304 | 0.23 | 0.66 | 1.29 | 1.95 |
| 24-in Impact | 0.084 | 0.23 | 0.01 | 1.29 | 1.30 |
| 30-in Vibratory | 1.083 | 0.23 | 0.10 | 1.29 | 1.39 |
| 30-in Impact | 0.084 | 0.23 | 0.01 | 1.29 | 1.30 |
| 36-in Vibratory | 33.497 | 0.23 | 3.02 | 1.29 | 4.31 |
| 36-in Impact | 0.177 | 0.23 | 0.02 | 1.29 | 1.31 |

[a] Caltrans 2016.

During El Niño conditions, the density of California sea lions in San Francisco Bay may be much greater than the value used above. The likelihood of El Niño conditions occurring in 2018 is currently low, with La Niña conditions expected to develop (NOAA 2018). However, to account for the potential of El Niño developing in 2018, daily take estimated has been increase by a factor of 5 for each pile type (Table 9).

TABLE 9—ESTIMATED TOTAL CALIFORNIA SEA LION TAKES FROM VIBRATORY PILE DRIVING

| Pile size | Number of piles | Number of days | Daily takes | Total takes by pile |
|---|---|---|---|---|
| 24-in | 35 | 18 | 9.75 | 176 |
| 30-in | 18 | 9 | 6.95 | 63 |
| 36-in | 28 | 14 | 21.55 | 302 |
| Total | | | | 541 |

Northern Fur Seal

The incidence of northern fur seals in San Francisco Bay depends largely on oceanic conditions, with animals more likely to strand during El Niño events. El Niño conditions are unlikely to develop in 2018 (NOAA 2018) but it is anticipated that up to 10 northern fur seals may be in San Francisco Bay and enter the Level B harassment zone (Table 12) (NMFS 2016b).

Pacific Harbor Seal

Caltrans has produced at-sea density estimates for Pacific harbor seals of 0.83 animals per square kilometer (2.15 per square mile) for the fall-winter season (Caltrans 2016). Even though work will predominantly occur during the summer, when at-sea density has been observed to be lower (Caltrans 2016), the higher value of fall-winter density is conservatively used. Additionally, marine mammal monitoring observations from the 2017 construction season were used to calculate a project-specific estimate of take per driving day (3.18 animals per day). Observations from marine mammal monitoring in 2017 were assumed to represent the occurrence of harbor seals along the waterfront while the Caltrans density represents the occurrence of harbor seals in open water in the bay. The two numbers were combined to calculate the daily average take over the entire Level B harassment zone (Table 10). The daily take and days of pile installation were used to calculate total harbor seal Level B takes (Table 11).

TABLE 10—ESTIMATED DAILY HARBOR SEAL TAKES

| Pile size and installation method | Area of Level B harassment zone (square km) | At-sea density (animals per square km) [a] | Takes per day from density | Takes per day from 2017 monitoring | Total daily Level B takes |
|---|---|---|---|---|---|
| 24-in Vibratory | 7.304 | 0.83 | 6.06 | 3.18 | 9.24 |
| 24-in Impact | 0.084 | 0.83 | 0.07 | 3.18 | 3.25 |
| 30-in Vibratory | 1.083 | 0.83 | 0.90 | 3.18 | 4.08 |
| 30-in Impact | 0.084 | 0.83 | 0.07 | 3.18 | 3.25 |
| 36-in Vibratory | 33.497 | 0.83 | 27.8 | 3.18 | 30.98 |
| 36-in Impact | 0.177 | 0.83 | 0.15 | 3.18 | 3.33 |

[a] Caltrans 2016.

TABLE 11—ESTIMATED TOTAL PACIFIC HARBOR SEAL TAKES FROM VIBRATORY PILE DRIVING

| Pile size | Number of piles | Number of days | Daily takes | Total takes by pile |
|---|---|---|---|---|
| 24-in | 35 | 18 | 9.24 | 166 |
| 30-in | 18 | 9 | 4.08 | 37 |
| 36-in | 28 | 14 | 30.98 | 434 |

TABLE 11—ESTIMATED TOTAL PACIFIC HARBOR SEAL TAKES FROM VIBRATORY PILE DRIVING—Continued

| Pile size | Number of piles | Number of days | Daily takes | Total takes by pile |
|---|---|---|---|---|
| Total | | | | 637 |

Northern Elephant Seal

Small numbers of elephant seals haul out or strand on Yerba Buena Island and Treasure Island each year. Monitoring of marine mammals in the vicinity of the Bay Bridge has been ongoing for 15 years. From these data, Caltrans has produced an estimated at-sea density for elephant seals of 0.06 animals per square kilometer (0.16 per square mile) (Caltrans 2015b). Most sightings of elephant seals occur in spring or early summer, and are less likely to occur during the period of in-water work for this project. As a result, densities during pile driving would be much lower. It is possible that a lone elephant seal may enter the Level B harassment zone once per week during the 26 week pile driving window (June 1 to November 30) for a total of 26 takes (Table 12).

TABLE 12—TOTAL LEVEL B ESTIMATED TAKES

| | Gray whale | Bottlenose dolphin | Harbor porpoise | California sea lion | Northern fur seal | Pacific harbor seal | Northern elephant seal |
|---|---|---|---|---|---|---|---|
| Take Estimate | 2 | 30 | 32 | 541 | 10 | 637 | 26 |

**Proposed Mitigation**

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned) and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

*Mitigation for Marine Mammals and Their Habitat*

General Construction Measures

A Spill Prevention Control and Countermeasure (SPCC) plan has been prepared to address the emergency cleanup of any hazardous material, and will be available onsite. The SPCC plan incorporates SPCC, hazardous waste, stormwater, and other emergency planning requirements. In addition, the project will comply with the Port's stormwater regulations. Fueling of land and marine-based equipment will be conducted in accordance with procedures outlined in the SPCC. Well-maintained equipment will be used to perform work, and except in the case of a failure or breakdown, equipment maintenance will be performed offsite. Equipment will be inspected daily by the operator for leaks or spills. If leaks or spills are encountered, the source of the leak will be identified, leaked material will be cleaned up, and the cleaning materials will be collected and properly disposed. Fresh cement or concrete will not be allowed to enter San Francisco Bay. All construction materials, wastes, debris, sediment, rubbish, trash, fencing, etc. will be removed from the site once project construction is complete, and transported to an authorized disposal area.

Pile Driving

Pre-activity monitoring will take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring will continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone (described below) is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the zone, as described below. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location shall be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone and 15 or 30 minutes (for pinnipeds/small cetaceans or large cetaceans, respectively) have passed without re-detection of the animal. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

For all pile driving activities, a minimum of one protected species observed (PSO) will be required,

stationed at the active pile driving rig or at the best vantage point(s) practicable to monitor the shutdown zones for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.

Monitoring of pile driving will be conducted by qualified PSOs (see below) who will have no other assigned tasks during monitoring periods. WETA will adhere to the following conditions when selecting observers:

• Independent PSOs will be used (*i.e.,* not construction personnel);

• At least one PSO must have prior experience working as a marine mammal observer during construction activities;

• Other PSOs may substitute education (degree in biological science or related field) or training for experience; and

• WETA will submit PSO CVs for approval by NMFS.

WETA will ensure that observers have the following additional qualifications:

• Ability to conduct field observations and collect data according to assigned protocols;

• Experience or training in the field identification of marine mammals, including the identification of behaviors;

• Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

• Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and

• Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

To prevent Level A take of any species, shutdown zones equivalent to the Level A harassment zones will be established. If the Level A harassment zone is less than 10 m, a minimum 10 m shutdown zone will be enforced. WETA will implement shutdown zones as follows:

TABLE 13—PILE DRIVING SHUTDOWN ZONES

| Pile size and installation method | Shutdown zone (m) | | | | |
|---|---|---|---|---|---|
| | Low-frequency Cetaceans | Mid-frequency cetaceans | High-frequency cetaceans | Phocid pinnipeds | Otariid pinnipeds |
| 24-in Vibratory | 12 | 10 | 17 | 10 | 10 |
| 24-in Impact | 264 | 10 | 314 | 141 | 10 |
| 30-in Vibratory | 10 | 10 | 10 | 10 | 10 |
| 30-in Impact | 264 | 10 | 314 | 141 | 10 |
| 36-in Vibratory | 38 | 10 | 52 | 26 | 10 |
| 36-in Impact | 505 | 18 | 602 | 270 | 20 |

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the Level B harassment zones (Table 5), pile driving and removal activities must cease immediately using delay and shut-down procedures. Activities must not resume until the animal has been confirmed to have left the area or 15 or 30 minutes (pinniped/small cetacean or large cetacean, respectively) has elapsed.

Piles driven with an impact hammer will employ a ''soft start'' technique to give fish and marine mammals an opportunity to move out of the area before full-powered impact pile driving begins. This soft start will include an initial set of three strikes from the impact hammer at reduced energy, followed by a 30 second waiting period, then two subsequent three-strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of 30 minutes or longer.

Impact hammers will be cushioned using a 12-in thick wood cushion block. WETA will also employ a bubble curtain during impact pile driving. WETA will implement the following performance standards:

• The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column;

• The lowest bubble ring shall be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact; and

• WETA shall require that construction contractors train personnel in the proper balancing of air flow to the bubblers, and shall require that construction contractors submit an inspection/performance report for approval by WETA within 72 hours following the performance test. Corrections to the attenuation device to meet the performance standards shall occur prior to impact driving.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Proposed Monitoring and Reporting**

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

• Occurrence of marine mammal species or stocks in the area in which

take is anticipated (*e.g.,* presence, abundance, distribution, density);

• Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);

• Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

• How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and

• Mitigation and monitoring effectiveness.

*Hydroacoustic Monitoring*

WETA's proposed monitoring and reporting is also described in their Hydroacoustic Monitoring Plan and Marine Mammal Monitoring Plan, available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.*

Hydroacoustic monitoring will be conducted in consultation with the California Department of Fish and Wildlife (CDFW) during a minimum of ten percent of all impact pile driving activities. Hydroacoustic monitoring of vibratory pile driving was completed during the 2017 construction season and will not be conducted in 2018. Monitoring of impact pile driving will be done in accordance with the methodology outlined in the Hydroacoustic Monitoring Plan. The monitoring will be conducted to achieve the following:

• Be based on the dual metric criteria (Popper *et al.,* 2006) and the accumulated SEL;

• Establish field locations that will be used to document the extent of the area experiencing 187 dB SEL accumulated;

• Verify the distance of the Marine Mammal Level A harassment/shutdown zone and Level B harassment zone thresholds;

• Describe the methods necessary to continuously assess underwater noise on a real-time basis, including details on the number, location, distance, and depth of hydrophones and associated monitoring equipment;

• Provide a means of recording the time and number of pile strikes, the peak sound energy per strike, and interval between strikes; and

• Provide provisions to provide all monitoring data to the CDFW and NMFS.

*Visual Marine Mammal Observations*

WETA will collect sighting data and behavioral responses to construction for marine mammal species observed in the Level B harassment zones during the period of activity. All PSOs will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. WETA proposes to use one PSO to monitor the shutdown zones and Level B harassment zone. During previous hydroacoustic monitoring for the Bay Bridge construction and demolition, it has not been possible to detect or distinguish sound from vibratory pile driving beyond 1,000 to 2,000 m (3,280 to 6,562 ft) from the source (Rodkin 2009). Thus, the monitoring zone for the vibratory driving of 24- and 36-in piles will be set at 2,000 m (6,562 ft). The monitoring zone for the vibratory driving of 30-in piles will be set equivalent to the Level B harassment zone (940 m, 3,084 ft). The PSO will monitor the shutdown zones and monitoring zones before, during, and after pile driving. Based on our requirements, WETA will implement the following procedures for pile driving and removal:

• The PSO will be located at the best vantage point in order to properly see the entire shutdown zone and as much of the monitoring zone as possible;

• During all observation periods, the observer will use binoculars and the naked eye to search continuously for marine mammals;

• If the shutdown zones are obscured by fog or poor lighting conditions, pile driving will not be initiated until that zone is visible. Should such conditions arise while pile driving is underway, the activity would be halted; and

• The shutdown and monitoring zones will be monitored for the presence of marine mammals before, during, and after any pile driving activity.

PSOs implementing the monitoring protocol will assess its effectiveness using an adaptive approach. The monitoring biologist will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to the protocol will be coordinated between NMFS and WETA.

In addition, the PSO will survey the Level A and Level B harassment zones (areas within approximately 2,000 ft of the pile-driving area observable from the shore) on two separate days—no earlier than seven days before the first day of construction—to establish baseline observations. Monitoring will be timed to occur during various tides (preferably low and high tides) during daylight hours from locations that are publicly accessible (*e.g.,* Pier 14 or the Ferry Plaza). The information collected from baseline monitoring will be used for comparison with results of monitoring during pile-driving activities.

*Data Collection*

WETA will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, WETA will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

• Date and time that monitored activity begins or ends;

• Construction activities occurring during each observation period;

• Weather parameters (*e.g.,* percent cover, visibility);

• Water conditions (*e.g.,* sea state, tide state);

• Species, numbers, and, if possible, age and sex class of marine mammals;

• Description of any observable marine mammal behavior patterns, including bearing and direction of travel, and if possible, the correlation to SPLs;

• Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

• Description of implementation of mitigation measures (*e.g.,* shutdown or delay);

• Locations of all marine mammal observations; and

• Other human activity in the area.

*Reporting*

A draft report will be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or sixty days prior to the requested date of issuance of any future IHA for projects

at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving and removal days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

**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).

Pile driving activities associated with the ferry terminal construction project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving and removal occurs.

No injury, serious injury, or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory hammers will be the primary method of installation (impact driving is included only as a contingency). Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. If impact driving is necessary, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious. WETA will also employ the use of 12-in-thick wood cushion block on impact hammers, and a bubble curtain as sound attenuation devices. Environmental conditions in San Francisco Ferry Terminal mean that marine mammal detection ability by trained observers is high, enabling a high rate of success in implementation of shutdowns to avoid injury.

WETA's activities are localized and of relatively short duration (a maximum of 41 days of pile driving over the work season). The entire project area is limited to the San Francisco ferry terminal area and its immediate surroundings. These localized and short-term noise exposures may cause short-term behavioral modifications in harbor seals, northern fur seals, northern elephant seals, California sea lions, harbor porpoises, bottlenose dolphins, and gray whales. Moreover, the planned mitigation and monitoring measures are expected to reduce the likelihood of injury and behavior exposures. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be within the ensonified area during the construction time frame.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, 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.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006; Lerma 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus will not result in any adverse impact to the stock as a whole.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Injurious takes are not expected due to the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact;
- Level B harassment may consist of, at worst, temporary modifications in behavior (*e.g.,* temporary avoidance of habitat or changes in behavior);
- The lack of important feeding, pupping, or other areas in the action area;
- The high level of ambient noise already in the ferry terminal area; and
- The small percentage of the stock that may be affected by project activities (less than seven percent for all species).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

**Small Numbers**

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, 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 12 details the number of instances that animals could be exposed to received noise levels that could cause Level B harassment for the planned work at the ferry terminal project site relative to the total stock abundance. The instances of take proposed to be authorized to be taken for all stocks are considered small relative to the relevant stocks or populations even if each estimated instance of take occurred to a new individual—an unlikely scenario. The total percent of the population (if each instance was a separate individual) for which take is requested is approximately seven percent for bottlenose dolphins, two percent for harbor seals, and less than one percent for all other species (Table 14). For pinnipeds occurring in the vicinity of the ferry terminal, there will almost certainly be some overlap in individuals present day-to-day, and the number of individuals taken is expected to be notably lower. Similarly, the number of bottlenose dolphins that could be subject to Level B harassment is expected to be a single pod of five individuals exposed up to six times over the course of the project.

TABLE 14— ESTIMATED NUMBERS AND PERCENTAGE OF STOCKS PROPOSED TO BE AUTHORIZED

| Species | Authorized takes | Stock abundance Estimate | Percentage of total stock (%) |
|---|---|---|---|
| Gray whale (*Eschrichtius robustus*) | | | |
| *Eastern North Pacific stock* | 2 | 20,990 | 0.01 |
| Bottlenose dolphin (*Tursiops truncatus)* | | | |
| *California coastal stock* | 30 | 453 | 6.9 |
| Harbor Porpoise (*Phocoena phocoena*) | | | |
| *San Francisco-Russian River Stock* | 32 | 9,886 | 0.32 |
| California sea lion (*Zalophus californianus*) | | | |
| *U.S. Stock* | 541 | 296,750 | 0.18 |
| Northern fur seal (*Callorhinus ursinus*) | | | |
| *California stock* | 10 | 14,050 | 0.07 |
| Pacific harbor seal (*Phoca vitulina richardii*) | | | |
| *California stock* | 637 | 30,968 | 2.06 |
| Northern elephant seal (*Mirounga angustirostris*) | | | |
| *California breeding stock* | 26 | 179,000 | 0.01 |

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

**Unmitigable Adverse Impact Analysis and Determination**

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Endangered Species Act (ESA)**

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

**Proposed Authorization**

As a result of these preliminary determinations, NMFS proposes to issue an IHA to WETA for conducting their Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco, CA, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This IHA would be valid from June 1, 2018 to May 31, 2019. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

The San Francisco Bay Area Water Emergency Transportation Authority (WETA) is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to harass marine mammals incidental to conducting their Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco, California (CA), when adhering to the following terms and conditions.

1. This Incidental Harassment Authorization (IHA) is valid for one year from June 1, 2018 through May 31, 2018.

2. This IHA is valid only for pile driving activities associated with the Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco Bay, CA.

3. General Conditions

(a) A copy of this IHA must be in the possession of WETA, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are summarized in Table 1.

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 1 (attached) for numbers of take authorized.

(d) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) WETA shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, acoustical monitoring team, and WETA staff prior to the start of all pile driving activities, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. Mitigation Measures

The holder of this Authorization is required to implement the following mitigation measures:

(a) For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 meters, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

(b) For all pile driving, WETA shall implement shutdown zones equivalent to the Level A harassment zones. If the calculated Level A harassment zone is less than 10 m, WETA shall implement a minimum 10 m shutdown zone. Table 2 outlines the shutdown zones for each pile driving activity.

(c) If a species for which authorization has not been granted (including, but not limited to, Guadalupe fur seals and humpback whales) or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities shall shut down immediately and shall not restart until the animals have been confirmed to have left the area.

(d) WETA shall establish monitoring protocols as described below.

(i) For all pile driving activities, a Protected Species Observer (PSO) shall be employed to achieve optimal monitoring of the shutdown zones and the surrounding waters of the ferry terminal and San Francisco Bay.

(ii) This observer shall record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals. Observations within the ferry terminal shall be distinguished from those in the nearshore waters of San Francisco Bay.

(iii) The observer shall be equipped for commotional of marine mammal observations to relevant personnel (*e.g.,* those necessary to effect activity delay or shutdown).

(iv) Pre-activity monitoring shall take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring shall continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the zone.

(v) If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location shall be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone and 15 minutes have passed without re-detection of the pinniped or small cetacean, or 30 minutes have passed without re-detection of the gray whale. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

(e) WETA shall use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(f) WETA shall employ a bubble curtain during impact pile driving of steel piles and shall implement the following performance standards:

(i) The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.

(ii) The lowest bubble ring shall be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving activities. Monitoring and reporting shall be conducted in accordance with the Monitoring Plan.

(a) WETA shall collect sighting data and behavioral responses to pile driving for marine mammal species observed in the monitoring zones during the period of activity. All observers shall be trained in marine mammal identification and behaviors, and shall have no other construction-related tasks while conducting monitoring.

(b) WETA shall adhere to the following conditions when selecting observers:

(i) Independent PSOs must be used (*i.e.,* not construction personnel);

(ii) At least one PSOs must have prior experience working as a marine mammal observer during construction activities;

(iii) Other PSOs may substitute education (degree in biological science or related field) or training for experience; and

(iv) WETA shall submit PSO CVs for approval by NMFS.

(c) WETA shall ensure that observers have the following additional qualifications:

(i) Ability to conduct field observations and collect data according to assigned protocols;

(ii) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(iii) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(iv) Writing skills sufficient to prepare a report of observations including, but not limited to, the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reasons for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and

(v) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

6. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within ninety calendar days of the completion of marine mammal and acoustic monitoring, or sixty days prior to the issuance of any subsequent IHA for this project, whichever comes first. A final report shall be prepared and submitted within thirty days following

resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan, at minimum (see *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities*), and shall also include:

(i) Detailed information about any implementation of shutdowns, including the distance of animals to the pile driving location and description of specific actions that ensued and resulting behavior of the animal, if any.

(ii) Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

(iii) An estimated total take extrapolated from the number of marine mammals observed during the course of construction activities, if necessary.

(b) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, WETA 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 and active sound source use in the 24 hours preceding the incident;

(5) Species identification or description of the animal(s) involved;

(6) Fate of the animal(s); and

(7) Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with WETA to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. WETA may not resume their activities until notified by NMFS.

(ii) In the event that WETA discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), WETA 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 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with WETA to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that WETA discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), WETA 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. WETA shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

TABLE 15—AUTHORIZED TAKE NUMBERS

| Species | Authorized take | |
|---|---|---|
| | Level A | Level B |
| Harbor seal | 0 | 637 |
| California sea lion | 0 | 541 |
| Northern elephant seal | 0 | 26 |
| Northern fur seal | 0 | 10 |
| Harbor porpoise | 0 | 32 |
| Gray whale | 0 | 2 |
| Bottlenose dolphin | 0 | 30 |

TABLE 16—PILE DRIVING SHUTDOWN ZONES

| Pile size and installation method | Shutdown zone (m) | | | | |
|---|---|---|---|---|---|
| | Low-frequency cetaceans | Mid-frequency cetaceans | High-frequency cetaceans | Phocid pinnipeds | Otariid pinnipeds |
| 24-in Vibratory | 12 | 10 | 17 | 10 | 10 |
| 24-in Impact | 264 | 10 | 314 | 141 | 10 |
| 30-in Vibratory | 10 | 10 | 10 | 10 | 10 |
| 30-in Impact | 264 | 10 | 314 | 141 | 10 |
| 36-in Vibratory | 38 | 10 | 52 | 26 | 10 |
| 36-in Impact | 505 | 18 | 602 | 270 | 20 |

**Request for Public Comments**

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed [action]. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

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; and

(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: April 24, 2018.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2018–08888 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* STORMREADY® TSUMANIREADY®, TSUNAMIREADY® SUPPORTER, AND STORMREADY® SUPPORTER APPLICATION FORMS.

*OMB Control Number:* 0648–0419.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a currently approved information collection).

*Number of Respondents:* 285.

*Average Hours per Response:* Full applications, 2 hours; supporter applications, 1 hour.

*Burden Hours:* 525.

*Needs and Uses:* This request is for extension of a currently approved information collection.

The National Weather Service (NWS) established the StormReady program in 1999 and the TsunamiReady program in 2002 to help counties, cities and towns implement procedures to reduce the potential for weather-related and tsunami hazards. By participating in this program, local agencies earn recognition for their jurisdiction by meeting guidelines established by the NWS in partnership with federal, state, and local emergency management professionals. Information and details on the StormReady and TsunamiReady programs are located at *https://www.weather.gov/stormready/* and *https://www.weather.gov/tsunamiready/.*

Many businesses, schools, nonprofit organizations and other non-governmental entities establish severe weather safety plans and actively promote severe weather safety awareness activities. The NWS established the StormReady and TsunamiReady Supporter programs to recognize those entities do not have the resources necessary to fulfill all the full StormReady or TsunamiReady eligibility but actively promote the principles of the program.

*Affected Public:* Business or other for-profit organization; not-for-profit institutions; state, local or tribal government.

*Frequency:* Every three years or annually.

*Respondent's Obligation:* Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: April 24, 2018.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2018–08939 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XG195**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Tuesday, May 8, 2018 at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Hilton Garden Inn Logan Airport, 100 Boardman Street, Boston, MA 02129; Phone: (617) 561–0798.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

#### Agenda

The Advisory Panel will provide recommendations to the Groundfish Committee on Groundfish Monitoring Amendment 23 specifically the draft alternatives and Plan Development Team (PDT) work related to development of the action. They will also discuss priorities for 2018 and the PDT work to date and make recommendations to the Groundfish Committee. Other business will be discussed as necessary.

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

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: April 24, 2018.

**Tracey L. Thompson,**

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

[FR Doc. 2018–08928 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Alaska Chinook Salmon Economic Data Report.

*OMB Control Number:* 0648–0633.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a currently approved information collection).

*Number of Respondents:* 117.

*Average Hours per Response:* 40 hours for Compensated Transfer Report; 4 hours each for Vessel Fuel Survey, Vessel Master Survey; and Chinook EDR Verification/Audit.

*Burden Hours:* 728.

*Needs and Uses:* This request is for extension of a currently approved information collection.

National Marine Fisheries Service (NMFS) manages the Bering Sea pollock fishery under the American Fisheries Act (AFA) (16 U.S.C. 1851). AFA fishing vessels harvest pollock in the Bering Sea pollock fishery using pelagic (mid-water) trawl gear, which consists of large nets towed through the water by the vessel. At times, Chinook salmon and pollock occur in the same locations in the Bering Sea; consequently, Chinook salmon are incidentally caught in the nets as pollock is harvested. This incidental catch is called bycatch and is also called prohibited species catch (PSC).

The Chinook Salmon Economic Data Report (Chinook Salmon EDR) Program provides NMFS and the North Pacific Fishery Management Council (Council) with data to evaluate the effectiveness of Chinook salmon bycatch management measures for the Bering Sea pollock fishery that were implemented under Amendment 91 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (75 FR 53026, August 30, 2010). The EDR consists of three data collections that are submitted annually by owners and operators of catcher vessels, catcher/processors, motherships, and the Western Alaska Community Development Quota Program groups qualified to participate in the Bering Sea pollock fishery (50 CFR 679.65). The Chinook Salmon EDR Program also includes a means for NMFS to verify the data submitted in these three collections.

NMFS and the Council use the information to determine the effectiveness of the Incentive Plan Agreement (IPA), the IPA incentives, the PSC limits, and the performance standard in terms of minimizing salmon bycatch in times of high and low levels of salmon abundance. NMFS and the Council also use the data to evaluate how Amendment 91 affects where, when, and how pollock fishing and salmon bycatch occur and to study and verify conclusions drawn by industry in the IPA annual reports.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* Annually.

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

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: April 24, 2018.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2018–08937 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Pacific Islands Logbook Family of Forms

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before June 26, 2018.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Walter Ikehara, (808) 725–5175 or *Walter.Ikehara@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This request is for extension of a currently approved information collection.

Fishermen in Federally-managed fisheries in the Pacific Islands Region are required to provide certain information about their fishing activities, catch, and interactions with protected species by submitting reports to National Marine Fisheries Service, per 50 CFR part 665. These data are needed to determine the condition of the stocks and whether the current management measures are having the intended effects, to evaluate the benefits and costs of changes in management measures, and to monitor and respond to accidental takes of endangered and threatened species, including seabirds, sea turtles, and marine mammals.

**II. Method of Collection**

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, submission via vessel monitoring system device or online, and mail and facsimile transmission of paper forms.

### III. Data

*OMB Control Number:* 0648–0214.

*Form Number:* None.

*Type of Review:* Regular submission (extension of a currently approved collection).

*Affected Public:* Businesses or other for-profit organizations; individuals or households.

*Estimated Number of Respondents:* 527.

*Estimated Time per Response:* Logbooks and sales reports, 5–35 minutes based on fishery, entry/exit and landing notices, Protected Species Zone entry/exit notices, 5 minutes; landing/offloading notices, 3 minutes.

*Estimated Total Annual Burden Hours:* 15,509.

*Estimated Total Annual Cost to Public:* $2,500 in recordkeeping/reporting costs.

### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 24, 2018.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2018–08940 Filed 4–26–18; 8:45 am]

BILLING CODE 3510–22–P

---

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**RIN 0648–XG194**

## Gulf of Mexico Fishery Management Council; Public Meetings

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

**ACTION:** Notice; public hearings and webinar.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will hold eight public hearings and webinar to solicit public comments on Draft Amendment 9—Coral Habitat Areas Considered for Management in the Gulf of Mexico.

**DATES:** The public hearings will take place May 7–June 6, 2018. The meetings and webinar will begin at 6 p.m. and will conclude no later than 9 p.m. For specific dates and times, see **SUPPLEMENTARY INFORMATION**. Written public comments must be received on or before 5 p.m. EST on Tuesday, June 5, 2018.

**ADDRESSES:** The public documents can be obtained by contacting the Gulf of Mexico Fishery Management Council, 2203 N Lois Avenue, Suite 1100, Tampa, FL 33607; (813) 348–1630 or on their website at *www.gulfcouncil.org*.

*Meeting addresses:* The public hearings will be held in Key West and Madeira Beach, FL; Brownsville, Palacios and Clear Lake, TX; Mobile, AL, D'Iberville, MS and Grand Isle, LA. For specific locations, see **SUPPLEMENTARY INFORMATION**.

*Public comments:* Comments may be submitted online through the Council's public portal by visiting *www.gulfcouncil.org* and clicking on ''CONTACT US''.

**FOR FURTHER INFORMATION CONTACT:** Dr. Morgan Kilgour, Fishery Biologist; *morgan.kilgour@gulfcouncil.org,* Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

**SUPPLEMENTARY INFORMATION:** The agenda for the following eight hearings and webinar are as follows: Council staff will brief the public on the purpose and need of the amendment. The Council is currently considering creating several new habitat areas of particular concern in the Gulf of Mexico. Council staff will also provide an overview of the actions and alternatives considered in the amendment including the Council preferred alternatives.

Staff and a Council member will be available to answer any questions and the public will have the opportunity to provide testimony on the amendment and other related testimony.

The schedule is as follows:

### Locations

*Monday, May 7, 2018;* Courtyard by Marriott Brownville, 3955 N. Expressway, Brownsville, TX 78520; telephone: (956) 350–4600.

*Tuesday, May 8, 2018;* Port of Palacios, 1602 Main Street, Palacios, TX 77465; telephone: (361) 972–5556.

*Wednesday, May 9, 2018;* Hampton Inn & Suites Houston/League City, 2320 Gulf Freeway South, League City, Texas, 77573; telephone: (281) 614–5437.

*Tuesday, May 22, 2018,* Webinar—6 p.m. EST at: *https://attendee.gotowebinar.com/register/4248295616605995266*.

After registering, you will receive a confirmation email containing information about joining the webinar.

*Monday, June 4, 2018;* Marriott Beachside, 3841 N. Roosevelt Boulevard, Key West, FL 33040; telephone: (305) 296–8100; Louisiana Department of Wildlife and Fisheries Laboratory, 195 Ludwig Annex, Grand Isle, LA 70358; (985) 787–2163.

*Tuesday, June 5, 2018;* Courtyard by Marriott Biloxi/North D 'Iberville, 11471 Cinema Drive, D 'Iberville, MS 39540; telephone: (228) 392–1200; Holiday Inn Express & Suites St. Petersburg—Seminole, 4816 100th Way North, St. Petersburg, FL, 33708; telephone: (727) 914–7107.

*Wednesday, June 6, 2018;* Renaissance Mobile Riverview Plaza Hotel, 64 South Water Street, Mobile, AL 36602; telephone: (251) 438–4000.

### Special Accommodations

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

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

Dated: April 24, 2018.

**Tracey L. Thompson,**

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

[FR Doc. 2018–08925 Filed 4–26–18; 8:45 am]

BILLING CODE 3510–22–P

---

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**RIN 0648–XG196**

## New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries

in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Wednesday, May 9, 2018 at 9 a.m.

**ADDRESSES:** The meeting will be held at the Hilton Garden Inn Logan Airport, 100 Boardman Street, Boston, MA 02129; Phone: (617) 561–0798.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

### Agenda

The committee will review the Groundfish Advisory Panel recommendations and provide recommendations to the Council on Groundfish Monitoring Amendment 23 specifically the draft alternatives and Plan Development Team (PDT) work related to development of the action. They will also discuss priorities for 2018 and the PDT work to date and make recommendations to the Council. Other business will be discussed as necessary.

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

### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: April 24, 2018.

**Tracey L. Thompson,**

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

[FR Doc. 2018–08929 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration (NOAA)

### Science Advisory Board (SAB); Public Meeting of the NOAA Science Advisory Board

**AGENCY:** Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a meeting of the NOAA Science Advisory Board (SAB). The members will discuss issues outlined in the section on matters to be considered.

**DATES:** The meeting will be held May 24, 2018 from 11:00 a.m. to 12:00 p.m. Eastern Daylight Time (EDT). The time and agenda topic described below are subject to change. For the latest agenda please refer to the SAB website: *http://sab.noaa.gov/SABMeetings.aspx*.

**ADDRESSES:** Webinar. Members of the public may participate virtually by registering at: *https://attendee.gotowebinar.com/register/3728272796132724738.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Cynthia Decker, Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910; Phone Number: 301–734–1156; Email: *Cynthia.Decker@noaa.gov;* or visit the SAB website at *http://sab.noaa.gov/SABMeetings.aspx*.

**SUPPLEMENTARY INFORMATION:** The NOAA Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

*Status:* The meeting will be open to public participation with a 5-minute public comment period at 11:45 a.m. EDT. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of one (1) minute. Written comments for the meeting should be received in the SAB Executive Director's Office by May 17, 2018 to provide sufficient time for SAB review. Written comments received after by the SAB Executive Director after these dates will be distributed to the SAB, but may not be reviewed prior to the meeting date.

*Special Accommodations:* This meeting is only virtually accessible. Requests for special accommodations may be directed to the Executive Director no later than 12 p.m. EDT on May 17, 2018.

*Matters To Be Considered:* The purpose of this meeting is to review, discuss, and approve the 2018–2019 SAB work plan. Meeting materials, including work products will be made available on the SAB website: *http://sab.noaa.gov/SABMeetings.aspx*.

Dated: April 21, 2018.

**David Holst,**

*Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2018–08930 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–KD–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Alaska Commercial Operator's Annual Report (COAR).

*OMB Control Number:* 0648–0428.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a currently approved information collection).

*Number of Respondents:* 98.

*Average Hours per Response:* Eight hours.

*Burden Hours:* 784.

*Needs and Uses:* This request is for extension of a currently approved information collection.

The Alaska Commercial Operator's Annual Report (COAR) is a report that collects harvest and production information broken out by specific criteria such as gear type, area, delivery and product type, and pounds and

value. The COAR is due by April 1 of the year following any buying or processing activity.

Any person or company who received a Fisheries Business License from the Alaska Department of Revenue and an Intent to Operate Permit by Alaska Department of Fish and Game (ADF&G) is required to annually submit the COAR to the ADF&G, under Alaska Administrative Code (AAC), chapter 5 AAC 39.130. Any owner of a catcher/processor or mothership with a Federal permit operating in the EEZ off Alaska is required to annually submit a COAR to ADF&G under 50 CFR 679.5(p).

*Affected Public:* Business or other for-profit organizations.

*Frequency:* Annually.

*Respondent's Obligation:* Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: April 24, 2018.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2018–08938 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

### Submission for OMB Review; Comment Request; "National Medal of Technology and Innovation Nomination Application"

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

*Agency:* United States Patent and Trademark Office, Commerce.

*Title:* National Medal of Technology and Innovation Nomination Application.

*OMB Control Number:* 0651–0060.

*Form Number(s):* None.

*Type of Request:* Regular.

*Number of Respondents:* 50 responses per year.

*Average Hours per Response:* The USPTO estimates that it will take approximately 40 hours to gather the necessary information, prepare the nomination form with the recommendations, and submit the request for nomination to the USPTO.

*Burden Hours:* 2,000 hours per year.

*Cost Burden:* $0 per year.

*Needs and Uses:* The purpose of the National Medal of Technology and Innovation is to recognize those who have made lasting contributions to America's competitiveness, standard of living, and quality of life through technological innovation, and to recognize those who have made substantial contributions to strengthen the Nation's technological workforce. By highlighting the national importance of technological innovation, the Medal also seeks to inspire future generations of Americans to prepare for and pursue technical careers to keep America on the forefront of global technology and economic leadership.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*OMB Desk Officer:* Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include "0651–0060 copy request" in the subject line of the message.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before May 29, 2018 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov* or by fax to 202–395–5197, marked to the attention of Nicholas A. Fraser.

**Marcie Lovett,**

*Records and Information Governance Division, Office of the Chief Technology Officer, United States Patent and Trademark Office.*

[FR Doc. 2018–08952 Filed 4–26–18; 8:45 am]

**BILLING CODE 3510–16–P**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

### Post Registration (Trademark Processing)

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an existing information collection: 0651–0055 (Post Registration (Trademark Processing)).

**DATES:** Written comments must be submitted on or before June 26, 2018.

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

- *Email: InformationCollection@uspto.gov.* Include "0651–0055 comment" in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, by telephone at 571–272–8946, or by email to *Catherine.Cain@uspto.gov* with "0651–0055 comment" in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under "Information Collection Review."

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

The information gathered in this collection covers various communications submitted by individuals and businesses to the USPTO occurring after registration of a trademark. One type of communication

is a request to amend their registrations to delete goods or services that are no longer being used by the registrant. A second type of communication is a declaration of use. Registered marks remain on the register for ten years and can be renewed, but will be cancelled unless the owner files with the USPTO a declaration attesting to the continued use (or excusable non-use) of the mark in commerce, and a renewal application, within specific deadlines. Registration owners may also request to amend or divide a registration, respond to a post-registration Office action, and surrender a registration.

The information in this collection is used to maintain the quality of the trademark register. The register information may be accessed by an individual or by businesses to determine the availability of a mark. A current and accurate register reduces the possibility that parties initiate the use of a mark previously adopted by another. It is in the interest of all parties to update and correct the registry as their need for and use of marks evolve. Thus, the Federal trademark registration process may reduce unnecessary litigation and its associated costs and burdens.

## II. Methods of Collection

Electronically, if applicants submit the information using the forms provided through the Trademark Electronic Application System (TEAS). By mail or hand delivery, if applicants choose to submit the information in paper form.

## III. Data

*OMB Number:* 0651–0055.

*IC Instruments:* PTO Form 1563, PTO Form 1573, PTO Form 1583, PTO Form 1597, PTO Form 1963, TEAS Global Form.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Individuals or households; business of other for-profit organizations; not-for-profit organizations.

*Estimated Number of Respondents:* 204,362 responses per year.

*Estimated Time per Response:* The USPTO estimates that it will take approximately between 5 minutes (0.08 hours) and 40 minutes (0.67 hours) to complete this information. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

*Estimated Total Annual Respondent Hour Burden:* 55,665.70 hours per year.

*Estimated Total Annual Respondent (Hourly) Cost Burden:* $24,381,576.60. The USPTO expects that attorneys will complete the instruments associated with this information collection. The professional hourly rate for intellectual property attorneys in private firms is $438. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is $24,381,576.60 per year.

| IC No. | Item | Estimated response time (a) | Estimated responses (b) | Estimated burden (c) (a) x (b) | Rate (d) | Estimated cost burden (e) (c) x (d) |
|---|---|---|---|---|---|---|
| 1 | Declaration of Use of Mark in Commerce Under Section 8 (TEAS). | 0.25 (15 minutes) | 19,466 | 4,866.50 | $438.00 | $2,131.527.00 |
| 1 | Declaration of Use of Mark in Commerce Under Section 8 (paper). | 0.42 (25 minutes) | 1 | 0.42 | 438.00 | 183.96 |
| 2 | Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (TEAS). | 0.25 (15 minutes) | 82,337 | 20,584.25 | 438.00 | 9,015,901.50 |
| 2 | Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (paper). | 0.42 (25 minutes) | 4 | 1.68 | 438.00 | 735.84 |
| 3 | Declaration of Incontestability of a Mark Under Section 15 (TEAS). | 0.08 (5 minutes) | 973 | 77.84 | 438.00 | 34,093.92 |
| 3 | Declaration of Incontestability of a Mark Under Section 15 (paper). | 0.17 (10 minutes) | 1 | 0.17 | 438.00 | 74.46 |
| 4 | Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS). | 0.25 (15 minutes) | 77,863 | 1,946.50 | 438.00 | 852,567.00 |
| 4 | Combined Declaration of Use and Incontestability Under Section 8 and 15 (paper). | 0.42 (25 minutes) | 4 | 1.68 | 438.00 | 735.84 |
| 5 | Surrender of Registration for Cancellation (TEAS Global). | 0.08 (5 minutes) | 413 | 33.04 | 438.00 | 14,471.52 |
| 5 | Surrender of Registration for Cancellation (paper). | 0.25 (15 minutes) | 1 | 0.25 | 438.00 | 109.52 |
| 6 | Section 7 Request (TEAS) | 0.42 (25 minutes) | 6,277 | 2,636.34 | 438.00 | 1,154,716.92 |
| 6 | Section 7 Request (paper) | 0.50 (30 minutes) | 1 | 0.50 | 438.00 | 219.00 |
| 7 | Response to Office Action for Post-Registration Matters (TEAS Global). | 0.50 (30 minutes) | 14,000 | 7,000.00 | 438.00 | 3,066,000.00 |
| 7 | Response to Office Action for Post-Registration Matters (paper). | 0.67 (40 minutes) | 1 | 0.67 | 438.00 | 293.46 |

| IC No. | Item | Estimated response time (a) | Estimated responses (b) | Estimated burden (c) (a) x (b) | Rate (d) | Estimated cost burden (e) (c) x (d) |
|---|---|---|---|---|---|---|
| 8 | Request to Divide Registration (TEAS Global). | 0.33 (20 minutes) | 3,017 | 995.61 | 438.00 | 436,077.18 |
| 8 | Request to Divide Registration (paper). | 0.50 (30 minutes) | 1 | 0.50 | 438.00 | 219.00 |
| 9 | Section 12(c) Affidavit (TEAS Global). | 0.17 (10 minutes) | 1 | 0.17 | 438.00 | 74.46 |
| 9 | Section 12(c) Affidavit (paper) | 0.33 (20 minutes) | 1 | 0.33 | 438.00 | 144.54 |
| Totals | | | 204,362 | 55,665.70 | | 24,381,576.60 |

*Estimated Total Annual (Non-hour) Respondent Cost Burden:* $63,862,182.35. This collection has no capital startup, maintenance fees, or operating fees. This collection does have filing fees and postage costs.

*Filing Fees*

Filing fees are charged per class of goods or services and can vary depending on the number of classes. The filing fees shown here are based on the minimum fee of one class per document associated with this information collection. The USPTO estimates that the filing fees associated with this collection will total $63,862,175 per year.

| IC No. | Item | Response (a) | Filling fee (b) | Total cost (c) (a) x (b) |
|---|---|---|---|---|
| 1 | Declaration of Use of Mark in Commerce Under Section 8 (TEAS) | 19,466 | $125.00 | $2,433,250.00 |
| 1 | Declaration of Use of Mark in Commerce Under Section 8 (paper) | 1 | 225.00 | 225.00 |
| 2 | Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (TEAS). | 82,337 | 425.00 | 34,993,225.00 |
| 2 | Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (paper). | 4 | 725.00 | 2,900.00 |
| 3 | Declaration of Incontestability of a Mark Under Section 15 (TEAS) | 973 | 200.00 | 194,600.00 |
| 3 | Declaration of Incontestability of a Mark Under Section 15 (paper) | 1 | 300.00 | 300.00 |
| 4 | Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS). | 77,863 | 325.00 | 25,305,475.00 |
| 4 | Combined Declaration of Use and Incontestability Under Section 8 and 15 (paper). | 4 | 525.00 | 2,100.00 |
| 6 | Section 7 Request (TEAS) | 6,277 | 100.00 | 627,700.00 |
| 6 | Section 7 Request (paper) | 1 | 200.00 | 200.00 |
| 8 | Request to Divide Registration (TEAS Global) | 3,017 | 100.00 | 301,700.00 |
| 8 | Request to Divide Registration (paper) | 1 | 200.00 | 200.00 |
| 9 | Section 12(c) Affidavit (TEAS Global) | 1 | 100.00 | 100.00 |
| 9 | Section 12(c) Affidavit (paper) | 1 | 200.00 | 200.00 |
| Totals | | 189,947 | | 63,862,175.00 |

*Postage Costs*

Customers may incur postage costs when submitting items covered by this collection to the USPTO by mail. The USPTO estimates that approximately 98 percent of the responses in this collection will be submitted electronically. Of the remaining 2 percent, the vast majority will be submitted by mail for a total of 14 mailed submissions. The average first-class USPS postage cost for a mailed submission will be $0.49. Therefore, the USPTO estimates that the postage costs for the mailed submissions in this collection will be $7.35.

*Total*

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs ($7.35) and filing fees ($63,862,175), is $63,862,182.35 per year.

## IV. Request for Comments

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection. They also will become a matter of public record.

*Comments are invited on:*

a. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

b. The accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

**Marcie Lovett,**

*Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.*

[FR Doc. 2018–08738 Filed 4–26–18; 8:45 am]

BILLING CODE 3510–16–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Deletions from the Procurement List.

**SUMMARY:** This action deletes products from the Procurement List previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Date deleted from the Procurement List:* May 27, 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:**

### Deletions

On 3/9/2018 (83 FR 47), 3/16/2018 (83 FR 52), and 3/23/2018 (83 FR 57), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer 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 additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the products 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 products deleted from the Procurement List.

### End of Certification

Accordingly, the following products are deleted from the Procurement List:

*Products*

*NSN(s)—Product Name(s):* 6530–01–115–7835—Holder, Clinical Chart
*Mandatory Source of Supply:* CW Resources, Inc., New Britain, CT
*Contracting Activity:* Defense Logistics Agency Troop Support

*NSN(s)—Product Name(s):* 6510–01–336–6192—Dressing, First Aid, Field Training
*Mandatory Source of Supply:* Elwyn, Aston, PA
*Contracting Activity:* Defense Logistics Agency Troop Support

*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

*NSN(s)—Product Name(s):*
7510–00–NIB–0240—Business Cards
7510–00–NIB–0265—Business Cards
7510–00–NIB–0266—Business Cards
*Mandatory Source of Supply:* Envision, Inc., Wichita, KS
*Contracting Activity:* General Services Administration, New York, NY

*NSN(s)—Product Name(s):*
6260–00–NIB–0005—Lighted Baton—Amber
6260–00–NIB–0006—Lighted Baton—InfraRed
6260–00–NIB–0008—Lighted Baton—Red
6260–00–NIB–0009—Lighted Baton—Green
6260–00–NIB–0010—Lighted Baton—Blue
6260–00–NIB–0011—Lighted Baton—Amber/Red
*Mandatory Source of Supply:* LC Industries, Inc., Durham, NC
*Contracting Activity:* General Services Administration, New York, NY

**Amy Jensen,**

*Director, Business Operations.*

[FR Doc. 2018–08947 Filed 4–26–18; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions 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: May 27, 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):*
2540–00–587–2532—Tarpaulin, Green, 12′ x 17′
2540–01–330–8062—Tarpaulin, Tan, 12′ x 17′
*Mandatory Source of Supply:* Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
*Mandatory for:* 100% of the requirement of the Department of Defense
*Contracting Activity:* Defense Commissary Agency Land and Maritime
*Distribution:* C-List

*NSN(s)—Product Name(s):* 5975–00–985–6630—Strap, Tie Down, Electrical Component
*Mandatory Source of Supply:* North Central Sight Services, Inc., Williamsport, PA
*Mandatory for:* Broad Government Requirement
*Contracting Activity:* Defense Logistics Agency Aviation
*Distribution:* B-List

*Service*

*Service Type:* Custodial Service
*Mandatory for:* U.S. Customs and Border Protection, All CBP Facilities, U.S. Virgin Islands, 5500 Veterans Drive, St. Thomas, VI
*Mandatory Source of Supply:* The Corporate Source, Inc., New York, NY
*Contracting Activity:* U.S. Customs and Border Protection, Border Enforcement Ctr Div

### Deletions

The following products are proposed for deletion from the Procurement List:

*Products*

*NSN(s)—Product Name(s):*
8415–01–475–4554—Drawers, Cold Weather Knitted/Terry, ECWCS, Army, Unisex, Long, Brown, XXLXXL

8415–01–475–4561—Drawers, Cold Weather Knitted/Terry, ECWCS, Army, Unisex, Long, Brown, XXXL
8415–00–0DR–W656—Drawers, Cold Weather, Army, Unisex, Long, Brown, Special Measurement
*Mandatory Sources of Supply:*
Four Rivers Resource Services, Inc., Linton, IN
New Horizons Rehabilitation Services, Inc., Auburn Hills, MI
Peckham Vocational Industries, Inc., Lansing, MI
Casco Area Workshop, Inc., Harrisonville, MO
*NSN(s)—Product Name(s):*
8415–01–227–9542—Drawers, Cold Weather, Knitted/Terry, ECWCS, Army, Unisex, Ankle Length, Brown, XS
8415–01–227–9543—Drawers, Cold Weather, Knitted/Terry, ECWCS, Army, Unisex, Ankle Length, Brown, S
8415–01–227–9544—Drawers, Cold Weather, Knitted/Terry, ECWCS, Army, Unisex, Ankle Length, Brown, M
8415–01–227–9545—Drawers, Cold Weather, Knitted/Terry, ECWCS, Army, Unisex, Ankle Length, Brown, L
8415–01–227–9546—Drawers, Cold Weather, Knitted/Terry, ECWCS, Army, Unisex, Ankle Length, Brown, XL
*Mandatory Sources of Supply:*
Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, KY
New Horizons Rehabilitation Services, Inc., Auburn Hills, MI
Four Rivers Resource Services, Inc., Linton, IN
Peckham Vocational Industries, Inc., Lansing, MI
Casco Area Workshop, Inc., Harrisonville, MO
*NSN(s)—Product Name(s):*
8415–01–327–4825—Cover, Helmet, Parachutists, Army, Desert Camouflage, Medium/Large
8415–01–327–4826—Cover, Helmet, Parachutists, Army, Desert Camouflage, X Large
*Mandatory Sources of Supply:*
Chautauqua County Chapter, NYSARC, Jamestown, NY
Mount Rogers Community Services Board, Wytheville, VA
*NSN(s)—Product Name(s):* 8415–01–103–1350—Cover, Helmet, Parachutist, Army, Desert Camouflage, ML
*Mandatory Source of Supply:* North Bay Rehabilitation Services, Inc., Rohnert Park, CA
*NSN(s)—Product Name(s):*
8415–01–525–6673—Cover, Fits over Combat Helmet, PASGT, Army, Desert Camouflage
8415–01–525–6685—Cover, Fits over Combat Helmet, PASGT, Army, Desert Camouflage
8415–00–926–5113—Coverall, Industrial, Safety, Lint-free, Army, Long Sleeved, Tan, Large
8415–00–939–7879—Coverall, Industrial, Safety, Lint-free, Army, Long Sleeved, Tan, X Small
8415–00–939–7880—Coverall, Industrial, Safety, Lint-free, Army, Long Sleeved, Tan, S
8415–00–939–7881—Coverall, Industrial, Safety, Lint-free, Army, Long Sleeved, Tan, M
8415–00–939–7882—Coverall, Industrial, Safety, Lint-free, Army, Long Sleeved, Tan, X Large
*Mandatory Source of Supply:* Human Technologies Corporation, Utica, NY
*Contracting Activity:* Defense Logistics Agency Troop Support

**Amy Jensen,**
*Director, Business Operations.*

[FR Doc. 2018–08946 Filed 4–26–18; 8:45 am]

BILLING CODE 6353–01–P

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. 18–1]**

### Notice of Prehearing Conference

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** Notice of prehearing conference for *In the Matter of Britax Child Safety, Inc.;* CPSC Docket No. 18–1.

**DATES:** Thursday, May 3, 2018 at 10 a.m. Eastern Time.

**ADDRESSES:** Members of the public are welcome to attend the prehearing conference, to be held in: Hearing Room 2, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

**FOR FURTHER INFORMATION CONTACT:** Benjamin Ristau, Attorney-Adviser, Office of Administrative Law Judges, U.S. Securities and Exchange Commission, 202–551–5201.

**SUPPLEMENTARY INFORMATION:** The text of the Presiding Officer's April 20, 2018 Order Scheduling Prehearing Conference appears below.

**Authority:** Consumer Product Safety Act, 15 U.S.C. 2064.

**Alberta E. Mills,**
*Secretary, Consumer Product Safety Commission.*

*United States of America Consumer Product Safety Commission*
In the Matter of Britax Child Safety, Inc., CPSC Docket No. 18–1
April 20, 2018

### Order Scheduling Prehearing Conference

This proceeding commenced with the filing of a complaint on February 16, 2018. The complaint was published in the **Federal Register** on February 27, 2018. 83 FR 8457. On April 19, 2018, the Chairman of the Consumer Product Safety Commission appointed me as the presiding officer for this proceeding.

Under 16 CFR 1025.21, an initial prehearing conference shall be held within fifty days of the publication of the complaint in the **Federal Register** unless ''unusual circumstances would render it impractical or valueless'' to do so. Due to the timing of my appointment, holding a prehearing conference within fifty days of publication is impossible, and therefore impractical. An in-person prehearing conference shall be held as follows:

*Date:* Thursday, May 3, 2018.
*Time:* 10:00 a.m. Eastern Time.
*Location:* Hearing Room 2, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

In accordance with 16 CFR 1025.21(b), the issues to be addressed at the conference are the items numbered (1) through (14) in 16 CFR 1025.21(a). If the time or location of the conference is infeasible for any party, that party should promptly file a motion for a continuance. I direct that notice of this conference and a statement of the issues to be discussed shall be published in the **Federal Register** at least ten days in advance of the scheduled date. 16 CFR 1025.21(b).

A ruling on the parties' joint motion for a protective order will be forthcoming.

By: Cameron Elliot
*Administrative Law Judge*

[FR Doc. 2018–08841 Filed 4–26–18; 8:45 am]

BILLING CODE 6355–01–P

## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meeting Notice

**TIME AND DATE:** Wednesday, May 2, 2018, 10:00 a.m.–12:00 p.m.

**PLACE:** Hearing Room 420, Bethesda Towers, 4330 East-West Highway, Bethesda, MD.

**STATUS:** Commission Meeting—Open to the Public.

**MATTERS TO BE CONSIDERED:** Briefing Matter: Fiscal Year 2018 Mid-Year Review.

A live webcast of the Meeting can be viewed at *https://www.cpsc.gov/live.*

**CONTACT PERSON FOR MORE INFORMATION:** Rockelle Hammond, Office of the Secretariat, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: April 25, 2018.

**Alberta E. Mills,**
*Secretary.*

[FR Doc. 2018–09007 Filed 4–25–18; 11:15 am]

BILLING CODE 6355–01–P

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Intent To Grant Exclusive Patent License to 4D Tech Solutions, Inc., Morgantown, WV

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of Intent.

**SUMMARY:** The Department of the Army hereby gives notice of its intent to grant to 4D Tech Solutions, Inc.; a corporation having its principle place of business at 1275 Stewartstown Road, Morgantown, WV 26505, an exclusive license.

**DATES:** Written objections must be filed not later than 15 days following publication of this announcement.

**ADDRESSES:** Send written objections to U.S. Army Research Laboratory Technology Transfer and Outreach Office, RDRL–DPT/Thomas Mulkern, Building 321 Room 110, Aberdeen Proving Ground, MD 21005–5425.

**FOR FURTHER INFORMATION CONTACT:** Thomas Mulkern, (410) 278–0889, email: *ORTA@arl.army.mil*.

**SUPPLEMENTARY INFORMATION:** The Department of the Army plans to grant an exclusive license to 4D Tech Solutions, Inc. relative to ''LADAR Receiver with Enhanced Signal to Noise Ratio and Method'', US Patent Application No.: 15/340,307, Filing Date 1 November 2016, for the following fields of use—

- Manned and Unmanned Aerial Vehicles (UAVs)
- Surveillance and Security (*e.g.* perimeter security)
- Underwater Imaging
- Manned and Unmanned Ground Vehicles (UGVs), (excluding automotive navigation and off-road construction vehicle autonomous applications)

The prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the U.S. Army Research Laboratory receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i), Competing applications completed and received by the U.S. Army Research Laboratory within fifteen (15) days from the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2018–08898 Filed 4–26–18; 8:45 am]

**BILLING CODE 5001–03–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### Inland Waterways Users Board Meeting Notice

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of open Federal advisory committee meeting.

**SUMMARY:** The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the U.S. Army Corps of Engineers, Inland Waterways Users Board (Board). This meeting is open to the public. For additional information about the Board, please visit the committee's website at *http://www.iwr.usace.army.mil/Missions/Navigation/InlandWaterwaysUsersBoard.aspx.*

**DATES:** The Army Corps of Engineers, Inland Waterways Users Board will meet from 8:00 a.m. to 12:00 p.m. on May 25, 2018. Public registration will begin at 7:15 a.m.

**ADDRESSES:** The Inland Waterways Users Board meeting will be conducted at the Sheraton Pittsburgh Hotel at Station Square, 300 West Station Square Drive, Pittsburgh, PA 15219, 412–261–2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Kenneth E. Lichtman, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–8083; and by email at *Kenneth.E.Lichtman@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:** The committee meeting is being held under the provisions of the Federal Advisory Committee Act 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 102–3.150.

*Purpose of the Meeting:* The Board is chartered to provide independent advice and recommendations to the Secretary of the Army on construction and rehabilitation project investments on the commercial navigation features of the inland waterways system of the United States. At this meeting, the Board will receive briefings and presentations regarding the investments, projects and status of the inland waterways system of the United States and conduct discussions and deliberations on those matters. The Board is interested in written and verbal comments from the public relevant to these purposes.

*Agenda:* At this meeting the agenda will include the FY 2018 funding for inland Navigation and scenarios for efficient funding, and contingency funding; status of the FY 2019 Budget for the Navigation Program; status of the Inland Waterways Trust Fund and project updates; status of the construction activities for Olmsted Locks and Dam Project, the Locks and Dams 2, 3, and 4 on the Monongahela River Project, Chickamauga Lock Project and Kentucky Lock Project.

*Availability of Materials for the Meeting.* A copy of the agenda or any updates to the agenda for the May 25, 2018 meeting. The final version will be provided at the meeting. All materials will be posted to the website after the meeting.

*Public Accessibility to the Meeting:* Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.1 65, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin at 7:15 a.m. on the day of the meeting. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number at registration. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee, as set forth below.

*Special Accommodations:* The meeting venue is fully handicap accessible, with wheelchair access. Individuals requiring special accommodations to access the public meeting or seeking additional information about public access

procedures, should contact Mr. Pointon, the committee DFO, or Mr. Lichtman, the ADFO, at the email addresses or telephone numbers listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

*Written Comments or Statements:* Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Board about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to Mr. Pointon, the committee DFO, or Mr. Lichtman, the committee ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO or ADFO at least five (5) business days prior to the meeting so that they may be made available to the Board for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting. Please note that because the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

*Verbal Comments:* Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three business (3) days in advance to the committee DFO or ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO and ADFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO and ADFO.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2018–08897 Filed 4–26–18; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Intent To Prepare an Environmental Impact Statement/Overseas Environmental Impact Statement for Point Mugu Sea Range and To Announce Public Scoping Meetings

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality, and Presidential Executive Order (E.O.) 12114, the Department of the Navy (DoN) announces its intent to prepare an Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) for the Point Mugu Sea Range. The Point Mugu Sea Range EIS/OEIS will include an assessment of potential environmental consequences associated with continuing military activities analyzed in the 2002 Point Mugu Sea Range EIS/OEIS, plus an increased tempo of military Research Development Testing and Evaluation (RDT&E) and training activities at the Point Mugu Sea Range, and new mission areas and platforms.

**DATES:** The 60-day public scoping period begins April 27, 2018 and ends June 26, 2018. Public scoping meetings will be held on May 15 and 16, 2018. All public comments are due by June 26, 2018.

**ADDRESSES:** The meetings will be held in the following locations:

1. May 15, 2018, 5:00 p.m. to 8:00 p.m., San Buenaventura City Hall, 501 Poli Street, Ventura, CA 93001–2697.
2. May 16, 2018, 5:00 p.m. to 8:00 p.m., Louise Lowry Davis Center, 1232 De La Vina Street, Santa Barbara, CA 93101–3119.

Comments may be provided at public scoping meetings, by mail, and through the project website at: *http://pmsr-eis.com.* Mailed comments must be postmarked no later than June 26, 2018 and mailed to the address in the **FOR FURTHER INFORMATION CONTACT** section for consideration in the Draft EIS/OEIS preparation. The DoN is requesting public comments on the scope of the analysis, including potential environmental issues and viable alternatives to be considered during the development of the Draft EIS/OEIS.

The scoping meetings will consist of an informal, open house session with informational poster stations staffed by DoN representatives. Meeting details will be announced in local area newspapers. Additional information on the public scoping meetings and comment submittal will be available on the project website at: *http://pmsr-eis.com.*

**FOR FURTHER INFORMATION CONTACT:** Naval Air Warfare Center Weapons Division Range Sustainability Office, Point Mugu Sea Range, Building 53A, Code 52F00ME, 575 I Avenue, Suite 1, Point Mugu, CA 93042–5049, Attn: Dr. Kenneth R. Seeley, EIS/OEIS Project Manager, 805–989–0927, or project website: *http://pmsr-eis.com.*

**SUPPLEMENTARY INFORMATION:** The DoN's action proponent is Naval Air Warfare Center Weapons Division (NAWCWD) Point Mugu Sea Range. NAWCWD Point Mugu Sea Range is located offshore of Ventura County in Southern California and includes 36,000 square miles of controlled sea and airspace designated for testing and training activities. The NAWCWD Point Mugu Sea Range meets the established mission to conduct state-of-the-art weapons systems testing and evaluation, and maintain military operational readiness, by providing a safe, operationally realistic, and thoroughly instrumented sea range testing environment. The evolution of international threats and operational technologies require large areas for testing and training.

As part of this process, the DoN will seek the issuance of regulatory permits and authorizations under the Marine Mammal Protection Act and Endangered Species Act. Pursuant to 40 CFR 1501.6, the DoN will invite the National Marine Fisheries Service to be a cooperating agency in preparation of the EIS/OEIS.

The Proposed Action is to accommodate an increase in the tempo of military RDT&E and training activities within the Point Mugu Sea Range Study Area. Proposed testing and training activities are similar to those that have occurred in the Study Area for decades. The proposed tempo is higher than the tempo covered in the 2002 Point Mugu Sea Range EIS/OEIS.

The purpose of the Proposed Action is to provide modern instrumented

airspace and sea space, maneuver areas, testing and training areas, and range infrastructure to fully support current, emerging, and future RDT&E and Fleet testing and training requirements, and ensure long-term viability of the Point Mugu Sea Range while protecting human health and the environment.

The need for the Proposed Action is to allow for continued RDT&E and training activities in support of military readiness and DoD mission requirements as required by Title 10 to provide combat ready forces.

In the Point Mugu Sea Range EIS/OEIS, the DoN will evaluate the potential environmental impacts from a No Action Alternative and action alternatives. The DoN will analyze potential impacts on environmental resources resulting from activities included in the alternatives.

The scoping process is helpful in identifying public concerns and local issues to be considered during the development of the Draft EIS/OEIS. Federal, state, and local agencies; federally recognized tribes; and interested persons are encouraged to provide substantive comments to the DoN on environmental resources and issue areas of concern that the commenter believes the DoN should consider. All substantive comments, provided orally or in writing at the scoping meetings, submitted via the project website, or mailed will be taken into consideration during the development of the EIS/OEIS.

Dated: April 18, 2018.

**J.E. Mosimann,**

*Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 2018–08881 Filed 4–26–18; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF EDUCATION

**[Docket ID ED–2016–OS–0134]**

## Privacy Act of 1974; System of Records

**AGENCY:** Office of the Secretary, Department of Education.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (the Department) publishes this notice of a modified system of records entitled ''Secretary's Communications Control System'' (18–01–01), last published in full in the **Federal Register** on June 4, 1999 (64 FR 30106, 30108–30109) and subsequently amended on December 27, 1999 (64 FR 72405). This system of records is maintained to account for the correspondence received by the Secretary, Deputy Secretary, Senior Officers, or other officials of the Department for whom the Department controls responses.

**DATES:** Submit your comments on this notice of a modified system of records on or before May 29, 2018.

This modified system of records notice will become applicable upon publication in the **Federal Register** on April 27, 2018, unless the modified system of records notice needs to be changed as a result of public comment. Newly proposed routine uses (4), (5), and (6) in the paragraph entitled ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES'' will become applicable on May 29, 2018, unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any significant changes resulting from public comment.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID and the term ''Secretary's Communications Control System'' at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''Help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this system of records, address them to: Ms. Deborah Winters, Deputy Director, Office of the Executive Secretariat, Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–0124.

*Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

*Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record:* On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Winters, Deputy Director, Office of the Executive Secretariat, Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–0124. Telephone: (202) 401–3067.

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

**SUPPLEMENTARY INFORMATION:**

### Introduction

The system of records notice, entitled ''Secretary's Communications Control System'' (18–01–01), was last published in full in the **Federal Register** on June 4, 1999 (64 FR 30106, 30108–30109), and subsequently amended on December 27, 1999 (64 FR 72405).

There are various changes in the system of records notice for the Secretary's Communications Control System.

First, we are updating the routine uses of records maintained in the system to include a standard routine use that is included in most of the Department's system of records notices and two routine uses that the Office of Management and Budget (OMB) has required in M–17–12 in order to permit the Department to respond appropriately to a breach of personally identifiable information in this system of records or, as appropriate, to assist another Federal agency or entity in its response to a breach. These additions will permit the disclosure of records to:

- The Department of Justice or the OMB if the Department concludes that disclosure would help in determining whether particular records are required to be disclosed under the Freedom of Information Act or the Privacy Act.
- Appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including

its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

• Another Federal agency or Federal entity when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach, or (b) 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.

Second, we are updating the policies and practices for storage of records to eliminate the reference to the use of ''computer disks'' as a storage device and to indicate instead that electronic records are stored on servers and on backup media. We are updating the policies and practices for retrieval of records to clarify that, in addition to retrieving records by subject matter, name of the individual, or the document's control number, records also may be retrieved by any other data element included on the data input screen. We are updating the policies and practices for retention and disposal of records to eliminate language stating that ''control records on computers'' are stored indefinitely. In addition, we are modifying the description of records retention and disposition to reflect the current Department records schedules covering records in this system. Further, we are updating the section of the notice entitled ''ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS'' to indicate that electronic documents can only be accessed by authorized individuals using a key card and a secure password.

Third, we are updating the record access procedures and the notification procedures by adding that the Department may, in order to process these requests, ask for any other identifying information needed to distinguish between individuals with the same name.

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

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 23, 2018.

**Betsy DeVos,**

*Secretary of Education.*

For the reasons discussed in the preamble, the Deputy Director, Executive Secretariat, Office of the Secretary, U.S. Department of Education (Department or ED), publishes a notice of a modified system of records notice to read as follows:

## SYSTEM NAME AND NUMBER

### Secretary's Communications Control System (18–01–01)

#### SECURITY CLASSIFICATION:

Unclassified.

#### SYSTEM LOCATION:

Office of the Secretary, 400 Maryland Avenue SW, Washington, DC 20202–0124.

#### SYSTEM MANAGER(S):

Executive Secretariat, Office of the Secretary, 400 Maryland Avenue SW, Washington, DC 20202–0124.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

#### PURPOSE(S) OF THE SYSTEM:

This system of records is maintained to account for the correspondence received by the Department, including correspondence regarding individual concerns and complaints regarding programs administered by the Secretary.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records about individuals who correspond with the Secretary, Deputy Secretary, Senior Officers, or other officials of the Department for whom the Department controls responses.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the following types of records: (1) The official correspondence files of each principal office within the Department and, where applicable, a principal office's component office, specifically the hard copies of official documents and electronic images of certain incoming and outgoing documents; (2) control information from the Secretary's, Deputy Secretary's, Senior Officers', and other officials' correspondence that includes a subject narrative, contact information for the sender, the name of the organization drafting the response, and the type of action required from the Department; and (3) records of responses to some telephone inquiries where officials determine that a written response should be controlled.

#### RECORD SOURCE CATEGORIES:

Records are derived from documents addressed to or issued by the Secretary, the Deputy Secretary, Senior Officials, or other officials of the Department.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) *Government and Private Organization Disclosure.* The Department may disclose records to governmental entities and private organizations as necessary to resolve complaints, provide guidance, respond to requests for documents and information, or address concerns regarding those entities and organizations.

(2) *Congressional Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed in subparagraphs (i) through (v) is involved in judicial or

administrative litigation or ADR, or has an interest in judicial or administrative litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), or (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any component of the Department;

(ii) Any Department employee in his or her official capacity;

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to or has been requested to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her official capacity if the Department has agreed to represent the employee; or

(v) The United States if the Department determines that the judicial or administrative litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the Department of Justice (DOJ) is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to that adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsels, Representatives, or Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(4) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to DOJ or the Office of Management and Budget if the Department concludes that disclosure would help in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(5) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(6) *Disclosure in the Course of Another Federal Agency or Federal Entity Responding to a Breach of Data.* The Department may disclose records from this system of records to another Federal agency or Federal entity when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach, or (b) 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.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

The records are maintained in hard copy in standard file cabinets and electronically on servers and on backup media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Files are indexed and retrievable by subject, name of the individual, any other data element included on the data input screen, or the document's control number assigned at the time the correspondence is logged into the Department.

**POLICIES AND PROCEDURES FOR RETENTION AND DISPOSAL OF RECORDS:**

All records are retained and disposed of in accordance with Department Records Schedule 062: Significant Correspondence (N1–441–08–19) (ED 062) and Department Records Schedule 063: General Correspondence (N1–441–08–13) (ED 063).

Records covered by ED 062 are considered permanent. Permanent nonelectronic records covered by ED 062 are transferred to the National Archives and Records Administration (NARA) 10 years after cut-off. Cut-off occurs annually. Permanent electronic records covered by ED 062 are transferred to NARA every 5 years, with any related documentation and external finding aids, as specified in 36 CFR 1228.70 or standards applicable at the time.

Records covered by ED 063 are considered temporary and are destroyed/deleted 2 years after cut-off. Cut-off occurs annually.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

All physical access to the Department sites are controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. During working hours, direct access to the file cabinets is limited to authorized staff. During nonworking hours, the rooms in which the file cabinets are located are locked and only those individuals with access to those rooms can access the hard copies of records. The electronic documents can only be accessed by authorized individuals using a key card and a secure password.

**RECORD ACCESS PROCEDURES:**

To gain access to records regarding you in this system of records, contact the system manager at the address listed above. You must provide necessary particulars such as your name, the date of the subject documents, a reasonable description of the subject matter of the issue involved, and any other identifying information requested by the Department while processing the request needed to distinguish between individuals with the same name. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

**CONTESTING RECORD PROCEDURES:**

If you wish to contest the content of a record regarding you in this system of records, contact the system manager, and reasonably identify the record and specify the information to be contested. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

**NOTIFICATION PROCEDURES:**

If you wish to determine whether a record exists regarding you in this system of records, contact the system manager at the address listed above. You must provide necessary particulars such as your name, the date of the subject documents, a reasonable description of the subject matter of the issue involved, and any other identifying information requested by the Department while processing the

request needed to distinguish between individuals with the same name. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

This system of records notice was last published in full in the **Federal Register** on June 4, 1999 (64 FR 30106, 30108–30109) and subsequently amended on December 27, 1999 (64 FR 72405).

[FR Doc. 2018–08962 Filed 4–26–18; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC18–87–000.
*Applicants:* NextEra Energy Duane Arnold, LLC.
*Description:* Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of NextEra Energy Duane Arnold, LLC.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5247.
*Comments Due:* 5 p.m. ET 5/11/18.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG18–76–000.
*Applicants:* CED Wistaria Solar, LLC.
*Description:* Self-Certification of EG or FC of CED Wistaria Solar, LLC.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5174.
*Comments Due:* 5 p.m. ET 5/14/18.

*Docket Numbers:* EG18–77–000.
*Applicants:* Walnut Ridge Wind, LLC.
*Description:* Self-Certification of EG of Walnut Ridge Wind, LLC.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5193.
*Comments Due:* 5 p.m. ET 5/14/18.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER17–1376–003.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* Compliance filing: 2018–04–23_Compliance filing of Stored Energy Resource-Type II to be effective 12/1/2017.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5066.
*Comments Due:* 5 p.m. ET 5/14/18.

*Docket Numbers:* ER18–1410–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: 2018–04–20_Merchant HVDC Filing to be effective 7/19/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5230.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1411–000.
*Applicants:* RE Gaskell West LLC.
*Description:* Baseline eTariff Filing: Filing of LGIA Co-Tenancy Agreement to be effective 4/21/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5231.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1412–000.
*Applicants:* RE Astoria LLC.
*Description:* § 205(d) Rate Filing: Filing of Amended Shared Facilities Agreement to be effective 4/21/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5232.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1413–000.
*Applicants:* ITC Midwest LLC.
*Description:* § 205(d) Rate Filing: Filing of a Master JUA for Distribution Underbuild with Maquoketa Valley REC to be effective 6/22/2018.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5065.
*Comments Due:* 5 p.m. ET 5/14/18.

*Docket Numbers:* ER18–1414–000.
*Applicants:* ITC Midwest LLC.
*Description:* § 205(d) Rate Filing: Filing of a Joint Use Agreement with Great River Energy to be effective 6/22/2018.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5092.
*Comments Due:* 5 p.m. ET 5/14/18.

*Docket Numbers:* ER18–1415–000.
*Applicants:* Allegheny Energy Supply Company, LLC.
*Description:* Tariff Cancellation: Cancel Rate schedule FERC NO 13 to be effective 3/1/2018.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5130.
*Comments Due:* 5 p.m. ET 5/14/18.

*Docket Numbers:* ER18–1416–000.
*Applicants:* CED Wistaria Solar, LLC.
*Description:* Baseline eTariff Filing: CED Wistaria Solar, LLC to be effective 4/24/2018.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5132.
*Comments Due:* 5 p.m. ET 5/14/18.

*Docket Numbers:* ER18–1417–000.
*Applicants:* Michigan Electric Transmission Company, LLC.
*Description:* Tariff Cancellation: Cancellation of METC Rate Schedule No. 64 to be effective 4/17/2018.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5133.
*Comments Due:* 5 p.m. ET 5/14/18.

*Docket Numbers:* ER18–1418–000.
*Applicants:* Westar Energy, Inc.
*Description:* § 205(d) Rate Filing: Amendment, OATT Section 28.5, Real Power Losses to be effective 6/28/2018.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5171.
*Comments Due:* 5 p.m. ET 5/14/18.

*Docket Numbers:* ER18–1419–000.
*Applicants:* Walnut Ridge Wind, LLC.
*Description:* Baseline eTariff Filing: Walnut Ridge Application for Market-Based Rates to be effective 6/25/2018.
*Filed Date:* 4/23/18.
*Accession Number:* 20180423–5186.
*Comments Due:* 5 p.m. ET 5/14/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 23, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08859 Filed 4–26–18; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. OR18–21–000]**

### CITGO Petroleum Corporation v. Colonial Pipeline Company; Notice of Complaint

Take notice that on April 20, 2018, pursuant Rule 206 of Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure [1] and part 343 of the Commission's Rules and Regulations,[2] CITGO Petroleum

[1] 18 CFR 385.206 (2017).
[2] 18 CFR 343.2 (2017).

Corporation (Complainant) filed a formal complaint (complaint) against Colonial Pipeline Company (Respondent) alleging that the rates charged in Colonial's FERC Tariff No. 99.36.0 and predecessor tariffs are unjust and unreasonable under sections 1(5), 6, 8, 9, 13, 15 and 16 of the Interstate Commerce Act,[3] all as more fully explained in the complaint.

Complainant states that a copy of the complaint was served on the contacts for Respondent listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on May 21, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08862 Filed 4–26–18; 8:45 am]

**BILLING CODE 6717–01–P**

[3] 49 U.S.C. App. 1(5), 6, 8, 9, 13, 15 and 16.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC18–51–000.
*Applicants:* MDU Resources Group, Inc.
*Description:* Second Supplement to January 31, 2018 Application [Revised Exhibit N] for Authorization Under Section 203 of the Federal Power Act of MDU Resources Group, Inc.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5055.
*Comments Due:* 5 p.m. ET 5/11/18.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2607–005; ER10–2626–004.
*Applicants:* Old Dominion Electric Cooperative, TEC Trading, Inc.
*Description:* Notice of Change in Status of the ODEC Entities.
*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5294.
*Comments Due:* 5 p.m. ET 5/10/18.

*Docket Numbers:* ER10–3028–003.
*Applicants:* Elk Hills Power, LLC.
*Description:* Supplement to March 8, 2018 Notice of Non-Material Change in Status of Elk Hills Power, LLC.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5155.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER17–428–004.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Compliance filing: Missouri River Energy Services Member Formula Rate (Vermillion) Compliance to be effective 2/1/2017.
*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5208.
*Comments Due:* 5 p.m. ET 5/10/18.

*Docket Numbers:* ER18–1403–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 3399 Basin Electric and MidAmerican Energy Attachment AO to be effective 4/1/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5009.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1404–000.
*Applicants:* NS Power Energy Marketing Inc.
*Description:* Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 6/20/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5011.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1405–000.
*Applicants:* Public Service Company of Oklahoma.
*Description:* § 205(d) Rate Filing: PSO–AEPOTC–WFEC Roosevelt-Steed DPA Amend & Restated to be effective 3/20/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5032.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1406–000.
*Applicants:* Florida Power & Light Company.
*Description:* § 205(d) Rate Filing: FPL Amendments to LCEC Rate Schedule No. 317 to be effective 1/1/2017.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5093.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1407–000.
*Applicants:* Florida Power & Light Company.
*Description:* § 205(d) Rate Filing: FPL Amendments to FKEC Rate Schedule No. 322 to be effective 1/1/2017.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5095.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1408–000.
*Applicants:* New York Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: Amendments related to solar energy forecasting for the NYCA to be effective 6/20/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5148.
*Comments Due:* 5 p.m. ET 5/11/18.

*Docket Numbers:* ER18–1409–000.
*Applicants:* MidAmerican Energy Company.
*Description:* § 205(d) Rate Filing: Interconnection Agreement—MidAmerican and Montezuma to be effective 5/1/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5150.
*Comments Due:* 5 p.m. ET 5/11/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings

can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08832 Filed 4–26–18; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP18–725–000.
*Applicants:* Gulf Crossing Pipeline Company LLC.
*Description:* § 4(d) Rate Filing: Revise Section 6.9 for Posting of Short-Term Capacity Release Agmts to be effective 5/21/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5039.
*Comments Due:* 5 p.m. ET 5/2/18.

*Docket Numbers:* RP18–726–000.
*Applicants:* Gulf Crossing Pipeline Company LLC.
*Description:* § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Newfield 18 to Sequent 1976) to be effective 4/21/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5092.
*Comments Due:* 5 p.m. ET 5/2/18.

*Docket Numbers:* RP18–727–000.
*Applicants:* First ECA Midstream LLC.
*Description:* Tariff Cancellation: Cancellation notice to be effective 5/1/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5111.
*Comments Due:* 5 p.m. ET 5/2/18.

*Docket Numbers:* RP18–728–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 042018 Negotiated Rates—Consolidated Edison Energy, Inc. H–2275–89 to be effective 4/20/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5149.
*Comments Due:* 5 p.m. ET 5/2/18.

*Docket Numbers:* RP18–729–000.
*Applicants:* Kern River Gas Transmission Company.
*Description:* § 4(d) Rate Filing: 2018 May Negotiated Rate Term Extensions to be effective 4/30/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5180.
*Comments Due:* 5 p.m. ET 5/2/18.

*Docket Numbers:* RP18–730–000.
*Applicants:* First ECA Midstream LLC.
*Description:* § 4(d) Rate Filing: Baseline new 2018 to be effective 5/1/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5211.
*Comments Due:* 5 p.m. ET 5/2/18.

*Docket Numbers:* RP18–731–000.
*Applicants:* First ECA Midstream LLC.
*Description:* § 4(d) Rate Filing: Baseline new 2018 Volume 1 to be effective 5/1/2018.
*Filed Date:* 4/20/18.
*Accession Number:* 20180420–5217.
*Comments Due:* 5 p.m. ET 5/2/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 23, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08860 Filed 4–26–18; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PF18–3–000]**

### Notice of Intent To Prepare an Environmental Assessment for the Planned SPLNG Third Berth Expansion Project, Request for Comments on Environmental Issues: Sabine Pass LNG, L.P.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Sabine Pass Liquefied Natural Gas (SPLNG) Third Berth Expansion Project involving construction and operation of facilities by, SPLNG L.P. in Cameron Parish, Louisiana. The Commission will use this EA in its decision-making process to determine whether the project is in the public interest.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on May 21, 2018.

If you sent comments on this project to the Commission before the opening of this docket on February 23, 2018, you will need to file those comments in Docket No. PF18–3–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

**Public Participation**

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety

of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (PF18–3–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

**Summary of the Planned Project**

SPLNG plans to construct and operate an expansion of the existing Sabine Pass LNG facility (SPLNG Terminal), located in Cameron Parish, Louisiana on the Sabine Pass Channel. The planned expansion of the SPLNG Terminal consists of the addition of a third marine berth and supporting facilities. The third marine berth would be used to load LNG vessels for export and would be sized to accommodate vessels with capacities up to 180,000 cubic meters. The supporting facilities would include tie-ins to the existing SPLNG Terminal loading lines and boil off gas lines associated with the five existing LNG storage tanks. The project would also include the addition of the following facilities:

- LNG loading system;
- marine facilities;
- sewage collection and treatment system;
- LNG spill control system;
- utilities system;
- fire protection and fire and gas detection systems; and
- stormwater drainage system.

The general location of the planned project is shown in appendix 1.

**Land Requirements for Construction**

Construction of the planned facilities would disturb about 381 acres of land. About 45.8 acres in water would be affected by dredging within the Sabine Pass Channel for the creation of the third marine berth. Following construction, SPLNG would maintain about 100.1 acres for permanent operation of the third marine berth and associated facilities. Temporary construction areas would be restored and revert to former uses.

**The EA Process**

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the authorization of LNG facilities under section 3 of the Natural Gas Act. NEPA also requires us [1] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

The EA will present our independent analysis of the issues. We will publish and distribute the EA for public comment. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EA.[2] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, the U.S. Department of Transportation has expressed its intention to participate as a cooperating agency in the preparation of the EA to satisfy its NEPA responsibilities related to this project.

**Consultations Under Section 106 of the National Historic Preservation Act**

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[3] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance. Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

**Currently Identified Environmental Issues**

We have already identified several issues that we think deserve attention based on a preliminary review of the planned facilities and the environmental information provided by SPLNG. This preliminary list of issues may change based on your comments and our analysis.

- Evaluation of temporary and permanent impacts on wetlands and the development of appropriate mitigation;
- potential impacts on essential fish habitat;
- evaluation of the environmental impacts from increased LNG vessel traffic;
- potential impacts of the construction workforce on local housing, infrastructure, public services, transportation, and economy; and
- public safety and hazards associated with LNG facilities.

[1] We, us, and our refer to the environmental staff of the Commission's Office of Energy Projects.

[2] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[3] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

**Environmental Mailing List**

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of project facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

Copies of the completed EA will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

**Becoming an Intervenor**

Once SPLNG files its application with the Commission, you may want to become an intervenor which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.* Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the e-filing link on the Commission's website. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF18–3). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: April 20, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08835 Filed 4–26–18; 8:45 am]

BILLING CODE 6717–01–P

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM15–11–003]**

### Notice of Filing: Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events

Take notice that on April 19, 2018, the North American Electric Reliability Corporation submitted a revised work plan to conduct research on topics related to geomagnetic disturbances and their impacts on the reliability of the Bulk-Power System, pursuant to Order No. 830.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on May 21, 2018.

Dated: April 20, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08836 Filed 4–26–18; 8:45 am]

BILLING CODE 6717–01–P

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP18–718–000.
*Applicants:* Gulf Crossing Pipeline Company LLC.
*Description:* § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Newfield 18 to Sequent 1975) to be effective 4/19/2018.
*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5053.
*Comments Due:* 5 p.m. ET 5/1/18.

*Docket Numbers:* RP18–719–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 041918 Negotiated Rates—Consolidated Edison Energy, Inc. H–2275–89 to be effective 4/18/2018.

---

[1] Order No. 830, *Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events,* 156 FERC 61,215 (2016), *reh'g denied,* Order No. 830–A, 158 FERC 61,041 (2017) (Order No. 830).

*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5072.
*Comments Due:* 5 p.m. ET 5/1/18.

*Docket Numbers:* RP18–720–000.
*Applicants:* CNX Gas Company LLC, Alliance Petroleum Corporation.
*Description:* Joint Petition for Temporary Limited Waivers of CNX Gas Company LLC, et al.
*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5140.
*Comments Due:* 5 p.m. ET 5/1/18.

*Docket Numbers:* RP18–721–000.
*Applicants:* Dominion Energy Transmission, Inc.
*Description:* § 4(d) Rate Filing: DETI—April 19, 2018 Negotiated Rate Agreement to be effective 4/20/2018.
*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5207.
*Comments Due:* 5 p.m. ET 5/1/18.

*Docket Numbers:* RP18–722–000.
*Applicants:* Transcontinental Gas Pipe Line Company.
*Description:* § 4(d) Rate Filing: SS–2 Inventory Adjustment (2018) to be effective 5/1/2018.
*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5209.
*Comments Due:* 5 p.m. ET 5/1/18.

*Docket Numbers:* RP18–723–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 041918 154.204 Tariff Filing to be effective 3/1/2018.
*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5232.
*Comments Due:* 5 p.m. ET 5/1/18.

*Docket Numbers:* RP18–724–000.
*Applicants:* Kern River Gas Transmission Company.
*Description:* § 4(d) Rate Filing: 2018 May Negotiated Rate Expirations or Terminations to be effective 4/27/2018.
*Filed Date:* 4/19/18.
*Accession Number:* 20180419–5239.
*Comments Due:* 5 p.m. ET 5/1/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08833 Filed 4–26–18; 8:45 am]

**BILLING CODE 6717–01–P**

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL18–140–000]**

### Consumers Energy Company, Interstate Power and Light Company, Midwest Municipal Transmission Group, Missouri River Energy Services, Southern Minnesota Municipal Power Agency, WPPI Energy v. International Transmission Company, ITC Midwest, LLC, Michigan Electric Transmission Company; Notice of Complaint

Take notice that on April 20, 2018, pursuant sections 206 and 306 of the Federal Power Act [1] and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[2] Consumers Energy Company, Interstate Power and Light Company, Midwest Municipal Transmission Group, Missouri River Energy Services, Southern Minnesota Municipal Power Agency, and WPPI Energy (collectively, Complainants) filed a formal complaint (complaint) against International Transmission Company, ITC Midwest, LLC, and Michigan Electric Transmission Company (collectively, Respondents) alleging that Respondents are no longer entitled to collect the Independence return on equity adder because they are now affiliated with Eastern-Interconnection Market Participants, all as more fully explained in the complaint.

Complainants certify that copies of the complaint were served on contacts for Respondents.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on May 10, 2018.

Dated: April 23, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08861 Filed 4–26–18; 8:45 am]

**BILLING CODE 6717–01–P**

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER18–1404–000]**

### Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization; NS Power Energy Marketing Inc.

This is a supplemental notice in the above-referenced proceeding of NS Power Energy Marketing Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

[1] 16 U.S.C. 791a–828c, 824e, and 825e.

[2] 18 CFR 385.206.

385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 10, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–08834 Filed 4–26–18; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2017–0654; FRL–9974–00]**

## Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 0155.13); Comment Request

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Certification of Pesticide Applicators Renewal'' and identified by EPA ICR No. 0155.13 and OMB Control No. 2070–0029, represents the renewal of an existing ICR that is scheduled to expire on November 30, 2018. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

**DATES:** Comments must be received on or before June 26, 2018.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2017–0654, 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:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC) (28221T), 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:** Ryne Yarger, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 605–1193; email address: *yarger.ryne@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. 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.

### II. What information collection activity or ICR does this action apply to?

*Title:* Certification of Pesticide Applicators Renewal.

*ICR number:* EPA ICR No. 0155.13.

*OMB control number:* OMB Control No. 2070–0029.

*ICR status:* This ICR is currently scheduled to expire on November 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 Code of Federal Regulations (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 for certain EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* EPA administers certification programs for pesticide applicators under section 11 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and EPA regulation 40 CFR part 171. FIFRA allows EPA to classify a pesticide as ''restricted use'' if the pesticide meets certain toxicity or risk criteria. This ICR addresses the paperwork activities performed by businesses, individuals and regulators to comply with training and certification requirements associated with applicators of restricted use pesticides (RUPs). Because of the potential of improperly applied RUPs to harm human health or the environment, pesticides under this classification may be purchased and applied only by

''certified applicators'' or by persons under the direct supervision of certified applicators. This ICR addresses instances in which registrants of certain pesticide products are required to perform specific paperwork activities, such as training and recordkeeping, as a condition of the pesticide registration (*e.g.,* registrants of pesticide products that assert claims to inactivate *Bacillus anthracis* (anthrax) spores). To become a certified applicator, a person must meet certain standards of competency through completion of a certification program or test. Authorized agencies administer certified applicator programs within their jurisdictions, but each agency's certification plan must be approved by EPA before it can be implemented. In areas where no authorized agency has jurisdiction, EPA may administer a certification program directly.

This ICR also addresses how registrants of certain pesticide products are expected to perform specific, special paperwork activities, such as training and recordkeeping, in order to comply with the terms and conditions of the pesticide registration (*e.g.,* registrants of anthrax-related pesticide products that assert claims to inactivate *Bacillus anthracis* spores). Paperwork activities associated with the use of such products are conveyed specifically as a condition of the registration.

*Burden statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average, per response type, as follows: 4,409 hours—annual reporting of authorized agencies on certification programs; 184 hours for completing certification application forms in Indian country; 73 hours for optional training—private applicator in Indian country; 2,412 hours RUP application recordkeeping—commercial applicators in the Federal plan; 1,371,638 hours RUP application records—commercial applicators under authorized agencies; 96 hours RUP sales recordkeeping—dealers in Indian country to prepare and maintain required annual RUP use records; 16 hours for dealerships to report or change their dealership information; 50 hours for registrants of anthrax-related products to prepare and conduct training activities; and 37 hours for registrants of anthrax-related products to keep records. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

*Respondents/affected entities:* Entities potentially affected by this ICR are pesticide applicators, administration of certification programs by States/Tribal lead agencies (authorized agencies), individuals or entities engaged in activities related to the registration of a pesticide product, and RUP dealers (only for EPA administered programs).

*Estimated total number of potential respondents:* Per response type, average annual respondents are: 57 authorized agencies report on certification programs; 1,085 applicants complete a certification form under the Federal plan; 6 private applicators complete the optional training under the Federal plan; 778 commercial applicators keep records of RUP applications under the Federal plan; 442,464 commercial applicators keep records of RUP application under authorized agencies' plan; 49 dealers of RUPs keep records of RUP transactions in Indian country; 16 dealerships report or change their dealership information; two registrants of anthrax-related products prepare and conduct training activities; and two registrants of anthrax-related products keep records.

*Frequency of response:* On occasion.

*Estimated total average number of responses for each respondent:* Varies.

*Estimated total annual burden hours:* 1,378,914.92 hours.

*Estimated total annual costs:* $53,026,275.92. This includes an estimated burden cost of $53,026,275.92 and an estimated cost of $0 for capital investment or maintenance and operational costs.

### III. Are there changes in the estimates from the last approval?

There is an increase of 58,660.92 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's updating of burden estimates, addition of a recently-implemented optional, voluntary offering, and a change in the number of entities whose certification programs are directly overseen by EPA. The burden changes are the result of both adjustments and program changes.

### IV. 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. EPA will issue another **Federal Register** document 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 person listed under **FOR FURTHER INFORMATION CONTACT**.

**Authority:** 44 U.S.C. 3501 *et seq.*

Dated: April 17, 2018.

**Charlotte Bertrand,**

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

[FR Doc. 2018–08975 Filed 4–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9038–8]**

## Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7156 or *https://www2.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements
Filed 04/16/2018 Through 04/20/2018
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. 20180067, Final, USACE, AK,* Donlin Gold Project, Review Period Ends: 05/29/2018, Contact: Jamie R. Hyslop 907–753–2670.

*EIS No. 20180068, Draft, APHIS, PRO,* Fruit Fly Cooperative Control Program, Comment Period Ends: 06/11/2018, Contact: Jim E. Warren Ph.D., 202–316–3216.

*EIS No. 20180069, Draft, NPS, ME,* Acadia National Park Draft Transportation Plan and Environmental Impact Statement, Comment Period Ends: 06/26/2018, Contact: John Kelly 207–288–8703.

*EIS No. 20180070, Draft, USFS, CA,* Squaw Valley to Alpine Meadows Base to Base Gondola, Comment Period Ends: 06/11/2018, Contact: Joseph Flannery 530–587–3558.

*EIS No. 20180071, Draft, NRC, TN,* Environmental Impact Statement for an Early Site Permit (ESP) at the Clinch River Nuclear Site: Draft Report for Comment, Comment Period Ends: 07/13/2018, Contact: Patricia Vokoun, 301–415–3470.

*EIS No. 20180072, Final, USFWS, AR,* Yolo Habitat, Conservation Plan/

Natural Community Conservation Plan EIS/EIR and Habitat Conservation Plan, Review Period Ends: 05/29/2018, Contact: Dan Cox 916–414–6539.

**Amended Notice**

Revision to the **Federal Register** Notice published 03/23/2018, extend comment period from 05/07/2018 to 05/29/2018.

*EIS No. 20180045, Draft, NMFS, OR,* Draft Environmental Impact Statement to Analyze Impacts of NOAA's National Marine Fisheries Service Proposed Approval of Hatchery and Genetic Management Plans for Spring Chinook Salmon, Steelhead, and Rainbow Trout in the Upper Willamette River Basin Pursuant to Section 4(d) of the Endangered Species Act, Contact: Lance Kruzic, 541–957–3381.

Dated: April 24, 2018.

**Kelly Knight,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2018–08864 Filed 4–26–18; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9977–16-Region 10]**

## Proposed Issuance of NPDES General Permit for Hydroelectric Facilities Within the State of Idaho (IDG360000)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed issuance of NPDES General Permit and request for public comment.

**SUMMARY:** The Director, Office of Water and Watersheds, Environmental Protection Agency (EPA) Region 10, is proposing to issue a National Pollutant Discharge Elimination System (NPDES) General Permits for Hydroelectric Facilities discharging to waters within the State of Idaho (Permit No. IDG360000). As proposed, the hydroelectric general permit would protect surface waters from discharges of oil, grease and alterations to pH from facility and equipment outfalls and minimize the impacts of the cooling water intake structures to fish and aquatic organisms.

**DATES:** Comments must be received by June 11, 2018.

**ADDRESSES:** Comments on the draft General Permit should be sent to Director, Office of Water and Watersheds; USEPA Region 10; 1200 Sixth Avenue, Suite 155, OWW–191; Seattle, WA 98101 and may also be submitted by fax to (206) 553–1280 or electronically to *keenan.dru@epa.gov.*

Comments on the draft 401Certification should be sent to Loren Moore, Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706 or electronically to *Loren.Moore@deq.idaho.gov.*

**FOR FURTHER INFORMATION CONTACT:** Permit documents may be found on the EPA Region 10 website at: *https://www.epa.gov/npdes-permits/draft-npdes-general-permit-hydroelectric-generating-facilities-idaho.* Copies of the draft general permit and Fact Sheet are also available upon request. Requests may be made to Audrey Washington at (206) 553–0523 or to Dru Keenan at (206) 553–1219. Requests may also be electronically mailed to: *Washington.audrey@epa.gov,* or *keenan.dru@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

As proposed, the hydroelectric general permit would authorize five types of discharges from hydroelectric facilities: Equipment related cooling water, equipment and floor drain water, certain maintenance related waters, maintenance-related water during flood/high water events and backwash strainer water, and combinations of the preceding discharges. The general permit establishes notification requirements, permit eligibility requirements, effluent limitations, standards, prohibitions, best management practice plans, and impingement and entrainment prevention plans per 316(b) of the CWA. A description of the basis for the conditions and requirements of the draft general permit is given in the Fact Sheet. Owners and/or operators of hydroelectric generating facilities with these discharges, including those facilities currently authorized to discharge under individual permits, are eligible to apply for coverage. Facilities will receive a written notification from the EPA whether permit coverage and authorization to discharge under the general permit is approved. The general permit does not cover new sources as defined under 40 CFR 122.2.

### II. Other Legal Requirements

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866, *Regulatory Planning and Review,* and 13563, *Improving Regulation and Regulatory Review.* State certification under section 401 of the CWA, compliance with Endangered Species Act, Essential Fish Habitat, Paperwork Reduction Act, and other requirements are discussed in the Fact Sheet to the proposed permit.

Dated: April 13, 2018.

**Daniel D. Opalski,**

*Director, Office of Water and Watersheds, Region 10.*

[FR Doc. 2018–08968 Filed 4–26–18; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2011–0371; FRL- 9977–07–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR)—National Volatile Organic Compound Emission Standards for Architectural Coatings, EPA ICR Number 1750.08, OMB Control Number 2060–0393—to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through April 30, 2018. Public comments were previously requested via the **Federal Register** (82 FR 48076) on October 16, 2017, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

**DATES:** Additional comments may be submitted on or before May 29, 2018.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2011–0371, to (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.*

Address comments to OMB Desk Officer for EPA.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information, or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kim Teal, Sector Polices and Programs Division (Mail Code D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5580; fax number: (919) 541–4991; email address: *teal.kim@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about the EPA's public docket, visit *http://www.epa.gov/dockets*.

*Abstract:* The EPA is required under section 183(e) of the Clean Air Act (CAA) to regulate volatile organic compound (VOC) emissions from the use of consumer and commercial products. Pursuant to CAA section 183(e)(3), the EPA published a list of consumer and commercial products and a schedule for their regulation (60 FR 15264). Architectural and industrial maintenance coatings are included on the list, and the standards for such coatings are codified at 40 CFR part 59, subpart D. The information collection includes initial reports and periodic recordkeeping necessary for the EPA to ensure compliance with federal standards for VOC emissions in architectural coatings. Respondents are manufacturers, distributors, and importers of architectural coatings. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information.

*Form Numbers:* None.

*Respondents/affected entities:* Manufacturers, distributors, or importers of architectural and industrial maintenance coatings and coating components for sale or distribution in the United States, including the District of Columbia and all United States territories.

*Respondent's obligation to respond:* Mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings.

*Estimated number of respondents:* 500 (total).

*Frequency of response:* On occasion.

*Total estimated burden:* 14,661 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $1,454,049 (per year). There are no annualized capital or operation and maintenance costs.

*Changes in Estimates:* There is no change in the total estimated respondent burden compared with the ICR currently approved by OMB.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2018–08934 Filed 4–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2017–0559 83; FRL–9977–30]**

## TSCA Alternative Testing Methods Draft Strategic Plan; Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; extension of comment period.

**SUMMARY:** EPA issued a Draft Strategic Plan to Promote the Development and Implementation of Alternative Test Methods under section 4(h) of the Toxic Substances Control Act (TSCA). This document extends the comment period for the draft document from April 26, 2018 to May 11, 2018. A commenter requested additional time to submit written comments. EPA is therefore extending the comment period in order to give all interested persons additional time to comment.

**DATES:** Comments, identified by docket identification (ID) numbers EPA–HQ–OPPT–2017–0559, must be received on or before May 11, 2018.

**ADDRESSES:** Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of March 12, 2018.

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Louis Scarano, Risk Assessment Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–2851; email address: *scarano.louis@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:** This document extends the public comment period established in the **Federal Register** document of March 12, 2018 (83 FR 10717) (FRL–9974–13). As required by TSCA, as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act in June 2016, EPA is developing, pursuant to TSCA section 4(h)(2)(A), a Strategic Plan to promote the development and implementation of alternative test methods and strategies to reduce, refine or replace vertebrate animal testing. The draft Strategic Plan will be available for comment until May 11, 2018 and information obtained will be considered in the Agency's development of the final Strategic Plan which is required to be completed and published in June of 2018.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of March 12, 2018. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

**Authority:** 5 U.S.C. 2601 *et seq.*

Dated: April 24, 2018.

**Charlotte Bertrand,**

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

[FR Doc. 2018–08974 Filed 4–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OW–2018–0079; ER–FRL–9038–9]**

## Availability of a Programmatic Environmental Assessment (PEA) and Finding of No Significant Impact (FONSI)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Programmatic Environmental Assessment (PEA)/Finding of No Significant Impact (FONSI).

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA regulations, and EPA's regulations for implementing NEPA, EPA has prepared a Programmatic

Environmental Assessment (PEA) to analyze the potential environmental impacts related to the issuance of credit assistance under the Water Infrastructure Finance and Innovation Act (WIFIA) program. The PEA evaluates the potential adverse and beneficial environmental impacts of water infrastructure projects eligible for WIFIA credit assistance in compliance with NEPA. Projects receiving WIFIA credit assistance must also comply with applicable federal laws and regulations and Executive Orders (E.O.) and other state and local environmental reviews. Based on the environmental impact analysis in the PEA, EPA has made a preliminary determination that no significant environmental impacts are anticipated from the issuance of WIFIA credit assistance. This notice initiates the 30-day review period and invites comments from Federal, State, and local agencies, Indian tribes, and the public regarding EPA's preliminary determination.

**DATES:** Comments must be received by May 29, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OW–2018–0079 to the *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Please follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. EPA may publish public comments 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. 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://www.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Alejandro Escobar, Water Infrastructure Division, Office of Wastewater Management, WIFIA Program, Mail Code: 4201T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–564–9047; email address *wifia@epa.gov.*

**SUPPLEMENTARY INFORMATION:** EPA is seeking public comment regarding its preliminary Finding of No Significant Impact (FONSI) to document its determination that no significant environmental impacts are anticipated from the issuance of WIFIA credit assistance. EPA invites the public to submit comments through *Regulations.gov* during the 30-day comment period following the publication of this notice in the **Federal Register**.

Congress enacted the WIFIA as part of the Water Resources Reform and Development Act of 2014, as amended by sec. 1445 of Public Law 114–94 [1] and codified at 33 U.S.C. 3901–3914. WIFIA establishes a new federal credit program for water infrastructure projects to be administered by EPA.

The proposed federal action under consideration in this Programmatic EA is approving or denying WIFIA applications by either providing or not providing WIFIA credit assistance. WIFIA provides credit assistance to eligible water and wastewater infrastructure projects as defined in 33 U.S.C. 3905. The proposed action being evaluated is the design, construction, operation, and maintenance for a range of water and wastewater infrastructure projects, which are eligible for WIFIA credit assistance.

The environmental review process, which is documented by the PEA, indicates that no potential significant adverse environmental impacts are anticipated from the proposed action. The PEA analyzed the potential environmental impacts of water and waste water infrastructure projects eligible for credit assistance under the WIFIA program.

Based on the environmental impact analysis in the PEA, EPA has determined that no significant environmental impacts are anticipated from the issuance of credit assistance under WIFIA and the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, making the preparation of an Environmental Impact Statement (EIS) unnecessary. Therefore, EPA is issuing a preliminary FONSI.

Dated: April 24, 2018.

**Kelly Knight,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2018–08865 Filed 4–26–18; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2018–0220; FRL–9977–15–OAR]**

## Proposed Information Collection Request; Comment Request; Mobile Air Conditioner Retrofitting Program (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Mobile Air Conditioner Retrofitting Program (Renewal)'' (EPA ICR No. 1774.07, OMB Control No. 2060–0350) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. EPA is announcing its intent to renew this ICR with no substantive changes. This is a proposed extension of the ICR, which is currently approved through July 31, 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.

**DATES:** Comments must be submitted on or before June 26, 2018.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2018–0220, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Christina Thompson, Environmental Protection Agency, Stratospheric Protection Division, Office of Atmospheric Programs, MC 6205T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–0983; fax number: (202) 343–2362; email address: *thompson.christina@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting 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. 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. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* EPA's Significant New Alternatives Policy (SNAP) program implements Section 612 of the 1990 Clean Air Act (CAA) Amendments which authorized the Agency to establish regulatory requirements to ensure that ozone-depleting substances (ODS) are replaced by alternatives that reduce overall risks to human health and the environment, and to promote an expedited transition to safe substitutes. To promote this transition, CAA specified that EPA establish an information clearinghouse of available alternatives, and coordinate with other Federal agencies and the public on research, procurement practices, and information and technology transfers.

Since the program's inception in 1994, SNAP has reviewed over 400 new chemicals and alternative manufacturing processes for a wide range of consumer, industrial, space exploration, and national security applications. Roughly 90% of alternatives submitted to EPA for review have been listed as acceptable for a specific use, typically with some condition or limit to minimize risks to human health and the environment.

Regulations promulgated under SNAP require that Motor Vehicle Air Conditioners (MVACs) retrofitted to use a SNAP substitute refrigerant include basic information on a label to be affixed to the air conditioner. The label includes the name of the substitute refrigerant, when and by whom the retrofit was performed, environmental and safety information about the substitute refrigerant, and other information. This information is needed so that subsequent technicians working on the MVAC system will be able to service the equipment properly, decreasing the likelihood of significant refrigerant cross-contamination and potential failure of air conditioning systems and recovery/recycling equipment.

*Form numbers:* None.

*Respondents/affected entities:* Entities potentially affected by this action are new and used car dealers, gas service stations, top and body repair shops, general automotive repair shops, automotive repair shops not elsewhere classified, including air conditioning and radiator specialty shops.

*Respondent's obligation to respond:* Mandatory under 40 CFR 82.180.

*Estimated number of respondents:* 294 (total).

*Frequency of response:* Once per retrofit of a motor vehicle air conditioner.

*Total estimated burden:* 8 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $580 (per year), includes $10 (per year) annualized capital or operation & maintenance costs.

*Changes in estimates:* The previously approved ICR supporting statement (EPA ICR No. 1774.06, OMB Control No. 2060–0350) is available in Docket ID No. EPA–HQ–OAR–2018–0220 at *www.regulations.gov.* EPA intends to update the supporting statement for this ICR to reflect labor rate changes. The Agency anticipates that the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens will decline due to the decrease of CFC–12 MVACs available on the road for retrofitting.

Dated: April 18, 2018.

**Cynthia A. Newberg,**

*Director, Stratospheric Protection Division.*

[FR Doc. 2018–08973 Filed 4–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OLEM–2017–0657; FRL–9977–18–OLEM]**

**RIN 2050–ZA11**

## Planning for Natural Disaster Debris and Related Guidance

**AGENCY:** Environmental Protection Agency (EPA).

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

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is making available for public comment three draft documents: Planning for Natural Disaster Debris; Pre-incident All-hazards Waste Management Plan Guidelines: Four-step Waste Management Planning Process; and All-hazards Waste Management Decision Diagram. The Planning for Natural Disaster Debris guidance is intended to assist communities in planning for debris management before a natural disaster occurs (also referred to as ''pre-incident debris management planning''). This guidance revises EPA's existing guidance document on planning for natural disaster debris that was published in 2008 under the same name. The other two documents describe, respectively, the pre-incident waste management planning process for all hazards and the waste management decision-making process during an all-hazards incident. Pre-incident planning can significantly aid decision-making during a response and enhance a community's resiliency. Pre-incident planning can also help communities recover faster, spend less money on cleanup and debris/waste management, and use fewer resources to rebuild and recover.

**DATES:** Comments received by June 26, 2018 will be considered in the development of the final guidance.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2017–0657, 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://www.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Melissa Kaps, Office of Resource Conservation and Recovery (5304P), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 703–308–6787; email address: *kaps.melissa@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Planning for Natural Disaster Debris Guidance*

The U.S. Environmental Protection Agency's (EPA's) draft Planning for Natural Disaster Debris Guidance provides planning suggestions and considerations to assist the whole community (*i.e.,* all governmental, private, nonprofit, community, and other stakeholders) in preparing for debris management *before* a natural disaster occurs. Communities that may benefit from the advice presented in this document include those that are currently without a debris management plan, are in the beginning stages of the debris management planning process, or have existing debris management plans that are not comprehensive or have not been updated with new information. Plans should be updated regularly to keep the information current (*e.g.,* record reductions in existing disposal capacity, include innovative reuse or recycling opportunities), and plans should also be exercised (*i.e.,* activities should be conducted to test or evaluate components of the plan) to ensure that the whole community remains familiar with their roles and responsibilities in the implementation of the disaster debris plan.

Updating the 2008 version of EPA's Planning for Natural Disaster Debris, this guidance adds information drawn from communities' experiences with natural disasters, including hurricanes, earthquakes, tornadoes, volcanoes, floods, wildfires, and winter storms, and provides more planning recommendations, resources, and lessons learned for managing natural disaster debris. Also, this guidance walks through EPA's pre-incident debris management planning process. This process has four steps to help prepare communities for effective debris management: (1) Conduct pre-planning activities; (2) develop a comprehensive pre-incident debris management plan; (3) keep the debris management plan updated; and (4) implement the debris management plan during a natural disaster.

Natural disasters generate large amounts of debris that communities must manage to fully recover from the disaster. Debris management is often one of the biggest costs for a response, and recovery is not complete until all debris has been managed. Pre-incident debris management planning can significantly aid decision-making during a natural disaster by allowing important analyses and considerations to be made in advance, *i.e.,* not during a disaster response. Pre-incident planning can also enhance a community's resiliency by, for example, identifying (and mitigating) potential debris sources in advance. In the event of a disaster, a more resilient community generates less debris to manage and contains fewer hazardous materials that may pose an increased risk to human health and the environment if released. Resilient communities recover faster, spend less money on cleanup and debris management, and use fewer resources to rebuild and recover. Effective planning addresses source reduction and hazard mitigation activities to reduce the amount and toxicity of debris generated by a natural disaster; strategies for reuse and recycling of materials to minimize the environmental and economic impact of debris management activities; and issues and considerations beyond initial debris removal. Such considerations include characterizing and processing (*e.g.,* volume reduction, refrigerant removal) debris for proper management, tracking debris to its final destination, and communicating with the public about debris collection and other management activities. For these reasons, EPA believes it is critical that communities include debris management planning in their overall preparation for natural disasters.

EPA invites comment on this document from the public, especially from persons who are engaged in those aspects of natural disaster debris management planning that are addressed in this draft guidance. EPA is also interested in lessons learned or success stories from communities that may further illustrate the importance of pre-incident debris management planning. EPA is particularly interested in receiving information on communities' experiences with the 2017 hurricanes and wildfires and requests lessons learned from those natural disasters. Finally, EPA is interested in any examples where communities have tracked debris from collection to its final destination. EPA will review any public comments submitted by the deadline and determine whether and how to revise the document, as appropriate, for the intended scope and use of this guidance. A copy of this guidance can be found on EPA's website at *https://www.epa.gov/homeland-security-waste/comment-period-open-draft-update-planning-natural-disaster-debris-guidance.*

### *B. Related Documents on All-Hazards Waste Management*

EPA's Pre-incident All-hazards Waste Management Plan Guidelines: Four-step Waste Management Planning Process describes the cyclical and ongoing process of waste management planning for all hazards, including natural disasters. It breaks down the planning process into four steps that cover the initiation, creation, maintenance, and implementation of a waste/debris management plan. It contains a suggested pre-incident waste management plan outline that can be used to prepare for all types of homeland security incidents and identifies potential issues, resources, and tips to help with plan development. Its companion document, the All-hazards Waste Management Decision Diagram, describes the waste management decision-making process during homeland security incidents, including natural disasters. It provides information to consider when making decisions during an incident response and identifies areas where pre-incident waste management planning can be useful.

EPA invites comment on these documents from the public, especially from persons who are engaged in those aspects of waste management planning that are addressed in these documents. EPA will review any public comments submitted by the deadline and determine whether and how to revise the documents, as appropriate, for the intended scope and use of these documents. Copies of these documents can be found on EPA's website at *https://www.epa.gov/homeland-security-waste/comment-period-open-draft-update-planning-natural-disaster-debris-guidance.*

Dated: April 18, 2018.

**Barnes Johnson,**

*Director, Office of Resource Conservation and Recovery.*

[FR Doc. 2018–08969 Filed 4–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[CG Docket No. 03–123; DA 18–354]**

### Pleading Cycle Established for Comment on Applications for State Certification for the Provision of Telecommunications Relay Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Commission seeks public comment on state applications for renewal of certification of their state telecommunications relay services (TRS) programs.

**DATES:** Interested parties may file comments no later than May 29, 2018. Reply comments may be filed no later than June 11, 2018.

**ADDRESSES:** Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Documents may be filed electronically using the internet by accessing ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Dana Wilson, Consumer and Governmental Affairs Bureau at: (202) 418–2247; email: *Dana.Wilson@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** Interested parties may file comments on or before the dates indicated above in the Dates portion of this notice. All filings must reference CG Docket No. 03–123 and the relevant state identification number of the state or territory application for which comments are being submitted.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (844) 432–2275 (videophone), or (202) 418–0432 (TTY). Document DA 18–354 can also be downloaded in Word or Portable Document Format (PDF) at: *https://www.fcc.gov/general/telecommunications-relay-services-trs.*

**Synopsis**

Notice is hereby given that the states and territories listed below have applied to the Commission for renewal of certification of their state TRS programs, for the five-year period from July 26, 2018 through July 25, 2023. Each state's and territory's application for certification must demonstrate that its TRS program complies with section 225 of the Communications Act and the Commission's rules governing the provision of TRS. This notice seeks public comment on the following state and territory applications for certification, which can be found on the Commission's website at: *https://www.fcc.gov/general/trs-state-and-territories.*

*File No: TRS–10–17*

Illinois Commerce Commission, State of Illinois

*File No: TRS–36–17*

Oregon Public Utility Commission, State of Oregon

*File No: TRS–58–17*

Pennsylvania Public Utility Commission, Commonwealth of Pennsylvania

*File No: TRS–28–17*

Telecommunications Regulatory Board, Puerto Rico

*File No: TRS–61–17*

Virgin Islands Public Service Commission, U.S. Virgin Islands

*File No: TRS–18–17*

Wyoming Department of Workforce Services, Division of Vocational Rehabilitation, State of Wyoming

Federal Communications Commission.

**Eliot Greenwald,**

*Deputy Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau.*

[FR Doc. 2018–08958 Filed 4–26–18; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064–0162)

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

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

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). Currently, the FDIC is soliciting comment on renewal of the information collection described below.

**DATES:** Comments must be submitted on or before June 26, 2018.

**ADDRESSES:** Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *https://www.FDIC.gov/regulations/laws/federal.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Counsel, MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to OMB control number 3064–0162. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Manny Cabeza, Counsel, 202–898–3767, *mcabeza@FDIC.gov,* MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:**

*Proposal to renew the following currently approved collection of information*

*Title:* Large Bank Deposit Insurance Program.

*OMB Number:* 3064–0162.

*Form Number:* None.

*Affected Public:* Insured depository institutions having at least $2 billion in deposits and at least either: (a) 250,000 deposit accounts; or (b) $20 billion in total assets, regardless of the number of deposit accounts (a ''covered institution'').

*Burden Estimate:*

SUMMARY OF ANNUAL BURDEN

| | Type of burden | Obligation to respond | Average estimated number of respondents | Estimated time per response (hours) | Frequency of response | Average total annual estimated burden (hours) |
|---|---|---|---|---|---|---|
| **Implementation** | | | | | | |
| Posting and removing provisional holds—360.9(c)(1) and (2). | Recordkeeping | Mandatory | 8 | 150 | One time | 1,200 |
| Providing standard data format for deposit account and customer information—360.9(d)(1). | Recordkeeping | Mandatory | 8 | 110 | One time | 880 |
| Notification of identity of person responsible for producing standard data downloads—360.9(c)(3). | Reporting | Mandatory | 8 | 8 | One time | 64 |
| Request for exemption from provisional hold requirements—360.9(c)(9). | Reporting | Voluntary | 1 | 20 | On occasion | 20 |
| Provide deposit account and customer information in required standard format—360.9(d)(3). | Reporting | Mandatory | 8 | 40 | On occasion | 320 |
| Request for extension of compliance deadline—360.9(e)(7). | Reporting | Voluntary | 1 | 20 | On occasion | 20 |
| Request for exemption—360.9(f) | Reporting | Voluntary | 1 | 20 | On occasion | 20 |
| Total Implementation Burden | | | | | | 2,524 |
| **Ongoing** | | | | | | |
| Notification of identity of person responsible for producing standard data downloads—360.9(c)(3). | Reporting | Mandatory | 153 | 8 | On occasion | 1,224 |
| Request for exemption from provisional hold requirements—360.9(c)(9). | Reporting | Voluntary | 1 | 20 | On occasion | 20 |
| Request for exemption—360.9(f) | Reporting | Voluntary | 1 | 20 | On occasion | 20 |
| Test compliance with 360.9(c)–(d) pursuant to 360.9(h). | Reporting | Mandatory | 81 | 80 | On occasion | 6,480 |
| Total Ongoing Burden | | | | | | 7,744 |
| Total Estimated Annual Burden | | | | | | 10,268 |

*General Description of Collection:* Upon the failure of an FDIC-insured depository institution, the FDIC must determine the total insured amount for each depositor. 12 U.S.C. 1821(f). To make this determination, the FDIC must ascertain the balances of all deposit accounts owned by the same depositor in the same ownership capacity at a failed institution as of the day of failure. The FDIC issued a regulation (12 CFR 360.9) to modernize the process of determining the insurance status of each depositor in the event of failure of a covered institution. The regulation requires covered institutions to adopt mechanisms that would, in the event of the institution's failure (1) provide the FDIC with standard deposit account and other customer information, and (2) allow the placement and release of holds on liability accounts, including deposits. The regulation applies only to covered institutions and imposes the following recordkeeping and reporting requirements:

**Recordkeeping**

360.9(c)(1) and (2)—*Posting and Removing Provisional Holds.* Covered institutions must have an automatic process for placing a provisional hold on deposit accounts within timeframes specified in FDIC regulations.

360.9(d)(1) and (2)—*Providing Standard Data Format for Deposit Account and Customer Information.* Covered institutions must produce information in the specified standard data format.

**Reporting**

360.9(c)(3)—Covered institutions must notify the FDIC of the person(s) responsible for producing required standard data downloads and for administering provisional holds.

360.9(c)(9)—A covered institution may request an exemption from the provisional hold requirements for certain account systems servicing a relatively small number of accounts where manual application of provisional holds is feasible.

360.9(d)(3)—Upon request by the FDIC, a covered institution must submit the data required by 360.9(d)(1) .

360.9(e)(7)—A covered institution may request an extension of the deadline to comply with provisional hold and standard data format requirements.

360.9(f)—A covered institution may request an exemption from the provisional hold and standard data format requirements due to high concentration of deposits incidental to credit card operations.

360.9(h)—A covered institution's compliance with the recordkeeping and reporting requirements set forth in the rule will be tested by the FDIC.

**Burden Estimate Methodology and Assumptions**

The FDIC is revising its burden estimate because the number of covered institutions has decreased due to economic fluctuations and most covered institutions have already implemented the requirements of the regulation and will only face reduced ongoing compliance burdens. Based on FDIC Call Report data,[1] the regulation currently applies to 145 institutions. The FDIC has determined that in the past, between 1 and 3 new institutions per quarter have become covered under the regulation. FDIC estimates that on average, 2 new institutions per quarter (8 new institutions per year) will become covered and be subject to initial implementation burden. The following table reflects the FDCI's estimate of the breakdown of covered institutions facing implementation and ongoing burden during the next three years:

NUMBER OF INSTITUTIONS

| | Year 1 | Year 2 | Year 3 | Average |
|---|---|---|---|---|
| Implementation | 8 | 8 | 8 | 8 |
| Ongoing | 145 | 153 | 161 | 153 |
| Total | 153 | 161 | 169 | 161 |

All covered institutions will be required to comply with the requirements of 360.9(h). FDIC estimates that half of the covered institutions will be tested for compliance each year. As a result, it is estimated that an average of 81 covered institutions will be affected by this reporting burden annually. No institutions have requested an extension under section 360.9(e)(7), or exemptions under sections 360.9(c)(9) or 360.9(f). The ''Summary of Annual Burden'' table above lists a respondent count of 1 for these requests as placeholders to preserve the burden estimates for these activities.

**Request for Comment**

*Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, on April 24, 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2018–08932 Filed 4–26–18; 8:45 am]

BILLING CODE 6714–01–P

[1] FDIC Call Report, September 30, 2017.

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

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

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. On December 27, 2017, the Board, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment for 60 days on a proposal to extend, with revision, the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and the Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002S), which are currently approved collections of information. The Board published this proposal on behalf of the agencies.

The proposed revisions to these reports align with corresponding changes made to the Consolidated Reports of Condition and Income (FFIEC 031, FFIEC 041, and FFIEC 051). The Consolidated Reports of Condition and Income are commonly referred to as the Call Report. The proposed revisions to the FFIEC 002 and the FFIEC 002S delete or consolidate certain items, establish certain reporting thresholds, account for changes in the accounting for equity investments, and make instructional clarifications consistent with those previously made to or currently proposed for the Call Report instructions. The proposed revisions would result in an overall reduction in burden.

The comment period for this proposal ended on February 26, 2018. The Board received two comments addressing the proposed changes. After considering the comments received on the proposal, the agencies will proceed with the proposed reporting revisions to the FFIEC 002 and FFIEC 002S, while incorporating one clarification in response to a comment. These reporting revisions would take effect as of the June 30, 2018, report date. The Board is giving notice that it is sending the collection to OMB for review.

**DATES:** Comments must be submitted on or before May 29, 2018.

**ADDRESSES:** Interested parties are invited to submit written comments to the agency listed below. All comments, which should refer to the OMB control

number, will be shared among the agencies.

You may submit comments, which should refer to ''FFIEC 002 and FFIEC 002S,'' by any of the following methods:

- *Agency Website: http://www.federalreserve.gov*. Follow the instructions for submitting comments at: *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- *Email: regs.comments@federalreserve.gov*. Include the reporting form numbers in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov*.

**FOR FURTHER INFORMATION CONTACT:** For further information about the proposed revisions to the FFIEC 002 and FFIEC 002S discussed in this notice, please contact the agency staff member whose name appears below. In addition, copies of the FFIEC 002 and FFIEC 002S forms can be obtained at the FFIEC's website (*https://www.ffiec.gov/ffiec_report_forms.htm*).

Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3884, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

**SUPPLEMENTARY INFORMATION:** The Board is proposing to extend for three years, with revision, the FFIEC 002 and FFIEC 002S.

*Report Titles:* Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks; Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank.

*Form Numbers:* FFIEC 002; FFIEC 002S.

*OMB control number:* 7100–0032.

*Frequency of Response:* Quarterly.

*Affected Public:* Business or other for-profit.

*Respondents:* All state-chartered or federally-licensed U.S. branches and agencies of foreign banking organizations, and all non-U.S. branches managed or controlled by a U.S. branch or agency of a foreign banking organization.

*Estimated Number of Respondents:* FFIEC 002—209; FFIEC 002S—38.

*Estimated Average Burden per Response:* FFIEC 002—23.87 hours; FFIEC 002S—6.0 hours.

*Estimated Total Annual Burden:* FFEIC 002—19,955 hours; FFIEC 002S—912 hours.

*Type of Review:* Revision and extension of currently approved collections.

## General Description of Reports

These information collections are mandatory (12 U.S.C. 3105(c)(2), 1817(a)(1) and (3), and 3102(b)). Except for select sensitive items, the FFIEC 002 is not given confidential treatment; the FFIEC 002S is given confidential treatment (5 U.S.C. 552(b)(4) and (8)).

## Abstract

On a quarterly basis, all U.S. branches and agencies of foreign banks are required to file the FFIEC 002, which is a detailed report of condition with a variety of supporting schedules. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information that the Board uses to make decisions concerning monetary policy, and for other public policy purposes. The FFIEC 002S is a supplement to the FFIEC 002 that collects information on assets and liabilities of any non-U.S. branch that is managed or controlled by a U.S. branch or agency of the foreign bank. A non-U.S. branch is managed or controlled by a U.S. branch or agency if a majority of the responsibility for business decisions, including but not limited to decisions with regard to lending or asset management or funding or liability management, or the responsibility for recordkeeping in respect of assets or liabilities for that foreign branch resides at the U.S. branch or agency. A separate FFIEC 002S must be completed for each managed or controlled non-U.S. branch. The FFIEC 002S must be filed quarterly along with the U.S. branch or agency's FFIEC 002. The data from both reports are used for (1) monitoring deposit and credit transactions of U.S. residents; (2) monitoring the impact of policy changes; (3) analyzing structural issues concerning foreign bank activity in U.S. markets; (4) understanding flows of banking funds and indebtedness of developing countries in connection with data collected by the International Monetary Fund and the Bank for International Settlements that are used in economic analysis; and (5) assisting in the supervision of U.S. offices of foreign banks. The Federal Reserve System collects and processes these reports on behalf of all three agencies.

## Current Actions

### I. Introduction

On December 27, 2017, the Board requested comment for 60 days on a proposal to revise the existing FFIEC 002 and FFIEC 002S report forms and instructions (82 FR 61294). The proposed revisions partially stem from a formal initiative launched by the FFIEC in December 2014 to identify potential opportunities to reduce burden associated with Call Report requirements for community banks. The FFIEC's formal initiative included surveys of agency Call Report data users, which have served as the foundation for the proposed burden-reducing revisions. As part of these surveys, users were asked to fully explain the need for each Call Report data item they deemed essential, how the data item is used, the frequency with which it is needed, and the population of institutions from which it is needed. Based on the results of the surveys, the agencies identified Call Report data items that are no longer needed, are needed on a less frequent basis, or are needed only above certain reporting thresholds, and have proposed or finalized the elimination, less frequent collection, or creation of new or upwardly revised reporting thresholds for these data items in the Call Report.[1] In an effort to maintain consistency between the FFIEC 002, the FFIEC 002S, and the Call Report, the burden-reducing changes identified for the Call Report were incorporated into the December 27, 2017, proposal where

[1] See 80 FR 56539 (September 18, 2015), 81 FR 45357 (July 13, 2016), 81 FR 54190 (August 15, 2016), 82 FR 2444 (January 9, 2017), 82 FR 29147 (June 27, 2017), 82 FR 51908 (November 8, 2017), and 83 FR 939 (January 8, 2018) for information on other actions taken under this initiative.

applicable. In addition, the proposed revisions ensure that the reporting of data on equity investments in several FFIEC 002 schedules is consistent with changes in the accounting standards applicable to such investments. All of the proposed revisions have been implemented or proposed to be implemented in the Call Report.

The comment period for this proposal ended on February 26, 2018. The Board received two comments on the proposal, one specific comment from an individual on a proposed revision and one general comment from a government entity. The government entity did not raise concerns about the proposal itself, but stated that it uses certain data items in the FFIEC 002 and FFIEC 002S in preparing economic statistics on international transactions, and encouraged the agencies to continue collecting those items. After considering the comments received on the proposal, the agencies will proceed with the proposed reporting revisions to the FFIEC 002 and FFIEC 002S, while incorporating one clarification in response to the specific comment described below. These reporting revisions would take effect as of the June 30, 2018, report date.

**II. Specific Comment on the Proposed FFIEC 002 and FFIEC 002S Revisions**

Respondents to the FFIEC 002 report are currently required to indicate, in Schedule RAL, Assets and Liabilities, Memorandum item 17, for the March 31 report date, the most comprehensive level of auditing work performed for the branch or agency by, or on behalf of, its parent organization during the preceding calendar year. In response to certain auditing standards issued by the Public Company Accounting Oversight Board (PCAOB) and the American Institute of Certified Public Accountants' Auditing Standards Board (ASB), the Board proposed to revise two of the existing statements describing the most comprehensive level of auditing work performed for the branch or agency during the preceding year. The Board also proposed to revise the information collected in Memorandum item 17 to refer only to work performed by independent external auditors and to remove the reference to work performed on behalf of the parent organization.

The Board received one comment from an individual requesting clarification as to which branches and agencies are required to have an integrated audit conducted by independent external auditors as mentioned in the text for proposed statement 1a in the response to Memorandum item 17. Specifically, the commenter wanted to confirm that only public companies and companies with a market capitalization greater than $75 million are required to have an integrated audit.

Under section 363.3(b) of the FDIC's regulations (12 CFR 363.3(b)), the independent public accountant who audits the financial statements of an FDIC-insured branch of a foreign bank with $1 billion or more in total claims on nonrelated parties is required to audit and report on the effectiveness of the branch's internal control over financial reporting (ICFR). Standards issued by the PCAOB and the ASB provide guidance regarding the integration of audits of ICFR with audits of financial statements. Thus, statement 1a and its reference to an integrated audit are applicable to certain FDIC-insured branches, which means that the requirement for an integrated audit is not limited to the circumstances described by the commenter. However, the Board will clarify statement 1a of Memorandum item 17 by adding ''(*e.g.,* as required for FDIC-insured branches subject to Part 363 of the FDIC's regulations that have $1 billion or more in total claims on nonrelated parties)'' at the end of the proposed text of this statement.

**III. Request for Comment**

Public comment is requested on all aspects of this notice. Comment is specifically invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record.

Board of Governors of the Federal Reserve System, April 23, 2018.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2018–08839 Filed 4–26–18; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System (Board), Federal Reserve System.

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

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the ''agencies'') may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the Board's publication for public comment of a proposal to extend, without revision, the Country Exposure Report for U.S. Branches and Agencies of Foreign Banks (FFIEC 019), which is currently an approved collection of information. The Board is publishing this proposal on behalf of the agencies. In determining whether to modify the proposed collection of information, the agencies will consider all comments received. As required by the PRA, the Board would then publish a second **Federal Register** notice for a 30-day comment period and submit the final FFIEC 019 to OMB for review and approval.

**DATES:** Comments must be submitted on or before June 26, 2018.

**ADDRESSES:** Interested parties are invited to submit written comments to the agency listed below. All comments, which should refer to the OMB control number, will be shared among the agencies.

You may submit comments, which should refer to ''FFIEC 019,'' by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at: *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include the reporting

form number in the subject line of the message.

• *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** For further information about the proposed extension without revision of the FFIEC 019 discussed in this notice, please contact the agency staff member whose name appears below. In addition, a copy of the FFIEC 019 form can be obtained at the FFIEC's website (*https://www.ffiec.gov/ffiec_report_forms.htm*).

Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3884, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

**SUPPLEMENTARY INFORMATION:** The Board is proposing to extend for three years, without revision, the FFIEC 019.

*Report Title:* Country Exposure Report for U.S. Branches and Agencies of Foreign Banks.

*Form Number:* FFIEC 019.

*OMB Control Number:* 7100–0213.

*Frequency of Response:* Quarterly.

*Affected Public:* Business or other for-profit.

*Respondents:* All branches and agencies of foreign banks domiciled in the United States with total direct claims on foreign residents in excess of $30 million.

*Estimated Number of Respondents:* 156.

*Estimated Average Burden per Response:* 10 hours.

*Estimated Total Annual Burden:* 6,240 hours.

*Type of Review:* Extension of currently approved collection.

**I. General Description of Report**

This information collection is required pursuant to sections 7 and 13 of the International Banking Act (12 U.S.C. 3105 and 3108) for the Board, sections 7 and 10 of the Federal Deposit Insurance Act (12 U.S.C. 1817 and 1820) for the FDIC, and the National Bank Act (12 U.S.C. 161) as applied through section 4 of the International Banking Act (12 U.S.C. 3102) for the OCC. The FFIEC 019 is given confidential treatment consistent with 5 U.S.C. 552(b)(4) and (b)(8).

*Abstract*

The FFIEC 019 report must be filed by each U.S. branch or agency of a foreign bank that has total direct claims on foreign residents in excess of $30 million. The branch or agency reports its total exposure (1) to residents of its home country, and (2) to the other five foreign nations to which its exposure is largest and is at least $20 million. The home country exposure must be reported regardless of the size of the total claims for that nation.

Each respondent must report by country, as appropriate, the information on its direct claims (assets such as deposit balances with banks, loans, or securities), indirect claims (which include guarantees), and total adjusted claims on foreign residents, as well as information on commitments. The respondent also must report information on claims on related non-U.S. offices that are included in total adjusted claims on the home country, as well as a breakdown for the home country and each other reported country of adjusted claims on unrelated foreign residents by the sector of borrower or guarantor, and by maturity (in two categories: One year or less, and over one year). The Federal Reserve System collects and processes this report on behalf of all three agencies.

**II. Current Actions**

The FFIEC has approved the Board's publication for public comment of a proposal to extend for three years, without revision, the FFIEC 019.

**III. Request for Comment**

The FFIEC 019 has remained substantially the same, including with respect to the reporting scope and thresholds, since its original adoption in May 1997. Although the agencies are not proposing any revisions to the FFIEC 019, they are interested in respondents' views on potential revisions they should consider in future proposals. This includes views on whether and how to adjust the $20 million minimum threshold for reporting a non-home foreign country exposure and whether to change the number of non-home foreign countries over that threshold that are reported.

Public comment is requested on all aspects of this notice. Comment is also specifically invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted to the Board in response to this notice will be shared with the other agencies. All comments will become a matter of public record.

Board of Governors of the Federal Reserve System, April 23, 2018.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2018–08838 Filed 4–26–18; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank

indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 24, 2018.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *QCR Holdings, Inc., Moline, Illinois;* to acquire 100 percent of the voting shares of Springfield Bancshares, Inc. and thereby indirectly acquire Springfield First Community Bank, both of Springfield, Missouri.

*B. Federal Reserve Bank of Minneapolis* (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Security Financial Services Corporation, Durand, Wisconsin;* to acquire 100 percent of voting shares of Pioneer Acquisition Corporation, and thereby acquire shares of Pioneer Bank of Wisconsin, both of Ladysmith, Wisconsin.

Board of Governors of the Federal Reserve System, April 24, 2018.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2018–08950 Filed 4–26–18; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0010; Docket No. 2018–0053; Sequence No. 1]**

## Information Collection; Progress Payments (SF–1443)

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the FAR Council invites the public to comment upon a renewal for the Standard Form (SF) 1443, Contractor's Request for Progress Payment, and the Federal Acquisition Regulation (FAR) 52.232–16, Progress Payments. There are no changes to the existing information collection.

**DATES:** Submit comments on or before June 26, 2018.

**ADDRESSES:** The FAR Council invites interested persons to submit comments on this collection by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0010, Progress Payments, SF 1443.

*Instructions:* All items submitted must cite Information Collection 9000–0010, Progress Payments, SF 1443. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, at *http://www.regulations.gov.* Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail). This information collection is pending at the FAR Council. The Council will submit it to OMB within 60 days from the date of this notice.

**FOR FURTHER INFORMATION CONTACT:** Ms. Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or email *zenaida.delgado@gsa.gov.*

**SUPPLEMENTARY INFORMATION:**

### A. Overview of Information Collection

*Description of the Information Collection*

1. *Type of Information Collection:* Revision/Renewal of a currently approved collection.

2. *Title of the Collection*—Progress Payments, SF 1443

3. *Agency form number, if any:*— SF 1443

*Solicitation of Public Comment*

Written comments and suggestions from the public should address one or more of the following four points:

(1) Evaluate 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) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

### B. Purpose

Certain Federal contracts provide for progress payments to be made to the contractor during performance of the contract. Pursuant to FAR clause 52.232–16 ''Progress Payments,'' contractors are required to request progress payments on Standard Form (SF) 1443, ''Contractor's Request for Progress Payment,'' or an agency approved electronic equivalent. Additionally, contractors may be required to submit reports, certificates, financial statements, and other pertinent information, reasonably requested by the Contracting Officer. The contractual requirement for submission of reports, certificates, financial statements and other pertinent information is necessary for protection of the Government against financial loss through the making of progress payments.

### C. Annual Reporting Burden

The Electronic Document Access system (DoD official contract file system) indicates that in Fiscal Year (FY) 2017, 19,755 DoD contract awards contain FAR clause 52.232–16, Progress Payments.

The estimated total burden is as follows:

*Respondents:* 19,755.
*Responses per Respondent:* 32.
*Total Annual Responses:* 632,160.
*Hours per Response:* 0.42.
*Total Burden Hours:* 265,507.
*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Frequency:* Annually.

*Obtaining Copies:* Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0010, Progress Payments, SF 1443, in all correspondence.

Dated: April 24, 2018.

**Lorin Curit,**

*Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

[FR Doc. 2018–08894 Filed 4–26–18; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Docket No. CDC–2018–0041]**

### Vessel Sanitation Program: Annual Program Status Meeting; Request for Comment

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of public meeting and request for comment.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) announces the 2018 annual Vessel Sanitation Program (VSP) public meeting. The annual meeting serves as a forum for HHS/CDC to update interested persons on work completed in 2017 and plans for future activities. HHS/CDC is also opening a public docket so that additional comments and materials may be submitted. The official record of this meeting will remain open through July 26, 2018 so that additional materials or comments may be submitted and made part of the record.

**DATES:** Written comments must be received on or before July 26, 2018.

The meeting will be held on June 20, 2018, from 9:00 a.m. to 4:30 p.m. in the Ballroom at the DoubleTree Grand Hotel Biscayne Bay, 1717 North Bayshore Drive, Miami, FL 33132. Information regarding logistics is available on the VSP website (*www.cdc.gov/nceh/vsp*).

*Deadline for Requests for Special Accommodations:* Persons wishing to participate in the public meeting who need special accommodations should contact CDR Aimee Treffiletti (*vsp@cdc.gov* or 954–356–6650 or 770–488–3141) by Monday, May 20, 2018.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2018–0041 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Vessel Sanitation Program, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS F–58, Atlanta, Georgia 30341.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** CDR Aimee Treffiletti, Vessel Sanitation Program, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS F–58, Atlanta, Georgia 30341, email: *vsp@cdc.gov,* phone: 954–356–6650 or 770–488–3141.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to inform the public of VSP's activities in assisting the cruise industry to prevent the introduction and spread of gastrointestinal (GI) illness to U.S. ports from ships under VSP's jurisdiction (ships with 13 or more passengers and an itinerary that includes foreign and U.S. ports).

The meeting will include a review of HHS/CDC's public health support activities from 2017, provide perspective on VSP's approach to vessel sanitation, and offer industry the opportunity to provide input regarding industry efforts to exceed VSP requirements. Presentations will clarify the roles and responsibilities of VSP, cruise line public health management, and shipyards constructing cruise ships. Presentations will also include initiatives for improved epidemiologic study of disease outbreaks and strategic approaches to public health risk reduction for 2019 and the future.

*Matters to be discussed:*

- VSP year in review: operational and construction inspections, budget, and vessel sanitation training
- GI illness data and epidemiology projects: VSP review and progress report
- VSP 2018 Operations Manual and Construction Guidelines: implementation of the new guidance
- Shipyard construction: how to strengthen public health through engineering controls

*Meeting Accessibility:* The meeting is open to the public, but space is limited to approximately 70 people. Advanced registration is encouraged. Information regarding logistics is available on the VSP website (*www.cdc.gov/nceh/vsp*). Attendees at the annual meeting normally include cruise ship industry officials, private sanitation consultants, and other interested parties.

Dated: April 19, 2018.

**Sandra Cashman,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2018–08869 Filed 4–26–18; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Docket No. CDC–2017–0115]**

### Availability of Vessel Sanitation Program (VSP) Operations Manual and VSP Construction Guidelines

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of availability.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the availability of the 2018 Vessel Sanitation Program (VSP) Operations Manual and the VSP Construction Guidelines.

**DATES:** The final documents are available April 27, 2018.

**ADDRESSES:** The final documents are found in the docket at *www.regulations.gov,* Docket No. CDC–2017–0115 and at *www.cdc.gov/nceh/vsp/.*

**FOR FURTHER INFORMATION CONTACT:** Commander Aimee Treffiletti, Chief, Vessel Sanitation Program, National Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS F–59, Chamblee, Georgia 30341–3717; phone: 800–323–2132 or 954–356–6650; email: *vsp@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** On December 4, 2017, CDC published a notice in the **Federal Register** (82 FR 57272) requesting public comment on the draft versions of the VSP Operations Manual and VSP Construction Guidelines. In these drafts, VSP revised the VSP Operations Manual to reflect new technologies, current food science, disease patterns and trends, and

emerging pathogens. VSP also revised the VSP Construction Guidelines as a framework of consistent construction and design guidelines related to public health, including vessel facilities related to food storage, preparation, and service and water bunkering, storage, disinfection, and distribution.

CDC received five comments on the document from industry and the public. Comments related to document format (highlighted versions), height requirements for handwashing stations, requirements for chlorine and pH monitoring of production water, language in specific sections of the Operations Manual, and a general comment about the effectiveness of the program.

In response to the comments, CDC has provided highlighted versions of the 2018 Operations Manual and Construction Guidelines and included requirements for handwashing station height and chlorine and pH monitoring. Regarding the comment suggesting language changes, CDC developed the draft 2018 Operations Manual through a cooperative change request system with industry. In 2015, CDC provided change request forms and instructions to industry partners, then held in-person and web-based meetings with partners over 2 years to review the change requests they submitted. Proposed substantive changes would need to be accepted through the same process before CDC could consider including them in the draft 2018 Operations Manual. CDC took no action in response to the general comment about the program being ineffective. CDC carefully reviewed and considered all comments in development of the final documents.

Dated: April 23, 2018.

**Sandra Cashman,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2018–08870 Filed 4–26–18; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–838]**

### 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 June 26, 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–838 Medicare Credit Balance Reporting Requirements**

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

**Information Collection**

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Credit Balance Reporting Requirements; *Use:* Quarterly credit balance reporting is needed to monitor and control the identification and timely collection of improper payments. Credit balances are mainly attributable to provider billing practices and cannot be eliminated by program functions; they will continue to occur. The OIG issued a Management Advisory Report (MAR) on their extended review of credit balances (See Attachment). They state that approximately 90 percent of credit balances result from providers: (1) Billing Medicare and a private insurer for the same service, (2) submitting duplicate billings for services in a manner which cannot be detected by system edits, and (3) billing for services not performed. The MAR recommends that CMS continue its plan of recovery by requiring hospitals to report Medicare credit balances to contractors on a quarterly basis. *Form Number:* CMS–838 (OMB control number: 0938–0600); *Frequency:* Quarterly; *Affected Public:* Private sector (Business or other For-profits); *Number of Respondents:* 52,582; *Total Annual Responses:*

210,328; *Total Annual Hours:* 630,984. (For policy questions regarding this collection contact Anita Crosier at 410–786–0217).

Dated: April 24, 2018.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2018–08893 Filed 4–26–18; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2017–D–2462]**

### The Index of Legally Marketed Unapproved New Animal Drugs for Minor Species; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of guidance for industry #210 entitled ''The Index of Legally Marketed Unapproved New Animal Drugs for Minor Species.'' This final guidance describes the process for adding a new animal drug to the Index of Legally Marketed Unapproved New Animal Drugs for Minor Species (the Index). The Index consists of a list of legally marketed unapproved new animal drugs for minor species that meet the requirements of a certain section of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

**DATES:** The announcement of the guidance is published in the **Federal Register** on April 27, 2018.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time 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–2017–D–2462 for ''The Index of Legally Marketed Unapproved New Animal Drugs for Minor Species.'' 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Dorothy Bailey, Center for Veterinary Medicine (HFV–50), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0565, *dorothy.bailey@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

In the **Federal Register** of September 15, 2017 (82 FR 43381), FDA published the notice of availability for a draft guidance entitled ''The Index of Legally Marketed Unapproved New Animal Drugs for Minor Species'' giving interested persons until November 14, 2017, to comment on the draft guidance. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. Editorial changes were made to improve clarity. The guidance announced in this notice finalizes the draft guidance dated September 2017. The Index consists of a list of legally marketed unapproved new animal drugs for minor species that meet the requirements of section 572 of the FD&C Act.

### II. Significance of Guidance

This level 1 guidance is being issued consistent with FDA's good guidance

practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on The Index of Legally Marketed Unapproved New Animal Drugs for Minor Species. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

### III. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 516.119 through 516.165 have been approved under OMB control number 0910–0620.

### IV. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *https://www.regulations.gov.*

Dated: April 23, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018–08926 Filed 4–26–18; 8:45 am]

**BILLING CODE 4164–01–P**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2018–D–1339]**

### Multiple Function Device Products: Policy and Considerations; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Multiple Function Device Products: Policy and Considerations.'' This draft guidance provides FDA's regulatory approach for products with multiple functions, including at least one device function, in accordance with the 21st Century Cures Act (Cures Act). This draft guidance is not final nor is it in effect at this time.

**DATES:** Submit either electronic or written comments on the draft guidance by June 26, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time 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–D–1339 for ''Multiple Function Device Products: Policy and Considerations; Draft Guidance for Industry and Food and Drug Administration Staff; Availability.'' 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Multiple Function Device Products: Policy and Considerations'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach, and

Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

**FOR FURTHER INFORMATION CONTACT:** Bakul Patel, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5458, Silver Spring, MD 20993–0002, 301–796–5528; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On December 13, 2016, the Cures Act was signed into law. Section 3060(a) of this legislation entitled ''Clarifying Medical Software Regulation'' amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) to add section 520(*o*) (21 U.S.C. 360j(*o*)), which describes software functions that are excluded from the definition of the term device in section 201(h) of the FD&C Act (21 U.S.C. 321(h)). In addition, section 520(*o*)(2) of the FD&C Act describes the regulation and assessment of a software product with multiple functions, including at least one device function and at least one software function that is not a device. In this draft guidance, FDA provides its current thinking on the regulation of products with multiple functions with at least one device function. Although section 520(*o*)(2) of the FD&C Act applies to the regulation of *software* products containing at least one device function and at least one non-device function, FDA believes the same principles apply to *all* multiple function products that contain at least one device function.

## II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Multiple Function Device Products: Policy and Considerations.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

## III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Multiple Function Device Products: Policy and Considerations'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 17038 to identify the guidance you are requesting.

## IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information have been approved by OMB as follows:

| The collections of information in this 21 CFR part or guidance document: | Regarding this topic: | Have been approved under OMB control No.: |
|---|---|---|
| 803 | Medical device reporting | 0910–0437 |
| 807, subparts A–D | Registration and listing | 0910–0625 |
| 807, subpart E | Premarket notification | 0910–0120 |
| 812 | Investigational device exemption | 0910–0078 |
| 814, subparts A–E | Premarket approval applications | 0910–0231 |
| 814, subpart H | Humanitarian use devices | 0910–0332 |
| 820 | Current good manufacturing practice and the quality system regulation. | 0910–0073 |
| 601 | Biologics license applications | 0910–0338 |
| ''User Fees for 513(g) Requests for Information'' and ''FDA and Industry Procedures for Section 513(g) Requests for Information under the Federal Food, Drug, and Cosmetic Act''. | 513(g) requests | 0910–0705 |
| ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff''. | Q-submissions and presubmissions | 0910–0756 |
| ''De Novo Classification Process (Evaluation of Automatic Class III Designation)''. | De Novo requests | 0910–0844 |

Dated: April 23, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018–08858 Filed 4–26–18; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–D–0586]**

### Clinical Trial Imaging Endpoint Process Standards; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance for industry entitled ''Clinical Trial Imaging Endpoint Process Standards.'' This guidance assists sponsors in optimizing the quality of imaging data obtained in clinical trials intended to support approval of drugs and biological products. This guidance

focuses on imaging acquisition, display, archiving, and interpretation process standards that FDA regards as important when imaging is used to assess a trial's primary endpoint or a component of that endpoint. This guidance finalizes the draft guidance of the same name issued on March 5, 2015.

**DATES:** The announcement of the guidance is published in the **Federal Register** on April 27, 2018.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time 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–2011–D–0586 for ''Clinical Trial Imaging Endpoint Process Standards; Guidance for Industry.'' 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:** Libero (Louis) Marzella, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5482, Silver Spring, MD 20993–0002, 301–796–1414; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a guidance for industry entitled ''Clinical Trial Imaging Endpoint Process Standards.'' The purpose of this guidance is to assist sponsors in optimizing the quality of imaging data obtained in clinical trials intended to support approval of drugs and biological products. It focuses on imaging acquisition, display, archiving, and interpretation standards that FDA regards as important when imaging is used to assess the trial's primary endpoint or a component of that endpoint. The guidance describes the minimum standards a sponsor should use to help ensure that clinical trial imaging data are obtained in a manner that complies with a trial's protocol, maintains imaging data quality, and provides a verifiable record of the imaging process.

This guidance addresses the background considerations for determining the role of imaging in a clinical trial as well as the major considerations in the development of an imaging charter that describes the trial's imaging methods. The guidance specifically addresses the technical components of a charter's description of the image acquisition, image interpretation, and image data development methods. This guidance finalizes the draft guidance issued on March 5, 2015 (80 FR 11998). Changes made to the draft guidance took into consideration written and verbal comments received. In addition to editorial changes primarily for clarification, changes also included the following: clarifying the recommended role of a centralized image interpretation process and the quality control process; streamlining the description of the recommended approach to incidental findings and to discordant image interpretations; and

highlighting further the interrelationship between a clinical protocol and an imaging charter.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on clinical trial imaging endpoint process standards. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

### II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

### III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *https://www.regulations.gov.*

Dated: April 24, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018–08903 Filed 4–26–18; 8:45 am]

**BILLING CODE 4164–01–P**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Advisory Committee on Heritable Disorders in Newborns and Children

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Notice of Meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Heritable Disorders in Newborns and Children (ACHDNC) will hold a public meeting.

**DATES:** Wednesday, May 9, 2018, from 9:30 a.m. to 5:00 p.m. Eastern Time (ET) and Thursday, May 10, 2018, from 9:30 a.m. to 1:00 p.m. ET.

**ADDRESSES:** The public may attend this meeting in person or via Webcast. While this meeting will be open to the public, advance registration is required. Please register online at *http://www.achdncmeetings.org/* by 12:00 p.m. ET on May 7, 2018.

The address for the meeting is 5600 Fishers Lane, Rockville, MD 20857. Non-U.S. citizens planning to attend in person will need to provide additional information to HRSA by Monday, April 30, 2018, 12 p.m. ET. To facilitate access to the building, please contact Ann Ferrero at the contact information listed below. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Ms. Ferrero at least 10 days prior to the meeting.

The meeting will also be accessible via Webcast. Instructions on how to access the meeting via Webcast will be provided upon registration.

**FOR FURTHER INFORMATION CONTACT:** Anyone requesting information regarding the ACHDNC should contact Ann Ferrero, Maternal and Child Health Bureau (MCHB), HRSA, in one of three ways: (1) Send a request to the following address: Ann Ferrero, MCHB, HRSA 5600 Fishers Lane, Room 18N100C, Rockville, MD 20857; (2) call 301–443–3999; or (3) send an email to *AFerrero@hrsa.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The ACHDNC provides advice and recommendations to the Secretary of HHS on the development of newborn screening activities, technologies, policies, guidelines, and programs for effectively reducing morbidity and mortality in newborns and children having, or at risk for, heritable disorders. In addition, ACHDNC's recommendations regarding inclusion of additional conditions and inherited disorders for screening are included in the Recommended Uniform Screening Panel (RUSP) following adoption by the Secretary. Conditions listed on the RUSP constitute part of the comprehensive preventive health guidelines supported by HRSA for infants and children under section 2713 of the Public Health Service Act (42 U.S.C. 300gg–13). Under this provision, non-grandfathered health plans and health insurance issuers are required to provide insurance coverage without cost-sharing (a co-payment, co-insurance, or deductible) for screenings included in the HRSA-supported comprehensive guidelines for plan years (*i.e.,* policy years) beginning on or after the date that is one year from the Secretary's adoption of the condition for screening.

*Agenda:* The meeting agenda will include: (1) Presentations and discussion on risk assessment in newborn screening; (2) presentation of educational tools for communicating newborn screening results; (3) presentations from states working toward timeliness goals in newborn screening; (4) an update on the status of newborn screening pilot studies for Guanidinoacetate Methyltransferase (GAMT) deficiency; (5) updates from the Laboratory Standards and Procedures workgroup; (6) updates from the Follow-up and Treatment workgroup; (7) updates from the Education and Training workgroup; and (8) reviewing the process for assessing the public health impact of adding conditions to the RUSP.

There are no votes scheduled for this meeting. The final meeting agenda will be available two (2) days prior to the meeting on the Committee's website at *https://www.hrsa.gov/advisory-committees/heritable-disorders/index.html.* Please note that agenda items and meeting times are subject to change as priorities dictate.

*Public Participation:* Members of the public will have the opportunity to provide comments, which are part of the official Committee record. To submit written comments or request time for an oral comment at the meeting, please register online by 12:00 p.m. ET on May 3, 2018, at *http://www.achdncmeetings.org/.* Oral comments will be honored in the order they are requested and may be limited as time allows. Individuals associated with groups or who plan to provide comments on similar topics may be asked to combine their comments and present them through a single representative. No audiovisual presentations are permitted. Written comments should identify the individual's name, address, email, telephone number, professional or organization affiliation, background or area of expertise (*i.e.,* parent, family member, researcher, clinician, public health, etc.) and the topic/subject matter.

**Amy P. McNulty,**

*Acting Director, Division of the Executive Secretariat.*

[FR Doc. 2018–08853 Filed 4–26–18; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Voluntary Partner Surveys To Implement Executive Order 12862 in the Health Resources and Services Administration, OMB No. 0915–0212—Extension

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. HRSA published the 60-Day notice on November 13, 2017, FR Doc. 2017–24492. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

**DATES:** Comments on this ICR should be received no later than May 29, 2018.

**ADDRESSES:** Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

*Information Collection Request Title:* Voluntary Partner Surveys to Implement Executive Order 12862 in the Health Resources and Services Administration OMB No. 0915–0212—Extension

*Abstract:* In response to Executive Order 12862, HRSA proposes to conduct voluntary customer surveys of its partners to assess strengths and weaknesses in program services and processes. HRSA partners are typically state and local governments, health care facilities, health care consortia, health care providers and trainees, and researchers. HRSA is requesting a generic approval from OMB to conduct the partner surveys.

Partner surveys to be conducted by HRSA might include, for example, mail or telephone surveys of grantees to determine satisfaction with grant processes or technical assistance provided by a contractor, or in-class evaluation forms completed by providers who receive training from HRSA grantees, to measure satisfaction with the training experience. Results of these surveys will be used to plan and redirect resources and efforts as needed to improve services and processes.

HRSA may also use focus groups to gain partner input into the design of mail and telephone surveys. Focus groups, in-class evaluation forms, mail surveys, and telephone surveys are expected to be the preferred data collection methods.

A generic approval allows HRSA to conduct a limited number of partner surveys without a full-scale OMB review of each survey. If continued generic approval is granted, information on each individual partner survey will not be published in the **Federal Register**.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| In-class evaluations | 40,000 | 1 | 40,000 | .05 | 2,000 |
| Mail/Telephone/Online Surveys | 12,000 | 1 | 12,000 | .25 | 3,000 |
| Focus groups | 250 | 1 | 250 | 1.50 | 375 |
| Total | 52,250 | | 52,250 | | 5,375 |

**Amy P. McNulty,**

*Acting Director, Division of the Executive Secretariat.*

[FR Doc. 2018–08949 Filed 4–26–18; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Notice of Diabetes Mellitus Interagency Coordinating Committee Meeting

**SUMMARY:** The Diabetes Mellitus Interagency Coordinating Committee (DMICC) will hold a meeting on May 29, 2018. The subject of the meeting will be ''DMICC meeting: Fostering Research on Older Adults with Diabetes Receiving Long Term Care.'' The meeting is open to the public.

**DATES:** The meeting will be held on May 29, 2018; from 8:30 a.m. to 4:30 p.m. Individuals wanting to present oral comments must notify the contact person at least 10 days before the meeting date.

**ADDRESSES:** The meeting will be held in NIH campus, Building 45 (Natcher Building), Conference Room D, Bethesda, Maryland.

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this

meeting, see the DMICC website, *www.diabetescommittee.gov,* or contact Dr. B. Tibor Roberts, Executive Secretary of the Diabetes Mellitus Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 31 Center Drive, Building 31A, Room 9A19, MSC 2560, Bethesda, MD 20892–2560, telephone: 301–496–6623; FAX: 301–480–6741; email: *dmicc@mail.nih.gov.*

**SUPPLEMENTARY INFORMATION:** The DMICC, chaired by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) comprising members of the Department of Health and Human Services and other federal agencies that support diabetes-related activities, facilitates cooperation, communication, and collaboration on diabetes among government entities. DMICC meetings, held several times a year, provide an opportunity for Committee members to learn about and discuss current and future diabetes programs in DMICC member organizations and to identify opportunities for collaboration. The May 29, 2018 DMICC meeting will focus on fostering research on older adults with diabetes receiving long term care.

Any member of the public interested in presenting oral comments to the Committee should notify the contact person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives or organizations should submit a letter of intent, a brief description of the organization represented, and a written copy of their oral presentation in advance of the meeting. Only one representative of an organization will be allowed to present; oral comments and presentations will be limited to a maximum of 5 minutes. Printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the Committee by forwarding their statement to the contact person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Because of time constraints for the meeting, oral comments will be allowed on a first-come, first-serve basis.

Members of the public who would like to receive email notification about future DMICC meetings should register for the listserv available on the DMICC website, *www.diabetescommittee.gov.*

Dated: April 18, 2018.

**Bruce T. Roberts,**

*Executive Secretary, DMICC, Office of Scientific Program and Policy Analysis, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.*

[FR Doc. 2018–08900 Filed 4–26–18; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request Data and Specimen Hub (DASH) (Eunice Kennedy Shriver National Institute of Child Health and Human Development)

**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 will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Rohan Hazra, M.D., Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD), National Institutes of Health, 6710B Rockledge Drive, Room 2113, Bethesda, MD 20817, or call non-toll-free number (301)–435–6868 or Email your request, including your address to: *rohan.hazra@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 minimizes 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:* Data and Specimen Hub (DASH)–0925–0744 expiration date 06/30/2019, REVISION, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

**Need and Use of Information Collection**

This is a request to revise the previously approved submission to add the collection of additional information from Users who will request biospecimens, submit the Institutional Certification for data/biospecimen inventory, and submit DASH data/biospecimen Annual Progress Report for the NICHD Data and Specimen Hub (DASH). DASH has been established by NICHD as a data sharing mechanism for biomedical research investigators. It serves as a centralized resource for investigators to store and access de-identified study data and biospecimen inventories—a list of biospecimens available at the NICHD Biorepository—from studies funded by NICHD. The potential for public benefit to be achieved through sharing study data and/or biospecimen inventories for secondary analysis is significant. NICHD DASH supports NICHD's mission to ensure that every person is born healthy and wanted, that women suffer no harmful effects from reproductive processes, and that all children have the chance to achieve their full potential for healthy and productive lives, free from disease or disability, and to ensure the health, productivity, independence, and well-being of all people through optimal rehabilitation. Study data and biospecimen sharing and reuse will promote testing of new hypotheses from data already collected, facilitate trans-disciplinary collaboration, accelerate scientific findings and enable NICHD to maximize the return on its investments in research.

Anyone can access NICHD DASH to browse and view descriptive information about the studies and study data archived in NICHD DASH without creating an account. Users who wish to submit or request research data and/or

biospecimen inventories must register for an account.

Information will be collected from those wishing to create an account, sufficient to identify them as unique Users. Those submitting or requesting data and/or biospecimen inventories will be required to provide additional supporting information to ensure proper use and security of NICHD DASH study data and biospecimen inventories. The information collected is limited to the essential data required to ensure the management of Users in NICHD DASH is efficient and the sharing of data and biospecimens among investigators is effective. The primary uses of the information collected from Users by NICHD will be to:

- Communicate with the Users with regards to their data submission, data requests and biospecimen requests
- Monitor data submissions, data requests and biospecimen requests
- Notify interested recipients of updates to data and biospecimen inventories stored in NICHD DASH
- Help NICHD understand the use of NICHD DASH study data and biospecimen inventories by the research community

All the data collected from use of NICHD DASH except for information provided in the annual progress reports are for the purposes of internal administrative management of NICHD DASH. Information gathered through the annual progress reports may be used in publications describing performance of the DASH system.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 204.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of form | Number of respondents | Frequency of response | Average time per response (in hours) | Total annual burden hour |
|---|---|---|---|---|
| User Registration | 200 | 1 | 5/60 | 17 |
| Data and Biospecimen Inventory Submission | 36 | 1 | 2 | 72 |
| Data Request | 60 | 1 | 1 | 60 |
| Biospecimen Request | 36 | 1 | 1 | 36 |
| Data Use Annual Progress Report | 60 | 1 | 10/60 | 10 |
| Biospecimen Use Annual Progress Report | 36 | 1 | 10/60 | 6 |
| Institutional Certification Template | 36 | 1 | 5/60 | 3 |
| Total | 200 | 200 | | 204 |

Dated: April 17, 2018.

**Jennifer M. Guimond,**

*Project Clearance Liaison, Eunice Kennedy Shriver, National Institute of Child Health and Human Development, National Institutes of Health.*

[FR Doc. 2018–08901 Filed 4–26–18; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; 30-Day Comment Request

CTEP Branch and Support Contracts Forms and Surveys (National Cancer Institute)

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Michael Montello, Pharm.D., Shanda Finnigan, MPH, RN, CCRC or Jacquelyn Goldberg, JD, Cancer Therapy Evaluation Program, Division of Cancer Treatment and Diagnosis, 9609 Medical Center Drive, Rockville, MD 20850 or call non-toll-free number (240–276–6080) or email your request, including your address to: *ctsucontact@westat.com.*

**SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal Register** on February 21, 2018, page 7483 (83 FR 7483) and allowed 60 days for public comment. No public comments were received. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

*Proposed Collection:* CTEP Branch and Support Contracts Forms and Surveys, 0925–0753 Expiration Date 06/30/2020, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

*Need and Use of Information Collection:* The National Cancer Institute (NCI) Cancer Therapy Evaluation Program (CTEP) and the Division of Cancer Prevention (DCP) fund an extensive national program of cancer research, sponsoring clinical trials in cancer prevention, symptom management and treatment for qualified clinical investigators. As part of this effort, CTEP implements programs to register clinical site investigators and clinical site staff, and to oversee the conduct of research at the clinical sites. CTEP and DCP also oversee two support programs, the NCI Central Institutional Review Board (CIRB) and the Cancer Trial Support Unit (CTSU). The combined systems and processes for

initiating and managing clinical trials is termed the Clinical Oncology Research Enterprise (CORE) and represents an integrated set of information systems and processes which support investigator registration, trial oversight, patient enrollment, and clinical data collection. The information collected is required to ensure compliance with applicable federal regulations governing the conduct of human subjects research (45 CFR 46 and 21 CRF 50), and when CTEP acts as the Investigational New Drug (IND) holder, FDA regulations pertaining to the sponsor of clinical trials and the selection of qualified investigators under 21 CRF 312.53). Information is also collected through surveys to assess satisfaction, provide feedback to guide improvements with processes and technology, and assess health professional's interests in clinical trials.

To increase efficiencies, reduce administrative burden and cost, CTEP has requested consolidation of their current OMB submission. Consolidation is justified because although the various branches and contracts are responsible for distinct services, the processes that support the NCI and participating clinical sites efforts are intertwined. This revision of the previous submission includes changes to the NCI CIRB and CTSU form collections and integrates the Clinical Trials Monitoring Branch (CTMB) and Pharmaceutical Management Branch (PMB) form collections related to site audit and clinical investigator and key clinical site staff registration.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 112,798.

ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Type of respondent | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| CTSU IRB/Regulatory Approval Transmittal Form (Attachment A01). | Health Care Practitioner .... | 2,444 | 12 | 2/60 | 978 |
| CTSU IRB Certification Form (Attachment A02). | Health Care Practitioner .... | 2,444 | 12 | 10/60 | 4,888 |
| Withdrawal from Protocol Participation Form (Attachment A03). | Health Care Practitioner .... | 279 | 1 | 10/60 | 47 |
| Site Addition Form (Attachment A04) ..... | Health Care Practitioner .... | 80 | 12 | 10/60 | 160 |
| CTSU Roster Update Form (Attachment A05) | Health Care Practitioner .... | 600 | 1 | 5/60 | 50 |
| CTSU Request for Clinical Brochure (Attachment A06). | Health Care Practitioner .... | 360 | 1 | 10/60 | 60 |
| CTSU Supply Request Form (Attachment A07). | Health Care Practitioner .... | 90 | 12 | 10/60 | 180 |
| Site Initiated Data Update Form (Attachment A08). | Health Care Practitioner .... | 2 | 12 | 10/60 | 4 |
| Data Clarification Form (Attachment A09) ..... | Health Care Practitioner .... | 150 | 24 | 10/60 | 600 |
| RTOG 0834 CTSU Data Transmittal Form (Attachment A10). | Health Care Practitioner .... | 12 | 76 | 10/60 | 152 |
| CTSU Generic Data Transmittal Form (Attachment A12). | Health Care Practitioner .... | 5 | 12 | 10/60 | 10 |
| CTSU Patient Enrollment Transmittal Form (Attachment A15). | Health Care Practitioner .... | 12 | 12 | 10/60 | 24 |
| CTSU Transfer Form (Attachment A16) ..... | Health Care Practitioner .... | 360 | 2 | 10/60 | 120 |
| CTSU System Access Request Form (Attachment A17). | Health Care Practitioner .... | 180 | 1 | 20/60 | 60 |
| CTSU OPEN Rave Request Form (Attachment A18). | Health Care Practitioner .... | 30 | 21 | 10/60 | 105 |
| CTSU LPO Form Creation (Attachment A19) | Health Care Practitioner .... | 5 | 2 | 120/60 | 20 |
| CTSU Site Form Creation and PDF (Attachment A20). | Health Care Practitioner .... | 400 | 10 | 30/60 | 2,000 |
| CTSU PDF Signature Form (Attachment A21) | Health Care Practitioner .... | 400 | 10 | 10/60 | 667 |
| NCI CIRB AA & DOR between the NCI CIRB and Signatory Institution (Attachment B01). | Participants ..... | 50 | 1 | 15/60 | 13 |
| NCI CIRB Signatory Enrollment Form (Attachment B02). | Participants ..... | 50 | 1 | 15/60 | 13 |
| CIRB Board Member Application (Attachment B03). | Board Member ..... | 100 | 1 | 30/60 | 50 |
| CIRB Member COI Screening Worksheet (Attachment B08). | Board Members ..... | 100 | 1 | 15/60 | 25 |
| CIRB COI Screening for CIRB meetings ..... (Attachment B09) ..... | Board Members ..... | 72 | 1 | 15/60 | 18 |
| CIRB IR Application (Attachment B10) ..... | Health Care Practitioner .... | 80 | 1 | 60/60 | 80 |
| CIRB IR Application for Exempt Studies (Attachment B11). | Health Care Practitioner .... | 4 | 1 | 30/60 | 2 |
| CIRB Amendment Review Application (Attachment B12). | Health Care Practitioner .... | 400 | 1 | 15/60 | 100 |
| CIRB Ancillary Studies Application ..... (Attachment B13) ..... | Health Care Practitioner .... | 1 | 1 | 60/60 | 1 |
| CIRB Continuing Review Application ..... (Attachment B14) ..... | Health Care Practitioner .... | 400 | 1 | 15/60 | 100 |
| Adult IR of Cooperative Group Protocol (Attachment B15). | Board Members ..... | 65 | 1 | 180/60 | 195 |

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

| Form name | Type of respondent | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| Pediatric IR of Cooperative Group Protocol (Attachment B16). | Board Members | 15 | 1 | 180/60 | 45 |
| NCI Adult/Pediatric Continuing Review of Cooperative Group Protocol. (Attachment B17) | Board Members | 275 | 1 | 60/60 | 275 |
| Adult Amendment of Cooperative Group Protocol (Attachment B19). | Board Members | 40 | 1 | 120/60 | 80 |
| Pediatric Amendment of Cooperative Group Protocol (Attachment B20). | Board Members | 25 | 1 | 120/60 | 50 |
| Pharmacist's Review of a Cooperative Group Study (Attachment B21). | Board Members | 50 | 1 | 120/60 | 100 |
| Adult Expedited Amendment Review (Attachment B23). | Board Members | 348 | 1 | 30/60 | 174 |
| Pediatric Expedited Amendment Review (Attachment B24). | Board Members | 140 | 1 | 30/60 | 70 |
| Adult Expedited Continuing Review (Attachment B25). | Board Members | 140 | 1 | 30/60 | 70 |
| Pediatric Expedited Continuing Review (Attachment B26). | Board Members | 36 | 1 | 30/60 | 18 |
| Adult Cooperative Group Response to CIRB Review (Attachment B27). | Health Care Practitioner | 30 | 1 | 60/60 | 30 |
| Pediatric Cooperative Group Response to CIRB Review (Attachment B28). | Health Care Practitioner | 5 | 1 | 60/60 | 5 |
| Adult Expedited Study Chair Response to Required Modifications (Attachment B29). | Board Members | 40 | 1 | 30/60 | 20 |
| Reviewer Worksheet- Determination of UP or SCN (Attachment B31). | Board Members | 400 | 1 | 10/60 | 67 |
| Reviewer Worksheet -CIRB Statistical Reviewer Form (Attachment B32). | Board Members | 100 | 1 | 15/60 | 25 |
| CIRB Application for Translated Documents (Attachment B33). | Health Care Practitioner | 100 | 1 | 30/60 | 50 |
| Reviewer Worksheet of Translated Documents (Attachment B34). | Board Members | 100 | 1 | 15/60 | 25 |
| Reviewer Worksheet of Recruitment Material (Attachment B35). | Board Members | 20 | 1 | 15/60 | 5 |
| Reviewer Worksheet Expedited Study Closure Review (Attachment B36). | Board Members | 20 | 1 | 15/60 | 5 |
| Reviewer Worksheet of Expedited IR (Attachment B38). | Board Members | 5 | 1 | 30/60 | 3 |
| Annual Signatory Institution Worksheet About Local Context (Attachment B40). | Health Care Practitioner | 400 | 1 | 40/60 | 267 |
| Annual Principal Investigator Worksheet About Local Context (Attachment B41). | Health Care Practitioner | 1,800 | 1 | 20/60 | 600 |
| Study-Specific Worksheet About Local Context (Attachment B42). | Health Care Practitioner | 4,800 | 1 | 20/60 | 1,600 |
| Study Closure or Transfer of Study Review Responsibility (Attachment B43). | Health Care Practitioner | 1,680 | 1 | 20/60 | 560 |
| Unanticipated Problem or Serious or Continuing Noncompliance Reporting Form (Attachment (B44). | Health Care Practitioner | 360 | 1 | 20/60 | 120 |
| Change of Signatory Institution PI Form (Attachment B45). | Health Care Practitioner | 120 | 1 | 20/60 | 40 |
| Request Waiver of Assent Form (Attachment B46). | | 60 | 1 | 20/60 | 20 |
| CTSU OPEN Survey (Attachment C03) | Health Care Practitioner | 60 | 1 | 15/60 | 15 |
| CIRB Customer Satisfaction Survey (Attachment C04). | Participants | 600 | 1 | 15/60 | 150 |
| Follow-up Survey (Communication Audit) (Attachment C05). | Participants/Board Members. | 300 | 1 | 15/60 | 75 |
| CIRB Board Member Annual Assessment Survey (Attachment C07). | Board Members | 60 | 1 | 15/60 | 15 |
| PIO Customer Satisfaction Survey (Attachment C08). | Health Care Practitioner | 60 | 1 | 5/60 | 5 |
| Concept Clinical Trial Survey (Attachment C09). | Health Care Practitioner | 500 | 1 | 5/60 | 42 |
| Prospective Clinical Trial Survey (Attachment C10). | Health Care Practitioner | 1,000 | 1 | 1/60 | 17 |
| Low Accrual Clinical Trial Survey (Attachment C11). | Health Care Practitioner | 1,000 | 1 | 1/60 | 17 |

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

| Form name | Type of respondent | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| Audit Scheduling Form (Attachment D01) | Group/CTMS Users | 152 | 5 | 21/60 | 266 |
| Preliminary Audit Findings Form (Attachment D02). | Auditor | 152 | 5 | 10/60 | 127 |
| Audit Maintenance Form (Attachment D03) | Group/CTMS Users | 152 | 5 | 9/60 | 114 |
| Final Audit Finding Report Form (Attachment D04). | Group/CTMS Users | 75 | 11 | 1,098/60 | 15,098 |
| Follow-up Form (Attachment D05) | Group/CTMS Users | 75 | 7 | 27/60 | 236 |
| Roster Maintenance Form (Attachment D06) | CTMS Users | 5 | 1 | 18/60 | 2 |
| Final Report and CAPA Request Form (Attachment D07). | CTMS Users | 12 | 9 | 1,800/60 | 3240 |
| NCI/DCTD/CTEP FDA Form 1572 for Annual Submission (Attachment E01). | Physician | 23,000 | 1 | 15/60 | 5,750 |
| NCI/DCTD/CTE Biosketch (Attachment E02) | Physician; Health Care Practitioner. | 33,000 | 1 | 120/60 | 66,000 |
| NCI/DCTD/CTEP Financial Disclosure Form (Attachment E03). | Physician; Health Care Practitioner. | 33,000 | 1 | 5/60 | 2,750 |
| NCI/DCTD/CTEP Agent Shipment Form (ASF) (Attachment E04). | Physician | 23,000 | 1 | 10/60 | 3,833 |
| Totals | | 136,487 | 207,989 | | 112,838 |

Dated: April 12, 2018.

**Karla Bailey,**

*Project Clearance Liaison, National Cancer Institute, National Institutes of Health.*

[FR Doc. 2018–08902 Filed 4–26–18; 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; Metabolic Reprogramming to Improve Immunotherapy.

*Date:* May 22, 2018.

*Time:* 11:00 a.m. to 3:00 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:* Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, (301) 806–2515, *chatterm@csr.nih.gov.*

*Name of Committee:* Immunology Integrated Review Group; Cellular and Molecular Immunology—B Study Section.

*Date:* May 23–24, 2018.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Double Tree by Hilton Washington/Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

*Contact Person:* Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences and Technologies: AREA Review.

*Date:* May 24, 2018.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 23, 2018.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018–08843 Filed 4–26–18; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; AIDS and Related Research Special Topics.

*Date:* April 26, 2018.

*Time:* 1:30 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* 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*.

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: April 23, 2018.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018–08842 Filed 4–26–18; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2018–0364]**

### Certificate of Alternative Compliance for the Gunderson Marine LLC Hull 116

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of issuance of a certificate of alternative compliance.

**SUMMARY:** The Coast Guard announces that the Thirteenth Coast Guard District has issued a certificate of alternative compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), for the Gunderson Marine LLC Hull 116. We are issuing this notice because its publication is required by statute. Due to the construction and placement of the mooring and anchor winches and fittings, placement of the sidelights in this area would be a potential hazard to the crew during vessel operations and may subject them to potential damage during mooring. Gunderson Marine LLC Hull 116 cannot fully comply with the light, shape, or sound signal provisions of the 72 COLREGS without interfering with the vessel's design and construction. This notification of issuance of a certificate of alternative compliance promotes the Coast Guard's marine safety mission.

**DATES:** The Certificate of Alternative Compliance was issued on April 20, 2018.

**FOR FURTHER INFORMATION CONTACT:** For information or questions about this notice call or email LT Bert Luke Woods, Thirteenth District, U.S. Coast Guard; telephone 206–220–7232, email *Bert.L.Woods@uscg.mil*.

**SUPPLEMENTARY INFORMATION:** The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, or sound signal provisions of the 72 COLREGS. Under statutory law [1] and Coast Guard regulation,[2] the vessel's owner, builder, operator, or agent of those vessels may apply for a certificate of alternative compliance (COAC).[3] For vessels of special construction, the cognizant Coast Guard District Office determines whether the vessel for which the COAC is sought complies as closely as possible with the 72 COLREGS, and decides whether to issue the COAC which must specify the required alternative installation. If the Coast Guard issues a COAC, under the governing statute [4] and regulations,[5] the Coast Guard must publish notice of this action. Once issued, a COAC remains valid until information supplied in the COAC application or the COAC terms become inapplicable to the vessel.

The Chief, Prevention Division, of the Thirteenth Coast Guard District, U.S. Coast Guard, certifies that the Gunderson Marine LLC Hull 116 is a vessel of special construction or purpose, and that, with respect to the position of the sidelights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation, construction, or design of the vessel. The Chief, Prevention Division further finds and certifies that the sidelights, are in the closest possible compliance with the applicable provisions of the 72 COLREGS.[6]

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: April 20, 2018.

**B.S. Gilda,**

*Captain, U.S. Coast Guard, Chief, Prevention Division, Thirteenth Coast Guard District.*

[FR Doc. 2018–08905 Filed 4–26–18; 8:45 am]

**BILLING CODE 9110–04–P**

[1] 33 U.S.C. 1605(c).

[2] 33 CFR 81.3.

[3] 33 CFR 81.5.

[4] 33 U.S.C. 1605(c).

[5] 33 CFR 81.18.

[6] 33 U.S.C. 1605(a); 33 CFR 81.9.

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2018–0365]**

### Certificate of Alternative Compliance for the Gunderson Marine LLC Hull 117

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of issuance of a certificate of alternative compliance.

**SUMMARY:** The Coast Guard announces that the Thirteenth Coast Guard District has issued a certificate of alternative compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), for the Gunderson Marine LLC Hull 117. We are issuing this notice because its publication is required by statute. Due to the construction and placement of the mooring and anchor winches and fittings, placement of the sidelights in this area would be a potential hazard to the crew during vessel operations and may subject them to potential damage during mooring. Gunderson Marine LLC Hull 117 cannot fully comply with the light, shape, or sound signal provisions of the 72 COLREGS without interfering with the vessel's design and construction. This notification of issuance of a certificate of alternative compliance promotes the Coast Guard's marine safety mission.

**DATES:** The Certificate of Alternative Compliance was issued on April 20, 2018.

**FOR FURTHER INFORMATION CONTACT:** For information or questions about this notice call or email LT Bert Luke Woods, Thirteenth District, U.S. Coast Guard; telephone 206–220–7232, email *Bert.L.Woods@uscg.mil@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, or sound signal provisions of the 72 COLREGS. Under statutory law [1] and Coast Guard regulation,[2] the vessel's owner, builder, operator, or agent of those vessels may apply for a certificate of alternative compliance (COAC).[3] For vessels of special construction, the cognizant Coast Guard District Office determines whether the vessel for which the COAC is sought complies as closely

[1] 33 U.S.C. 1605(c).

[2] 33 CFR 81.3.

[3] 33 CFR 81.5.

as possible with the 72 COLREGS, and decides whether to issue the COAC which must specify the required alternative installation. If the Coast Guard issues a COAC, under the governing statute[4] and regulations,[5] the Coast Guard must publish notice of this action. Once issued, a COAC remains valid until information supplied in the COAC application or the COAC terms become inapplicable to the vessel.

The Chief, Prevention Division, of the Thirteenth Coast Guard District, U.S. Coast Guard, certifies that the Gunderson Marine LLC Hull 117 is a vessel of special construction or purpose, and that, with respect to the position of the sidelights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation, construction, or design of the vessel. The Chief, Prevention Division further finds and certifies that the sidelights, are in the closest possible compliance with the applicable provisions of the 72 COLREGS.[6]

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: April 20, 2018.

**B.S. Gilda,**

*Captain, U.S. Coast Guard, Chief, Prevention Division, Thirteenth Coast Guard District.*

[FR Doc. 2018–08904 Filed 4–26–18; 8:45 am]

BILLING CODE 9110–04–P

[4] 33 U.S.C. 1605(c).

[5] 33 CFR 81.18.

[6] 33 U.S.C. 1605(a); 33 CFR 81.9.

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0117]**

### Agency Information Collection Activities: Free Trade Agreements

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than June 26, 2018) to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0117 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions 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, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

**Overview of This Information Collection**

*Title:* Free Trade agreements.

*OMB Number:* 1651–0117.

*Form Number:* None.

*Type of Review:* Extension (without change).

*Current Actions:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Affected Public:* Businesses.

*Abstract:* Free trade agreements are established to reduce and eliminate trade barriers, strengthen and develop economic relations, and to lay the foundation for further cooperation to expand and enhance benefits of the agreement. These agreements establish free trade by reduced-duty treatment on imported goods.

The U.S. has entered into the following Free Trade Agreements: United States-Chile Free Trade Agreement (US–CFTA) (Pub. L. 108–77); the Republic of Singapore (Pub. L. 108–78, 117 Stat. 948, 19 U.S.C. 3805 note); Australia (Pub. L. 108–286); Morocco (Pub. L. 108–302); Jordan (Pub. L. 107–43); Bahrain (Pub. L. 109–169); Oman (Pub. L. 109–283); Peru (Pub. L. 110–138, 121 Stat. 1455); Korea (Pub. L. 112–41); Colombia (Pub. L. 112–42, 125 Stat. 462); Panama (Pub. L. 112–43); and Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (CAFTA–DR) (Pub. L. 109–53, 119 Stat. 462).

These free trade agreements involve collection of data elements such as information about the importer and exporter of the goods, a description of the goods, tariff classification number, and the preference criterion in the Rules of Origin.

Respondents can obtain information on how to make claims under these Free Trade Agreements by going to *http://www.cbp.gov/trade/free-trade-agreements* and use a standard fillable format for the FTA submission by going to *http://www.cbp.gov/document/guides/certification-origin-template.*

*Estimated Number of Respondents:* 359,400.

*Estimated Number of Total Annual Responses:* 361,000.

*Estimated Time per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 722,000.

Dated: April 24, 2018.

**Seth D Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

[FR Doc. 2018–08878 Filed 4–26–18; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0016]**

### Agency Information Collection Activities: Certificate of Origin

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than June 26, 2018) to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0016 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions 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, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

#### Overview of This Information Collection

*Title:* Certificate of Origin.

*OMB Number:* 1651–0016.

*Form Number:* CBP Form 3229.

*Action:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Abstract:* CBP Form 3229, Certificate of Origin, is used by shippers and importers to declare that goods being imported into the United States are produced or manufactured in a U.S. insular possession from materials grown, produced or manufactured in such possession. This form includes a list of the foreign materials included in the goods, and their description and value. CBP Form 3229 is used as documentation for goods entitled to enter the U.S. free of duty. This form is authorized by General Note 3(a)(iv) of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) and is provided for by 19 CFR part 7.3. CBP Form 3229 is accessible at *http://forms.cbp.gov/pdf/CBP_Form_3229.pdf.*

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 113.

*Estimated Number of Annual Responses per Respondent:* 20.

*Estimated Number of Total Annual Responses:* 2,260.

*Estimated Time per Response:* 20 minutes.

*Estimated Annual Burden Hours:* 746.

Dated: April 24, 2018.

**Seth D. Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

[FR Doc. 2018–08879 Filed 4–26–18; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0010]**

### Agency Information Collection Activities; Revision of a Currently Approved Collection: Nonimmigrant Petition Based on Blanket L Petition

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

**DATES:** The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 29, 2018. This process is conducted in accordance with 5 CFR 1320.10.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0010 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

**SUPPLEMENTARY INFORMATION:**

*Comments:*

The information collection notice was previously published in the **Federal Register** on January 31, 2018, at 83 FR 4502, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0050 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Nonimmigrant Petition Based on Blanket L Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–129S; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit.* Employers seeking to classify employees outside the United States as executives, managers, or specialized knowledge professionals, as nonimmigrant intra-company transferees pursuant to a previously approved blanket petition under sections 214(c)(2) and 101(a)(15)(L) of the Act, may file this form. USCIS uses the information provided through this form to assess whether the employee meets the requirements for L–1 classification under blanket L petition approval. Submitting this information to USCIS is voluntary. USCIS may provide the information provided through this form to other Federal, State, local, and foreign government agencies and authorized organizations, and may also be made available, as appropriate, for law enforcement purposes or in the interest of national security.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–129S is 75,000 and the estimated hour burden per response is 3 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 225,000 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $36,750,000.

Dated: April 23, 2018.

**Samantha Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2018–08874 Filed 4–26–18; 8:45 am]

BILLING CODE 9111–97–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0133]**

### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection; Request for Reduced Fee

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until June 26, 2018.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615–0133 in the body of the letter, the agency name and Docket ID USCIS–2018–0002. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2018–0002;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their

individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

**SUPPLEMENTARY INFORMATION:**

*Comments:*

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2018–0002 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Reduced Fee.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–942; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the data collected on this form to verify that the applicant is eligible for a reduced fee for the immigration benefit being requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–942 is 4,491 and the estimated hour burden per response is 0.75 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,368 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $19,087.

Dated: April 23, 2018.

**Samantha Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2018–08872 Filed 4–26–18; 8:45 am]

BILLING CODE 9111–97–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7002–N–07]**

## 60-Day Notice of Proposed Information Collection: Human Trafficking Housing Partnership

**AGENCY:** Office of Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* June 26, 2018.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Karen DeBlasio, Director, Program Coordination and Analysis Division, CPD, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Karen DeBlasio at Karen.M.DeBlasio@*hud.gov* or telephone 202–402–4773. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. DeBlasio.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Human Trafficking Housing Partnership.

*OMB Approval Number:* 2506—new.

*Type of Request:* New.

*Form Number:* SF 424, HUD SF 424 SUPP (if applicable), HUD–2993 (if applicable), HUD–96011 (if applicable), HUD–2880, SF–LLL.

*Description of the need for the information and proposed use:* The information to be collected will be used to rate applications, to determine eligibility for the Human Trafficking Housing Partnership and to establish grant amounts. Applicants, which must be state or local governments, nonprofit organizations, or a Federally recognized Indian Tribe or Tribally Designated Housing Entity (TDHE), will respond to narrative prompts to demonstrate their experience and expertise in providing housing and services to victims of human trafficking and to describe their intended program design, that will address the needs for housing and services that will result in permanent housing placement and sufficient income to ensure permanent housing is maintained once assistance discontinues.

*Respondents* (*i.e.* affected public): State and local governments, nonprofit

organizations, and Tribal Indian entities.

*Estimated Number of Respondents:* 20.

*Estimated Number of Responses:* 20.

*Frequency of Response:* 1.

*Average Hours per Response:* 14.5.

*Total Estimated Burdens:* 290.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 12, 2018.

**Lori Michalski,**

*Acting General Deputy Assistant Secretary for Community Planning and Development.*

[FR Doc. 2018–08976 Filed 4–26–18; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7006–N–06]**

## 60-Day Notice of Proposed Information Collection: Indian Community Development Block Grant

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* June 26, 2018.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, Room 3178, Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Indian Community Development Block Grant Information Collection.

*OMB Approval Number:* 2577–0191.

*Type of Request:* Extension of currently approved collection.

*Form Number:* HUD–4123, HUD–4125.

*Description of the need for the information and proposed use:* Title I of the Housing and Community Development Act of 1974 authorizes Indian Community Development Block Grants (ICDBG) and requires that grants be awarded annually on a competitive basis. The purpose of the ICDBG program is to develop viable Indian and Alaska Native communities by creating decent housing, suitable living environments, and economic opportunities primarily for low- and moderate-income persons. Consistent with this objective, not less than 70 percent of the expenditures are to benefit low and moderate-income persons. Eligible applicants include Federally-recognized tribes, which includes Alaska Native communities, and tribally authorized tribal organizations. Eligible categories of funding include housing rehabilitation, land acquisition to support new housing, homeownership assistance, public facilities and improvements, economic development, and microenterprise programs. For a complete description of eligible activities, please refer to 24 CFR 1003, subpart C.

The ICDBG program regulations are at 24 CFR part 1003. The ICDBG program requires eligible applicants to submit information to enable HUD to select the best projects for funding during annual competitions. Additionally, the information submitted is essential for HUD in monitoring grants to ensure that grantees are complying with applicable statutes and regulations and implementing activities as approved.

ICDBG applicants must submit a complete application package which includes an Application for Federal Assistance (SF–424), Applicant/Recipient Disclosure/Update Report (HUD–2880), Cost Summary (HUD–4123), and Implementation Schedule (HUD–4125). If the applicant has a waiver of the electronic submission requirement and is submitting a paper application, an Acknowledgement of Application Receipt (HUD–2993) must also be submitted. If the applicant is a tribal organization, a resolution from the tribe stating that the tribal organization is submitting an application on behalf of the tribe must also be included in the application package.

ICDBG recipients are required to submit a quarterly Federal Financial Report (SF–425) that describes the use of grant funds drawn from the recipient's line of credit. The reports are used to monitor cash transfers to the recipients and obtain expenditure data from the recipients. (24 CFR 1003.501(16))

The regulations at 24 CFR part 200 require that grantees and sub-grantees take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Consistent with these regulations, 24 CFR 1003.506(b) requires that ICDBG grantees report on these activities on an annual basis, with Contract and Subcontract Activity Report being due to HUD on October 10 of each year (HUD–2516).

The regulations at 24 CFR 1003.506 instruct recipients to submit to HUD an Annual Status and Evaluation Report (ASER) that describes the progress made in completing approved activities with a listing of work to be completed; a

breakdown of funds expended; and when the project is completed, a program evaluation expressing the effectiveness of the project in meeting community development needs. The ASER is due by November 15 each year and at grant closeout.

The information collected will allow HUD to accurately audit the program.

*Respondents:* Federally recognized Native American Tribes, Alaska Native communities and corporations, and tribal organizations.

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Annual burden hours | Hourly cost per response | Annual cost |
|---|---|---|---|---|---|---|---|
| Grant Application (Includes SF–424, HUD–2880, HUD–2993, HUD–4123, HUD–4125) | 240 | 1 | 240 | 30 | 7,200 | $19.23 | $138,461.54 |
| Federal Financial Report (SF–425) | 100 | 4 | 400 | .5 | 200 | 19.23 | 3,846.15 |
| Contract and Subcontract Activity Report (HUD–2516) | 100 | 1 | 100 | 1 | 100 | 19.23 | 1,923.08 |
| Annual Status and Evaluation Report (ASER) | 100 | 1 | 100 | 4 | 400 | 19.23 | 7,692.31 |
| Total | | | 840 | | 7,900 | | 151,923.08 |

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 19, 2018.

**Merrie Nichols-Dixon,**

*Director, Office of Policy, Programs and Legislative Initiatives.*

[FR Doc. 2018–08972 Filed 4–26–18; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7005–N–04]**

## 60-Day Notice of Proposed Information Collection: Manufactured Housing Installation Program Reporting Requirements

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* June 26, 2018.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Teresa B. Payne, Acting Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–6423. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Payne.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Manufactured Housing Installation Program Reporting Requirements.

*OMB Approval Number:* 2502–0578.

*Type of Request:* Extension.

*Form Number:* HUD 305, HUD 306, HUD 307, HUD 308, HUD 309 and HUD 312

*Description of the need for the information and proposed use:* The Manufactured Housing Installation Program establishes regulations for the administration of an installation program and establishes a new manufactured housing installation program for states that choose not to implement their own programs. HUD uses the information collected for the enforcement of the Model Installation Standards in each State that does not have an installation program established by State law to ensure that the minimum criteria of an installation program are met.

*Respondents* (*i.e.* affected public): Individuals or households; State, Local, or Tribal Government.

*Estimated Number of Respondents:* 3,804.

*Estimated Number of Responses:* 171,185.

*Frequency of Response:* Annually.

*Average Hours per Response:* 8.

*Total Estimated Burdens:* 127,00.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 10, 2018.

**Dana T. Wade,**

*General Deputy Assistant Secretary for Housing.*

[FR Doc. 2018–08970 Filed 4–26–18; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7005–N–07]**

## 60-Day Notice of Proposed Information Collection: Single Family Premium Collection Subsystem—Periodic (SFPCS)

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* June 26, 2018.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Natalia Yee, Director Single Family Insurance Operations Division, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Natalia Yee at *Natalia.Yee@hud.gov*; telephone 202–402–3506. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from *Mrs. Yee.*

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Single Family Premium Collection Subsystem—Periodic (SFPCS–P).

*OMB Approval Number:* 2502–0536.

*Type of Request:* Extension.

*Form Number:* None.

*Description of the need for the information and proposed use:* The Single Family Premium Collection Subsystem—Periodic (SFPCS–P) allows the lenders to remit the Periodic Mortgagee Insurance using funds obtained from the mortgagor during the collection of the monthly mortgage payment. The SFPCS–P strengthens HUD's ability to manage and process periodic single-family mortgage insurance premium collections and corrections to submitted data. It also improves date integrity for the Single Family Mortgage Insurance Program. Therefore, the FHA approved lenders use the automated Clearing House (ACH) application for all transmissions with SFPCS–P. The authority for this collection of information is specified in 24 CFR 203.264 and 24 CFR 203.269. In general, the lenders use the ACH application to remit the periodic premium payments through SFPCS–P for the required FHA insured cases and to comply with the Credit Reform Act.

*Respondents (i.e. affected public):* Business or other for-profit.

*Estimated Number of Respondents:* 641.

*Estimated Number of Responses:* 7,692.

*Frequency of Response:* 12.

*Average Hours per Response:* .15.

*Total Estimated Burdens:* 2,765.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority**

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 10, 2018.

**Dana Wade,**

*General Deputy Assistant Secretary for Housing.*

[FR Doc. 2018–08967 Filed 4–26–18; 8:45 am]

**BILLING CODE 4210–67–P**

## INTER-AMERICAN FOUNDATION

## Sunshine Act Meetings

**TIME AND DATE:** May 7, 2018, 10:00 a.m.–1:00 p.m.

**PLACE:** Inter-American Foundation, 1331 Pennsylvania Ave. NW, Suite 1200 North Building, Washington, DC 20004.

**STATUS:** Meeting of the Board of Directors, Open to the Public.

**MATTERS TO BE CONSIDERED:**

- Approval of the Minutes of the November 6, 2017, Meeting of the Board of Directors & Advisory Council

- FY 18 Budget and FY19 Request
- Status of Nomination of New Board Member(s)
- Management Report
- IAF's 50th Anniversary
- Grant Review Committee
- Adjournment

**CONTACT PERSON FOR MORE INFORMATION:** Paul Zimmerman, General Counsel, (202) 683–7118.

**Paul Zimmerman,**

*General Counsel.*

[FR Doc. 2018–09063 Filed 4–25–18; 4:15 pm]

**BILLING CODE 7025–01–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R2–ES–2018–N035; FXES11140200000–189–FF02ENEH00]**

### Incidental Take Permit Applications Received To Participate in the American Burying-Beetle Amended Oil and Gas Industry Conservation Plan in Oklahoma

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

**ACTION:** Notice of availability; request for public comments.

**SUMMARY:** Under the Endangered Species Act (ESA), as amended, we, the U.S. Fish and Wildlife Service, invite the public to comment on federally-listed American burying-beetle incidental take permit (ITP) applications. The applicants anticipate American burying-beetle take as a result of impacts to Oklahoma habitat the species uses for breeding, feeding, and sheltering. The take would be incidental to the applicants' activities associated with oil and gas well field and pipeline infrastructure (gathering, transmission, and distribution), including geophysical exploration (seismic), construction, maintenance, operation, repair, decommissioning, and reclamation. If approved, the permits would be issued under the approved *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma.*

**DATES:** To ensure consideration, written comments must be received on or before May 29, 2018.

**ADDRESSES:** You may obtain copies of all documents and submit comments on the applicants' ITP applications by one of the following methods. Please refer to the proposed permit number when requesting documents or submitting comments.

- *Email: fw2_hcp_permits@fws.gov.*
- *U.S. Mail:* U.S. Fish and Wildlife Service, Endangered Species—HCP Permits, P.O. Box 1306, Room 6093, Albuquerque, NM 87103.

**FOR FURTHER INFORMATION CONTACT:** Marty Tuegel, Branch Chief, by U.S. mail at U.S. Fish and Wildlife Service, Environmental Review Division, P.O. Box 1306, Room 6078, Albuquerque, NM 87103; or by telephone at 505–248–6651.

**SUPPLEMENTARY INFORMATION:**

#### Introduction

Under the ESA (16 U.S.C. 1531 *et seq.*), we, the U.S. Fish and Wildlife Service, invite the public to comment on ITP applications to take the federally-listed American burying-beetle (*Nicrophorus americanus*) during oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

If approved, the permits would be issued to the applicants under the *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma.* The original ICP was approved on May 21, 2014, and the ''no significant impact'' finding notice was published in the **Federal Register** on July 25, 2014 (79 FR 43504). The draft amended ICP was made available for comment on March 8, 2016 (81 FR 12113), and approved on April 13, 2016. The ICP and the associated environmental assessment/finding of no significant impact are available on our website at *http://www.fws.gov/southwest/es/oklahoma/ABBICP.* However, we are no longer taking comments on these finalized, approved documents.

#### Applications Available for Review and Comment

We invite local, state, Tribal, and Federal agencies, and the public to comment on the following applications under the ICP, for incidentally taking the federally-listed American burying-beetle. Please refer to the appropriate proposed permit number (TE75667C or TE78510C) when requesting application documents and when submitting comments. Documents and other information the applicants have submitted are available for review, subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

**Permit TE75667C**

*Applicant:* Kaiser-Francis Oil Company, Tulsa, OK.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

**Permit TE78510C**

*Applicant:* Marathon Pipe Line Company, Findlay, OH.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

#### Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

#### Authority

We provide this notice under the ESA, section 10(c) (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: March 16, 2018.

**Amy L. Lueders,**

*Regional Director, Southwest Region, U.S. Fish and Wildlife Service.*

[FR Doc. 2018–08955 Filed 4–26–18; 8:45 am]

BILLING CODE 4333–15–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[RR03510000, XXXR0680R1, RR171260120019400]**

### Final Environmental Impact Statement, Pure Water San Diego Program, North City Project; San Diego County, California

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Bureau of Reclamation and the City of San Diego have completed a final Environmental Impact Report/Environmental Impact Statement for the North City Project, the first phase of the Pure Water San Diego Program—a water and wastewater facilities plan to produce potable water from recycled water. The Bureau of Reclamation is recommending the Miramar Alternative as the preferred alternative for approval.

**DATES:** The Bureau of Reclamation will not make a decision on the proposed project until at least 30 days after the Notice of Availability is published by the Environmental Protection Agency.

**FOR FURTHER INFORMATION CONTACT:** Doug McPherson, Environmental Protection Specialist, Bureau of Reclamation, Southern California Area Office, 27708 Jefferson Avenue, Suite 202, Temecula, CA 92590; telephone: (951) 695–5310; facsimile: (951) 695–5319; or email: *dmcpherson@usbr.gov.*

**SUPPLEMENTARY INFORMATION:** The Miramar Alternative will expand the existing North City Water Reclamation Plant and construct an adjacent North City Pure Water Facility with a purified water pipeline to Miramar Reservoir. A project alternative would install a longer pipeline to deliver product water to the larger San Vicente Reservoir instead.

Other project components include: A new pump station and forcemain to deliver additional wastewater to the North City Water Reclamation Plant, a brine discharge pipeline, upgrades to the existing Metropolitan Biosolids Center, and a renewable energy facility with a landfill gas pipeline crossing Marine Corps Air Station Miramar and the Miramar National Cemetery.

The Bureau of Reclamation issued a Notice of Intent on August 5, 2016 (81 FR 51937). The United States Marine Corps, the Veterans Administration, and the Environmental Protection Agency each accepted cooperating agency status. Notice of Availability for the draft EIR/EIS was published by the Environmental Protection Agency on November 24, 2017 (82 FR 55831) and by the Bureau of Reclamation on November 28, 2017 (82 FR 56264). The comment period on the draft EIR/EIS ended on January 8, 2018. The final EIR/EIS contains responses to all comments received.

The final EIR/EIS is available on the City of San Diego website at: *https://www.sandiego.gov/water/purewater/purewatersd/reports.*

Dated: April 23, 2018.

**Terrance J. Fulp,**

*Regional Director, Lower Colorado Region.*

[FR Doc. 2018–08942 Filed 4–26–18; 8:45 am]

BILLING CODE 4332–90–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–601 and 731–TA–1411 (Preliminary)]**

### Laminated Woven Sacks from Vietnam

#### Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of laminated woven sacks from Vietnam that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of Vietnam.[2]

#### Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

#### Background

On March 7, 2018, the Laminated Woven Sacks Fair Trade Coalition, which is comprised of Polytex Fibers Corporation (Houston, Texas) and ProAmpac, LLC (Cincinnati, Ohio), filed a petition with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of laminated woven sacks from Vietnam. Accordingly, effective March 7, 2018, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation No. 701–TA–601 and antidumping duty investigation No. 731–TA–1411 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 13, 2018 (83 FR 10875). The conference was held in Washington, DC, on March 28, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on April 23, 2018. The views of the Commission are contained in USITC Publication 4779 (April 2018), entitled *Laminated Woven Sacks from Vietnam: Investigation Nos. 701–TA–601 and 731–TA–1411 (Preliminary).*

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] *Laminated Woven Sacks From the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigation,* 83 FR 14253, April 3, 2018; *Laminated Woven Sacks From the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigation,* 83 FR 14257, April 3, 2018.

By order of the Commission.

Issued: April 23, 2018.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2018–08856 Filed 4–26–18; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Submarine Telecommunication Systems and Components Thereof, DN 3311;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (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 has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of NEC Corporation and NEC Corporation of America on April 23, 2018. The complaint alleges violations of section 337 of the Tariff Act of 1930 (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 submarine telecommunication systems and components thereof. The complaint names as respondents: Xtera, Inc. of Allen, TX; MC Assembly of Melbourne, FL; and MC Test Services, Inc. of Melbourne, FL. The complainant requests that the Commission issue a limited exclusion order and cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register.** There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3311) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electonic Filing Procedures, Electronic Filing Procedures).[1] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov*

Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 23, 2018.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2018–08857 Filed 4–26–18; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Federal Bureau of Investigation

**[OMB Number 1110–NEW]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection

**AGENCY:** Federal Bureau of Investigation, Department of Justice.

**ACTION:** 60 day notice.

**SUMMARY:** The Department of Justice, Federal Bureau of Investigation, Training Division is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** The Department of Justice encourages public comment and will accept input until June 26, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kevin R. Furtick, Chief, Evaluation and Assessment Unit, 1234 Range Road, Quantico, VA, *krfurtick@fbi.gov,* 703–632–3222.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Department of Justice, Federal Bureau of Investigation, Training Division, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

1. *Type of Information Collection:* New Collection.

2. *The Title of the Form/Collection:* FBI Training Generic Clearance.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Federal Bureau of Investigation, Training Division, Evaluation and Assessment Unit.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents of this collection include members of the State, Local or Tribal Government Law Enforcement community and Federal Government Law Enforcement partners. This collection will gather feedback from FBI training programs to ensure the training delivered is realistic and relevant to today's law enforcement partners.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Respondents are estimated to be 1,100 annually with an estimated seven surveys per respondent that are estimated to be completed in less than 10 minutes per collection.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total estimated time for respondents to complete these evaluations per respondent is 70 minutes.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: April 24, 2018.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2018–08882 Filed 4–26–18; 8:45 am]

**BILLING CODE 4410–02–P**

## DEPARTMENT OF JUSTICE

**[OMB Number: 1105–New]**

### Agency Information Collection: Submission to OMB for Review and Approval

**AGENCY:** Civil Division, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice, Civil Division, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** on February 22, 2018, allowing for a 60 day comment period.

**DATES:** The Department of Justice encourages public comment and will accept input until May 29, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Talitha Guinn-Shaver, 950 Pennsylvania Ave. NW, Washington, DC 20005, Attn: Civil Communications Office (Attn: Elder Justice Initiative) (Phone:202–598–0292). Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Civil Division, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

1. Type of Information Collection: New.

2. The Title of the Form/Collection: Survey of Elder Justice Needs in Rural America.

3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: Civil Division, United States Department of Justice.

4. Affected public who will be asked or required to respond, as well as a brief abstract: Abstract: The US Department of Justice, Elder Justice Initiative is conducting a survey of rural needs for the field of elder abuse. These needs will be combined with findings from local listening sessions and will inform the agenda of a national conference on rural elder abuse in the Fall of 2018.

5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that no more than 5000 respondents will apply. Each application takes approximately less than 30 minutes to complete and is submitted once per year (annually).

6. An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the applications is 2500 hours. 5000 × 30 minutes = 150,000/60 minutes per hour = 2500 burden hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: April 24, 2018.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2018–08876 Filed 4–26–18; 8:45 am]

**BILLING CODE 4410–12–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On April 24, 2018, the Department of Justice lodged a proposed consent decree with the United States District Court for the Western District of Pennsylvania in the lawsuit entitled *United States of America, et al.* v. *MarkWest Liberty Midstream & Resources, LLC, et al.,* Civil Action No. 2:18–cv–00520–LPL.

The lawsuit seeks injunctive relief and civil penalties for violations of the Clean Air Act and Pennsylvania's and Ohio's federally-approved State Implementation Plans (''SIPs'') at Defendants' MarkWest Liberty Midstream & Resources LLC and Ohio Gathering Company, LLC compressor stations and stand-alone pigging facilities in western Pennsylvania and eastern Ohio. The principal violations relate to alleged failures to obtain required permits, including, in some cases, Nonattainment New Source Review and Title V permits, to construct and operate.

The proposed decree requires Defendants to perform injunctive relief, pay a $610,000 civil penalty, and complete three Supplemental Environmental Projects and a Pennsylvania-only Community Environmental Project. Entering into and fully complying with the proposed consent decree will resolve Defendants' past civil liability at all covered facilities for various types of violations of the Clean Air Act and the Pennsylvania and Ohio SIPs.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al.* v. *MarkWest Liberty Midstream & Resources, LLC,* D.J. Ref. No. 90–5–2–1–11374. 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 $26.00 (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. 2018–08944 Filed 4–26–18; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Bureau of Labor Statistics Occupational Safety and Health Statistics Cooperative Agreement Application Package

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Bureau of Labor Statistics sponsored information collection request (ICR) revision titled, ''Bureau of Labor Statistics Occupational Safety and Health Statistics Cooperative Agreement Application Package,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before May 29, 2018.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201803-1220-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Bureau of Labor Statistics (BLS) Occupational Safety and Health Statistics Cooperative Agreement Application Package information collection. The BLS enters into cooperative agreements with States and their political subdivisions to assist them in developing and administering programs dealing with occupational safety and health statistics and to arrange through these agreements for research to further Occupational Safety and Health Act of 1970 (OSH Act) objectives. The BLS awards funds to a State through a Cooperative Agreement. The Cooperative Agreement package includes application instructions and materials as well as financial reporting, closeout, and other administrative requirements. This information collection has been classified as a revision, because of the addition of an Occupational Safety and Health Statistics Budget Variance form and the Occupational Safety and Health Statistics Financial Reconciliation Worksheet -B: AAMC (additional activities to maintain currency) form. BLS Authorizing Statute sections 1 and 2, OSH Act section 20, and Federal Grant and Cooperative Agreement Act of 1977 section 6 authorize this information collection. *See* 29 U.S.C. 1, 2, 669; 31 U.S.C. 6305.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0149. The current approval is scheduled to expire on May 31, 2018; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 17, 2017 (82 FR 54416).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register.** In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0149. The OMB is particularly interested in comments that:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are 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.

*Agency:* DOL–BLS.

*Title of Collection:* Bureau of Labor Statistics Occupational Safety and Health Statistics Cooperative Agreement Application Package.

*OMB Control Number:* 1220–0149.

*Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Respondents:* 56.

*Total Estimated Number of Responses:* 445.

*Total Estimated Annual Time Burden:* 400 hours.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: April 23, 2018.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2018–08896 Filed 4–26–18; 8:45 am]

**BILLING CODE 4510–24–P**

---

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Servicing Multi-Piece and Single Piece Rim Wheels Standard

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Servicing Multi-Piece and Single Piece Rim Wheels Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before May 29, 2018.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201802-1218-005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any

comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Servicing Multi-Piece and Single Piece Rim Wheels Standard information collection requirements codified in regulations 29 CFR 1910.177. The Standard includes a requirement for the manufacturer or a registered professional engineer to certify that repaired restraining devices and barriers meet specified strength requirements and a requirement for defective wheels and wheel components be marked or tagged. The purpose of the requirement is to reduce workers' risk of death or serious injury by ensuring that restraining devices used during the servicing of multi-piece rim wheels are in safe operating condition. Occupational Safety and Health Act of 1970 sections 2(b)(9), 6, and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0219.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2018. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 26, 2017 (82 FR 61035).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0219. The OMB is particularly interested in comments that:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are 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.

*Agency:* DOL–OSHA.

*Title of Collection:* Servicing Multi-Piece and Single Piece Rim Wheels Standard.

*OMB Control Number:* 1218–0219.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 9.

*Total Estimated Number of Responses:* 9.

*Total Estimated Annual Time Burden:* 1 hour.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: April 19, 2018.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2018–08884 Filed 4–26–18; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Labor Market Information Cooperative Agreement

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Labor Market Information Cooperative Agreement,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before May 29, 2018.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201803-1220-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Labor Market Information (LMI) Cooperative Agreement information collection. The LMI Cooperative Agreement includes all information needed by a State Workforce Agency to apply for funds to assist it in operating one or more of the four BLS LMI programs and to report on the status of the obligation and expenditure of any such funds as well as to close out the Cooperative Agreement. BLS Authorizing Statute sections 1 and 2, Wagner-Peyser Act as Amended section 14, and Federal Grant and Cooperative Agreement Act of 1977 section 6 authorize this information collection. *See* 29 U.S.C. 1, 2, 49L–1; 31 U.S.C. 6305.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0079.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on May 31, 2018. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 17, 2017 (82 FR 54418).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0079. The OMB is particularly interested in comments that:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are 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.

*Agency:* DOL–BLS.

*Title of Collection:* Labor Market Information Cooperative Agreement.

*OMB Control Number:* 1220–0079.

*Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Respondents:* 54.

*Total Estimated Number of Responses:* 1,020.

*Total Estimated Annual Time Burden:* 926 hours.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: April 19, 2018.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2018–08885 Filed 4–26–18; 8:45 am]

BILLING CODE 4510–24–P

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Coverage of Certain Preventive Services Under the Affordable Care Act—Private Sector

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) revision titled, ''Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before May 29, 2018.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201803-1210-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Coverage of Certain Preventive Services under the Affordable Care Act information collection requirements applicable to the private sector. A covered health insurance issuer or third-party administrator providing or arranging payments for contraceptive services for participants and beneficiaries in plans (or student enrollees and covered dependents in student health insurance coverage) of eligible organizations must generally provide a written notice to such plan participants and beneficiaries (or such student enrollees and covered dependents) informing them of the availability of such payments. To satisfy the notice requirement, issuers and third-party administrators may use the model language set forth in final regulations issued on October 13, 2017, or substantially similar language. *See* 78 FR 39893. To avoid contracting,

arranging, paying, or referring for contraceptive coverage, an organization seeking to be treated as an eligible organization under the final regulations may self-certify—by using EBSA Form 700—that the organization meets the definition of an eligible organization. This ICR has been classified as a revision for two reasons. First, the information collection requirements related to for-profit firms and not-for profit institutions were previously approved under separate OMB Control Numbers (1210–0150 and 1210–0152). The Department is now combining the collections, as the requirements are identical for all private sector respondents. In addition, the clearance is being revised to align the approval with injunctive activity by suspending the information collection requirements related to the notice to enrollees about the availability of separate payments for contraceptive services and the notice of revocation of an accommodation. *See California* v. *Health and Human Services,* et al., 281 F. Supp. 3d 806, 813 (N.D. Cal. 2017); *Pennsylvania* v. *Trump,* 281 F. Supp. 3d 553, 561 (E.D. Pa. 2017). Employee Retirement Income Security Act of 1974 section 508 authorizes this information collection. *See* 29 U.S.C. 1059.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0150. The current approval is scheduled to expire on April 30, 2018; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 13, 2017 (82 FR 47769).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0150. The OMB is particularly interested in comments that:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are 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.

*Agency:* DOL–EBSA.

*Title of Collection:* Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector.

*OMB Control Number:* 1210–0150.

*Affected Public:* Private Sector—businesses or other for-profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 5.

*Total Estimated Number of Responses:* 5.

*Total Estimated Annual Time Burden:* 4 hours.

*Total Estimated Annual Other Costs Burden:* $1.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: April 23, 2018.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2018–08890 Filed 4–26–18; 8:45 am]

BILLING CODE 4510–29–P

---

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Survey of Occupational Injuries and Illnesses

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Survey of Occupational Injuries and Illnesses,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before May 29, 2018.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201712-1220-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Survey of Occupational Injuries and Illnesses (SOII) information collection. The SOII is the primary indicator of the Nation's progress in providing every working man and woman safe and healthful working conditions. The survey measures the overall rate of work injuries and illnesses by industry. In addition, survey data are used to evaluate the effectiveness of Federal and State programs and to prioritize scarce resources. Respondents include employers who maintain related records in accordance with the Occupational Safety and Health Act (OSH Act) and employers who are normally exempt from such recordkeeping. Each year a

sample of exempt employers is required to keep records and participate in the survey. OSH Act sections 8(c) and 24(a) authorize this information collection. *See* 29 U.S.C. 657(c), 673(a).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0045.

The current approval for this collection is scheduled to expire on December 31, 2018. The DOL seeks to extend PRA authorization through December 31, 2019, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 19, 2016 (82 FR 31666).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0045. The OMB is particularly interested in comments that:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are 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.

*Agency:* DOL–BLS.

*Title of Collection:* Survey of Occupational Injuries and Illnesses.

*OMB Control Number:* 1220–0045.

*Affected Public:* State, Local, and Tribal Governments; Individuals or Households; and Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

*Total Estimated Number of Respondents:* 243,520.

*Total Estimated Number of Responses:* 243,520.

*Total Estimated Annual Time Burden:* 311,644 hours.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: April 23, 2018.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2018–08895 Filed 4–26–18; 8:45 am]

**BILLING CODE 4510–24–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Institute of Museum and Library Services

### Submission for OMB Review, Comment Request, Proposed Collection: IMLS Grants to States Program ''State Program Reporting System (SPR) Forms

**AGENCY:** Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

**ACTION:** Submission for OMB Review, Comment Request.

**SUMMARY:** The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. This notice proposes the clearance of the IMLS Grants to States Program ''State Program Reporting System (SPR) Forms.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

**DATES:** Comments must be submitted to the office listed in the **FOR FURTHER INFORMATION CONTACT** section below on or before May 29, 2018.

OMB is particularly interested in comments that help the agency to:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are 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).

**ADDRESSES:** Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sandra Webb, Director of Grant Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Webb can be reached by Telephone: 202–653–4718 Fax: 202–653–4608, or by email at *swebb@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

**SUPPLEMENTARY INFORMATION:** The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

*Current Actions:* This notice proposes the clearance of the IMLS Grants to States Program ''State Program Reporting System (SPR) Forms and Instructions. The 60-day Notice for the ''Notice of Proposed Information Collection Requests: 2019–2021 IMLS Grants to States Program ''State Program Reporting System (SPR) Forms were published in the **Federal Register** on February 28, 2018 (83 FR 8711). The agency has taken into consideration the one comment that was received under this notice.

This action is to renew the forms and instructions for the IMLS Grants to

States Program ''State Program Reporting System'' for the next three years. These forms include:

- SPR Reporting System User Documentation
- Grants to States Program Report
- Financial Status Report
- SPR Phase 3 Reporting
- State Legal Officer's Certification of the Authorized Certifying Official
- internet Safety Certification for Applicant Public Libraries, Public Elementary and Secondary School Libraries, and Consortia with Public and/or Public School Libraries

The Grants to States program is the largest source of Federal funding support for library services in the U.S. Using a population based formula, more than $150 million is distributed among the State Library Administrative Agencies (SLAAs) every year. SLAAs are official agencies charged by law with the extension and development of library services, and they are located in:

- Each of the 50 States of the United States, and the District of Columbia;
- The Territories (the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and
- The Freely Associated States (the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau).

Each year, over 1,500 Grants to States projects support the purposes and priorities outlined in the Library Services and Technology Act (LSTA). (See 20 U.S.C. 9121 *et seq.*) SLAAs may use the funds to support statewide initiatives and services, and they may also distribute the funds through competitive subawards (subgrants or cooperative agreements) to public, academic, research, school, or special libraries or library consortia (for-profit and Federal libraries are not eligible). Each SLAA must submit a plan that details library services goals for a five-year period. (20 U.S.C 9134). SLAAs must also conduct a five-year evaluation of library services based on that plan. These plans and evaluations are the foundation for improving practice and informing policy. Each SLAA receives IMLS funding to support the five year period through a series of overlapping, two year grant awards.

Each SLAA must file interim and final financial reports, as well as final performance reports for each of these two year grants. Since 2002, the final performance reporting has been accomplished through IMLS' State Program Reporting (SPR) system. To improve how IMLS measures the impact of the Federal investment in the Grants to States program, IMLS and SLAAs have been partnering on a comprehensive planning and evaluation initiative called ''Measuring Success.'' This multi-year effort has fundamentally shifted the way in which Grants to States final report information is gathered and shared, and it is improving program accountability, reporting, evaluation, and assessment. The SPR has been developed in phases, in concert with a small group of SLAAs acting as pilots for each phase. Roughly, these phases corresponded to: Framework and question development; descriptive reporting for the two year award; and finally the incorporation of the performance measurement reporting. Currently, all phases have been rolled out and are reflected in the documentation submitted for the three year approval. The Measuring Success initiative has driven the development of the data reporting and analysis system (database) that replaces the older narrative State Program Report system.

The SPR development was guided by a data reporting and collection framework that balances the need for descriptive information to monitor compliance with award conditions with the need for data on performance measures to assess the impact of the public funds. By gathering project data more consistently, IMLS is better able to compare projects within and across states and demonstrate the impact of public funds on library services. States are also able to share information about their projects both within the library community and with the public at large.

*Agency:* Institute of Museum and Library Services.

*Title:* IMLS Grants to States Program ''State Program Reporting System (SPR) Forms.

*OMB Number:* 3137–0071.

*Frequency:* Once per year.

*Affected Public:* State Library Administrative Agencies.

*Number of Respondents:* 56.

*Estimated Average Burden per Response:* 47.83 hours.

*Estimated Total Annual Burden:* 2,678 hours.

*Total Annualized capital/startup costs:* n/a.

*Total Annual costs:* $74,113.

Dated: April 24, 2018.

**Kim Miller,**

*Grants Management Specialist, Office of Grants Policy and Management.*

[FR Doc. 2018–08936 Filed 4–26–18; 8:45 am]

BILLING CODE 7036–01–P

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** on February 14, 2018, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

**FOR FURTHER INFORMATION CONTACT:** Comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 7th Street NW, Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Room W18000, Alexandria, Virginia 22314, or send email to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling Ms. Plimpton at (703) 292–7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

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

**SUPPLEMENTARY INFORMATION:**

*Comments:* Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the

information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) 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.

*Title:* Engineering Industrial Innovation and Partnerships (IIP) Program Monitoring Data Collections.

*OMB Control Number:* 3145–0238.

*Proposed Project:* NSF provides nearly 20 percent of federal funding for basic research to academic institutions.[1] Within NSF, the Directorate for Engineering (ENG) has primary responsibility for promoting the progress of engineering in the United States in order to enable the Nation's capacity to perform. Its investments in engineering research and education aim to build and strengthen a national capacity for innovation that can lead over time to the creation of new shared wealth and a better quality of life. Most NSF programs in engineering are funded through the Directorate for Engineering, which also sponsors the NSF's Industrial Innovation and Partnerships (IIP) Division. To these ends, ENG provides support for research and implementation activities that may meet national needs. While scientists seek to discover what is not yet known, engineers apply fundamental science to design and develop new devices and engineered systems to solve societal problems. ENG also focuses on broadening participation in engineering research and careers, particularly among those individuals traditionally underrepresented and underemployed in the STEM workforce, including but not limited to, women, persons with disabilities, and racial and ethnic minorities.

This request seeks approval for a group of information collections intended to monitor outputs, short-term, intermediate and long-term outcomes of NSF–ENG investments in research and innovation in the Division of Industrial Innovation and Partnerships (IIP). IIP programs serve the entire foundation by fostering partnerships to advance technological innovation and plays an important role in the public-private innovation partnership enterprise by investing in science and engineering research across all disciplines that have the potential for high impact in meeting national and societal needs. IIP focuses on leveraging federal, small business, industrial, university, state and community college resources.

Genuine partnerships between academe and industry are an important aspect of IIP programs and should facilitate the types of infrastructure that can sustain and nurture the spread of innovative activity.

Innovation infrastructures educate and train human capital for the research enterprise and the entrepreneurial aspects of innovation; develop social networks characterized by shared commitment and trust; and build a base of operational support without which sustainable partnerships cannot exist. This support includes a diversified base of private investment, a physical place to provide a context for incubation, technical, management, and administrative support, laboratories, communications services, and reliable sources of capital. One end of the innovation spectrum within the division includes unsolicited research proposals generated by the academic community. On the other end of the innovation spectrum, IIP supports small business research proposals aimed at pursuing opportunities to commercialize products and services.

IIP is home to the two Congressionally mandated small business research programs, the Small Business Innovation Research (SBIR) program and the Small Business Technology Transfer (STTR) program. IIP also manages the Partnerships for Innovation: Accelerating Innovation Research (PFI:AIR) as well as the Partnerships for Innovation: Building Innovation Capacity (PFI:BIC) program, which stimulate innovation by building partnerships across the scientific, engineering, and business community. In addition, the IIP leverages industrial support through the Industry/University Cooperative Research Centers (I/UCRC) program. The division also actively participates in NSF-wide programs, such as the Grants Opportunities for Academic Liaison with Industry (GOALI) program. Another NSF-wide program in which IIP actively participates is the Innovation Corps program (I-Corps), which equips scientists with the entrepreneurial tools needed to transform discoveries with commercial realization potential into innovative technologies.[2] ENG-funded projects could include research opportunities and mentoring for educators, scholars, small businesses and university students.

These survey questionnaires, individually tailored to measure outputs and outcomes for different programs, will provide essential information for program monitoring purposes.

Data collected by ENG IIP program monitoring collections will be used for program planning, management, and evaluation. Summaries of monitoring data are used to respond to queries from Congress, the public, NSF's external merit reviewers who serve as advisors, including Committees of Visitors (COVs), and NSF's Office of the Inspector General. These data are needed for effective administration, program and project monitoring, evaluation, and for measuring attainment of NSF's program and strategic goals, as identified by the President's Accountable Government Initiative, the Government Performance and Results Act (GPRA) Modernization Act of 2010, and NSF's Strategic Plan.

The eight (8) program-specific collections included in this request are designed to assist in management of specific programs and to serve as data resources for current and future program evaluations. As such, expected outcomes could vary according to the nature of the program funding, field of study, and other program characteristics.

| Office | Programs |
|---|---|
| Industrial Innovation and Partnerships (IIP) | Grant Opportunities for Academic Liaison with Industry (GOALI).<br>Innovation Corps (I-Corps).<br>Partnerships For Innovation: Accelerating Innovation Research (PFI: AIR).<br>Partnerships For Innovation: Building Innovation Capacity (PFI:BIC).<br>Small Business Innovation Research (SBIR). |

[1] National Science Foundation. (2012). *NSF at a glance.* Retrieved from *http://www.nsf.gov/about/glance.jsp.*

[2] National Science Foundation. (2014) *About IIP.* Retrieved from *http://www.nsf.gov/eng/iip/about.jsp.*

This data collection effort will enable program officers to longitudinally monitor outputs and outcomes given the unique goals and purpose of their programs. This is very important to enable appropriate and accurate evidence-based management of the programs and to determine whether or not the specific goals of the programs are being met.

Grantees will be invited to submit this information on a periodic basis via data collection methods that include but are not limited to online surveys, interviews, phone interviews, etc. These indicators are both quantitative and descriptive and may include, for example, the characteristics of project personnel and students; sources of complementary cash and in-kind support to the ENG project; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents, licenses; publications; descriptions of significant advances and other outcomes of the ENG-funded effort.

*Use of the Information:* The data collected will be used for NSF internal reports, historical data, program level studies and evaluations, and for securing future funding for the ENG program maintenance and growth. These data could be used for program evaluation purposes if deemed necessary for a particular program. Evaluation designs could make use of metadata associated with the award, and other characteristics to identify a comparison group to evaluate the impact of the program funding and other interesting research questions.

ESTIMATE OF BURDEN

| Collection title | Number of respondents | Annual number of hours/ respondents | Annual hour burden |
|---|---|---|---|
| Grant Opportunities for Academic Liaison with Industry (GOALI) | 200 | 1 | 200 |
| Innovation Corps (I-Corps) Longitudinal Collection | 700 | 1 | 700 |
| Innovation Corps (I-Corps) Pre-Course Survey Questionnaire | 800 | .5 | 400 |
| Innovation Corps (I-Corps) Post-Course Survey Questionnaire | 800 | .5 | 400 |
| Partnerships for Innovation: Accelerating Innovation Research (PFI:AIR) | 200 | 1 | 200 |
| Partnerships for Innovation: Building Innovation Capacity (PFI:BIC) | 30 | 1 | 30 |
| Small Business Innovation Research (SBIR)/Small Business Technology Transfer (STTR) | 800 | 2 | 1,600 |
| SBIR Baseline Monitoring Survey | 800 | 2 | 1,600 |
| Total | 4,430 | 8.5 | 4,880 |

*Respondents:* The respondents are PIs, partners or students. For some programs (I-Corps) the burden already includes a response from 3 members of the team in the pre- and post surveys. For all others, one PI or assignee per award completes the questionnaire.

*Estimated Number of Responses per Report:* One.

Dated: April 23, 2018.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2018–08863 Filed 4–26–18; 8:45 am]

**BILLING CODE 7555–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–83091; File No. SR–NASDAQ–2018–029]**

## Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Rule 4120 To Correct a Citation

April 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 11, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change Rule 4120 to correct a citation.

The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

**4120. Limit Up-Limit Down Plan and Trading Halts**

(a)–(b) No change.

(c) Procedure for Initiating and Terminating a Trading Halt

(1)–(8) No change.

(9) For purposes of this Rule and Rule 4753, the process for halting and initial pricing of a security that is the subject of an initial public offering shall also be available for the initial pricing of any other security that has not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing, provided that a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed is willing to perform the functions under Rule 4120(c)[(7)(B)]*(8)* that are performed by an underwriter with respect to an initial public offering.

(10) No change.

* * * * *

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Nasdaq is proposing to correct a rule reference found in Rule 4120.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

In 2014, Nasdaq amended Rule 4120(c) to modify the parameters for releasing securities for trading upon the termination of a trading halt in a security that is the subject of an initial public offering.[3] As part of this amendment, Nasdaq modified the functions that are performed by an underwriter under former Rule 4120(c)(7)(B) with respect to an initial public offering and renumbered such rule to Rule 4120(c)(8). However, Nasdaq inadvertently did not update a reference in Rule 4120(c)(9) to former Rule 4120(c)(7)(B) to reflect such renumbering.

Accordingly, Nasdaq proposes to amend the reference in Rule 4120(c)(9) to correctly cite to Rule 4120(c)(8).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposed rule change is consistent with these provisions in that it will eliminate confusion about Nasdaq rules by updating an inaccurate cross-reference, without changing the substance of the rules.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will have no impact on competition as it merely eliminates potential confusion by clarifying the existing rule without changing its substance.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[8] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] 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. Waiver of the operative delay would allow the Exchange to immediately correct a rule reference and thus eliminate any potential confusion caused by the currently incorrect rule reference. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[10]

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 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–NASDAQ–2018–029 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–NASDAQ–2018–029. 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–NASDAQ–2018–029 and should be submitted on or before May 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–08849 Filed 4–26–18; 8:45 am]

BILLING CODE 8011–01–P

[3] Securities Exchange Act Release No. 73399 (October 21, 2014), 79 FR 63981 (October 27, 2014) (approving SR–NASDAQ–2014–81).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] 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).

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 33075; File No. 812–14857]**

## The Swiss Helvetia Fund, Inc., et al.

April 23, 2018.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 19(b) of the Act and rule 19b–1 under the Act to permit a registered closed-end investment company to make periodic distributions of long-term capital gains more frequently than permitted by section 19(b) or rule 19b–1.

**APPLICANTS:** The Swiss Helvetia Fund, Inc. (the ''Fund''), a non-diversified closed-end investment company registered under the Act and organized as a corporation under the laws of Delaware, and Schroder Investment Management North America Inc., a corporation organized under the laws of the state of Delaware (''SIMNA''), and Schroder Investment Management North America Limited, a corporation organized under the laws of the United Kingdom (''SIMNA Ltd.''), each registered under the Investment Advisers Act of 1940, and serving as investment adviser and sub-adviser to the Fund, respectively (together with the Fund, the ''Applicants'').[1]

**FILING DATES:** The application was filed on December 22, 2017, and amended on April 12, 2018.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 18, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:**

*The Commission:* Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

*Applicants:* Carin F. Muhlbaum, Schroder Investment Management North America Inc., 7 Bryant Park, New York, NY 10018 and Nicole M. Runyan, Esq., Proskauer Rose LLP, Eleven Times Square, New York, NY 10036.

**FOR FURTHER INFORMATION CONTACT:** Jean E. Minarick, Senior Counsel at (202) 551–6811, or Kaitlin C. Bottock, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

### Summary of the Application

1. Section 19(b) of the Act generally makes it unlawful for any registered investment company (''fund'') to make long-term capital gains distributions more than once every twelve months. Rule 19b–1 under the Act limits to one the number of capital gain dividends, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986 (''Code,'' and such dividends, ''distributions''), that a fund may make with respect to any one taxable year, plus a supplemental distribution made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year, plus one additional capital gain dividend made in whole or in part to avoid the excise tax under section 4982 of the Code.

2. Applicants believe that investors in certain closed-end funds may prefer an investment vehicle that provides regular current income through a fixed distribution policy (''Distribution Policy''). Applicants propose that the Fund be permitted to adopt a Distribution Policy, pursuant to which the Fund would distribute periodically to its stockholders a fixed percentage of the market price of the Fund's common stock at a particular point in time or a fixed percentage of net asset value at a particular time or a fixed amount per share of common stock, any of which may be adjusted from time to time.

3. Applicants request an order under section 6(c) of the Act granting an exemption from section 19(b) of the Act and rule 19b–1 to permit a Fund to distribute periodic capital gain dividends (as defined in section 852(b)(3)(C) of the Code) as frequently as twelve times in any one taxable year in respect of its common stock and as often as specified by, or determined in accordance with the terms of, any preferred stock issued by the Fund. Section 6(c) of the Act provides, in relevant part, that the Commission may exempt any person or transaction from any provision of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants state that any order granting the requested relief will be subject to the terms and conditions stated in the application, which generally are designed to address the concerns underlying section 19(b) and rule 19b–1, including concerns about proper disclosures and shareholders' understanding of the source(s) of a Fund's distributions and concerns about improper sales practices. Among other things, such terms and conditions require that (1) the board of directors or trustees of the Fund (the ''Board'') review such information as is reasonably necessary to make an informed determination of whether to adopt the proposed Distribution Policy and that the Board periodically review the amount of the distributions in light of the investment experience of the Fund, and (2) that the Fund's shareholders receive appropriate disclosures concerning the distributions.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–08846 Filed 4–26–18; 8:45 am]

**BILLING CODE 8011–01–P**

[1] Applicants request that the order also apply to each other registered closed-end investment company advised or to be advised in the future by SIMNA or SIMNA Ltd. or by an entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with SIMNA or SIMNA Ltd. (including any successor in interest) (each such entity, together with SIMNA and SIMNA Ltd., the ''Advisers'') that in the future seeks to rely on the order (such investment companies, together with the Fund, are collectively the ''Funds'' and, individually, a ''Fund''). A successor in interest is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–83094; File No. SR–NYSEArca–2018–02]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Relating to Listing and Trading of the Direxion Daily Bitcoin Bear 1X Shares, Direxion Daily Bitcoin 1.25X Bull Shares, Direxion Daily Bitcoin 1.5X Bull Shares, Direxion Daily Bitcoin 2X Bull Shares and Direxion Daily Bitcoin 2X Bear Shares Under NYSE Arca Rule 8.200–E

April 23, 2018.

On January 4, 2018, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the following exchange-traded products under NYSE Arca Rule 8.200–E, Commentary .02: Direxion Daily Bitcoin Bear 1X Shares (''1X Bear Fund''), Direxion Daily Bitcoin 1.25X Bull Shares (''1.25X Bull Fund''), Direxion Daily Bitcoin 1.5X Bull Shares (''1.5X Bull Fund''), Direxion Daily Bitcoin 2X Bull Shares (''2X Bull Fund''), and Direxion Daily Bitcoin 2X Bear Shares (''2X Bear Fund'') (each a ''Fund,'' and collectively the ''Funds''). The proposed rule change was published for comment in the **Federal Register** on January 24, 2018.[3] The Commission has received no comment letters on the proposed rule change.

On March 1, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

### I. Summary of the Proposal [7]

The Exchange proposes to list and trade the Shares under NYSE Arca Rule 8.200–E, Commentary .02, which governs the listing and trading of Trust Issued Receipts on the Exchange.[8] Each Fund will be a series of the Direxion Shares ETF Trust II (''Trust''), and the Trust and the Funds will be managed and controlled by Direxion Asset Management, LLC (''Sponsor''). Bank of New York Mellon will be the custodian and transfer agent for the Funds. U.S. Bancorp Fund Services, LLC will serve as the administrator for the Funds, and Foreside Fund Services, LLC will serve as the distributor of the Shares (''Distributor'').

According to the Exchange, the Funds will seek to obtain daily short, leveraged long, or leveraged short exposure (before fees and expenses) to the target benchmark, which is the lead-month bitcoin futures contract traded on the Chicago Mercantile Exchange (''CME'') or Cboe Global Markets, Inc. (''CBOE'') or on any other U.S. exchange that subsequently trades bitcoin futures contracts (''Bitcoin Futures Contract'').[9] Specifically, the 1.25X Bull Fund, the 1.5X Bull Fund, and the 2X Bull Fund will seek daily investment results (before fees and expenses) that are 125%, 150%, or 200%, respectively, of the daily return of the target benchmark.[10] The 1X Bear Fund and the 2X Bear Fund will seek daily inverse investment results (before fees and expenses) that are −100% or −200%, respectively, of the daily return of the target benchmark.[11]

The target benchmark's value will be calculated as the last sale price published by the CME or the CBOE, or any other U.S. exchange that subsequently trades bitcoin futures contracts, on or before 11:00 a.m. E.T. for the Bitcoin Futures Contract and may reflect trades occurring and published by the CME or CBOE or another U.S. exchange that subsequently trades bitcoin futures contracts outside the normal trading session for the Bitcoin Futures Contract.[12] The Funds will compute their NAV as of 11:00 a.m. E.T., or such earlier time that the NYSE may close.[13]

Each Fund, under normal market conditions, will seek to achieve its daily investment objective by investing in the Bitcoin Futures Contract, swaps on the Bitcoin Futures Contract, or listed options on bitcoin or the Bitcoin Futures Contract (collectively, ''Bitcoin Financial Instruments''). The Funds' investments in Bitcoin Financial Instruments will be used to produce economically ''leveraged'' or ''inverse leveraged'' investment results for the Funds.[14] A Fund may invest in the listed options and swaps described above in a manner consistent with its investment objective in situations where the Sponsor believes that investing in such financial instruments is in the best interests of a Fund. In addition, a Fund may invest in swap contracts referencing the Bitcoin Futures Contract if the market for a specific bitcoin futures contract experiences emergencies or if position, price, or accountability limits (if any) are reached with respect to a specific bitcoin futures contract. Each trading day at the close of the U.S. equity markets, each Fund will position its portfolio to ensure that the Fund's exposure to the target benchmark is consistent with the Fund's investment objective.[15]

Assets of each Fund not invested in Bitcoin Financial Instruments will be held in cash or invested in cash equivalents, such as U.S. Treasury Securities or other high credit quality short-term, fixed-income, or similar securities (including shares of money market funds, bank deposits, bank

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82532 (Jan. 18, 2018), 83 FR 3380 (Jan. 24, 2018) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 82795 (Mar. 1, 2018), 83 FR 9768 (Mar. 7, 2018). The Commission designated April 24, 2018, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] The Commission notes that additional information regarding the Trust (as defined herein), the Shares, and the Funds, including investment strategies, calculation of net asset value (''NAV'') and indicative fund value, creation and redemption procedures, and additional background information about bitcoins, the bitcoin network, and bitcoin futures contracts, among other things, can be found in the Notice. *See* Notice, *supra* note 3. The registration statement was filed confidentially with the Commission on Form S–1 (''Registration Statement'') under the Securities Act of 1933 (''Securities Act''). The Exchange represents that the Registration Statement, and all amendments thereto, will be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Rule 433(h)(4) under the Securities Act.

[8] *See* NYSE Arca Rule 8.200–E, Commentary .02. NYSE Arca Rule 8.200–E permits the listing and trading of ''Trust Issued Receipts,'' defined as a security (1) that is used by the trust which holds specific securities deposited with the trust; (2) that, when aggregated in some specified minimum number, may be surrendered to the trust by the beneficial owner to receive the securities; and (3) that pay beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee by an issuer of the deposited securities. Commentary .02 applies to Trust Issued Receipts that invest in any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[9] Bitcoin Futures Contracts will be cash-settled. The ''lead month'' contract is the monthly contract with the earliest expiration date. *See Notice, supra* note 3, at 3381, n.6.

[10] *See* Notice, *supra* note 3, at 3382.

[11] *See id.*

[12] *See id.* at 3381.

[13] *See id.* at 3383.

[14] *See id.* at 3381–82.

[15] *See id.*

money market accounts, certain variable rate-demand notes, and repurchase agreements collateralized by government securities) that serve as collateral for, or pending investments in, the Funds' investments.[16]

According to the Exchange, each Fund will create and redeem Shares in one or more Creation Units (a Creation Unit is a block of 50,000 Shares of a Fund). A creation transaction, which is subject to acceptance by the Distributor, generally takes place when an Authorized Participant deposits a specified amount of cash in exchange for a specified number of Creation Units. Similarly, Shares can be redeemed only in Creation Units, generally for cash. Only Authorized Participants may purchase and redeem Shares from a Fund.[17]

## II. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2018–02 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [18] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[19] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' [20]

## III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[21]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 18, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 1, 2018. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[22] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following:

1. What are commenters' views on whether the Exchange has sufficiently described how the Sponsor will select the applicable Bitcoin Futures Contract, given that the bitcoin futures contracts trading on the two named bitcoin futures exchanges (or on any other U.S. exchange that subsequently trades bitcoin futures contracts) have different terms (including different reference prices) and trade at different prices, and given that any bitcoin futures contracts subsequently listed on a U.S. exchange may likewise have different terms or trade at different prices?

2. In its proposal, the Exchange states that each Fund will seek to achieve its daily investment objective by investing in Bitcoin Financial Instruments, which include the Bitcoin Futures Contract, swaps on the Bitcoin Futures Contract, or listed options on bitcoin or the Bitcoin Futures Contract. What are commenters' views on the current availability of these swaps or listed options? What are commenters' views on the ability of the Funds to invest in these swaps or listed options in the event that position, price, or accountability limits are reached with respect to any bitcoin futures contracts? What are commenters' views on the ability of the Funds to invest in these swaps or listed options if an underlying futures market experiences emergencies or disruptions?

3. What are commenters' views on whether the Funds would have the information necessary to adequately value, including fair value, the Bitcoin Financial Instruments when determining an appropriate NAV for the Funds, taking into account any volatility, fragmentation, or general lack of regulation of the underlying bitcoin markets?

4. What are commenters' views on the potential impact of manipulation in the underlying bitcoin markets on the Funds' NAV? What are commenters' views on the potential effect of such manipulation on the valuation of a Fund's Bitcoin Financial Instruments, which is determined using the last sale price for the Bitcoin Futures Contract on the applicable U.S. futures exchange (as opposed to the settlement price, closing price, midpoint, or volume weighted average price)? What are commenters' views on the potential effect of such manipulation on the pricing of a Fund's non-exchange-traded Bitcoin Financial Instruments? What are commenters' views on the potential effect of manipulation on the valuation of a Fund's portfolio in cases where, according to the Exchange, the target benchmark's value reflects trades occurring outside the normal trading session for the Bitcoin Futures Contract?

5. What are commenters' views on how the Funds' valuation policies would address the potential for the bitcoin blockchain to diverge into different paths (*i.e.,* a ''fork'')?

6. What are commenters' views on the price differentials and trading volumes across bitcoin trading platforms (including during periods of market stress) and on the extent to which these differing prices may affect the trading of Bitcoin Financial Instruments and, accordingly, trading in the Shares of the Funds?

7. What are commenters' views on how the substantial margin requirements for bitcoin futures contracts, and the nature of liquidity and volatility in the market for bitcoin futures contracts, might affect the Trust's ability to meet redemption orders? What are commenters' views on

[16] *See id.* at 3383.

[17] *See id.* at 3384.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] *Id.*

[20] 15 U.S.C. 78f(b)(5).

[21] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[22] *See* Notice, *supra* note 3.

whether and how the margin requirements for bitcoin futures contracts may affect a Fund's use of available cash to achieve its investment strategy?

8. What are commenters' views on the possibility that the Funds—along with other exchange-traded products with similar investment objectives—could acquire a substantial portion of the market for some or all of the Bitcoin Financial Instruments? What are commenters' views on whether such a concentration of holdings could affect the Funds' portfolio management, the liquidity of the Funds' respective portfolios, or the pricing of some or all of the Bitcoin Financial Instruments?

9. What are commenters' views on possible factors that might impair the ability of the arbitrage mechanism to keep the trading price of the Shares tied to the NAV of each Fund? What are commenters' views on whether determining the value of the Funds' benchmark, or striking the Funds' NAV, as of 11:00 a.m. E.T. might affect the arbitrage mechanism during the remainder of the trading day? With respect to the markets for Bitcoin Financial Instruments, what are commenters' views on the potential impact on the arbitrage mechanism of the price volatility and the potential for trading halts? What are commenters' views on whether or how these potential impairments of the arbitrage mechanism may affect the Funds' ability to ensure adequate participation by Authorized Participants? What are commenters' views on the potential effects on investors if the arbitrage mechanism is impaired?

10. What are commenters' views on the risks of price manipulation and fraud in the underlying bitcoin trading platforms and how these risks might affect the Bitcoin Financial Instruments? What are commenters' views on how these risks might affect trading in the Shares of the Funds?

11. What are commenters' views on how an investor may evaluate the price of the Shares in light of the risk of potential price manipulation and fraud in the underlying bitcoin trading platforms and in light of the potentially significant spread between the price of Bitcoin Financial Instruments and the spot price of bitcoin?

12. What are commenters' views on whether the two named bitcoin futures exchanges represent a significant market, *i.e.,* a market of significant size?

13. With respect to the Funds that seek leveraged or leveraged-inverse returns, would trading of the Shares, hedging activity, or creation and redemption activity affect the daily volume, volatility, or liquidity of the underlying Bitcoin Financial Instruments or of the spot bitcoin market any differently than a non-leveraged bitcoin futures exchange-traded product would? If so, why, how, and to what extent? Would any such effect be different during periods of downward market movement or high volatility? If so, why, how, and to what extent?

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–2018–02 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–NYSEArca–2018–02. 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–2018–02 and should be submitted by May 18, 2018. Rebuttal comments should be submitted by June 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–08852 Filed 4–26–18; 8:45 am]

**BILLING CODE 8011–01–P**

---

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–83089; File No. SR–CBOE–2018–029]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change in Connection With the Migration of SPX Options From the Hybrid 3.0 System to the Hybrid Trading System

April 23, 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 April 12, 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 and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 rules related to listing the SPX class on a group basis and amend other rules in connection with the Exchange's planned migration of standard third-Friday options on the S&P 500 Index (''SPX options'') to the Hybrid Trading System from the Hybrid 3.0 System.

(additions are *italicized;* deletions are [bracketed])

* * * * *

**Cboe Exchange, Inc. Rules**

* * * * *

Rule 6.2. Hybrid Opening (and Sometimes Closing) System (''HOSS'')

(a)–(h) (No change).

---

[23] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

. . . Interpretations and Policies:

.01 (No change).

.02 Market-Maker Quotes.

*(a) Minimum Size.* The Exchange determines on a class-by-class basis [(a)] the minimum number of contracts for the initial size of a Market-Maker's opening quote, which minimum must be at least one contract. *For SPX, the Exchange may also determine minimum initial quote size on a premium basis and an expiration basis for series with expirations of (1) 7 or fewer days, (2) 8 to 91 days, (3) 92 to 188 days, (4) 189 to 461 days,* and *(5) 462 or more days.*

(b) *Bid/Ask Differentials. The Exchange determines on a class-by-class and premium basis* the bid/ask differential requirements with which Market-Makers' opening quotes must comply, which minimum and differential requirements may be different for the opening than those applicable intraday. *For SPX, the Exchange may determine bid/ask differential requirements for series with expirations of (1) fewer than 462 days and (2) 462 or more days, and for all other classes, the Exchange may determine bid/ask differential requirements for series with expiration of (1) less than nine months and (2) nine months or more.*

.03–.07 (No change).

* * * * *

Rule 6.53C. Complex Orders on the Hybrid System

(a)–(d) (No change).

. . . Interpretations and Policies:

.01 (No change).

.02 [Reserved.] *If the Exchange determines to list SPX on a group basis pursuant to Rule 8.14, a marketable complex order consisting of legs in different groups of series in the class does not automatically execute against individual orders residing in the EBook pursuant to Rule 6.53C(c)(ii)(1) or (d)(v)(1) and automatically executes against complex orders (or COA responses) in accordance with Rules 6.53C(c)(ii)(2) or (d)(v)(2) through (4). A marketable complex order consisting of legs in the same group of series in SPX executes against individual orders in the EBook in accordance with Rule 6.53C(c)(ii) and (d)(v). Complex orders consisting of legs in different groups of series that are marketable against each other may only execute at a net price that has priority over the individual orders and quotes resting in the EBook.*

.03–.12 (No change).

* * * * *

Rule 8.3. Appointment of Market-Makers

(a)–(b) (No change).

(c) Market-Maker Appointments. Absent an exemption by the Exchange, an appointment of a Market-Maker confers the right to quote electronically and in open outcry in the Market-Maker's appointed classes during Regular Trading Hours as described below. Subject to paragraph (e) below, a Market-Maker may change its appointed classes upon advance notification to the Exchange in a form and manner prescribed by the Exchange.

(i) Hybrid Classes. Subject to paragraphs (c)(iv) and (e) below, a Market-Maker can create a Virtual Trading Crowd (''VTC'') appointment, which confers the right to quote electronically during Regular Trading Hours in an appropriate number of Hybrid classes (as defined in Rule 1.1(aaa)) selected from ''tiers'' that have been structured according to trading volume statistics, except for the AA tier. All classes within a specific tier will be assigned an ''appointment cost'' depending upon its tier location. The following table sets forth the tiers and related appointment costs.

II.

| Tier | Hybrid options classes | Appointment cost |
|---|---|---|
| AA | Options on the Cboe Volatility Index (VIX) | .499 |
| | *Options on the Standard & Poor's 500 Index (SPX)* | *** 1.0* |
| * | * * * * * * | |

* Excludes Tier AA.

** If the Exchange determines to list SPX on a group basis pursuant to Rule 8.14, the SPX appointment cost confers the right to trade in all SPX groups.

(ii) (No change).

(iii) Hybrid 3.0 Class. In addition to paragraphs (i) and (ii) above, and subject to paragraphs (c)(iv) and (e) below, a Market-Maker can select as the Market-Maker's appointment a Hybrid 3.0 class traded on the Exchange, which confers the right to trade in open outcry in the Hybrid 3.0 class during Regular Trading Hours as described below. Each Hybrid 3.0 class is assigned an ''appointment cost'', which is set forth below.

| Hybrid 3.0 class | Appointment cost |
|---|---|
| [Options on the Standard & Poor's 500 Index (SPX)] | [*1.0] |
| *None* | |

[* This appointment cost also confers the right to trade any group of series of SPX that the Exchange has authorized for trading on the Hybrid Trading System pursuant to Rule 8.14.]

(iv)–(v) (No change).

(d)–(e) (No change).

* * * * *

Rule 8.7. Obligations of Market-Makers

(a)–(c) (No change).

(d) Market-Making Obligations in Applicable Hybrid Classes

The following obligations in this paragraph (d) are only applicable to Market-Makers trading classes on the Cboe Options Hybrid System and only in those Hybrid classes. Unless otherwise provided in this Rule, Market-Makers trading classes on the Hybrid System remain subject to all obligations imposed by Cboe Options Rule 8.7. To the extent another obligation contained elsewhere in Rule 8.7 is inconsistent with an obligation contained in paragraph (d) of Rule 8.7 with respect to a class trading on Hybrid, this paragraph (d) shall govern trading in the Hybrid class.

For Regular Trading Hours, these requirements are applicable on a per class basis, except as set forth in paragraph (ii)(B) below, depending upon the percentage of volume a Market-Maker transacts in an appointed class during Regular Trading Hours electronically versus in open outcry. With respect to making this determination, the Exchange will monitor a Market-Maker's trading activity in each appointed class during Regular Trading Hours every calendar quarter to determine whether it exceeds the threshold established in paragraph (d)(i). If a Market-Maker exceeds the threshold established below, the obligations contained in (d)(ii) will be effective the next calendar quarter.

For a period of ninety (90) days commencing immediately after a class begins trading on the Hybrid system, the provisions of paragraph (d)(i) shall govern trading in that class.

(i) Market-Maker Trades 20% or Less Contract Volume in an Appointed Class Electronically:

If a Market-Maker on the Cboe Options Hybrid System never transacts more than 20% (*i.e.,* trades 20% or less) of the Market-Maker's contract volume electronically in an appointed Hybrid class during Regular Trading Hours during any calendar quarter, the following provisions shall apply to that Market-Maker with respect to that class:

(A) Quote Widths: With respect to electronic quoting, *Market-Makers must comply with the bid/ask differential requirements determined by the Exchange on a class-by-class and premium basis* [the Market-Maker will not be required to comply with the bid/ask differential requirements determined by the Exchange in that class. The effectiveness of this subparagraph (i)(A) shall be in effect in each Hybrid for a period of one year commencing with the date the class begins trading on the Hybrid System]. *For SPX, the Exchange may determine bid/ask differential requirements for series with expirations of (1) fewer than 462 days and (2) 462 or more days, and for all other classes, the Exchange may determine bid/ask differential requirements for series with*

*expiration of (1) less than nine months and (2) nine months or more.*

(B) Continuous Electronic Quoting Obligation: The Market-Maker will not be obligated to quote electronically in any designated percentage of series within that class. If a Market-Maker quotes electronically, its undecremented quote must be for the minimum number of contracts determined by the Exchange on a class[ ]-by[ ]-class basis, which minimum shall be at least one contract. *For SPX, the Exchange may also determine minimum initial quote size on a premium basis and an expiration basis for series with expirations of (1) 7 or fewer days, (2) 8 to 91 days, (3) 92 to 188 days, (4) 189 to 461 days, and (5) 462 or more days.*

(C) (No change).

(ii) Market-Maker Trades More Than 20% Contract Volume in an Appointed Class Electronically:

If a Market-Maker on the Cboe Options Hybrid System transacts more than 20% of the Market-Maker's contract volume electronically in an appointed Hybrid class during Regular Trading Hours during any calendar quarter, commencing the next calendar quarter the Market-Maker will be subject to the following quoting obligations in that class for as long as the Market-Maker maintains an appointment in that class:

(A) Quote Widths: Market-Makers must comply with the bid/ask differential requirements determined by the Exchange on a class[ ]-by[ ]-class *and premium* basis. *For SPX, the Exchange may determine bid/ask differential requirements for series with expirations of (1) fewer than 462 days and (2) 462 or more days, and for all other classes, the Exchange may determine bid/ask differential requirements for series with expiration of (1) less than nine months and (2) nine months or more.*

(B) Continuous Electronic Quoting Obligation: A Market-Maker will be required to maintain continuous electronic quotes (as defined in Rule 1.1 (ccc)) in 60% of the non-adjusted option series of the Market-Maker's appointed classes that have a time to expiration of less than nine months. Compliance with this quoting obligation applies to all of a Market-Maker's appointed classes collectively (for which it must maintain continuous electronic quotes pursuant to this paragraph (ii)(B)). The Exchange will determine compliance by a Market-Maker with this quoting obligation on a monthly basis. However, determining compliance with this quoting obligation on a monthly basis does not relieve a Market-Maker from meeting this obligation on a daily basis, nor does it prohibit the Exchange from taking disciplinary action against a Market-Maker for failing to meet this obligation each trading day. The initial size of a Market-Maker's quote must be for the minimum number of contracts determined by the Exchange on a class[ ]-by[ ]-class basis, which minimum shall be at least one contract. *For SPX, the Exchange may also determine minimum initial quote size on a premium basis and an expiration basis for series with expirations of (1) 7 or fewer days, (2) 8 to 91 days, (3) 92 to 188 days, (4) 189 to 461 days, and (5) 462 or more days.* This obligation does not apply to intra-day add-on series on the day during which such series are added for trading. Market-Maker continuous electronic quoting obligations may be satisfied by Market-Makers either individually or collectively with Market-Makers of the same TPH organization.

(C) (No change).

(iii) The obligations and duties of Market-Makers set forth in paragraphs (d)(i) and (d)(ii) apply to a Market-Maker per trading session (*e.g.,* if a Market-Maker has an appointment in a class during Regular Trading Hours and Extended Trading Hours, the Exchange will determine a Market-Maker's compliance with the continuous electronic quoting requirement during Regular Trading Hours separately from compliance with the electronic quoting requirement during Extended Trading Hours). Except as set forth in paragraph (d)(ii)(B), the obligations and duties of Market-Makers set forth in paragraphs (d)(i) and (d)(ii) apply to a Market-Maker on a per class basis, *except for SPX if the Exchange lists SPX on a group basis pursuant to Rule 8.14 and determines to apply obligations and duties of SPX Market-Makers on a group basis,* and only when the Market-Maker is quoting in a particular class during the applicable trading session on a given trading day. For example, if during a trading session on a given trading day a Market-Maker is quoting in 1 of its 10 appointed classes, the Market-Maker has quote width, continuous electronic quoting and, to the extent the Market-Maker is present in the trading crowd, continuous open outcry quoting obligations in that class, and the continuous electronic quoting obligation in subparagraph (d)(ii)(B) applies to 60% of the non-adjusted option series of that class that have a time to expiration of less than nine months while the Market-Maker is quoting. If during a trading session on a given trading day a Market-Maker is quoting in 3 of its 10 appointed classes, the Market-Maker has quote width and, to the extent the Market-Maker is present in the trading crowd, continuous open outcry quoting obligations in each of the 3 classes, and the continuous electronic quoting obligation in subparagraph (d)(ii)(B) applies to 60% of the non-adjusted option series of those three classes, collectively, that have a time to expiration of less than nine months while the Market-Maker is quoting. The obligations and duties are not applicable to an appointed class if a Market-Maker is not quoting in that appointed class.

(iv) (No change).

. . . Interpretations and Policies:

.01–.13 (No change).

* * * * *

Rule 8.13. Preferred Market-Maker Program

(a)–(d) (No change).

. . . Interpretations and Policies:

.01–.03 (No change).

*.04 If the Exchange determines to list SPX on a group basis pursuant to Rule 8.14, obligations of an SPX Market-Maker designated as a Preferred Market-Maker, as set forth in Rule 8.13, apply on a class basis, unless the Exchange determines to apply obligations on a group basis.*

Rule 8.14. Hybrid Trading System Platforms & Market-Maker Participants

(a)–(b) (No change).

. . . Interpretations and Policies:

.01 For each Hybrid 3.0 class, the Exchange may determine to authorize a group of series of the class for trading on the Hybrid Trading System and, if that authorization is granted, shall determine the eligible categories of Market-Maker participants for that group of series. The Exchange will also have the authority to determine whether to change the trading platform on which the group of series trades [and to change the eligible categories of Market-Maker participants for the group]. *If the Exchange lists SPX on the Hybrid Trading System, the Exchange may determine to list the class on a group basis, with both groups trading on the Hybrid Trading System. The Exchange will also have the authority to change the eligible categories of Market-Makers participants for each group.* In addition, the following shall apply:

(a)–(b) (No change).

(c) The Hybrid Trading System *or Hybrid 3.0 Platform, as applicable,* trading parameters will be established by the Exchange on a group basis to the extent the Exchange Rules otherwise provide for such parameters to be established on a class basis.

Rule 8.15. Lead Market-Makers

(a)–(d) (No change).

. . . Interpretations and Policies:

.01–.04 (No change).

*.05 If the Exchange determines to list SPX on a group basis pursuant to Rule 8.14, obligations of an SPX Market-Maker designated as a Lead Market-Maker, as set forth in Rule 8.15, apply on a class basis, unless the Exchange determines to apply obligations on a group basis.*

* * * * *

Rule 8.85. DPM Obligations

(a)–(e) (No change).

. . . Interpretations and Policies:

.01–.02 (No change).

*.03 If the Exchange determines to list SPX on a group basis pursuant to Rule 8.14, obligations of a Designated Primary Market-Maker with an SPX appointment, as set forth in Rule 8.85, apply on a class basis, except if the Exchange determines to apply obligations on a group basis.*

* * * * *

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 Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its rules related to listing the SPX class on a group basis and amend other rules in connection with the Exchange's planned migration of SPX options to the Hybrid Trading System from the Hybrid 3.0 System. Rule 8.14, Interpretation and Policy .01 currently permits the Exchange to authorize a group of series of a Hybrid 3.0 [5] class for trading on the Hybrid Trading System. If the Exchange authorizes this, it determines the eligible categories of Market-Maker participants for the group (Designated Primary Market-Makers (''DPMs''), Lead Market-Makers (''LMMs''), or Market-Makers). The Exchange assigns a DPM or LMM to the group (or no DPM or LMM if the conditions in Rule 8.14(b) are satisfied with respect to the group). Market-Maker appointments apply on a class basis, except DPM and LMM appointments apply only to the group of series to which the respective DPM or LMM is assigned. The Exchange establishes Hybrid Trading System trading parameters (*e.g.* minimum trading increment, allocation algorithm) on a group basis to the extent the Rules otherwise provide for such parameters to be established on a class basis.

The proposed rule change amends Rule 8.14, Interpretation and Policy .01 to permit the Exchange to list the SPX class on a group basis, even if SPX trades on the Hybrid Trading System.[6] The remaining provisions of Interpretation and Policy .01 would apply. Thus, if the Exchange lists SPX as a Hybrid class in two groups, both groups may trade on the Hybrid Trading System (as the Exchange plans to do). In addition, the Exchange may determine the eligible categories of Market-Maker participants for each group. Similarly, the Exchange could assign a DPM or LMM to each group, which appointments would apply to the group of series to which the respective DPM or LMM is assigned (Market-Maker appointments would continue to apply to the entire SPX class, as further discussed below).[7]

As it does today, when determining whether to list the SPX class on a group basis, the Exchange intends to generally select series with common expirations or classifications (*e.g.,* end-of-week series or end-of-month series, short-term option series, long-term option series, or series that expire on a particular expiration date) and trade them under individual listing symbols. For example, the Exchange currently lists the SPX class in two groups: (1) One group consists of series with standard third-Friday expirations that are a.m.-settled, which group trades on the Hybrid 3.0 Platform (''SPX options''); and (2) the second group consists of series with all other expirations, including weekly, monthly, and p.m.-settled (''SPXW options''), which group trades on the Hybrid Trading System. In the second quarter of 2018, the Exchange plans to begin listing SPX options on the Hybrid Trading System (and no longer on the Hybrid 3.0 platform). SPXW options would continue to trade on the Hybrid Trading System. Pursuant to the proposed rule change, the Exchange may determine to continue to list SPX options and SPXW options as groups on the Hybrid Trading System.

The Exchange would establish trading parameters (*e.g.,* applicable matching algorithm under Rule 6.45, opening rotation parameters under Rule 6.2, automatic execution parameters under Rule 6.13, simple auction liaison parameters under Rule 6.13A, hybrid agency liaison parameters under Rule 6.14A, complex order parameters under Rule 6.53C, and automated improvement mechanism parameters under Rule 6.74A) on a group basis, as it does today for SPX options and SPXW options.[8] For example, currently, the Exchange applies customer priority allocation to SPX options while the Exchange applies price-time allocation to SPXW options. Pursuant to the proposed rule change, the Exchange could continue to apply a different allocation algorithm to each group even if both groups are trading on the same platform.

The Exchange believes for SPX, groups of series may exhibit different trading characteristics, including appeal to different categories of market participants. For example, SPXW options are commonly traded by retail customers while SPX options are commonly traded by institutional investors. The Exchange generally establishes market models for classes based on these characteristics that most fit the product, which the Exchange believes benefits investors. This is true for SPX and SPXW options, which is why the Exchange believes it is appropriate to continue to list the SPX class in groups once all SPX series are trading on Hybrid.

The Exchange proposes to amend Rule 6.53C, Interpretation and Policy .02 to state if the Exchange determines to list the SPX class on a group basis pursuant to Rule 8.14, if a marketable complex order consists of legs in different groups of series in the class, it will not automatically execute against individual orders residing in the EBook pursuant to Rule 6.53C(c)(ii)(1) or (d)(v)(1). A marketable complex order consisting of legs in the same group of series in the class executes against individual orders in the EBook in accordance with Rule 6.53C(c)(ii) and (d)(v). This is consistent with current functionality today applicable to SPX and SPXW pursuant to Rule 6.53C, Interpretation and Policy .10, which only applies to Hybrid 3.0 classes. The proposed rule change extends this functionality to SPX as a Hybrid class.

As discussed above, if the Exchange lists SPX as a Hybrid class on a group basis, it may apply different trading parameters (including different allocation algorithms) to each group. Due to system limitations that based on the Exchange's experience are prohibitively expensive to modify, complex orders consisting of different groups of series will not automatically execute against individual orders residing in the Ebook, even if they trade on the same platform. Pursuant to Rule 6.53C, complex orders may only consist of legs from the same class. While SPX and SPXW series are part of the same class, and thus permissible for electronic handling under the Rules, the System treats SPX and SPXW series as different classes and is unable to

[5] ''Hybrid Trading System'' refers to (a) the Exchange's trading platform that allows Market-Makers to submit electronic quotes in their appointed classes and (b) any connectivity to the foregoing trading platform that is administered by or on behalf of the Exchange, such as a communications hub. ''Hybrid 3.0 Platform'' is an electronic trading platform on the Hybrid Trading System that allows one or more quoters to submit electronic quotes which represent the aggregate Market-Maker quoting interest in a series for the trading crowd. Classes authorized by the Exchange for trading on the Hybrid Trading System are referred to as Hybrid classes. Classes authorized by the Exchange for trading on the Hybrid 3.0 Platform are referred to as Hybrid 3.0 classes. *See* Rule 1.1(aaa). Currently, SPX is the only Hybrid 3.0 class and the only class the Exchange lists on a group basis.

[6] The proposed rule change makes a conforming change in Interpretation and Policy .01(c).

[7] The Exchange does not currently (and does not intend to following conversion of SPX options to Hybrid) appoint Preferred Market-Makers (''PMMs'') or DPMs to SPX or SPXW options pursuant to Rules 8.13 or 8.95, respectively. The Exchange currently appoints LMMs to SPX options; however, it does not intend to do so following conversion of SPX options to Hybrid.

[8] *See* Rule 8.14(c).

process complex orders with components in different classes. Many classes trade on their own trade server. Despite being the same class, SPX options and SPXW options trade on separate trade servers due to the number of series in each group and due to the fact that they trade as different classes (as discussed above). Currently trading is not possible ''across'' trade servers. If the System receives a complex order with one SPX leg and one SPXW leg, it would need to trade the SPX leg against the appropriate leg in the first trade server. After that leg execution, it would then need to trade the SPXW leg against the appropriate leg in the second trade server. Given the time these executions would take, it would not result in the near simultaneous execution of legs that is sought by the entry of complex orders. Additionally, after the first leg execution, because the complex order has not fully executed, the System would not be able to execute any other orders within the series of the first leg, which may prevent execution opportunities of those other orders.

Currently, this only applies to SPX/SPXW orders, and the proposed rule change would treat these orders as they are today. SPX/SPXW orders may execute against other SPX/SPXW orders in the COB upon entry or against orders and COA responses following a COA in accordance with the allocation and priority rules set forth in Rule 6.53C(c)(ii)(2) and (d)(v)(2) through (4), respectively.[9] The proposed rule change states marketable SPX/SPXW orders will be eligible to automatically execute against other SPX/SPXW orders resting in the COB provided the execution is at a net price that has priority over the individual orders and quotes residing in the EBook (which is consistent with the manner in which the Exchange currently handles [sic] these complex orders are handled, as provided in Rule 6.53C, Interpretation and Policy .10(b)). An SPX/SPXW order that is marketable against individual orders resting in the Ebook but not marketable against any complex orders resting in the COB or COA responses will enter the COB or instead be routed to a PAR workstation during Regular Trading Hours and rejected back to the Trading Permit Holder during Extended Trading Hours if not eligible for COB entry due to the terms of the order (for example, if the order is for an origin code the Exchange does not permit to rest in the COB), which is how those orders are treated today.[10]

In connection with the planned migration of SPX options to Hybrid, the Exchange proposes to amend Rule 8.3 regarding appointment costs. The proposed rule change moves the SPX class from the Hybrid 3.0 appointment cost table to the Hybrid appointment cost table. The Exchange would maintain the 1.0 appointment cost for SPX (which includes SPXW). The proposed rule change notes if the Exchange determines to list SPX as a Hybrid class on a group basis pursuant to Rule 8.14, the appointment cost for the class confers the right to trade in all SPX groups. This is consistent with how appointment costs currently work, as currently, the SPX appointment cost of 1.0 applies to any group of series of SPX authorized to trade on the Hybrid Trading System.[11] The proposed rule change merely applies this same concept to SPX if listed on the Hybrid Trading System on a group basis pursuant to the proposed rule change.

The proposed rule change amends Rule 8.7(d)(iii) to provide if the Exchange lists SPX on a group basis pursuant to Rule 8.14, it may determine to apply obligations and duties of Market-Makers with an appointment to SPX on a group basis rather than a class basis. Currently, Market-Maker obligations for Hybrid classes apply on a class basis (*e.g.,* the Exchange determines a Market-Maker's compliance with the continuous electronic quoting obligations set forth in Rule 8.7(d) for a class based all series in that class).[12] If the Exchange determined to list SPX as a Hybrid class on a group basis, the Exchange may determine it lists a significantly larger number of SPX series in which it may be burdensome for Market-Makers to quote. For example, currently, the Exchange lists over 3,000 SPX series and almost 8,000 SPXW series (compared to, for example, over 400 VIX series and almost 200 VIX weekly series). With SPX options listed on Hybrid 3.0, Market-Makers may not submit quotes in those series. Therefore, Market-Makers with SPX appointments that are subject to electronic quoting obligations under Rule 8.7(d) must satisfy those obligations based on the number of SPXW series. However, when the SPX class moves to Hybrid, Market-Makers will be able to submit electronic quotes in SPX options as well as SPXW options. Applying obligations on a class basis would significantly increase the number of series in which Market-Makers would have to submit electronic quotes due to the large number of series. Permitting the Exchange to determine compliance with these obligations on a group basis would permit Market-Maker obligations to apply to SPX in a similar manner as they do today based on a more reasonable number of series.

The Exchange proposes to amend Rules 6.2, Interpretation and Policy .02(b)[13] and 8.7(d)(i)(A) and (ii)(A) to permit the Exchange to establish bid-ask differentials for Market-Makers (for opening and intraday quotes, respectively) on a premium basis and for SPX, for series with expirations of (1) fewer than 462 days and (2) 462 or more days, and for all other classes, for series with expiration of (1) less than nine months and (2) nine months or more, in addition to a class-by-class basis (as currently permitted by the Rules). Similarly, the Exchange proposes to amend Rules 6.2, Interpretation and Policy .02(a) and 8.7(d)(i)(B) and (ii)(B) to permit the Exchange to establish minimum quote size requirements (for opening and intraday quotes, respectively) for SPX on a premium basis and expiration basis for series with expirations of (1) 7 or fewer days, (2) 8 to 91 days, (3) 92 to 188 days, (4) 189 to 461 days, and (5) 462 or more days, in addition to a class-by-class basis (as currently permitted by the Rules).[14] While different classes may

[9] Rule 6.53C(c)(ii)(2) states the allocation of a complex order within the COB will be pursuant to the rules of trading priority otherwise applicable to incoming electronic orders in the individual component legs or another electronic matching algorithm from Rule 6.45, as determined by the Exchange on a class-by-class basis. Therefore, pursuant to that provision and the proposed rule change, the Exchange will determine for SPX/SPXW complex orders which electronic matching algorithm will apply to those orders when executing against other orders in the COB. Rules 6.53(d)(v)(2) through (4) specify the matching algorithm applicable to complex orders that execute following a COA, and those provisions will apply to SPX/SPXW complex orders pursuant to the proposed rule change.

[10] *See* Rules 6.12(a)(1) (which states orders initially routed for electronic processing that are not eligible for automatic execution or book entry will route to PAR, an order management terminal, or back to the Trading Permit Holder); 6.53C(d)(vi) (which states a COA-eligible order that cannot be filled in whole or in a permissible ratio will route to the COB or back to PAR, as applicable); and 6.1A(b) (which states if in accordance with the Rules, an order would route to PAR, the order entry firm's booth, or otherwise for manual handling, the System will return the order to the Trading Permit Holder during Extended Trading Hours).

[11] *See* Rule 8.3(c)(iii).

[12] The proposed rule change makes corresponding changes to proposed Rules 8.13, Interpretation and Policy .04; 8.15, Interpretation and Policy .05; and 8.85, Interpretation and Policy .03 regarding obligations of Preferred Market-Makers, Lead Market-Makers, and Designated Primary Market-Makers, respectively.

[13] As set forth in Rule 6.2, Interpretation and Policy .02(b), the Exchange may set different minimum size and differential requirements for the opening than those applicable intraday.

[14] For classes other than SPX, the Exchange will continue to be permitted to establish minimum size requirements on a class-by-class basis only (and not by premium or expiration). The current minimum

Continued

exhibit different trading characteristics, which make different minimum quote sizes and differentials on a class-by-class basis appropriate as permitted by the current Rule, the same may be true of series with different premiums and expirations within a class to ensure the quote size is not burdensome on Market-Makers. For example, series with higher premiums or farther expirations generally have wider spreads and lower trading volumes, and positions in those series carry additional risk. These characteristics make wider bid-ask differential and smaller minimum quote size (with respect to SPX) requirements more appropriate and less burdensome on Market-Makers.[15] The proposed expiration groupings for minimum quote size and bid-ask differential requirements in SPX are based on the Exchange's review of various information, including SPX transaction data, sizes of LMM quotes in SPX, and feedback received from Market-Makers and Exchange advisory groups.

Additionally, the proposed rule change amends Rule 8.7(d)(i)(A). That provision currently states Market-Makers that do not transact more than 20% of their contract volume electronically in an appointed Hybrid class during any calendar quarter will not be required to comply with bid/ask differential requirements with respect to electronic quoting for the first year a class begins trading on the Hybrid System. After the first year of Hybrid trading, a Market-Maker would need to then comply with bid/ask differential requirements when quoting electronically. The Exchange proposes to delete that requirement and instead require Market-Makers to comply with bid/ask differential requirements when quoting electronically as soon as a class begins trading on the Hybrid System. The Exchange no longer believes the one-year delay in imposing these requirements is necessary. Requiring all electronic quotes to comply with bid/ask differential requirements will increase liquidity and tighter markets in these classes as soon as they begin trading. Market-Makers ultimately have to comply with these requirements; the proposed rule change merely change [sic] when they must start to comply with them. For example, under the current rule, Market-Makers not subject to continuous electronic quote obligations would not be required to comply with bid/ask differential requirements with respect to any electronic quotes they submit until one year after SPX begins trading on the Hybrid System. Under the proposed rule change, these Market-Makers will need to comply with bid/ask differential requirements when submitted electronic quotes as soon as SPX begins trading on the Hybrid System.

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.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] 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)[18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change to permit the Exchange to list the SPX class on Hybrid on a group basis will benefit investors and promote just and equitable principles of trade, as it provides the Exchange with flexibility to establish a more appropriate market model for a group of SPX series that may exhibit different trading characteristics than other series in the class, even when both groups trade on the same platform. Currently, the Exchange may list a class on a group basis if the groups of a class trade on different trading platforms, and as noted above, the Exchange currently only does so for SPX, the only Hybrid 3.0 class. The proposed rule change merely permits the Exchange to similarly list the SPX class on a group basis on the same trading platform when SPX options migrate to the Hybrid Trading System. This will permit the Exchange to migrate SPX options to the Hybrid Trading System without interruption to how SPX and SPXW options currently trade.

Similarly, the proposed rule change to provide that SPX/SPXW complex orders will not execute against individual orders in the Ebook will permit these orders to be handled in the same manner on the Hybrid Trading System as they are today on the Hybrid 3.0 System. These orders will continue to be eligible for electronic processing, including electronic execution, in the same manner as complex orders consisting of SPX series only or SPXW series only, except they will not automatically against [sic] individual orders in the Ebook for the legs, which will result in those SPX/SPXW orders being treated in the same manner as they are today. This will provide these orders with the same electronic execution opportunities they have today, which will continue to not be eligible for automatic execution against the individual leg markets due to system limitations described above and would instead rest in the COB (if eligible) or route to PAR, an order management terminal, or the Trading Permit Holder during Regular Trading Hours, or be rejected back to the Trading Permit Holder during Extended Trading Hours.

The Exchange believes the proposed rule change to permit the Exchange to establish minimum quote size for SPX, and bid-ask differential requirements for all classes, on a premium basis and for specific expirations, in addition to class basis, will ensure Market-Maker obligations maintain an appropriate balance of obligations and benefits. As discussed above, the Exchange currently establishes bid-ask differential requirements on a class and premium basis and for series with expirations of less than nine months and nine months or more. The proposed rule change merely codifies this practice in the Rules for classes other than SPX, so this will result in no change to Market-Makers. The Exchange believes it is appropriate to establish minimum quote sizes in SPX on an expiration and premium basis to reflect the different trading characteristics of those series within the SPX class. For example, series with higher premiums or farther expirations generally have wider spreads and lower trading volumes, and positions in those series carry additional risk. These characteristics make wider bid-ask differential and smaller

quote size is one contract in all classes. *See* Regulatory Circular RG16–073 (April 7, 2016).

[15] The Exchange currently may set certain parameters on a class and premium basis. *See, e.g.,* Rules 6.2(d)(ii)(E) (opening quote condition), 6.12(a)(3) (acceptable tick distance for limit order price parameter). Currently, the Exchange sets bid-ask differentials on a premium basis and for expirations of less than nine months and nine months or more; the proposed rule change codifies this practice for classes other than SPX in the Rules. *See* Regulatory Circular RG16–073 (April 7, 2016) (wider requirements in series with expirations of nine months or more and lower premiums).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

minimum quote size (with respect to SPX) requirements more appropriate and less burdensome on Market-Makers. The proposed expiration groupings for minimum quote size and bid-ask differential requirements in SPX are based on the Exchange's review of various information, including SPX transaction data, sizes of LMM quotes in SPX, and feedback received from Market-Makers and Exchange advisory groups. The Exchange believes this proposed rule change will promote just and equitable principles of trade by ensuring bid/ask differential requirements and minimum size requirements for SPX are effective and not overly burdensome on Market-Makers, which will ensure continued liquidity on the Exchange, including in SPX options once they convert to Hybrid, which ultimately benefits investors.

The proposed rule change to move the appointment cost for the SPX class from the Hybrid 3.0 table to the Hybrid table in Rule 8.3(c)(i) reflects the Exchange's planned migration of SPX options from the Hybrid 3.0 platform to the Hybrid Trading System. The Exchange proposes no change to the appointment cost, and thus Market-Makers with SPX appointments will not need to purchase any additional trading permits to quote SPX options once the migrate trading platforms.

The Exchange believes the proposed rule change to permit the Exchange to apply Market-Maker (including PMMs and DPMs, as applicable) [19] obligations on a group basis rather than class basis for SPX will promote just and equitable principles of trade, as it will ensure a continued balance of an SPX Market-Maker's obligations with benefits given the significantly large number of SPX series. Requiring a Market-Maker to satisfy quoting obligations in multiple groups of SPX that, in the aggregate, represent a significantly large number of series, may be burdensome for Market-Makers to quote, which may disincentive Market-Makers from selecting appointments in such a class and thus reduce liquidity. The proposed rule change incentivizes Market-Makers to retain SPX appointments. Additionally, permitting the Exchange to determine compliance with these obligations on a group basis would permit Market-Maker obligations to apply to SPX options when it migrates to the Hybrid Trading System in a similar manner as they do today. For example, SPX Market-Makers that currently quote in SPXW options may elect to continue to only quote in those options without having to quote in SPX options.

The proposed rule change to require Market-Makers to comply with bid/ask differential requirements with respect to electronic quotes upon a class beginning to trade on the Hybrid System will increase liquidity and tighter markets in these classes as soon as they begin trading. The proposed rule change maintains a balance of obligations and benefits, as Market-Makers ultimately have to comply with these requirements; the proposed rule change merely change when they must start to comply with them.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change has no impact on intramarket competition, as it will apply to all market participants that trade in SPX when listed on a group basis on the Hybrid Trading System. When SPX options move to trade on the Hybrid Trading System, the SPX class will continue to trade in two groups as it does today (SPX options and SPXW options), and SPX/SPXW complex orders will continue to be handled in the same manner as they are today. The proposed rule change has no impact on intermarket competition, as the proposed rule change relates to a product exclusively listed on the Exchange, and permits that product to continue trading in a similar manner as it does today.

The proposed rule change to permit the Exchange to determine a Market-Maker's compliance with obligations on a group basis rather than a class basis, as well as to establish minimum quote sizes on an expiration and premium basis, in addition to class basis, for the SPX class ensures a continued balance of a Market-Maker's obligations with benefits. The proposed change will apply in the same manner to Market-Makers that select SPX appointments. As set forth in Rule 8.3(c), Market-Makers select which classes in which they have appointments, and thus become subject to these obligations when they choose such appointments in their discretion. Permitting the Exchange to determine compliance with these obligations on a group basis would permit Market-Maker obligations to apply to SPX options when they migrates [sic] to the Hybrid Trading System, and apply to SPXW options in a similar manner as they do today. Additionally, the proposed rule change ensures the Exchange may apply these obligations to reasonable number of series and not be overly burdensome on Market-Makers.

The proposed rule change to permit the Exchange to establish minimum quote size (for SPX) and bid-ask differential requirements on an expiration and premium basis will ensure the Exchange can effectively set these requirements without being overly burdensome on Market-Makers given the differing trade characteristics applicable to series with different expirations and premiums. These proposed changes overall will continue to incentive Market-Makers to have appointments in SPX, which increases liquidity and ultimately benefits investors. As noted above, the rules permit the Exchange to establish other trading parameters on a premium and class basis, and the proposed rule change codifies a current Exchange practice to set bid-ask differential requirements on a class and premium basis and for expirations of less than nine months and nine months or more for all classes other than SPX. The proposed expiration groupings for minimum quote size and bid-ask differential requirements in SPX are based on the Exchange's review of various information, including SPX transaction data, sizes of LMM quotes in SPX, and feedback received from Market-Makers and Exchange advisory groups. The proposed rule change has no impact on intermarket competition, as the proposed rule change relates to obligations applicable to Cboe Options Market-Makers.

The proposed rule change regarding SPX appointment cost will have no impact on competition, as the appointment cost will stay the same, and thus Market-Makers will not need to obtain any additional trading permits to quote in SPX options following their migration to the Hybrid Trading System.

The proposed rule change related to bid/ask differentials will not impose any burden on intramarket competition, because it will apply in the same manner to all Market-Makers subject to that requirement. It will not impose any burden on intermarket competition, because it relates to quoting requirements imposed by Cboe Options. Additionally, requiring Market-Makers to comply with bid/ask differential requirements with respect to electronic quotes as soon as a class begins trading will increase liquidity and tighter markets in these classes when the class starts trading. Market-Makers ultimately have to comply with these

[19] The Exchange notes there are not currently any PMMs or DPMs for SPX or SPXW, and there will be none at the time of conversion of SPX to Hybrid.

requirements; the proposed rule change merely change [sic] when they must start to comply with them.

*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**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [22] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing, Cboe Options requested that the Commission waive the 30-day operative delay. The Exchange represented that it would like to migrate SPX options from the Hybrid 3.0 System to the Hybrid Trading System on April 30, 2018. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal is designed to modify the Hybrid Trading System rules to accommodate SPX options in a manner substantively similar to how they currently are listed and traded on Hybrid 3.0. In so doing, the proposal permits the Exchange to migrate the one product currently trading on Hybrid 3.0 onto the system it uses for all other options, and to do so in a way that minimizes disruption for traders that currently trade SPX on Hybrid 3.0 without raising novel issues. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2018–029 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–2018–029. 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–2018–029, and should be submitted on or before May 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–08848 Filed 4–26–18; 8:45 am]

**BILLING CODE 8011–01–P**

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] 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).

[24] 17 CFR 200.30–3(a)(12) and (59).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–83093; File No. SR–CBOE–2018–031]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Concerning the VIX Large Trade Discount Program

April 23, 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 April 16, 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 the VIX Large Trade Discount 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its Fees Schedule. Specifically, the Exchange proposes to amend its VIX Large Trade Discount Program. By way of background the Exchange provides a discount in the form of a cap on transaction fees for Market-Maker, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional and Joint Back-Office (*i.e.,* ''M'', ''B'', ''N'', ''W'' and ''J'' origin codes) executions in VIX (the '' VIX Large Trade Discount''). Particularly, regular transaction fees are currently only charged for up to 250,000 VIX options contracts per order for Market-Makers, Broker-Dealers, Non-Trading Permit Holder Market-Makers, Professional/Voluntary Professionals and Joint Back-Offices.[3] The Exchange proposes to amend the VIX Large Trade Discount Program to provide that regular transaction fees will only be charged for up to 175,000 VIX options contracts per order. The Exchange believes the proposed amendment will incentivize the sending of large VIX orders. The greater liquidity and trading volume that the proposed amended cap encourages would benefit all market participants trading VIX options.

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.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] 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. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[6] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders.

The Exchange believes that lowering the VIX Large Trade Discount cap is reasonable because Market-Makers, Broker-Dealers, Non-Trading Permit Holder Market-Makers, Professional/Voluntary Professionals and Joint Back-Offices participants (*i.e.,* non-Customer, non-Firm market participants) will receive a further discount for very large trades that they would not otherwise receive, which promotes and encourages larger VIX executions on the Exchange. This change is equitable and not unfairly discriminatory because the amendment will apply to all non-Customer, non-Firm market participants whose large trades qualify for the discount in VIX. The Exchange notes that other VIX trading incentive programs already exist for Customer and Firm market participants.[7]

*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 cap does not apply to Customers and Firms, other incentive programs already exist for those market participants with respect to VIX trading.[8] Additionally, the proposed change is designed to encourage increased VIX options volume, which provides greater trading opportunities for all market participants. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because VIX is only traded 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[9] and paragraph (f) of Rule 19b–4[10] 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–2018–031 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–2018–031. 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

[3] The discount applies to transaction fees only. Other fees, such as the Index License Surcharge, are not discounted.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

[7] *See* Cboe Options Fees Schedule, Customer Large Trade Discount program and the Cboe Options Clearing Trading Permit Holder Proprietary Products Sliding Scale.

[8] *Id.*

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

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–2018–031 and should be submitted on or before May 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–08851 Filed 4–26–18; 8:45 am]

**BILLING CODE 8011–01–P**

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–83092; File No. SR–PEARL–2018–11]**

## Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 602, Continuing Market Maker Registration

April 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 2018, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend MIAX PEARL Rule 602, Continuing Market Maker Registration, to modify the Market Maker[3] series registration process utilized by the Exchange.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend MIAX PEARL Rule 602, Continuing Market Maker Registration, to modify the Market Maker series registration process utilized by the Exchange. The Exchange believes this proposal would simplify and enhance the efficiency of the Market Maker series registration process, for both Market Makers and the Exchange. Other option exchanges generally have comparable Market Maker series registration processes.[4]

[3] The term ''Market Maker'' or ''MM'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange rules. *See* Exchange Rule 100.

[4] *See, e.g.,* Cboe BZX Exchange, Inc. (''BZX Options'') Rules 22.3(a), (b) (Market Maker Registration); *see also* Nasdaq PHLX, LLC (''Phlx'') Rule 3212(b) (Registration as a Market Maker); Nasdaq Options Market (''NOM''), Chapter VII (Market Participants), Section 3(a), (b) (Continuing Market Maker Registration); NYSE American, LLC (''NYSE American''), Rule 923NY (Appointment of Market Makers).

Current Registration Process

Once a Member[5] has qualified as a Market Maker, such Market Maker may seek registration in individual series of options pursuant to Rule 602. Specifically, Rule 602(b) provides that ''[a] Market Maker may become registered in a series by entering a registration request via an Exchange approved electronic interface with the Exchange's Systems by 9:00 a.m. Eastern Time. Registration shall become effective on the day the registration request is entered.''[6]

Proposed Registration Process

The Exchange proposes to amend MIAX PEARL Rule 602(b) to modify the process by which a Market Maker becomes registered in a series. Specifically, the Exchange proposes to amend the rule text to state that registration may be requested by either utilizing the currently approved MIAX Express Order (''MEO'')[7] interface, which requires series registration to be submitted prior to 9:00 a.m. Eastern Time of the current trading day, which registration request shall be submitted for every requested trading day, or an additional Exchange approved electronic interface, which requires series registration to be submitted prior to 6:00 p.m. Eastern Time of the business day immediately preceding the next trading day, which registration request shall persist until it is withdrawn. A Market Maker can withdraw a registration request by utilizing the same tool as it used to submit such request.

The purpose of this proposed change is to accommodate an additional Exchange approved electronic interface that the Exchange intends to make available to Market Makers for series registration, which additional electronic interface has a different submission deadline than the existing approved electronic interface, and which additional electronic interface allows the registration request to persist until a new request is submitted (whereas the existing electronic interface does not allow the registration request to persist—it requires a Market Maker to

[5] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[6] *See* Exchange Rule 602(b).

[7] The term ''MEO Interface'' means a binary order interface used for submitting certain order types (as set forth in Rule 516) to the MIAX PEARL System. *See* Exchange Rule 100.

resubmit for every trading day). The Exchange believes that adding more detail to the rule text would make it clear to Market Makers that it is mandatory to utilize one of the two Exchange approved electronic interfaces for series registration, and that there are different submission deadlines and requirements for resubmission for each device. Accordingly, Market Makers would continue to self-register in a series, however the Market Maker would select the method to use, and thereby clearly understand when a series registration must be submitted for that particular method and the submission frequency related thereto. Market Makers may choose to use either Exchange approved electronic interface, or any combination of the two, to process their series registrations and withdrawals.

The Exchange believes that offering Market Makers an additional electronic interface for series registration will be beneficial for Market Makers because it will provide Market Makers with greater flexibility on how to perform series registration. The Exchange also believes that it will provide Market Makers with greater and more efficient access to the securities in which they want to make markets and disseminate competitive quotations, which would provide additional liquidity and enhance competition in those securities.

In addition, the Exchange also proposes to delete Rule 602(c), in its entirety. Presently, sub-section (c) states that, ''[a] Market Maker's registration in a series shall be terminated if the Market Maker fails to enter quotations in the series within five (5) business days after the Market Maker's registration in the series becomes effective.'' [8]

The Exchange believes that Rule 602(c), when read in conjunction with certain other Exchange Rules, could potentially be interpreted to be inconsistent with such rules. In particular, Rule 604(a)(6) provides that Market Makers are expected to ''maintain active markets'' in all series in which they are registered. Rule 602(c) applies only to the first five days that a Market Maker is registered, whereas Rule 604(a)(6) continues for as long as the Market Maker is registered in a series. When read together, the Exchange believes that there is potential for an inconsistent interpretation relating to a Market Maker's quoting obligations during the first five days after registering in a series. In the Exchange's view, the requirement to maintain active markets should be the same throughout the entire registration period. The Exchange notes that it will continue to be permitted to suspend or terminate a registered Market Maker under Rule 600(b) if it is found that the Market Maker has failed in its obligations to maintain active markets under Rule 604(a)(6) or fails its obligation to provide continuous two-sided quotes under Rule 605(d).[9] Removing Rule 602(c) would simply remove the non-discretionary requirement that the Exchange must terminate a Market Maker's registration in a series if it does not enter quotations in the series within five business days of registration.

The Exchange currently conducts surveillance to monitor and enforce compliance with the ''active markets'' provision of Rule 604(a)(6) for all Market Makers. A registered Market Maker is subject to the Rule 604(a)(6) surveillance for the entire time the Market Maker is registered, including the first five days covered by Rule 602(c). If a registered Market Maker is found by surveillance not to be maintaining active markets in the option series in which it is registered, the Exchange will determine the appropriate course of action against such Market Maker. The Exchange may take actions of escalating severity against the offending Market Maker from suspending the Market Maker up to terminating the Market Maker in the options in which it fails to maintain active markets or bringing formal action.[10]

The Exchange notes that its Market Maker series registration process is generally similar in structure to the comparable processes at other exchanges.[11] Additionally, the Exchange's proposal to remove Rule 602(c) is based on the rules of another Exchange.[12] Accordingly, the Exchange believes that the proposed changes to Rule 602 are not material and raise no new or novel issues.

2. Statutory Basis

MIAX PEARL believes that its proposed rule change is consistent with Section 6(b) [13] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[14] in particular, 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change removes impediments to a free and open market because it would enable Market Makers to manage their series registration and the submission frequency related thereto, with more flexibility through the use of multiple electronic interfaces. The Exchange believes the proposed change would reduce the burden on both Market Makers and Exchange staff, which would result in a fair and reasonable use of resources to the benefit of all market participants. In particular, the proposal will enable Market Makers to have a choice of multiple electronic interfaces to perform series registration, and consequently will provide Market Makers with more efficient access to the securities in which they want to make markets and thus more quickly begin disseminating competitive quotations in those securities, which would provide additional liquidity and enhance competition in those securities.

In addition, the Exchange believes that the proposed deletion of sub-section (c) of Rule 602 promotes just and equitable principles of trade and provides clarity for the benefit of Market Makers and the marketplace as a whole

[8] *See* Rule 602(c).

[9] *See* Exchange Rule 600(b) (''The registration of any Member as a Market Maker may be suspended or terminated by the Exchange upon a determination that such Member has failed to properly perform as a Market Maker.'').

[10] *See* Exchange Rule 600(b).

[11] *See e.g.,* BZX Options Rules 22.3(a) (''An Options Member that has qualified as an Options Market Maker may register to make markets in individual series of options''); NOM, Chapter VII, Section 3(a) (''An Options Participant that has qualified as an Options Market Maker may register to make markets in individual options.''). *See also* Phlx Rule 3212(b) (''A PSX Market Maker may become registered in an issue by entering a registration request via an Exchange approved electronic interface with PSX's systems or by contacting PSX Market Operations. Registration shall become effective on the day the registration request is entered''); Phlx Rule 3220(a) (''A market maker may voluntarily terminate its registration in a security by withdrawing its two-sided quotation from PSX. A PSX Market Maker that voluntarily terminates its registration in a security may not re-register as a market maker for one (1) business day.''). *See also* BZX Options Rules 22.3(b) (''An Options Market Maker may become registered in a series by entering a registration request via an Exchange approved electronic interface with the Exchange's systems by 9:00 a.m. Eastern time. Registration shall become effective on the day the registration request is entered''); NOM, Chapter VII, Section 3(b) (''An Options Market Maker may become registered in an option by entering a registration request via a Nasdaq approved electronic interface with Nasdaq's systems. Registration shall become effective on the day the registration request is entered.'').

[12] *See* Securities Exchange Act Release No. 79039 (October 4, 2016), 81 FR 70198 (October 11, 2016) (SR–BatsBZX–2016–62).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

by deleting rule text that could potentially be inconsistent with certain other Exchange rules. Additionally, the Exchange believes the proposal is consistent with Section 6(b)(1) [15] in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members with the rules of the Exchange—in particular, the Exchange's Market Maker obligations. Accordingly, the Exchange believes this proposal is consistent with Section 6(b) of the Exchange Act.[16]

*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 because it applies equally to a group of similarly situated market participants—Market Makers. The proposed rule change would reduce the burden on Market Makers to manage their series registration and thus provide liquidity to the Exchange.

Market Makers would still be subject to the same obligations with respect to their registration; the proposed rule change would make the registration process more efficient for such Market Makers. The Exchange believes that the proposed rule change would relieve any burden on, or otherwise promote, competition, as it would enable Market Makers to manage their registration with more flexibility through the use of multiple electronic interfaces. The Exchange believes this would provide Market Makers with more efficient access to the securities in which they want to make markets and thus more quickly begin disseminating competitive quotations in those securities, which would provide additional liquidity and enhance competition in those securities.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) [18] 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 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–PEARL–2018–11 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–PEARL–2018–11. 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–PEARL–2018–11 and should be submitted on or before May 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–08850 Filed 4–26–18; 8:45 am]

**BILLING CODE 8011–01–P**

[15] 15 U.S.C. 78f(b)(1).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB review

**AGENCY:** Small Business Administration.

**ACTION:** 30-Day notice.

**SUMMARY:** The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that a submission.

**DATES:** Submit comments on or before May 29, 2018.

**ADDRESSES:** Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

**SUPPLEMENTARY INFORMATION:** The information collected is used by Small Business Administration to monitor the Agents, fees charged by Agents, and the relationship between Agents and lenders. The information helps SBA to determine among other things whether borrowers are paying unnecessary, unreasonable or prohibitive fees.

*Copies:* A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**Solicitation of Public Comments**

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

*Summary of Information Collections:*

*(1) Title:* Compensation Agreement.

*Description of Respondents:* 7(a) Lenders, 504 Applications, and Disaster Loan request.

*Form Number:* SBA Form 159 (7a), 159 (504), 159D.

*Estimated Annual Respondents:* 9,210.

*Estimated Annual Responses:* 9,210.

*Estimated Annual Hour Burden:* 1,385.

**Curtis Rich,**

*Management Analyst.*

[FR Doc. 2018–08907 Filed 4–26–18; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Delegation of Authority No. 24 (Revision 1)]**

### Delegation of Authority; Chief Operating Officer Functions Delegated to Chief of Staff

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of delegation of authority.

**SUMMARY:** This is notice that the Administrator of the Small Business Administration (SBA) has delegated to the Chief of Staff of SBA the functions of the SBA Chief Operating Officer.

**FOR FURTHER INFORMATION CONTACT:** Nicole Nelson, 409 Third Street SW, Washington, DC 20416, (202) 205–7540.

**SUPPLEMENTARY INFORMATION:** This document provides the public with notice of the Administrator's delegation of authority, dated April 18, 2018, to the Chief of Staff to perform the functions of the Chief Operating Officer. Delegation of Authority No. 24 to the Chief Operating Officer (77 FR 20474, April 4, 2012) is hereby superseded by this Delegation of Authority No. 24 (Revision 1).

This delegation of authority reads as follows:

Pursuant to the authority vested in me, I hereby delegate to the SBA Chief of Staff the authority to perform all of the functions of the SBA Chief Operating Officer.

The authority delegated herein may not be re-delegated. In the event that the Chief of Staff is absent from the office, as defined in SBA Standard Operating Procedure 00 01 2, or is unable to perform the functions and duties of the position, an individual serving in an acting capacity or pursuant to a written and established line of succession shall have the authority delegated herein.

All previous delegations of authority from the Administrator to any other officer of the Agency are hereby superseded to the extent that such previous delegations are inconsistent with this delegation of authority. This authority will remain in effect until revoked in writing by the Administrator or by operation of law.

**Authority:** 15 U.S.C. 634 and 31 U.S.C. 1123.

Dated: April 18, 2018.

**Linda E. McMahon,**

*Administrator.*

[FR Doc. 2018–08978 Filed 4–26–18; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF STATE

**[Public Notice 10402]**

### Notice of Public Meeting

The Department of State will conduct an open meeting at 9:00 a.m. on Thursday, May 24, 2018, at the offices of ABS Consulting, 1525 Wilson Boulevard, Suite 625, Arlington, Virginia 22209. The primary purpose of the meeting is to prepare for the forty-second session of the International Maritime Organization's (IMO) Facilitation Committee to be held at the IMO Headquarters, United Kingdom, June 5–8, 2018.

The agenda items to be considered include:

—Decisions of other IMO bodies
—Consideration and adoption of proposed amendments to the Convention
—Review and update the Explanatory Manual to the FAL Convention
—Application of single-window concept
—Review and revision of the IMO Compendium on Facilitation and Electronic Business
—Developing guidance for authentication, integrity and confidentiality of content for the purpose of exchange via a maritime single window
—Update the guidelines for setting up a single window system in maritime transport
—Unsafe mixed migration by sea
—Consideration and analysis of reports and information on persons rescued at sea and stowaways
—Technical cooperation activities related to facilitation of maritime traffic
—Relations with other organizations
—Application of the Committee's procedures on organization and method of work
—Work program
—Election of Chair and Vice-Chair for 2019
—Any other business

Members of the public may attend this meeting up to the seating capacity of 30 for the room. Upon request to the meeting coordinator, members of the public may also participate via teleconference, up to the capacity of the teleconference phone line, which will handle 500 participants. To access the teleconference line, participants should call (202) 475–4000 and use Participant Code: 764 990 20#. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Mr. James Bull, by email at *James.T.Bull@uscg.mil,* by phone at (202) 372–1144, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509 not later than May 17, 2018, seven days prior to the meeting. Requests made after May 17, 2018, might not be able to be accommodated. The ABS Consulting office is accessible by taxi, public transportation, and privately owned conveyance.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

**Joel C. Coito,**

*Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.*

[FR Doc. 2018–08880 Filed 4–26–18; 8:45 am]

**BILLING CODE 4710–09–P**

## DEPARTMENT OF STATE

**[Public Notice 10401]**

### Advisory Committee on International Economic Policy; Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 1:30 until 4:00 p.m., on Wednesday, May 16 in Washington DC at the State Department, 320 21st St. NW. The meeting will be hosted by the Assistant Secretary of State for Economic and Business Affairs, Manisha Singh, and Committee Chair Paul R. Charron. The ACIEP serves the U.S. government in a solely advisory capacity, and provides advice concerning topics in international economic policy. It is expected that during this meeting the Sanctions Subcommittee will provide an update on its recent work. Other subcommittees, such as the Stakeholder Advisory Board, might also present updates.

This meeting is open to the public, though seating is limited. Entry to the building is controlled. To obtain pre-clearance for entry, members of the public planning to attend must, *no later than Friday, May 4,* provide their full name and professional affiliation (if any) to Alan Krill by email: *KrillA@state.gov.* Requests for reasonable accommodation should also be made to Alan Krill before Friday, May 14. Requests made after that date will be considered, but might not be possible to fulfill.

This information is being collected pursuant to 22 U.S.C. 2651a and 22 U.S.C. 4802 for the purpose of screening and pre-clearing participants to enter the host venue at the U.S. Department of State, in line with standard security procedures for events of this size. The Department of State will use this information consistent with the routine uses set forth in the System of Records Notices for Protocol Records (STATE–33) and Security Records (State-36). Provision of this information is voluntary, but failure to provide accurate information may impede your ability to register for the event.

For additional information, contact Alan Krill, Bureau of Economic and Business Affairs, at (202) 647–2231, or *KrillA@state.gov.*

**Alan B. Krill,**

*Designated Federal Officer, Department of State.*

[FR Doc. 2018–08918 Filed 4–26–18; 8:45 am]

**BILLING CODE 4710–07–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36181]**

### Kasgro Rail Corp.—Lease and Operation Exemption—KJ Rail Logistics LLC

**AGENCY:** Surface Transportation Board.

**ACTION:** Correction to notice of exemption.

On March 29, 2018, Kasgro Rail Corp. (Kasgro) filed a verified notice of exemption under 49 CFR 1150.41 to lease from KJ Rail Logistics LLC, a noncarrier, and operate approximately 1.6 miles of rail line located in LaPorte County, Ind., between milepost 0.0 and milepost 1.6 (the Line). On April 13, 2018, notice of the exemption was served and published in the **Federal Register** (83 FR 16,168).

On April 16, 2018, Kasgro filed an errata stating that the Line does not connect with CSX Transportation, Inc. at milepost 0.0 as Kasgro indicated in its verified notice but rather with Chicago South Shore & South Bend Railroad (CSS) at milepost 0.0. Accordingly, this notice identifies the connecting carrier as CSS. All other information in the April 13, 2018 notice is correct.

Board decisions and notices are available on our website at ''*WWW.STB.GOV.*''

Decided: April 24, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Raina Contee,**

*Clearance Clerk.*

[FR Doc. 2018–08945 Filed 4–26–18; 8:45 am]

**BILLING CODE 4915–01–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket Numbers USTR–2018–0006, 2018–007, and 2018–008]**

### Initiation of Country Practice Reviews of India, Indonesia, and Kazakhstan

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of public hearing and request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is announcing the initiation of country practice reviews regarding compliance with the Generalized System of Preferences (GSP) eligibility criteria of India, Indonesia, and Kazakhstan. This notice includes the schedule for submission of public comments and a public hearing.

**DATES:** June 19, 2018: The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) will convene a public hearing on the GSP country practice reviews of India, Indonesia, and Kazakhstan in Rooms 1 and 2, 1724 F Street NW, Washington, DC 20508, beginning at 10:00 a.m.

June 5, 2018 at midnight EDT: Deadline for submission of comments, pre-hearing briefs, and requests to appear at the June 19, 2018, public hearing.

July 17, 2018 at midnight EDT: Deadline for submission of post-hearing briefs.

**ADDRESSES:** USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments in section D below. The docket number for the India review is USTR–2018–0006. The docket number for the Indonesia review is USTR–2018–0007. The docket number for the Kazakhstan review is USTR–2018–0008. For alternatives to on-line submissions, please contact Yvonne Jamison at 202–395–3475.

**FOR FURTHER INFORMATION CONTACT:** Erland Herfindahl, Deputy Assistant U.S. Trade Representative for GSP at *Erland_Herfindahl@ustr.eop.gov* or 202–395–6364.

**SUPPLEMENTARY INFORMATION:**

#### A. Background

The GSP program provides for the duty-free treatment of designated articles when imported from beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461–2467), as amended, and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

#### B. Initiation of a Country Practice Review of India, Indonesia, and Kazakhstan

USTR will lead a review of the eligibility of India, Indonesia, and Kazakhstan for benefits under the GSP program. These country practice reviews are undertaken on the recommendation of the TPSC pursuant to 15 CFR 2007.0(f) to determine whether the current laws and practices of India, Indonesia, and Kazakhstan meet the GSP eligibility criteria. These reviews are the result of country eligibility petitions submitted by interested stakeholders and an assessment of the 25 Asian and Pacific Island GSP beneficiary countries conducted by the GSP Subcommittee.

**1. India Country Eligibility Review**

The country practice review of India will focus on whether it is meeting the GSP eligibility criterion that requires a GSP beneficiary country to assure the United States that it will provide equitable and reasonable access to its market (19 U.S.C. 2462(c)(4)). USTR is accepting two petitions asserting that India is not meeting this criterion: One from the National Milk Producers Federation and the U.S. Dairy Export Council, and the other from the Advanced Medical Technology Association. In addition, through the new GSP Country Assessment process, the GSP Subcommittee identified potential concerns with India's compliance with the GSP criterion that requires a GSP beneficiary country to assure the United States that it will provide equitable and reasonable access to its market (19 U.S.C. 2462(c)(4)). As described in the India Chapter of the 2018 National Trade Estimate Report on Foreign Trade Barriers, India has implemented a wide array of trade barriers that create serious negative effects on U.S. commerce. Due to the similar nature of the issues raised in these petitions with concerns identified in the assessment process, the petitions and the self-initiated review will be combined into one overall review of India's GSP eligibility based on the GSP market access criterion.

**2. Indonesia Country Eligibility Review**

The country practice review of Indonesia will focus on whether it is meeting two GSP criteria: (1) The GSP criterion that requires a GSP beneficiary country to assure the United States that it will provide equitable and reasonable access to its market (19 U.S.C. 2462(c)(4)), and (2) the GSP criterion that requires a GSP beneficiary country to reduce trade-distorting investment practices and reduce or eliminate barriers to trade in services (19 U.S.C. 2462(c)(6)). As described in the Indonesia Chapter of the 2018 National Trade Estimate Report on Foreign Trade Barriers, Indonesia has implemented a wide array of trade barriers that create serious negative effects on U.S. commerce. The existing review of Indonesia's compliance with the GSP criterion related to intellectual property rights (19 U.S.C. 2462(c)(5)) is separate, and will continue.

**3. Kazakhstan Country Eligibility Review**

The country practice review of Kazakhstan will focus on whether it is meeting the GSP criterion requiring a GSP beneficiary country to take steps to afford internationally recognized worker rights to workers in the country (19 U.S.C. 2462(b)(2)(G)). USTR is accepting a petition filed by the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO). The petition alleges that the Government of Kazakhstan actively restricts the right to form trade unions and employer associations without prior permission, prevents workers and employers from joining organizations of their own choosing, interferes in the structure and activities of worker and employer organizations, and targets labor leaders with arrests and prosecutions for exercising their rights.

*C. Notice of Public Hearing*

The GSP Subcommittee will hold a hearing on June 19, 2018, beginning at 10:00 a.m., to receive information regarding the country practice reviews of India, Indonesia, and Kazakhstan. The hearing will be held in Rooms 1 and 2, 1724 F Street NW, Washington, DC 20508, and will be open to the public and to the press. We will make a transcript of the hearing available on *www.regulations.gov* within approximately two weeks after the date of the hearing. All interested parties wishing to make an oral presentation at the hearing must submit, following the Requirements for Submissions set out below, the name, address, telephone number, and email address, if available, of the witness(es) representing their organization by midnight on June 5, 2018.

Requests to present oral testimony must be accompanied by a written brief or summary statement, in English. The GSP Subcommittee will limit oral testimony before the GSP Subcommittee to five-minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. The GSP Subcommittee will accept post-hearing briefs or statements if they conform to the requirements set out below and are submitted in English, by midnight on July 17, 2018.

Parties not wishing to appear at the public hearing may submit pre-hearing and post-hearing briefs or comments by these deadlines. In order to be assured of consideration, you must submit all post-hearing briefs or statements by the July 17, 2018 deadline to the appropriate docket via *www.regulations.gov:*

India (market access): USTR–2018–0006
Indonesia (market access; investment and services): USTR–2018–0007
Kazakhstan (worker rights): USTR–2018–0008

However, if there are new developments or information that parties wish to share with the GSP Subcommittee after this date, the *www.regulations.gov* docket will remain open until a final decision is made. Post all comments, letters, or other submissions related to the appropriate docket listed above via *www.regulations.gov.*

**D. Requirements for Submissions**

All submissions in response to this notice must conform to the GSP regulations set forth at 15 CFR part 2007 (*https://www.ecfr.gov/cgi-bin/textidx?SID=271bd12a5ef9cae0c4c178d1131ac292&mc=true&node=pt15.3.2007&rgn=div5*), except as modified below.

The GSP Subcommittee strongly encourages on-line submissions through the *https://www.regulations.gov* website. All submissions must be in English and must be transmitted electronically via *www.regulations.gov* using the appropriate docket number listed above. To make a submission via *www.regulations.gov,* enter the appropriate docket number on the home page and click ''search''. The site will provide a search-results page listing all documents associated with the docket. Find a reference to this notice and click on the link entitled ''Comment Now''. For further information on using *www.regulations.gov,* please consult the resources provided on the website by clicking on ''How to Use Regulations.gov'' on the bottom of the home page. We will not accept hand-delivered submissions.

The *www.regulations.gov* website allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. The GSP Subcommittee prefers that you provide submissions as an attached document. If a document is attached, please type ''GSP Review of [Country]'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the ''Type Comment'' field. File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files. Submissions should not exceed 30

single-spaced, standard letter-size pages in 12-point type, including attachments.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and would not customarily be released to the public by the submitter.

Additionally, the submitter should type ''Business Confidential GSP Review of [Country]'' in the ''Type Comment'' field. Filers of submissions containing business confidential information also must submit a public version of their comments that we will place in the docket for public inspection. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

You will receive a submission tracking number upon completion of the submissions procedure at *www.regulations.gov.* The tracking number is your confirmation that the submission was received into *www.regulations.gov.* The GSP Subcommittee is not able to provide technical assistance for the website. The GSP Subcommittee may not consider documents that are not submitted in accordance with these instructions.

As noted, the GSP Subcommittee strongly urges submitters to file comments through *www.regulations.gov.* You must make any alternative arrangements with Yvonne Jamison at 202–395–3475 in advance of transmitting a comment.

We will post comments in the dockets for public inspection, except business confidential information. You can view comments on the *www.regulations.gov* website by entering the relevant docket number in the search field on the home page.

**Erland Herfindahl,**

*Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences and Chair of the GSP Subcommittee of the Trade Policy Staff Committee, Office of the United States Trade Representative.*

[FR Doc. 2018–08868 Filed 4–26–18; 8:45 am]

**BILLING CODE 3290–F8–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of New Approval of Information Collection: FAA Aircraft Noise Complaint and Inquiry System (FAA Noise Portal)

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

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 2, 2017. The voluntary collection is part of the FAA's goal to more effectively and efficiently address noise complaints or inquiries it receives. The collection includes information such as name, email address, street or cross street, city, state, zip code, and a description of the aircraft noise complaint or inquiry. The level of information to be collected is necessary to allow the FAA to respond to the noise complaint or inquiry.

**DATES:** Written comments should be submitted by May 29, 2018.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Barbara Hall at (940) 594–5913, or by email at: *Barbara.L.Hall@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–XXXX.

*Title:* FAA Aircraft Noise Complaint and Inquiry System (FAA Noise Portal).

*Form Numbers:* There are no forms.

*Type of Review:* This is clearance of new information collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 2, 2017 (82 FR 50932).

In summary, the FAA received comments from 21 individuals; two aviation organizations, Airlines for America (A4A) and the Airports International Council of North America (ACI–NA); the Port of Seattle, which has oversight and management of Seattle-Tacoma International Airport (Sea-Tac); and the cities of SeaTac, WA and College Park, GA. Several individuals complained about aircraft noise at specific airports, which was not applicable to the public notice. We noted this as N/A in the FAA comment response matrix for OMB and restated the purpose of the FAA Noise Portal. Other individuals commented that the FAA Noise Portal would be useless because it would not improve their current noise situation.

Several commenters questioned what the FAA would do with the data we collected. In our response we explained that the FAA would use the data to identify common complaints or inquiries so we could post commonly asked questions and answers to the regional websites to inform those interested upfront without their having to submit a complaint or inquiry through the FAA Noise Portal. We said we may also use the data to identify trends in FAA related noise concerns. Implementation of the Noise Portal does not change the FAA's current policies regarding noise.

One commenter noted that the PRA requires the FAA to certify that the collection of information is necessary for the proper performance of the

agency. The FAA responded that as a federal agency we must be responsive to the public by taking action on the aircraft noise complaints we already receive, which in many cases means directing them to the appropriate airport. Others were concerned that the FAA would duplicate efforts by the Airport Sponsors who already have noise complaint systems to receive and respond to public noise complaints for their airport.

The FAA is aware of the existing airport sponsor noise complaint systems and will provide their links on the regional noise websites for the public. In addition, FAA will coordinate with ACI–NA to assist us in our coordination efforts with the airport sponsors and with other relevant aviation stakeholders ACI–NA represents to minimize any duplication in efforts between the FAA and airport sponsors regarding aircraft noise complaints or inquiries. We did not receive any comments on the cost and hour burden of the Noise Portal.

The purpose of the FAA Noise Portal is to allow the FAA to more efficiently and effectively respond to and address noise complaints or inquiries in a clear, consistent, and repeatable manner that is responsive to the public and applies the best use of FAA resources. Currently, there is no clear FAA process or point of entry for the public to submit noise complaints and inquiries. As a result, public noise complaints and inquiries are forwarded within the FAA until the appropriate person or organization responds. This creates a delay in FAA responses to the public.

A public link to the FAA Noise Portal collection will be posted on each of the nine FAA regional websites and the FAA Headquarters Noise Ombudsman website for members of the public who want to submit an aircraft related noise complaint or inquiry to the FAA. The FAA Noise Portal includes required and optional fields for the public to complete. Once completed, the information is automatically sent to the FAA Regional Administrators Office or Noise Ombudsman who in turn assigns it to the appropriate FAA office to respond to the complaint or inquiry within a specified time frame. All incoming complaints and inquiries are automatically entered into an FAA database that can be tracked to ensure timely responses and queried for informational purposes.

The websites will also identify and provide links to other entities responsible for addressing aircraft noise related issues (*e.g.,* airports, military, helicopters) and will contain links to pertinent aircraft noise related policy, environmental, or community involvement documents. In addition, the websites will contain a mailing address and phone number for those members of the public who wish to mail a postal letter or use a voice prompt and recording system option to complete the required fields included in the FAA Noise Portal.

*Respondents:* Generally, any member of the public in the United States with a valid email address who believes the FAA is the appropriate entity to answer their aircraft noise complaint or inquiry.

*Frequency:* Members of the public are not limited regarding the frequency with which they can submit a complaint or inquiry to the FAA.

*Estimated Average Burden per Response:* Fifteen minutes to enter the complaint or inquiry into the FAA Noise Portal fields.

*Estimated Total Annual Burden:* 11,250 hours.

Issued in Fort Worth, TX on April 17, 2018.

**Barbara Hall,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.*

[FR Doc. 2018–08963 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Renewal, Rotorcraft External Load Operator Certificate Application

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

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 19, 2018. The collection involves the submission of application FAA Form 8710–4 for organizations wishing to conduct nonpassenger-carrying external-load operations for compensation or hire. The information to be collected will be used to and/or is necessary to evaluate the operators request to become or remain certified as Rotorcraft External-Load Operators.

**DATES:** Written comments should be submitted by May 29, 2018.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Barbara Hall at (940) 594–5913, or by email at: *Barbara.L.Hall@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0044.

*Title:* Rotorcraft External Load Operator Certificate Application.

*Form Numbers:* FAA Form 8710–4.

*Type of Review:* This is a renewal of an information collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 19, 2018 (83 FR 2866). Application for certificate issuance or renewal of a 14 CFR part 133 Rotorcraft External Load Operator Certificate. Application for an original certificate or renewal of a certificate issued under 14 CFR part 133 is made on a form, and in a manner, prescribed by the Administrator. The FAA form 8710–4 may be obtained from an FAA Flight Standards District Office. The completed application is sent to the district office that has jurisdiction over the area in which the applicant's home base of operation is located.

*The information collected includes:* Type of application, Operators name/DBAs, telephone number, mailing address, physical address of the principal base of operations, Chief pilot/designee name, airman certificate grade and number, rotorcraft make/model

registration numbers to be used and load combinations requested.

*Respondents:* 357 active 14 CFR part 133 Certificate Holders.

*Frequency:* New applications as industry dictates, however, current 14 CFR part 133 certificate holders must renew every 24 months.

*Estimated Average Burden per Response:* Approximately 30 minutes per application.

*Estimated Total Annual Burden:* 89.25 hours per year for 14 CFR part 133 renewals.

Issued in Fort Worth on April 23, 2018.

**Barbara Hall,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.*

[FR Doc. 2018–08966 Filed 4–26–18; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–1999–5578; FMCSA–1999–5748; FMCSA–2000–7918; FMCSA–2004–17984; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2007–27897; FMCSA–2007–29019; FMCSA–2009–0086; FMCSA–2009–0206; FMCSA–2011–0057; FMCSA–2011–0124; FMCSA–2011–0189; FMCSA–2013–0029; FMCSA–2014–0298; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2015–0055; FMCSA–2015–0056]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 60 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

#### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http//www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

#### II. Background

On January 26, 2018, FMCSA published a notice announcing its decision to renew exemptions for 60 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (83 FR 3861). The public comment period ended on February 26, 2018, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

#### III. Discussion of Comments

FMCSA received no comments in this preceding.

#### VI. Conclusion

Based upon its evaluation of the 60 renewal exemption applications and comments received, FMCSA confirms its' decision to exempt the following drivers from the vision requirement in 49 CFR 391.41 (b)(10):

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of November and are discussed below:

As of November 3, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 31 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (65 FR 66286; 66 FR 13825; 68 FR 13360; 70 FR 12265; 70 FR 16887; 70 FR 2701; 70 FR 30999; 70 FR 46567; 70 FR 48797; 70 FR 61493; 72 FR 11426; 72 FR 40359; 72 FR 54971; 72 FR 62896; 74 FR 19267; 74 FR 28094; 74 FR 34074; 74 FR 43221; 74 FR 49069; 74 FR 8302; 76 FR 12216; 76 FR 32016; 76 FR 44653; 76 FR 53708; 76 FR 62143; 78 FR 18667; 78 FR 32703; 78 FR 34143; 78 FR 52602; 78 FR 77782; 78 FR 78477; 79 FR 4531; 79 FR 69985; 80 FR 12248; 80 FR 14223; 80 FR 16500; 80 FR 25768; 80 FR 29152; 80 FR 33011; 80 FR 44188; 80 FR 50917; 80 FR 53383; 80 FR 59225; 80 FR 59230; 80 FR 62161; 80 FR 8927; 81 FR 1284):

Steven B. Anderson (ID)
Harjot S. Aujla (WA)
Gregory W. Babington (MA)
Brian M. Bowman (TN)
Robert J. Burns (KY)
Kevin R. Cowger (ID)
Kenneth D. Daniels (PA)
Mark P. Davis (ME)
Kenneth W. Dunn (TN)
John A. Gartner (MN)
Elias Gomez, Jr. (TX)
Keith N. Hall (UT)
Steven E. Hayes (IN)
Amos S. Hostetter (OH)
Stephen C. Linardos (FL)
Daniel C. Linares (CA)
Ray J. Liner (LA)
Robert E. Mayers (MN)
Ross E. McCleary (NE)
James G. Miles (TN)
Pablo R. Murillo (TX)
Vincent E. Perkins (MA)
Alonzo K. Rawls (NJ)
Berry A. Rodrigue (LA)
Roger D. Rogers (PA)
Juan M. Rosas (AZ)
Dale R. Sweigart (PA)
Charles D. Theademan (WA)
Arnulfo J. Valenzuela (TX)

Danny L. Watson (TN)
William E. Zezulka (MN)

The drivers were included in docket numbers FMCSA–2000–7918; FMCSA–2005–20027; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2009–0086; FMCSA–2013–0029; FMCSA–2014–0298; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2015–0055; FMCSA–2015–0056. Their exemptions are applicable as of November 3, 2017, and will expire on November 3, 2019.

As of November 6, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 13 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (70 FR 17504;70 FR 30997; 70 FR 48797; 70 FR 61493; 72 FR 39879; 72 FR 40362; 72 FR 52419; 72 FR 54971; 74 FR 34394; 74 FR 41971; 74 FR 43217; 74 FR 49069; 74 FR 57551; 76 FR 18824; 76 FR 29024; 76 FR 34136; 76 FR 54530; 76 FR 55463; 76 FR 55465; 76 FR 66123; 76 FR 67246; 78 FR 34143; 78 FR 52602; 78 FR 77782; 78 FR 78477; 79 FR 24298; 80 FR 63869):

James J. Doan (PA)
James E. Fix (SC)
James P. Greene (NY)
Michael A. Lawson (KY)
Steven R. Lechtenberg (NE)
Joseph L. Mast (OR)
Jesse R. McClary, Sr. (MO)
Roy L. Morgan (IL)
Steven D. O'Donnell (NJ)
Gerald J. Shamla (MN)
Halman Smith (DE)
Jerry W. Stanfill (AR)
Scott C. Teich (MN)

The drivers were included in docket numbers FMCSA–2005–20560; FMCSA–2005–21711; FMCSA–2007–27897; FMCSA–2009–0206; FMCSA–2011–0057; FMCSA–2011–0124; FMCSA–2011–0189; FMCSA–2013–0029. Their exemptions are applicable as of November 6, 2017, and will expire on November 6, 2019.

As of November 28, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (69 FR 33997; 69 FR 61292; 70 FR 48797; 70 FR 61493; 71 FR 55820; 72 FR 54971; 72 FR 58362; 72 FR 67344; 73 FR 65009; 74 FR 49069; 74 FR 57553; 76 FR 4413; 76 FR 70212; 80 FR 63869):

Robert W. Bequeaith (IA)
Clarence N. Florey, Jr. (PA)
Loren H. Geiken (SD)
Michael A. Hershberger (OH)
Patrick J. Hogan, Jr. (DE)
Amilton T. Monterio (MA)
David G. Oakley (SC)
Brent L. Seaux (LA)

The drivers were included in docket numbers FMCSA–2004–17984; FMCSA–2005–21711; FMCSA–2007–29019. Their exemptions are applicable as of November 28, 2017, and will expire on November 28, 2019.

As of November 30, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 27027; 64 FR 40404; 64 FR 51568; 64 FR 66962; 66 FR 63289; 68 FR 64944; 70 FR 48797; 70 FR 61493; 70 FR 67776; 72 FR 64273; 74 FR 62632; 76 FR 70215; 78 FR 64280; 80 FR 63869):

Terry J. Aldrige (MS)
Lennie D. Baker, Jr. (NC)
Jerry D. Bridges (TX)
Gary R. Gutschow (WI)
James J. Hewitt (WI)
James R. Murphy (NY)
Thomas E. Walsh (CA)
Kevin P. Weinhold (MA)

The drivers were included in docket numbers FMCSA–1999–5578; FMCSA–1999–5748; FMCSA–2005–21711. Their exemptions are applicable as of November 30, 2017, and will expire on November 30, 2019.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: April 18, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08924 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2013–0124; FMCSA–2013–0125]**

### Qualification of Drivers; Exemption Applications; Hearing

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 3 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on March 27, 2018. The exemptions expire on March 27, 2020. Comments must be received on or before May 29, 2018.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0124; FMCSA–2013–0125 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these

comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to driver a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11) was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The 3 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in 49 CFR 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

## II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

## III. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315, each of the 3 applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The 3 drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

As of March 27, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 3 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers: Marquarius Boyd, (MS); Keith Craig Drown, (ID); and James Gooch, (KS).

The drivers were included in docket numbers FMCSA–2013–0124 and FMCSA–2013–0125. Their exemptions are applicable as of March 27, 2018, and will expire on March 27, 2020.

## IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in 49 CFR 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

## V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VI. Conclusion

Based upon its evaluation of the 3 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in 49 CFR 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08908 Filed 4–26–18; 8:45 am]

**BILLING CODE 4910–EX–P**

---

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket Nos. FMCSA–2013–0107; FMCSA–2013–0109; FMCSA–2015–0119]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew exemptions for three individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any

loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on February 14, 2018. The exemptions expire on February 14, 2020. Comments must be received on or before May 29, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0107; FMCSA–2013–0109; FMCSA–2015–0119 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

## I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The three individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

## II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

## III. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315, each of the three applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The three drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

As of February 14, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following three individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Gregory L. Hrutkay, (PA)
John Johnson, (WI)
George K. Webb, (MA).

The drivers were included in docket number FMCSA–2013–0107; FMCSA–2013–0109; FMCSA–2015–0119. Their exemptions are applicable as of February 14, 2018, and will expire on February 14, 2020.

## IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each

driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

**V. Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

**VI. Conclusion**

Based upon its evaluation of the three exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41 (b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08917 Filed 4–26–18; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2017–0290]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 51 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on March 17, 2018. The exemptions expire on March 17, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

**I. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy*.

**II. Background**

On February 14, 2018, FMCSA published a notice announcing receipt of applications from 51 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (83 FR 6704). The public comment period ended on March 16, 2017, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

**III. Discussion of Comments**

FMCSA received one comment in this proceeding. Vicky Johnson stated that the Minnesota Driver and Vehicle Services (DVS) has no objections in granting exemptions to the following Minnesota drivers: Deavan T. Jones, Sandra K. Kostka, and Todd D. Rue.

**IV. Basis for Exemption Determination**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the February 14, 2018, **Federal Register** notice (83 FR 6704) and will not be repeated in this notice.

These 51 applicants have had ITDM over a range of 1 to 41 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the past five years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

**V. Conditions and Requirements**

The terms and conditions of the exemption are provided to the applicants in the exemption document

and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VII. Conclusion

Based upon its evaluation of the 51 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

Carl W. Anderson (PA)
Thomas J. Anderson (CA)
Jorge A. Barra-Del Valle (UT)
Jeffery L. Bennett (IL)
William T. Bookamer, Jr. (TN)
Ronnie J. Boyd (TN)
Travis R. Breakiron (PA)
Corey D. Calvert (WI)
Jon Conley (OH)
Kiva J. Coppage (MO)
Peter F. Cox (MA)
Kerry P. Daniels (WA)
Joshua M. Dekker (MI)
Miguel A. Disla (VA)
Jon R. Easterla (IL)
Andrew W. Erickson (WY)
Martie L. Eubanks (MO)
Dwight G. Farnworth (ID)
John A. Gott (MD)
Ian C. Hall (MI)
Carl L. Harville, Jr. (VA)
Terry L. Helderman (IL)
James M. Hershey (WA)
Glee D. Jacobs (KS)
Thomas V. Johnson (IN)
Deavan T. Jones (MN)
Bryant C. Kongsted (MD)
Sandra K. Kostka (MN)
Geoffrey A. Kusman (IL)
Chadwick L. Lekwa (IA)
Craig W. Lockwood (WI)
Joseph A. Malone (CA)
Chance P. Masterson (OR)
Harold W. Meade (VA)
Korey E. Molina (VA)
Steven G. Ojala (WA)
Kathy L. Pospichal (WI)
Robert S. Reyes (CA)
Robert D. Risk (IN)
David L. Robson (IA)
Todd D. Rue (MN)
Luis A. Saavedra (TX)
Timothy S. Smith (NC)
Michael E. Smyth (ID)
Dennis N. Spake (VA)
Vincent F. Strafford (NC)
Frederick W. Stevens (OH)
Jason E. Stocker (VT)
Thomas L. Tallon (WA)
Michael L. Vanalstine (OH)
Ralph O. Weathers (IN)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Issued on: April 18, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08923 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

---

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2018–0025]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 40 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) operating a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before May 29, 2018.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2018–0025 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA,

Department of Transportation, 1200 New Jersey Avenue, SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The 40 individuals listed in this notice have requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population.

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305). Section 4129 requires: (1) Elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the three-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e). Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003, notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003, notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

## II. Qualifications of Applicants

*Waael Abuhijab*

Mr. Abuhijab, 34, has had ITDM since 2008. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Abuhijab understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Abuhijab meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from California.

*Patrick S. Baker*

Mr. Baker, 40, has had ITDM since 2015. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Baker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Baker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

*Thomas E. Bandy*

Mr. Bandy, 40, has had ITDM since 2006. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Bandy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bandy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Nebraska.

*Douglas E. Barron*

Mr. Barron, 50, has had ITDM since 1981. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Barron understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Barron meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from South Carolina.

*Michael R. Batey*

Mr. Batey, 53, has had ITDM since 2016. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Batey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Batey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

*Wayne A. Buechler*

Mr. Beuchler, 57, has had ITDM since 2017. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Beuchler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beuchler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

*Alexander R. Castell*

Mr. Castell, 23, has had ITDM since 2011. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Castell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Castell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Iowa.

*Jeffrey S. Chandler*

Mr. Chandler, 51, has had ITDM since 1982. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Chandler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Chandler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

*Robert D. Clark, Jr.*

Mr. Clark, 64, has had ITDM since 2007. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Clark understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clark meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

*Jimmy D. Coffman*

Mr. Coffman, 57, has had ITDM since 1983. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Coffman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Coffman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

*Dale L. Collin*

Mr. Collin, 52, has had ITDM since 2017. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Collin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Collin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

*Wilfredo Costa*

Mr. Costa, 62, has had ITDM since 2015. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Costa understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Costa meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

*Jeffrey L. Covert*

Mr. Covert, 48, has had ITDM since 2008. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist

certifies that Mr. Covert understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Covert meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Arkansas.

*Terry L. Emenheiser*

Mr. Emenheiser, 52, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Emenheiser understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Emenheiser meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

*Brendan T. Farnam*

Mr. Farnam, 24, has had ITDM since 1997. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Farnam understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Farnam meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

*Gerard R. Galipeau, Jr.*

Mr. Galipeau, 49, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Galipeau understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Galipeau meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

*Steve A. Holifield*

Mr. Holifield, 62, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Holifield understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Holifield meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Mississippi.

*Jerry W. Howell*

Mr. Howell, 72, has had ITDM since 2017. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Howell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Howell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

*Stephen M. Huckleby*

Mr. Huckleby, 30, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Huckleby understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Huckleby meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kentucky.

*David L. Isreal*

Mr. Isreal, 46, has had ITDM since 2017. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Isreal understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Isreal meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

*Eric D. Kennedy*

Mr. Kennedy, 42, has had ITDM since 1990. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Kennedy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kennedy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Connecticut.

*Jeff F. Kress*

Mr. Kress, 63, has had ITDM since 2015. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting

in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Kress understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kress meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

*John K. Laughlin*

Mr. Laughlin, 32, has had ITDM since 2005. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Laughlin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Laughlin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Louisiana.

*Alfred G. Love, 3rd*

Mr. Love, 63, has had ITDM since 2015. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Love understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Love meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Delaware.

*Gerald P. Malone*

Mr. Malone, 56, has had ITDM since 2002. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Malone understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Malone meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

*Volodymyr Marchenko*

Mr. Marchenko, 28, has had ITDM since 2016. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Marchenko understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marchenko meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

*Wayne R. Miller*

Mr. Miller, 62, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

*Kennedy T. Moore*

Mr. Moore, 47, has had ITDM since 2011. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Moore understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moore meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Florida.

*John A. Morth*

Mr. Morth, 36, has had ITDM since 2010. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Morth understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morth meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

*Keith E. Nichols*

Mr. Nichols, 60, has had ITDM since 2012. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Nichols understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nichols meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that

he does not have diabetic retinopathy. He holds an operator's license from Iowa.

*Craig E. Paczkowski*

Mr. Paczkowski, 53, has had ITDM since 2004. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Paczkowski understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Paczkowski meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Florida.

*Michael J. Pollart*

Mr. Pollart, 27, has had ITDM since 2006. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Pollart understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pollart meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Rhode Island.

*James D. Reynolds*

Mr. Reynolds, 64, has had ITDM since 2016. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Reynolds understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Reynolds meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

*Jordin R. Rhone*

Mr. Rhone, 25, has had ITDM since 2001. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Rhone understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rhone meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

*Nathaniel B. Shaw*

Mr. Shaw, 32, has had ITDM since 2003. His endocrinologist examined him in 2018 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Shaw understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shaw meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Timothy H. Solomon*

Mr. Solomon, 55, has had ITDM since 2015. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Solomon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Solomon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Mark A. Tevis*

Mr. Tevis, 58, has had ITDM since 2015. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Tevis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tevis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2018 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

*Richard D. Tripp*

Mr. Tripp, 64, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Tripp understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tripp meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2018 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from South Dakota.

*Ismael Vasquez*

Mr. Vasquez, 56, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in

the last five years. His endocrinologist certifies that Mr. Vasquez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vasquez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

*Travis J. Womack*

Mr. Womack, 33, has had ITDM since 1993. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Womack understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Womack meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from North Carolina.

## III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the dates section of the notice.

## IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2018–0025 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

## V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2018–0025 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: April 18, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08909 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

---

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2017–0289]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 26 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on March 17, 2018. The exemptions expire on March 17, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

## II. Background

On February 14, 2018, FMCSA published a notice announcing receipt of applications from 26 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (83 FR 6725). The public comment period ended on March 16, 2017, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

## III. Discussion of Comments

FMCSA received one comment in this proceeding. Vicky Johnson stated that Minnesota Driver and Vehicle Services (DVS) has no objections in granting exemptions to the following Minnesota drivers: Wade A. Demarais and David V. Bartel.

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the February 14, 2018, **Federal Register** notice (83 FR 6725) and will not be repeated in this notice.

These 26 applicants have had ITDM over a range of 1 to 17 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the past five years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

## V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VII. Conclusion

Based upon its evaluation of the 26 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

David V. Bartel (MN)
Michael A. Brady (NH)
Junior K. Brewer (NE)
Marvin D. Buitt (MS)
Larry E. Burchett (FL)
Pasquale Cala (PA)
Byron D. Christian (LA)
Bryon D. Cowell (IA)
Walter B. Cromwell, 3rd (NJ)
Eric C. Delio (IN)
Wade A. Demarais (MN)
Gary D. Detwiler (CA)
Willis L. Drake, Jr. (MD)
Doyle J. Dreisow (WI)
Anthony Episcopo (WI)
Herve H. Estime (GA)
Gregory A. Gruber (KS)
Clifford J. Hughes (NY)
Brian J. Lanzim (NJ)
Michael E. Luttrell (GA)
William R. Mizell (AR)
Frank E. Myers, Jr. (OK)
John W. Olenczak (NJ)
Michael A. Randazzo (PA)
Jonathan M. Trussell (TX)
Raymond L. Underwood, Jr. (CT)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Issued on: April 18, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08922 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

---

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2018–0009]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of denials.

**SUMMARY:** FMCSA announces its decision to deny applications from 103 individuals who requested an exemption from the vision standard in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a CMV in interstate commerce.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy*.

## II. Background

FMCSA received applications from 103 individuals who requested an exemption from the vision standard in the FMCSRs.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(10).

## III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater then, the level that would be achieved absent such an exemption.

The Agency's decision regarding these exemption applications is based on the eligibility criteria, the terms and conditions for Federal exemptions, and an individualized assessment of each applicant's medical information provided by the applicant.

## IV. Conclusion

The Agency has determined that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(10). Therefore, the 103 applicants in this notice have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(10).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitute final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following two applicants did not have sufficient driving experience over the past three years under normal highway operating conditions: Christopher E. Day (OR); Andrew R. Sampson (MD).

The following 41 had no experience operating a CMV:

Aktham G. Abdelraouf (UT)
Javier A. Alcantara (FL)
Robbie R. Austin (ID)
John J. Beich (FL)
Michael J. Berry (PA)
Joseph B. Chun Tei (CA)
Kevin D. Craft (LA)
Dane C. Czerniak (PA)
Michael Deckert (PA)
Joseph F. Desgrottes (FL)
Brian S. Duncan (MO)
Joseph Eppolito (NY)
William E. Fowler (VA)
Levin D. Gann-Olehy (MN)
Abdirisak A. Hassan (MN)
George A. Kellner (FL)
Brian D. Leeper (IN)
Kelvin K. Mcatee (IL)
Adrian Mendoza (CA)
John R. Menendez (MO)
Andre J. Murdock (MD)
Donald J. Nelson (ID)
Thomas M. Palmer (PA)
Joseph L. Rigsby (AL)
Andrew W. Rocole (NE)
Homero Saenz (KY)
Reginald I. Sessum (NY)
Antwine Simmons (GA)
Saban R. Sosic (MI)
Miguel A. Soto (CA)
James V. Stuart (MA)
Travis D. Summerville (IL)
Donavon X. Taylor (MS)
Paul R. Todi (KY)
Carlos M. Torres Nieves (TX)
Ryan Tortorelli (CO)
Isai Trejo (CO)
Matthew C. Walker (IN)
Felicia R. Warnick (IL)
David A. Whittam (WA)
Wade R. Winckler (SD)

The following 13 applicants did not have 3 years of experience driving a CMV on public highways with their vision deficiencies:

Steven J. Brown (NY)
Joseph S. Clymer (OH)
Scott R. Dawley (IA)
Gary A. Foley (NH)
Antonio E. Gargano (PA)
Clyde M. Kennedy (VA)
Elmer D. King (PA)
Curtis M. Kirkland (GA)
Paul L. Koch (WI)
Lee A. Leasure (CA)
Gregory J. Mastey (WI)
Donald R. Pierson (WA)
Jeffrey Shauver (IN)

The following 11 applicants did not have 3 years of recent experience driving a CMV with the vision deficiency:

Arthur T. Brown (FL)
Henry M. Darden (DC)
Theodore A. DuBreuil (MI)
Thomas S. Ewald (IA)
Barry J. Friedlander (NY)
Gregory P. Grimes (OK)
Louis W. Henderson (DE)
Michael A. Higgins (IL)
Rex R. Pannell (AR)
Ricky A. Schott (PA)
Jamie S. White (GA)

The following eight applicants did not have sufficient driving experience during the past 3 years under normal highway operating conditions (gaps in driving record):

Brannon S. Alexander (MO)
Russell E. Burden (WY)
Jeffrey P. Campbell (KY)
Daniel D. Diggs (TX)
Ahmed M. Gutale (MN)
Zachary W.L. Justice (OH)
Joanna Marlow (NM)
Lawrence B. Reyes (WA)

The following applicant, William D. Harris (IN), contributed to accident(s) in which the applicant was operating a CMV, which is a disqualifying offense.

The following applicant, Marty J. Prouty (IA), did not demonstrate the level of safety required for interstate driving based on the state-issued driving report (excessive moving/non-moving violations during 3-year period).

The following applicant, Johnny Frasier (FL), did not have an optometrist or ophthalmologist willing to make a statement that they are able to operate a commercial vehicle from a vision standpoint.

The following 18 applicants were denied for multiple reasons:

Fnu Aryan (TX)
Dennis K. Bench (MT)
David A. Bronson (FL)
Elliott D. Hain (PA)
Dennis L. Johnson (NC)
Paul E. Kemp (MS)
Jeffrey T. Landry (NC)
Joshua S. Little (MD)
Progress A. Lloyd (NC)
Lydia McCormick (NY)
Mark A. Myers (IN)
Deborah A. Nichols (MI)
Ronald Sapp (GA)
Craig Scott (GA)
Jeffery L. Shick (IL)
Joy S. Smith (TX)
Patrick J. Stempel (NY)
Scott W. Ward (PA)

The following three applicants have not had stable vision for the preceding 3-year period: Daniel R. Parramore (FL); Cheryl A. Phelps (OH); Guadalupe Potter (WA).

The following four applicants drove interstate while restricted to intrastate driving:

Michael D. Cameron (TN)
Thomas R. Row (PA)
Joel Vasquez (TX)
Tony L. Willschau (SD)

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08911 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2017–0236]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 49 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on January 13, 2018. The exemptions expire on January 13, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

### II. Background

On December 13, 2017, FMCSA published a notice announcing receipt of applications from 49 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (82 FR 58686). The public comment period ended on January 12, 2018, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

### III. Discussion of Comments

FMCSA received one comment in this proceeding. Brittany Rothweiler stated that she believes if a person can provide documentation from their healthcare provider that their diabetes is controlled, then they should be able to drive a CMV in interstate commerce. Drivers applying for the Federal diabetes exemption are required to submit medical documentation from their Endocrinologist attesting to proper control of their diabetes.

### IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the December 13, 2017, **Federal Register** notice (82 FR 58686) and will not be repeated in this notice.

These 49 applicants have had ITDM over a range of 1 to 33 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the past five years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

### V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

### VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

### VII. Conclusion

Based upon its evaluation of the 49 exemption applications, FMCSA exempts the following drivers from the

diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

Christopher G. Barr (MI)
Jason W. Bass (NM)
Michael L. Beaty (AK)
Bryan L. Bier (WA)
David T. Botkin (CA)
Terry L. Breuklander (MO)
Vensin R. Brown (GA)
Derek R. Burke (ID)
James H. Corbett (SC)
Phillip M. Covel (NE)
Alan P. Curtis (CT)
Steven M. Dillow (IN)
Samuel W. Drake (VT)
Garland K. Edmonds (WV)
Donald R. Engbretson (IA)
Kenneth F. Erbar (WA)
Gary W. Finn (CO)
Russ A. Garetson (IA)
Donald R. Gladson (TN)
Evon L. Gray (PA)
Edward A. Harrell (FL)
Kevin P. Harris (ME)
Thomas S. Holland (PA)
Cody R. Huxman (KS)
Lewis D. Knudsen (VA)
Tracy D. Kropf (OR)
Edward H. LaDuke (AZ)
James E. Malonson (MA)
Bruce E. Martin (MA)
Shaun A. Medley (IN)
Melissa D. Merchant (AL)
William Moore (NJ)
Kevin E. Nash (IN)
David J. Ninke (OH)
Thomas A. Pothast (OH)
Jonathan E. Sills (IN)
Nirmal Singh (MI)
Sonny Singh (OK)
Michael A. Skovbroten (WI)
Mark N. Sprague (ME)
Bick M. Stenberg (UT)
Duane J. TenEyck (NE)
Wayne M. Tolbert (OH)
Rene G. Torres (TX)
Fred M. Ussery (LA)
Jerry C. Watkins (NC)
Thomas H. Weihler (IL)
Perry D. Whitley (NM)
Alexander J. Yakimow (OH)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08912 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2017–0287]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 39 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on February 16, 2018. The exemptions expire on February 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

#### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

#### II. Background

On January 16, 2018, FMCSA published a notice announcing receipt of applications from 39 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (83 FR 2300). The public comment period ended on February 15, 2018, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

#### III. Discussion of Comments

FMCSA received no comments in this proceeding.

#### IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the January 16, 2018, **Federal Register** notice (83 FR 2300) and will not be repeated in this notice.

These 39 applicants have had ITDM over a range of 1 to 30 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the past five years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes

mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

**V. Conditions and Requirements**

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

**VI. Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

**VII. Conclusion**

Based upon its evaluation of the 39 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

Rodney C. Adams (CT)
Craig A. Ballard (GA)
David E. Bauman (NE)
Ryan C. Bayless (MO)
Dennis E. Bellerive (NH)
Billy G. Boren, Jr. (KY)
Joseph H. Bove (NY)
Gary W. Brooks (CA)
Carl E. Bryant (NY)
Vernon C. Buchanan (PA)
Phillip L. Butler (VA)
Tyler H. Cardwell (MI)
Arleigh D. Chapman (PA)
Richard J. Dinzeo (MN)
Mark A. Donahoo (MO)
James W. Felske (IL)
Christopher L. Fleming (GA)
Jason R. Gassaway (NM)
Owen D. Gibbons (PA)
James L. Goodwin, 3rd (MD)
Richard J. Grenvik (MN)
Michael K. Gunn (WI)
Kermit F. Hicks, Jr. (OH)
Raymond D. Hill (MN)
Rob D. Karaus (IN)
Garnie T. Mauk, Jr. (TN)
Jose Medelez (OR)
Alexander P. Paice (UT)
Charles Petit-Homme (NY)
Phillip G. Putzke (SD)
James A. Smit (MN)
Gregory E. Sorenson (IN)
Sharon P. Soucy (AK)
Robin T. Spence (OK)
Anthony P. Sweeney (MD)
Richard A. Sweeting (GA)
Steven J. Voorhees (MT)
Jeffery E. Wall (NC)
Samuel E. Ward (KS)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08914 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

---

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2009–0289; FMCSA–2009–0290; FMCSA–2011–0300; FMCSA–2013–0190; FMCSA–2013–0191; FMCSA–2015–0338; FMCSA–2015–0339; FMCSA–2015–0340]**

### Qualification of Drivers; Exemption Applications; Diabetes

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 186 individuals from its prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals with ITDM to continue to operate CMVs in interstate commerce.

**DATES:** Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

**I. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http//www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

**II. Background**

On February 14, 2018, FMCSA published a notice announcing its decision to renew exemptions for 186 individuals from the insulin-treated diabetes mellitus prohibition in 49 CFR 391.41(b)(3) to operate a CMV in interstate commerce and requested comments from the public (83 FR 6712). The public comment period ended on

March 16, 2018, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

## III. Discussion of Comments

FMCSA received no comments in this preceding.

## IV. Conclusion

Based upon its evaluation of the 186 renewal exemption applications and comments received, FMCSA confirms its' decision to exempt the following drivers from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce in 49 CFR 391.64(3):

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of January and are discussed below:

As of January 5, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 16 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (76 FR 71112; 77 FR 532; 80 FR 81667):

Mark A. Aspden (MA)
Rodney C. Backus (NY)
Gary L. Breitenbach (SC)
Gerald R. Curran (PA)
Matthew G. Denisov (NC)
Steven W. Gerling (IA)
Jackie D. Greenlee (MO)
Gregory L. Horton (GA)
Justin W. Jackson (OK)
David T. Kylander (MO)
Kevin A. Perdue (MD)
Michael E. Pleak (IN)
Christopher C. Stephenson (KS)
Todd J. Timmerman (WI)
Richard L. White (MS)
Paul A. Wright (NY)

The drivers were included in docket number FMCSA–2011–0300. Their exemptions are applicable as of January 5, 2018, and will expire on January 5, 2020.

As of January 11, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 23 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (74 FR 55890; 75 FR 1449; 80 FR 81667):

Eric M. Butz (OH)
Rita A. Cefaratti (CT)
Gerald F. Crowley (NY)
Scott J. Denham (MN)
Larry E. Dickerson (GA)
David E. Ginter (PA)
William H. Goebel (IA)
Joseph L. Gray, III (PA)
Ryan R. Harris (IA)
Carroll J. Hartsell (WV)
Keith M. Huels (AZ)
Daniel R. Jackson (PA)
Curtis W. Keelin, Jr. (WY)
Patrick J. Krueger (WI)
Tammy Lynn F. Manuel (SC)
Francisco J. Martinez (MA)
Andrew W. Myer (NE)
Chad A. Nelson (UT)
David W. Olson (AZ)
Mark E. Pascoe (WI)
Terry L. Riddell (IN)
Roger L. Summerfield (WI)
Jimmy P. Wright (TX)

The drivers were included in docket number FMCSA–2009–0289. Their exemptions are applicable as of January 11, 2018, and will expire on January 11, 2020.

As of January 14, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 26 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 77408):

Jessie L. Arrant, Jr. (GA)
Joseph M. Benech (RI)
Shane M. Burgard (MN)
Wesley O. Davis (SC)
Steven P. DelPizzo (PA)
Gregory P. Doyle (CO)
Timothy D. Funk (IL)
Diane M. Greenberg (VA)
Brent P. Griswold (NY)
Earl E. Hudson, III (SC)
Gregory A. Huffman (TX)
Robert D. Lair, Jr. (AR)
Mark A. Leman (IL)
Michael S. Massa (PA)
Derek D. Patrick (MI)
Joseph M. Petrucci (NH)
James W. Prather (OH)
Edward O. Prosser (RI)
Dennis L. Ruff (WA)
William J. Shrader (CA)
Ronald L. Smith (KS)
Wayne D. Smith (VT)
Carnnell A. Taite (MI)
Robert S. Townsend (NH)
Zachary C. Warrick (NE)
Zachary C. White (CA)

The drivers were included in docket number FMCSA–2015–0338. Their exemptions are applicable as of January 14, 2018, and will expire on January 14, 2020.

As of January 21, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 35 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 79402):

Randall S. Blight (MI)
George S. Callahan (IN)
Myron D. Collins (CO)
Paul E. Costello (NE)
Pete J. Dewitt (CA)
Frank A. Earullo (IL)
Isadios P. Harris (NJ)
David A. Heine (ND)
Logan L. Jackson (CA)
Elie Jean (NJ)
Dean L. Jerpseth (MN)
Terrence P. Lescamela (MI)
Russell D. Logan (NC)
Tommaso Maccarrone (NJ)
Raymond Mendez (NY)
Anthony J. Miller (PA)
Marlin D. Milliken (PA)
Charles A. Mims (AL)
Gustavo A. Mojica (FL)
Timmothy S. Pederson (SD)
Carlos J. Perez-Beltran (PA)
Seth A. Piel (WI)
Carlos M. Pinto (NY)
Peter C. Poungded (CA)
Michael D. Prestby (IA)
Wilson Rosado (IN)
Jason G. Ross (CA)
Sandra J. Sexton (IL)
Jacob A. Small (NJ)
Dale L. Vaughan (MO)
Tyler J. Vogt (IL)
Christoph Wagner (NJ)
Russell J. Welke (WI)
Donald L. Westbrook (PA)
David M. Wike (NC)

The drivers were included in docket number FMCSA–2015–0339. Their exemptions are applicable as of January 21, 2018, and will expire on January 21, 2020.

As of January 23, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 12 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 65034; 79 FR 3917; 80 FR 81667):

Clair H. Gilmore (WA)
Michael Kollos (MN)
Daniel T. Lindahl (WI)
James F. McSweeney (NH)
Eric W. Miller (IN)
William J. Rodgers (PA)
Mark A. Rosenau (MN)

Daniel B. Shaw (FL)
John C. Thomas (IN)
Richard Wasko (FL)
Douglas E. Wilhoit (PA)
Richard A. Wilk (OH)

The drivers were included in docket number FMCSA–2015–0338. Their exemptions are applicable as of January 23, 2018, and will expire on January 23, 2020.

As of January 28, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 21 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (74 FR 65836; 75 FR 4622; 80 FR 81667):

Bob A. Bauer (WI)
Michael P. Berger (ND)
William D. Blosch (GA)
Victor M. Brunner (WI)
Tom L. Cooley (KS)
Robert G. Dohman, Jr. (ND)
Danny E. Edmonson (GA)
Andrew C. Everett (AZ)
Donald W. Hansen (ND)
Joseph S. Hernandez (NM)
Jordan T. Johnston (IN)
Jere W. Kirkpatrick (OH)
Kyle A. Leach (NE)
Robert J. Lewis, Jr. (VT)
Stacy R. Oberholzer (PA)
Michael S. Ogle (GA)
Walter L. Patrick (TN)
Richard A. Piercefield, Sr. (MI)
Kevin A. Roginski (PA)
Bruce M. Stockton (MO)
Todd R. Vickers (MD)

The drivers were included in docket number FMCSA–2009–0290. Their exemptions are applicable as of January 28, 2018, and will expire on January 28, 2020.

As of January 29, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 53 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 68139; 79 FR 4807; 80 FR 81415; 80 FR 81667):

Elmer W. Barrall (DE)
Earl Bland (MO)
Kevin Bracken (PA)
Donald L. Callahan (KY)
Robert A. Collins (NJ)
Michael A. Craig (NC)
Roderick E. Dean (NJ)
Edward C. DeFrancesco (CT)
Eugene N. Dirl (PA)
Kevin F. Dykes (MA)
Jonathan Eggers (MN)
Richard L. Engle (KY)
Christopher J. Frank (NY)
Matthew E. Fry (KS)
Gilbert N. Fugate (IN)
Scott C. Garbiel (ME)
Al Glover, Jr. (LA)
Jimmy H. Goacher (NC)
Jim B. Gonzalez (OR)
William F. Hamann (KY)
Nathaniel K. Hamilton (TX)
Michael D. Henry (OH)
Jon C. Hicks (PA)
Kevin F. Hoffman (PA)
Jerry A. Huffman (NC)
Daurell A. Jones (MD)
Jerry J. Klosterman (OH)
Joseph E. Kolb (NY)
Larry C. Krueger (NE)
Chad M. Kuck (AK)
Craig A. Lemponen (OH)
Donald R. Leonard, Jr. (NH)
Matthew P. Ludwig (NY)
Keith B. Masters (NH)
Sandra R. Moultrie (GA)
Jeffrey A. Olson (IA)
Howard L. Peacock (KS)
Chauncey W. Pittman (IN)
Brandon C. Rhinehart (MD)
James E. Richardson (NY)
Gerald C. Rosencrans (PA)
Henry J. Russo (NJ)
Richard G. Schumann (NJ)
Donald R. Sine, Jr. (WV)
Jefferson L. Smith (MA)
Troy T. Sunnarborg (MN)
Dennis E. Taunton (ID)
Phillip A. Trent (VA)
Deborah D. Watson (MI)
Ronnie C. Webb (MT)
William R. White (MI)
Curtis L. Worsfold (NE)
Jason D. Zagorski (NC)

The drivers were included in docket numbers FMCSA–2013–0191; FMCSA–2015–0340. Their exemptions are applicable as of January 29, 2018, and will expire on January 29, 2020.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: April 18, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08920 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2018–0119]**

### Agency Information Collection Activities; Request for Comments; Revision and Renewal of an Approved Information Collection: Medical Qualification Requirements

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests to revise and renew an ICR titled, ''*Medical Qualification Requirements,*'' due to updated information for several of the Information Collections (ICs) discussed. This ICR is needed to ensure that drivers, motor carriers and the States are complying with the physical qualification requirements of commercial motor vehicle (CMV) drivers. The information collected is used to determine and certify driver medical fitness and must be collected in order for our highways to be safe.

**DATES:** We must receive your comments on or before June 26, 2018.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2018–0119 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Services; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any

personal information provided. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8-794.pdf.*

*Public Participation:* The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

*Background:* CMVs (trucks and buses) are longer, heavier, and more difficult to maneuver than automobiles, making them a threat to highway safety if not operated properly by qualified individuals. The public interest in, and right to have, safe highways requires the assurance that drivers of CMVs can safely perform the increased physical and mental demands of their duties. FMCSA's medical standards provide this assurance by requiring drivers to be examined and medically certified as physically and mentally qualified to drive. Therefore, information used to determine and certify driver medical fitness must be collected. FMCSA is the Federal government agency authorized to require the collection of this information. FMCSA is required by statute to establish standards for the physical qualifications of drivers who operate CMVs in interstate commerce for non-excepted industries [49 U.S.C. 31136(a)(3) and 31502(b)]. The regulations discussing this collection are outlined in the Federal Motor Carrier Safety Regulations (FMCSRs) at 49 CFR 390–399.

Below is a brief description of the included IC activities and how the information is used.

**Physical Qualification Standards**

FMCSRs at 49 CFR 391.41 set forth the physical qualification standards that interstate CMV drivers who are subject to part 391 must meet, with the exception of commercial driver's license/commercial learner's permit (CDL/CLP) drivers transporting migrant workers (who must meet the physical qualification standards set forth in 49 CFR 398.3). The FMCSRs covering driver physical qualification records are found at 49 CFR 391.43, which specify that a medical examination be performed on CMV drivers subject to part 391 who operate in interstate commerce. The results of the examination shall be recorded in accordance with the requirements set forth in that section. The current provisions of 49 CFR 391.51 and 398.3 require that a motor carrier retain the Medical Examiner's Certificate (MEC), Form MCSA–5876, in the driver's qualification (DQ) file for 3 years. The certificate affirms that the driver is physically qualified to drive a CMV in interstate commerce.

Due to potential onset of new conditions or changes in existing conditions that may adversely affect a driver's ability to drive safely and/or cause incapacitation that could be a risk to public safety, periodic re-evaluation and recertification is required to assess driver physical qualification. MECs may be issued for up to 2 years after the date of examination. However, drivers with certain medical conditions must be certified more frequently than every 2 years. Medical Examiners (MEs) have discretion to certify for shorter time periods on a case-by-case basis for medical conditions that require closer monitoring or that are more likely to change over time. In addition, the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users requires MEs to transmit to FMCSA's Chief Medical Officer, electronically and on a monthly basis, driver information and results of any CMV driver medical examinations conducted during the previous month. MEs are required to maintain records of the CMV driver medical examinations they conduct. FMCSA does not require MEs to maintain these records electronically. However, there is nothing to preclude a ME from maintaining electronic records of the medical examinations he/she conducts. FMCSA is continuously evaluating new information technology in an attempt to decrease the burden on motor carriers and MEs. Less frequent collection of driver data, Medical Examination Report Forms, MCSA–5875, and MECs would compromise FMCSA's ability to determine ME compliance with FMCSA's physical qualification standards and guidelines in performing CMV driver medical examinations, which could result in MEs listed on the National Registry of Certified Medical Examiners who should be removed and possibly drivers that don't meet the physical qualification standards possessing an MEC. Less frequent data collection would also result in decreased validity of the data (*i.e.,* less frequent data submission may increase the error rate due to unintentional omission of examination information). Therefore, less frequent collection of driver examination results is not an option.

**Resolution of Medical Conflict**

The medical conflict provision provides a mechanism for drivers and motor carriers to request that FMCSA make a final decision to resolve conflicting medical evaluations when either party does not accept the decision of a medical specialist. If two MEs disagree about the medical certification of a driver, the requirements set forth in 49 CFR 391.47 mandate that the applicant (driver or motor carrier) submit a copy of a report including results of all medical testing and the opinion of an impartial medical specialist in the field in which the medical conflict arose. The applicant may, if they choose to do so, submit the information above using fax and/or email. FMCSA uses the information collected from the applicant, including medical information, to determine if the driver should or should not be qualified. Without this provision and its incumbent driver medical information collection requirements, an unqualified person may be permitted to drive and qualified persons may be prevented from driving.

**Medical Exemptions and Skills Performance Evaluation (SPE) Certificates**

FMCSA may, on a case by case basis, grant a medical exemption from a physical qualification standard set forth in 49 CFR 391.41, if the Agency determines the exemption is in the interest of the public and would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation. Individuals with limb impairments are permitted to operate a CMV, but only when they are otherwise qualified and are granted a Skills Performance Evaluation (SPE) certificate by FMCSA. Title 49 CFR 381.310 establishes the procedures that persons must follow to request exemptions from FMCSA safety regulations. Without an exemption, individuals who do not meet the requirements in 49 CFR 391.41 would not be qualified to operate a CMV in interstate commerce. The application process for all exemptions currently provides for electronic collection of the application information by FMCSA for those applicants that choose to do so. They are able to fax or scan and email documents to FMCSA. In addition, the Diabetes and Vision Exemption Programs and the SPE Certificate Program maintain a database of application information. The Medical Programs Division maintains a database of application information for hearing and seizure exemptions. FMCSA must collect medical information about the driver's medical condition in order to determine eligibility to receive an exemption or an SPE certificate. The Agency requires all exemptions be renewed every 2 years to ensure that the granting of the exemption does not diminish safety under 49 CFR 381.310. Exemption holders are required to submit annual medical information for review to ensure the driver continues to meet the physical qualification requirements. In the interest of highway safety, the medical examination, exemption, and SPE renewal should not be performed less frequently.

**The National Registry of Certified Medical Examiners (National Registry)**

The National Registry requires MEs that conduct physical qualification examinations for interstate CMV drivers to complete training concerning FMCSA physical qualification standards, pass a certification test, and maintain competence through periodic training and testing, all of which require information collection. ME candidates submit demographic and eligibility data in order to register on the National Registry website to begin the certification process. This data is used to provide the public with contact information for those medical professionals who are certified by FMCSA to conduct interstate CMV driver medical examinations. Less frequent collection of ME candidate test results and identity and eligibility information means that there are less healthcare professionals attempting to become certified which would result in fewer certified MEs being available to the CMV driver and motor carrier population. This could place a huge burden on drivers and motor carriers to find certified MEs to perform their medical examinations. Therefore, less frequent collection of ME candidate test results and identity and eligibility information is not an option. MEs must provide specific driver medical examination information for every driver they examine on medical forms required by FMCSA and into the National Registry. Drivers must provide identification and health history information on medical forms required by FMCSA. The purpose for providing this information is to enable the ME to determine if the driver is medically qualified under 49 CFR 391.41 and to ensure that there are no disqualifying medical conditions that could adversely affect their safe driving ability or cause incapacitation constituting a risk to the public. If this information was not required, the threat to public safety would be immense and unacceptable.

The National Registry also requires motor carriers to verify the national registry number of the MEs who certify their drivers and place a note in the DQ file. Less frequent verification of the national registry numbers by motor carriers would mean drivers may not have been examined by a certified ME listed on the National Registry and they may no longer meet the physical qualifications standards of the FMCSRs even though they were previously certified as physically qualified.

As a follow-on rule to the National Registry, the *Medical Examiner's Certification Integration* final rule, (80 FR 22790), modified several of the requirements adopted in the National Registry final rule, some of which have a scheduled compliance date of June 22, 2018. Specifically, it requires (1) FMCSA to electronically transmit from the National Registry to the State Driver's Licensing Agencies (SDLAs) the driver identification information, examination results, and restriction information from examinations performed for holders of CLPs/CDLs (interstate and intrastate); (2) FMCSA to transmit electronically to the SDLAs the medical variance information for all CMV drivers; and (3) SDLAs to post the driver identification, examination results, and restriction information received electronically from FMCSA.

However, as the *Medical Examiner's Certification Integration* final rule compliance date of June 22, 2018, draws nearer, FMCSA has reluctantly concluded that it will not be able to electronically transmit MEC information from the National Registry to the SDLAs nor will the SDLAs be able to electronically receive the MEC information from the National Registry for posting to the CDLIS driver record as intended by the *Medical Examiner's Certification Integration* final rule. Due to a number of delays including an incident that occurred in early December 2017 causing the Agency to take the National Registry offline leading to interruptions in the development of the process for the electronic transmission of MEC information and medical variances, the final specifications for the electronic transmission of MEC information have not been completed. Under these circumstances, neither the Agency nor the stakeholders would be able to rely on the CDLIS driver record as official proof of medical certification unless MEs continue to issue the original paper MEC to qualified drivers and drivers continue to provide the MEC to the SDLAs, as is being done presently. All of the functions regarding electronic transmission of data that are to be implemented on June 22, 2018, are dependent upon the implementation of information technology infrastructure that will not be available on June 22, 2018. For this reason, FMCSA anticipates extending the compliance date to June 22, 2021, to ensure that the SDLAs have sufficient time once the final specifications are released to make the necessary information technology programming changes. However, beginning on June 2, 2018, certified MEs will still be required to report results of all completed CMV drivers' medical examinations (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination but must continue issuing the original paper MEC to qualified drivers. All CMV drivers will continue to provide the SDLA with their MEC as proof of medical certification. As a result of this anticipated extension, there are no additional annual burden hours or costs to respondents imposed by the *Medical Examiner's Certification Integration*

final rule during the first 6 years of implementation of the final rule. Therefore, all the IC activities imposed on the MEs, drivers, and motor carriers over the first 6 years of implementing the *Medical Examiner's Certification Integration* final rule will remain unchanged.

*Title:* Medical Qualification Requirements.

*OMB Control Number:* 2126–0006.

*Type of Request:* Revision and renewal of a current approved information collection Respondents: Commercial motor vehicle drivers, motor carriers, medical examiners, testing centers.

*Estimated Number of Respondents:* 65,503,280.

*Expiration Date:* August 31, 2018.

*Estimated Total Annual Burden:* 2,395,315 hours.

This information collection is comprised of the following five information collection activities:

*Physical Qualification Standards*

1,892,700 annual burden hours
4,813,510 annual respondents

*Resolution of Medical Conflict*

11 annual burden hours
3 annual respondents

*Medical Exemptions*

4,430 annual burden hours
7,332 annual respondents

*SPE Certificate Program*

2,714 annual burden hours
2,426 annual respondents

*National Registry of Certified Medical Examiners*

495,460 annual burden hours
680,009 annual respondents

*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 performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: April 20, 2018.

**Kelly Regal,**

*Associate Administrator for Office of Research and Information Technology.*

[FR Doc. 2018–08919 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2009–0294; FMCSA–2011–0326; FMCSA–2011–0327; FMCSA–2011–0367; FMCSA–2013–0192; FMCSA–2015–0340; FMCSA–2015–0341]**

### Qualification of Drivers; Exemption Applications; Diabetes

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 53 individuals from its prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals with ITDM to continue to operate CMVs in interstate commerce.

**DATES:** Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http//www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

### II. Background

On February 14, 2018, FMCSA published a notice announcing its decision to renew exemptions for 53 individuals from the insulin-treated diabetes mellitus prohibition in 49 CFR 391.41(b)(3) to operate a CMV in interstate commerce and requested comments from the public (83 FR 6722). The public comment period ended on March 16, 2018, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

### III. Discussion of Comments

FMCSA received no comments in this preceding.

### IV. Conclusion

Based upon its evaluation of the 53 renewal exemption applications and comments received, FMCSA confirms its' decision to exempt the following drivers from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce in 49 CFR 391.41(b)(3):

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of February and are discussed below:

As of February 1, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following three individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 81415; 81 FR 45213): Douglas E. Hensley, (MO); John K. Moorhead, (KY); Hugh S. Wacker, (IL).

The drivers were included in docket number FMCSA–2015–0340. Their exemptions are applicable as of February 1, 2018, and will expire on February 1, 2020.

As of February 6, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following six individuals

have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (76 FR 79756; 77 FR 5873; 81 FR 1281):

Howard A. Betz (OH)
Kevin J. Coppens (ME)
Frank H. Ford, Jr. (PA)
Daniel R. Harris (TX)
Joseph L. Owings (AL)
Jerry H. Small (NC)

The drivers were included in docket number FMCSA–2011–0326. Their exemptions are applicable as of February 6, 2018, and will expire on February 6, 2020.

As of February 10, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following two individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (76 FR 78720; 77 FR 7232; 81 FR 1281): Kenneth J. Hill, (OH); Frank E. Ray, (KS).

The drivers were included in docket number FMCSA–2011–0327. Their exemptions are applicable as of February 10, 2018, and will expire on February 10, 2020.

As of February 12, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, Guy B. Mayes (WA) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 78479; 79 FR 13086; 81 FR 1281).

This driver was included in docket number FMCSA–2013–0192. The exemption is applicable as of February 12, 2018, and will expire on February 12, 2020.

As of February 17, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 26 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (81 FR 1987; 81 FR 36378):

Kevin D. Aaron (PA)
Juan Acevedo (FL)
Eugene O. Carr, Jr. (DE)
Tracy R. Clark (KY)
Jerry L. Coward (NC)
Wesley N. Cubby (NJ)
Michael G. Deschenes (MN)
James C. Detwiler (PA)
Jay E. Diller (PA)
Jose N. Escobar (MD)
Frank J. Gogno (PA)
Michael D. Hashem (MA)
George W. Hauck (LA)
Aseneka K. Igambi (TX)
Hayward G. Jinright (AL)
James S. Kauffman (PA)
Kevin M. Kemp (NJ)
Carlos A. Montano (NY)
Michael J. Payne (MD)
Christopher M. Seals (MS)
Robert Sienkiewicz (MI)
Craig A. Sines (OR)
Joel K. Spencer (AL)
Kendall W. Unruh (MO)
Daniel R. Vilart (WA)
Logan D. Yoder (IN)

The drivers were included in docket number FMCSA–2015–0341. Their exemptions are applicable as of February 17, 2018, and will expire on February 17, 2020.

As of February 22, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following ten individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (77 FR 533; 77 FR 10607; 81 FR 1281):

Garry L. Camden (IN)
Loren A. Cox (NY)
Daryl F. Gilbertson (WI)
Alfred Gutierrez, II (OK)
Matthew D. Hulse (KS)
Neil Karvonen (WA)
Earl T. Morton, Jr. (VA)
Richard A. Norstebon (ND)
Donald J. Olbinski (IL)
Kevin E. Risley (IN)

The drivers were included in docket number FMCSA–2011–0367. Their exemptions are applicable as of February 22, 2018, and will expire on February 22, 2020.

As of February 24, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following five individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (74 FR 68092; 75 FR 8182; 81 FR 1281):

Daniel C. Druffel (WA)
Gregory J. Godley (WA)
Justin R. Henneinke (CA)
Richard L. Sulzberger (IL)
Dirk Vanstralen (CA)

The drivers were included in docket number FMCSA–2009–0294. Their exemptions are applicable as of February 24, 2018, and will expire on February 24, 2020.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08916 Filed 4–26–18; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2018–0010]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 14 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** Comments must be received on or before May 29, 2018.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2018–0010 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or

comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The 14 individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

In July 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of 49 CFR 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

## II. Qualifications of Applicants

### *Zachary A. Abbotts*

Mr. Abbotts, 24, has complete loss of vision in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2017, his optometrist stated, ''In my opinion, I see absolutely no reason why Zachary's visual condition would impair his ability to operate a commercial vehicle in any way.'' Mr. Abbotts reported that he has driven straight trucks for five years, accumulating 3,900 miles. He holds an operator's license from Connecticut. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

### *Joseph J. Amatulli*

Mr. Amatulli, 59, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/25, and in his left eye, 20/60. Following an examination in 2017, his ophthalmologist stated, ''I am a board-certified ophthalmologist in New York State (Lic. #241224) and certify that in my medical opinion, he has sufficient

vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Amatulli reported that he has driven straight trucks for 15 years, accumulating 7,500 miles, and tractor-trailer combinations for 11 years, accumulating 3,850 miles. He holds a Class A CDL from New York. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Clarton D. Avis*

Mr. Davis, 59, has a prosthetic right eye due to a traumatic incident in 1988. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2018, his ophthalmologist stated, ''In my opinion, Mr. Avis' vision is sufficient to perform the task of driving required to operate a commercial vehicle.'' Mr. Davis reported that he has driven straight trucks for 38 years, accumulating 2.5 million miles, and tractor-trailer combinations for 38 years, accumulating 364,000 miles. He holds a Class A CDL from Kentucky. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Jimmy L. Burgi*

Mr. Burgi, 57, has a corneal scar in his left eye due to a traumatic incident in 2004. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2018, his optometrist stated, ''My medical opinion is that the patient does have sufficient vision to perform the driving tasks required to operate a commercial vehicle do [sic] to the fact that the patient has been driving a commercial vehicle for the last several years and his vision is stable.'' Mr. Burgi reported that he has driven tractor-trailer combinations for four years, accumulating 130,000 miles. He holds a Class A CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Gordon C. Canfield*

Mr. Canfield, 67, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2018, his optometrist stated, ''It is my opinion that Mr. Canfield has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Canfield reported that he has driven tractor-trailer combinations for 25 years, accumulating 60,000 miles. He holds a Class A CDL from Michigan. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*David M. Clark, Jr.*

Mr. Clark, 66, has had optic atrophy in his right eye since birth. The visual acuity in his right eye is counting fingers, and in his left eye, 20/15. Following an examination in 2017, his optometrist stated, ''Patient has sufficient vision to operate a commercial vehicle.'' Mr. Clark reported that he has driven straight trucks for 49 years, accumulating 49,000 miles and tractor-trailer combinations for 47 years, accumulating 2.35 million miles. He holds a Class A CDL from Maryland. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Dorothy J. Crum*

Ms. Crum, 54, has had a macular scar in her left eye due to histoplasmosis in childhood. The visual acuity in her right eye is 20/15, and in her left eye, 20/100. Following an examination in 2018, her optometrist stated, ''Thus I believe that she has adequate vision for performing the essential duties for driving a commercial vehicle.'' Ms. Crum reported that she has driven tractor-trailer combinations for six years, accumulating 780,000 miles. She holds a Class A CDL from Ohio. Her driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Tammy J. Duval*

Ms. Duval, 52, has had keratoconus in her left eye since childhood. The visual acuity in her right eye is 20/20, and in her left eye, 20/200. Following an examination in 2018, her optometrist stated, ''In my medical opinion, Ms. Duval has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Ms. Duval reported that she has driven buses for 25 years, accumulating 286,650 miles. She holds a Class B CDL from New Hampshire. Her driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Brian K. LaJoie*

Mr. LaJoie, 47, has aphakia in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2017, his optometrist stated, ''Certifies that in my medical opinion, patient has sufficient vision to perform the driving tasks to operate commercial vehicle: Yes'' Mr. LaJoie reported that he has driven straight trucks for 23 years, accumulating 65,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*James V. Latess, Jr.*

Mr. Latess, 61, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/30, and in his left eye, 20/150. Following an examination in 2018, his optometrist stated, ''He has sufficient vision for all driving tasks required to operate a commercial vehicle.'' Mr. Latess reported that he has driven straight trucks for 27 years, accumulating 135,000 miles. He holds a Class B CDL from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Igor L. Litvak*

Mr. Litvak, 32, has complete loss of vision in his right eye due to a traumatic incident in 2002. The visual acuity in his right eye is no light perception, and in his left eye, 20/25. Following an examination in 2017, his ophthalmologist stated, ''In my medical opinion, Mr. Litvak has sufficient vision in his normal left eye to perform driving tasks required to operate a commercial vehicle.'' Mr. Litvak reported that he has driven straight trucks for seven years, accumulating 350,000 miles, and tractor-trailer combinations for six years, accumulating 480,000 miles. He holds an operator's license from Maryland. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*John A. Thomas, Jr.*

Mr. Thomas, 58, has had amblyopia in his right eye since birth. The visual acuity in his right eye is count fingers, and in his left eye, 20/20. Following an examination in 2018, his optometrist stated, ''John Thomas has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Thomas reported that he has driven straight trucks for 40 years, accumulating one million miles and tractor-trailer combinations for 37 years, accumulating 3.7 million miles. He holds a Class A CDL from North Carolina. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Jerry L. Womble*

Mr. Womble, 69, has an enucleated left eye due to a traumatic incident in childhood. The visual acuity in his right

eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''In my opinion, Mr. Womble has sufficient vision to perform the driving tasks needed to operate a commercial vehicle.'' Mr. Womble reported that he has driven straight trucks for three years, accumulating 108,000 miles, and tractor-trailer combinations for two years, accumulating 80,000 miles. He holds a Class A CDL from Arkansas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

*Kevin Young*

Mr. Young, 37, has keratoconus in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2017, his optometrist stated, ''In my medical opinion, I certify that Kevin M. Young's left eye vision deficiency provides sufficient vision ability to perform the driving tasks required to operate a commercial vehicle in conjunction with his normal right eye for overall vision performance.'' Mr. Young reported that he has driven straight trucks for ten years, accumulating 5,000 miles, and tractor-trailer combinations for five years, accumulating 10,000 miles. He holds an operator's license from New Jersey. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

## III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated in the dates section of the notice.

## IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2018–0010 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

## V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2018–0010 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08915 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

---

# DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2018–0027]**

## Qualification of Drivers; Exemption Applications; Diabetes

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of denials.

**SUMMARY:** FMCSA announces its decision to deny applications from 17 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

## II. Background

FMCSA received applications from 17 individuals who requested an exemption from the FMCSRs prohibiting persons with ITDM from operating a CMV in interstate commerce.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(3).

## III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption.

The Agency's decision regarding these exemption applications is based on the eligibility criteria, the terms and conditions for Federal exemptions, and an individualized assessment of each applicant's medical information provided by the applicant.

## IV. Conclusion

The Agency has determined that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption and granting these exemptions would not

provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(3). Therefore, the 17 applicants in this notice have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(3).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following six applicants have had more than one hypoglycemic episode requiring hospitalization or the assistance of others, or has had one such episode but has not had one year of stability following the episode:

Michael W. Boyll (IN)
Robert T. Mitchell (CA)
Todd E. Bakner (PA)
Donald J. Glass (AR)
Cameron C. Kenyon (WA)
Mark E. Jordan (IN)

The following two applicants had other medical conditions making the applicant otherwise unqualified under the Federal Motor Carrier Safety Regulations: Rodney Purcell (NY); Bruce A. Hammond (GA).

The following seven applicants did not have endocrinologists willing to make statements that they are able to operate CMVs from a diabetes standpoint:

John W. Ringbloom (PA)
Travis L. Reese (MA)
Ronald J. Marchewka (PA)
Gregory W. Bell (NJ)
David W. DeGraw (NJ)
John A. Bright (PA)
Dennis F. Comp (PA)

The following applicant, Peter E. Halter (NJ), is unable or has not demonstrated willingness to properly monitor and manage his diabetes, whether by a personal decision or medical inability.

The following applicant, Gerald D. Tower, Jr. (MI), has peripheral neuropathy or circulatory insufficiency of the extremities likely to interfere with the ability to operate a CMV.

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08910 Filed 4–26–18; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2017–0026]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 18 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** The exemptions were applicable on February 16, 2018. The exemptions expire on February 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

### II. Background

On January 16, 2018, FMCSA published a notice announcing receipt of applications from 18 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (83 FR 2311). The public comment period ended on February 15, 2018, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

### III. Discussion of Comments

FMCSA received one comment in this proceeding. Vanessa Jones commented that drivers with a visual deficiency should have to take a specific driving test to demonstrate safe operation with the deficiency rather than relying on a review of the driving record to determine their level of safety. In addition, she indicated that vision exempted drivers should not be seen by an optometrist and instead should be seen by a specialized eye doctor.

FMCSA conducts a thorough review of a 3-year Commercial and Personal Driving record in conjunction with actual driving experience with their vision deficiency to determine if an equivalent or greater level of safety is likely to be achieved by granting the exemptions as would be without the exemptions. Drivers are not granted a Commercial Driver's License (CDL) by the Federal Government but by their State. Each state has specific skill testing requirements that must be met.

FMCSA has utilized a Medical Expert Panel consisting of a team of Medical Doctors who have extensively researched and recommended the process that the Agency follows to qualify these drivers. FMCSA requires all individuals applying for a vision

exemption to be evaluated by an optometrist or ophthalmologist. Both optometrists and ophthalmologists are medically qualified to evaluate the applicant's eye conditions when applying to the vision exemption program. The examination includes identifying and defining the nature of the vision deficiency, how long the deficiency has been present, stability, visual acuity, field of vision, and color vision.

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the January 16, 2018, **Federal Register** notice (83 FR 2311) and will not be repeated in this notice.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 18 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, cataracts, central scarring, complete loss of vision, glaucoma, macular scarring, retinal detachment, retinal scarring. In most cases, their eye conditions were not recently developed. Nine of the applicants were either born with their vision impairments or have had them since childhood. The nine individuals that sustained their vision conditions as adults have had it for a range of 4 to 26 years. Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for 3 to 70 years. In the past three years, one driver was involved in a crash, and two drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

## V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10) and (b) by a certified Medical Examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VII. Conclusion

Based upon its evaluation of the 18 exemption applications, FMCSA exempts the following drivers from the vision requirement, 49 CFR 391.41(b)(10), subject to the requirements cited above:

Michael H. Eheler, II (WI)
Roberto Espinosa (FL)
Lee J. Gaffney (OH)
Mark S. Hale (AL)
Raymundo Maldonado (TX)
Mickey D. McCoy (TN)
Colin D. McGregor (WI)
Thomas B. Miller (VA)
Ryan J. Plank (PA)
Donald J. Poague (GA)
Jose R. Ponce (TX)
Ronald F. Prezzia (IL)
Jorge A. Rodriguez (CA)
Jimmy W. Rowland (FL)
Aaron R. Rupe (IL)
Charles L. Sauls (FL)
Gery M. Shoultz (IN)
Juan D. Zertuche, Jr. (TX)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: April 23, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–08913 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–EX–P

---

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2018–0056]**

### Request for Information: Improving Prehospital Trauma Care

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** NHTSA, on behalf of the Federal Interagency Committee on Emergency Medical Services (FICEMS), is seeking comments from all sources (public, private, governmental, academic, professional, public interest groups, and other interested parties) on improving prehospital trauma care.

The purpose of this notice is to solicit comments on improving prehospital trauma care, and to request responses to specific questions provided below. This is neither a request for proposals nor an invitation for bids.

**DATES:** It is requested that comments on this announcement be submitted by July 26, 2018.

**ADDRESSES:** You may submit comments [identified by Docket No. NHTSA–2018–0056] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gamunu Wijetunge, Office of Emergency Medical Services, (202) 493–2793, *gamunu.wijetunge@dot.gov,* located at the United States Department of Transportation; 1200 New Jersey Avenue SE, NPD–400, Room W44–232, Washington, DC 20590. Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Background

FICEMS was created (42 U.S.C. 300d–4) by the Secretaries of Transportation, Health and Human Services and Homeland Security to, in part, ensure coordination among the Federal agencies involved with State, local, tribal or regional emergency medical services and 9–1–1 systems. FICEMS has statutory authority to identify State and local Emergency Medical Services (EMS) and 9–1–1 needs, to recommend new or expanded programs and to identify the ways in which Federal agencies can streamline their processes for support of EMS. FICEMS includes representatives from the Department of Defense (DoD) Office of the Assistant Secretary of Defense Health Affairs, the Department of Health and Human Services (HHS) Office of the Assistant Secretary for Preparedness and Response (ASPR), HHS Indian Health Service (IHS), HHS Centers for Disease Control and Prevention (CDC), HHS Health Resources and Services Administration (HRSA), HHS Centers for Medicare and Medicaid Services (CMS), the Department of Homeland Security (DHS) Office of Health Affairs (OHA), DHS U.S. Fire Administration (USFA), NHTSA, the Federal Communications Commission (FCC) and a State EMS Director appointed by the Secretary of Transportation.

In 2016 the National Academies of Sciences, Engineering, and Medicine (NASEM) published a report, *A National Trauma Care System: Integrating Military and Civilian Trauma Systems to Achieve Zero Preventable Deaths After Injury* (2016 NASEM Trauma Report), that estimated as many as 20 percent of the nearly of 200,000 annual trauma deaths in the United States could be prevented.

On December 2, 2016 the National Emergency Medical Services Advisory Council (NEMSAC) issued recommendations to FICEMS in response to the NASEM report (*https://www.ems.gov/pdf/nemsac/NEMSAC_Advisory_MTSPE_Alignment_Trauma_Care_Report.pdf*). NEMSAC recommended that FICEMS develop an integrated Federal strategy to address both the recommendations of the NASEM report and the need to update the Model Trauma Systems Planning and Evaluation (MTPSE) document which includes a Benchmarks, Indicators and Scoring (BIS) tool.

On December 6, 2017, FICEMS and the Council on Emergency Medical Care (CEMC) co-hosted a listening session to hear from stakeholders about the challenges facing prehospital trauma care, especially in rural settings, and how to better integrate military and civilian EMS systems. An integrated national trauma care system would allow lessons learned from the battlefield to be translated to civilian EMS and provide opportunities for improved patient care.

A national trauma care system, that integrates military and civilian capabilities, is a crucial part of our Nation's infrastructure and is vital to preserve the health and productivity of the American people.

The 2016 NASEM report estimates that as many as 20% of the nearly 200,000 annual trauma deaths in the United States could be prevented. In its report, the NASEM defined preventable deaths after injury as those casualties whose lives could have been saved by appropriate and timely medical care, irrespective of tactical, logistical, or environmental issues.

## Questions on Improving Prehospital Trauma Care

Responses to the following questions are requested. Please provide references as appropriate.

1. What are the current impediments, and possible solutions, to achieving zero preventable deaths in the following settings:
   a. Wilderness;
   b. Rural;
   c. Suburban; and
   d. Urban.
2. What should be the national aim for preventable prehospital trauma deaths?
3. What should be the interim national goals to achieve zero preventable deaths in the prehospital setting?
4. What are the most promising or innovative opportunities to improve prehospital trauma care in the following settings:
   a. Military;
   b. Wilderness;
   c. Rural;
   d. Suburban; and
   e. Urban.
5. How could the Learning Health System model (as described in the 2016 NASEM Trauma Report) be applied to civilian EMS?
6. Are there actions that could be taken today in the prehospital setting (such as promising clinical interventions) that could dramatically improve outcomes for patients who are:
   a. Suffering from traumatic pain;
   b. Severely injured in a rural roadway crash;
   c. Suffering from penetrating trauma;
   d. Subjected to a compromised airway;
   e. Suffering from a major hemorrhage;
   f. Suffering from a pneumothorax;
   g. Suffering from blunt force trauma;
   h. Suffering from traumatic brain injury;
   i. Other clinical conditions (please explain).
7. What EMS evidence based guidelines could be developed to improve trauma patient outcomes?
8. As an EMS stakeholder what do you see is the potential role of the National EMS Information System (NEMSIS) and the EMS Compass performance measures in improving prehospital trauma care?
9. How might active duty, National Guard, and reserve component military resources be used to improve civilian trauma care outcomes in the following settings:
   a. Use of military rotary wing assets to support civilian EMS;
   b. Placement of military medics in the field to support and cross train with civilian EMS.

10. What actions can be taken to improve public awareness of traumatic injury as a public health issue?

11. What actions could be taken to improve the rapid extrication of motor vehicle crash patients?

12. What actions could be taken to improve the rapid transport of trauma patients?

13. What actions could be taken to improve prehospital care for pediatric trauma patients?

14. What actions could be taken to improve tribal prehospital trauma care?

15. What research is needed to improve prehospital trauma care during a mass casualty incident?

16. What is the potential role of 9–1–1 in improving prehospital trauma care outcomes?

17. What is the potential role of bystander care, such as Stop the Bleed, in improving prehospital trauma care outcomes?

18. What is the potential role of vehicle telematics in improving prehospital trauma care outcomes?

19. What is the potential role of telemedicine in improving prehospital trauma care outcomes?

20. What is the potential role of community paramedicine, mobile integrated healthcare, and other emerging EMS subspecialties in improving prehospital trauma care outcomes?

21. How could data-driven and evidence-based improvements in EMS systems improve prehospital trauma care?

22. How could enhanced collaboration among EMS systems, health care providers, hospitals, public safety answering points, public health, insurers, and others improve prehospital trauma care?

23. What are some opportunities to improve exchange of evidence based prehospital trauma care practices between military and civilian medicine?

24. Do you have any additional comments regarding prehospital trauma care?

**Authority:** 44 U.S.C. Section 3506(c)(2)(A).

Issued in Washington, DC, on April 19, 2018.

**Jeff Michael,**

*Associate Administrator, Research and Program Development.*

[FR Doc. 2018–08504 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary of Transportation

### Notice of Funding Opportunity for the Department of Transportation's National Infrastructure Investments Under the Consolidated Appropriations Act, 2018

**AGENCY:** Office of the Secretary of Transportation, DOT.

**ACTION:** Notice of funding opportunity.

**SUMMARY:** The Consolidated Appropriations Act, 2018 (Pub. L. 115–141, March 23, 2018) (''FY 2018 Appropriations Act'' or the ''Act'') appropriated $1.5 billion to be awarded by the Department of Transportation (''DOT'' or the ''Department'') for National Infrastructure Investments. This appropriation stems from the program funded and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the ''Recovery Act''). This program was previously known as the Transportation Investment Generating Economic Recovery, or ''TIGER Discretionary Grants,'' program and is now known as the Better Utilizing Investments to Leverage Development, or ''BUILD Transportation Discretionary Grants,'' program. Funds for the FY 2018 BUILD Transportation program are to be awarded on a competitive basis for projects that will have a significant local or regional impact. The purpose of this Final Notice is to solicit applications for BUILD Transportation Discretionary Grants.

**DATES:** Applications must be submitted by 8:00 p.m. E.D.T. on July 18, 2018.

**ADDRESSES:** Applications must be submitted through *Grants.gov.*

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this notice, please contact the BUILD Transportation program staff via email at *BUILDgrants@dot.gov,* or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will regularly post answers to questions and requests for clarifications as well as information about webinars for further guidance on DOT's website at *www.transportation.gov/BUILDgrants.*

**SUPPLEMENTARY INFORMATION:** Many of the selection criteria of BUILD Transportation grants overlap with previous rounds of National Infrastructure Investments discretionary grants, though the program is refocused on infrastructure investment that will make a positive impact throughout the country. The FY 2018 BUILD Transportation program will continue to give special consideration to projects located in rural areas. For this round of BUILD Transportation Discretionary Grants, the maximum grant award is $25 million, and no more than $150 million can be awarded to a single State, as specified in the FY 2018 Appropriations Act. Each section of this notice contains information and instructions relevant to the application process for these BUILD Transportation Discretionary Grants, and all applicants should read this notice in its entirety so that they have the information they need to submit eligible and competitive applications.

**Table of Contents**

A. Program Description
B. Federal Award Information
C. Eligibility Information
D. Application and Submission Information
E. Application Review Information
F. Federal Award Administration Information
G. Federal Awarding Agency Contacts
H. Other Information

**A. Program Description**

The Consolidated Appropriations Act, 2018 (Pub. L. 115–141, March 23, 2018) (''FY 2018 Appropriations Act'' or the ''Act'') appropriated $1.5 billion to be awarded by the Department of Transportation (''DOT'' or the ''Department'') for National Infrastructure Investments. Since this program was first created, $5.6 billion has been awarded for capital investments in surface transportation infrastructure over nine rounds of competitive grants. Throughout the program, these discretionary grant awards have supported projects that have a significant local or regional impact.

The Department is committed to addressing the unmet transportation infrastructure needs of rural areas. Rural America is home to many of the nation's most critical transportation infrastructure assets, including 444,000 bridges, 2.98 million miles of roadways, and 30,500 miles of Interstate highways. More than 55 percent of all public road miles are locally-owned rural roads. While only 19 percent of the nation's population lives in rural areas, 49 percent of all traffic fatalities occur on rural roads (2015). In addition, Americans living in rural areas and on Tribal lands continue to disproportionately lack access to basic broadband service. The Department believes that underinvestment in rural transportation systems has allowed a slow and steady decline in the transportation routes that connect rural

American communities to each other and to the rest of the county. New investment is necessary to grow rural economies, facilitate freight movement, improve access to reliable and affordable transportation options and enhance health access and safety for residents. To address these rural transportation infrastructure needs, DOT intends to award a greater share of BUILD Transportation Discretionary Grant funding to projects located in rural areas that align well with the selection criteria than to such projects in urban areas.

**B. Federal Award Information**

*1. Amount Available*

The FY 2018 Appropriations Act appropriated $1.5 billion to be awarded by DOT for the BUILD Transportation program. The FY 2018 BUILD Transportation Discretionary Grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant local or regional impact. Additionally, the Act allows for up to $15 million (of the $1.5 billion) to be awarded as grants for the planning, preparation or design of eligible projects. DOT is referring to any such awarded projects as BUILD Transportation Planning Grants. The FY 2018 Appropriations Act also allows DOT to retain up to $25 million of the $1.5 billion for award, oversight and administration of grants and credit assistance made under the BUILD Transportation program. If this solicitation does not result in the award and obligation of all available funds, DOT may publish additional solicitations.

The FY 2018 Appropriations Act allows up to 20 percent of available funds (or $300 million) to be used by the Department to pay the subsidy and administrative costs for a project receiving credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (''TIFIA'') program, if that use of the FY 2018 BUILD funds would further the purposes of the BUILD Transportation program.

*2. Award Size*

The FY 2018 Appropriations Act specifies that BUILD Transportation Discretionary Grants may not be less than $5 million and not greater than $25 million, except that for projects located in rural areas (as defined in Section C.3.ii.) the minimum BUILD Transportation Discretionary Grant size is $1 million. There is no statutory minimum grant size, regardless of location, for BUILD Transportation Planning grants.

*3. Restrictions on Funding*

Pursuant to the FY 2018 Appropriations Act, no more than 10 percent of the funds made available for BUILD Transportation Discretionary Grants (or $150 million) may be awarded to projects in a single State. The Act also directs that not less than 30 percent of the funds provided for BUILD Transportation Discretionary Grants (or $450 million) shall be used for projects located in rural areas. Further, DOT must take measures to ensure an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas, and investment in a variety of transportation modes.

*4. Availability of Funds*

The FY 2018 Appropriations Act requires that FY 2018 BUILD Transportation Discretionary Grants funds are only available for obligation through September 30, 2020. Obligation occurs when a selected applicant and DOT enter into a written grant agreement after the applicant has satisfied applicable administrative requirements, including transportation planning and environmental review requirements. All FY 2018 BUILD funds must be expended (the grant obligation must be liquidated or actually paid out to the grantee) by September 30, 2025. After this date, unliquidated funds are no longer available to the project. As part of the review and selection process described in Section E.2., DOT will consider whether a project is ready to proceed with an obligation of grant funds from DOT within the statutory time provided. No waiver is possible for these deadlines.

*5. Previous TIGER Awards*

Recipients of TIGER Discretionary Grants may apply for funding to support additional phases of a project awarded funds in the TIGER program. However, to be competitive, the applicant should demonstrate the extent to which the previously funded project phase has been able to meet estimated project schedules and budget, as well as the ability to realize the benefits expected for the project.

**C. Eligibility Information**

To be selected for a BUILD Transportation Discretionary Grant, an applicant must be an Eligible Applicant and the project must be an Eligible Project.

*1. Eligible Applicants*

Eligible Applicants for BUILD Transportation Discretionary Grants are State, local, and tribal governments, including U.S. territories, transit agencies, port authorities, metropolitan planning organizations (MPOs), and other political subdivisions of State or local governments.

Multiple States or jurisdictions may submit a joint application and must identify a lead applicant as the primary point of contact, and also identify the primary recipient of the award. Each applicant in a joint application must be an Eligible Applicant. Joint applications must include a description of the roles and responsibilities of each applicant and must be signed by each applicant.

*2. Cost Sharing or Matching*

Per the FY 2018 Appropriations Act, BUILD Transportation Discretionary Grants may be used for up to 80 percent of a project located in an urban area [1] and the Secretary may increase the Federal share of costs above 80 percent for a project located in a rural area. Urban area and rural area are defined in Section C.3.ii of this notice.

For a project located in an urban area, the Federal share of the costs for which an expenditure is made under a BUILD Transportation grant may not exceed 80 percent. Non-Federal sources include State funds originating from programs funded by State revenue, local funds originating from State or local revenue-funded programs, or private funds. Toll credits under 23 U.S.C. 120(i) are considered a non-Federal source. Unless otherwise authorized by statute, State or local cost-share may not be counted as the non-Federal share for both the BUILD Transportation grant and another Federal grant program. The Department will not consider previously-incurred costs or previously-expended or encumbered funds towards the matching requirement for any project. Matching funds are subject to the same Federal requirements described in Section F.2. as awarded funds.

*3. Other*

i. Eligible Projects

Eligible projects for BUILD Transportation Discretionary Grants are capital projects that include, but are not limited to: (1) Highway, bridge, or other road projects eligible under title 23, United States Code; (2) public transportation projects eligible under chapter 53 of title 49, United States

[1] To meet match requirements, the minimum total project cost for a project located in an urban area must be $6.25 million.

Code; (3) passenger and freight rail transportation projects; (4) port infrastructure investments (including inland port infrastructure and land ports of entry); and (5) intermodal projects.[2] The FY 2018 Appropriations Act allows up to $15 million for the planning, preparation or design of projects eligible for BUILD Transportation funding. Activities eligible for funding under BUILD Transportation Planning Grants are related to the planning, preparation, or design—including environmental analysis, feasibility studies, and other pre-construction activities—of surface transportation projects. Research, demonstration, or pilot projects are eligible only if they will result in long-term, permanent surface transportation infrastructure that has independent utility as defined in Section C.3.iii. Applicants are strongly encouraged to submit applications only for eligible award amounts.

ii. Rural/Urban Definition

For purposes of this notice, DOT defines ''rural area'' as an area outside an Urbanized Area[3] (UA) as designated by the U.S. Census Bureau. In this notice, an ''urban area'' is defined as an area inside a UA as designated by the U.S. Census Bureau.[4]

The Department will consider a project to be in a rural area if the majority of the project (determined by geographic location(s) where the majority of the money is to be spent) is located in a rural area. Costs incurred on an Urbanized Area border, including an intersection with an Urbanized Area, will be considered urban for the purposes of the FY 2018 BUILD Transportation Program. Rural and urban definitions differ in some other DOT programs, including TIFIA and the Nationally Significant Freight and Highway Projects Program (FAST Act § 1105; 23 U.S.C. 117).

This definition affects three aspects of the program. The FY 2018 Appropriations Act directs that (1) not less than $450 million of the funds provided for BUILD Transportation Discretionary grants are to be used for projects in rural areas; (2) for a project in a rural area the minimum award is $1 million; and (3) the Secretary may increase the Federal share above 80 percent to pay for the costs of a project in a rural area.

iii. Project Components

An application may describe a project that contains more than one component, and may describe components that may be carried out by parties other than the applicant. DOT may award funds for a component, instead of the larger project, if that component (1) independently meets minimum award amounts described in Section B and all eligibility requirements described in Section C; (2) independently aligns well with the selection criteria specified in Section E; and (3) meets National Environmental Policy Act (NEPA) requirements with respect to independent utility. Independent utility means that the component will represent a transportation improvement that is usable and represents a reasonable expenditure of DOT funds even if no other improvements are made in the area, and will be ready for intended use upon completion of that component's construction. All project components that are presented together in a single application must demonstrate a relationship or connection between them. (See Section D.2.iv. for Required Approvals).

Applicants should be aware that, depending upon the relationship between project components and applicable Federal law, DOT funding of only some project components may make other project components subject to Federal requirements as described in Section F.2.

DOT strongly encourages applicants to identify in their applications the project components that have independent utility and separately detail costs and requested BUILD Transportation funding for those components. If the application identifies one or more independent project components, the application should clearly identify how each independent component addresses selection criteria and produces benefits on its own, in addition to describing how the full proposal of which the independent component is a part addresses selection criteria.

iv. Application Limit

Each lead applicant may submit no more than three applications. Unrelated project components should not be bundled in a single application for the purpose of adhering to the limit. If a lead applicant submits more than three applications as the lead applicant, only the first three received will be considered.

v. Program of Projects

Applicants that demonstrate the ability to generate additional non-Federal revenue for transportation infrastructure investment as described in Section E.1.i.h. of this notice may apply for multiple projects, exceeding the three application limit, that collectively constitute a ''program of projects''. A program of projects consists of independent projects that address the same transportation challenge and whose combined benefits, including funding efficiency, are greater than if the projects are completed individually. For a program of projects, applicants must submit an application for each project within the program and describe how each project constitutes a program. Each project application within a program of projects must meet eligibility criteria described in Section C of this notice, demonstrate independent utility, and individually address the merit criteria within this notice. DOT will evaluate each application within a program of projects in the same manner in which it evaluates individual project applications. Each project within a program of projects is subject to the $25 million award maximum and total awards cannot exceed $150 million per State. Only applicants that generate additional non-Federal revenue as described in Section E.1.i.h. may submit applications exceeding the three application limit for consideration as a program of projects, and only one program of projects may be submitted by each eligible applicant.

**D. Application and Submission Information**

*1. Address*

Applications must be submitted to *Grants.gov*. Instructions for submitting applications can be found at *www.transportation.gov/BUILDgrants* along with specific instructions for the forms and attachments required for submission.

*2. Content and Form of Application Submission*

The application must include the Standard Form 424 (Application for Federal Assistance), Standard Form 424C (Budget Information for Construction Programs), cover page, and the Project Narrative. More detailed information about the Project Narrative follows. Applicants should also complete and attach to their application the ''BUILD 2018 Project Information''

[2] Please note that the Department may use a BUILD Transportation Discretionary Grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are encouraged to apply for BUILD Transportation Discretionary Grants to pay for the surface transportation components of these projects.

[3] Updated lists of UAs as defined by the Census Bureau are available on the Census Bureau website at *http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/*.

[4] See *www.transportation.gov/BUILDgrants* for a list of UAs.

form available at *www.transportation.gov/BUILDgrants.*

The Department recommends that the project narrative follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

| | |
|---|---|
| I. Project Description | See D.2.i. |
| II. Project Location | See D.2.ii. |
| III. Grant Funds, Sources and Uses of all Project Funding | See D.2.iii. |
| IV. Merit Criteria | See D.2.iv.(1). |
| V. Project Readiness | See D.2.iv.(2) and E.1.ii. |

The project narrative should include the information necessary for the Department to determine that the project satisfies project requirements described in Sections B and C and to assess the selection criteria specified in Section E.1. To the extent practicable, applicants should provide supporting data and documentation in a form that is directly verifiable by the Department. The Department may ask any applicant to supplement data in its application, but expects applications to be complete upon submission.

In addition to a detailed statement of work, detailed project schedule, and detailed project budget, the project narrative should include a table of contents, maps and graphics, as appropriate, to make the information easier to review. The Department recommends that the project narrative be prepared with standard formatting preferences (a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). The project narrative may not exceed 30 pages in length, excluding cover pages and table of contents. The only substantive portions that may exceed the 30-page limit are documents supporting assertions or conclusions made in the 30-page project narrative. If possible, website links to supporting documentation should be provided rather than copies of these supporting materials. If supporting documents are submitted, applicants should clearly identify within the project narrative the relevant portion of the project narrative that each supporting document supports. At the applicant's discretion, relevant materials provided previously to an operating administration in support of a different DOT financial assistance program may be referenced and described as unchanged. The Department recommends using appropriately descriptive file names (*e.g.,* ''Project Narrative,'' ''Maps,'' ''Memoranda of Understanding and Letters of Support,'' etc.) for all attachments. DOT recommends applications include the following sections:

i. Project Description

The first section of the application should provide a concise description of the project, the transportation challenges that it is intended to address, and how it will address those challenges. This section should discuss the project's history, including a description of any previously completed components. The applicant may use this section to place the project into a broader context of other transportation infrastructure investments being pursued by the project sponsor, and, if applicable, how it will benefit communities in rural areas.

ii. Project Location

This section of the application should describe the project location, including a detailed geographical description of the proposed project, a map of the project's location and connections to existing transportation infrastructure, and geospatial data describing the project location. If the project is located within the boundary of a Census-designated UA, the application should identify the UA.

iii. Grant Funds, Sources and Uses of Project Funds

This section of the application should describe the project's budget. This budget should not include any previously incurred expenses. At a minimum, it should include:

(A) Project costs;

(B) For all funds to be used for eligible project costs, the source and amount of those funds;

(C) For non-Federal funds to be used for eligible project costs, documentation of funding commitments should be referenced here and included as an appendix to the application;

(D) For Federal funds to be used for eligible project costs, the amount, nature, and source of any required non-Federal match for those funds;

(E) A budget showing how each source of funds will be spent. The budget should show how each funding source will share in each major construction activity, and present that data in dollars and percentages. Funding sources should be grouped into three categories: non-Federal; BUILD; and other Federal. If the project contains individual components, the budget should separate the costs of each project component. If the project will be completed in phases, the budget should separate the costs of each phase. The budget detail should sufficiently demonstrate that the project satisfies the statutory cost-sharing requirements described in Section C.2;

In addition to the information enumerated above, this section should provide complete information on how all project funds may be used. For example, if a particular source of funds is available only after a condition is satisfied, the application should identify that condition and describe the applicant's control over whether it is satisfied. Similarly, if a particular source of funds is available for expenditure only during a fixed time period, the application should describe that restriction. Complete information about project funds will ensure that the Department's expectations for award execution align with any funding restrictions unrelated to the Department, even if an award differs from the applicant's request.

iv. Criteria

This section of the application should demonstrate how the project aligns with the Criteria described in Section E.1 of this notice. The Department encourages applicants to either address each criterion or expressly state that the project does not address the criterion. Applicants are not required to follow a specific format, but the outline suggested below, which addresses each criterion separately, promotes a clear discussion that assists project evaluators. To minimize redundant information in the application, the Department encourages applicants to cross-reference from this section of their application to relevant substantive information in other sections of the application. The guidance in this section is about how the applicant should organize their application. Guidance describing how the Department will evaluate projects against the Merit Criteria is in Section E.1 of this notice. Applicants also should review that section before

considering how to organize their application.

(1) Merit Criteria

(a) Safety

This section of the application should describe the anticipated outcomes of the project that support the Safety criterion (described in Section E.1.i.(a) of this notice). The applicant should include information on, and to the extent possible, quantify, how the project would improve safety outcomes within the project area or wider transportation network, to include how the project will reduce the number, rate, and consequences of transportation-related accidents, serious injuries, and fatalities among transportation users, or how the project will eliminate unsafe grade crossings or contribute to preventing unintended releases of hazardous materials.

(b) State of Good Repair

This section of the application should describe how the project will contribute to a state of good repair by improving the condition or resilience of existing transportation facilities and systems (described in Section E.1.i.(b) of this notice), including the project's current condition and how the proposed project will improve it, and any estimation of impacts on long-term cost structures or impacts on overall life-cycle costs. If the project will contribute to a state of good repair of transportation infrastructure that supports border security, the applicant should describe how.

(c) Economic Competitiveness

This section of the application should describe how the project will support the Economic Competitiveness criterion (described in Section E.1.i.(c) of this notice). The applicant should include information about expected impacts of the project on the movement of goods and people, including how the project increases the efficiency of movement and thereby reduces costs of doing business, improves local and regional freight connectivity to the national and global economy, reduces burdens of commuting, and improves overall well-being. The applicant should describe the extent to which the project contributes to the functioning and growth of the economy, including the extent to which the project addresses congestion or freight connectivity, bridges service gaps in rural areas, or promotes the expansion of private economic development.

(d) Environmental Protection

This section of the application should describe how the project addresses the environmental protection criterion (described in Section E.1.i.(d) of this notice). Applicants are encouraged to provide quantitative information, including baseline information that demonstrates how the project will reduce energy consumption, stormwater runoff, or achieve other benefits for the environment such as brownfield redevelopment.

(e) Quality of Life

This section should describe how the project increases transportation choices for individuals, expands access to essential services for people in communities across the United States, improves connectivity for citizens to jobs, health care, and other critical destinations, particularly for rural communities, or otherwise addresses the quality of life criterion (described in Section E.1.i.(e) of this notice). If construction of the transportation project will allow concurrent installation of fiber or other broadband deployment as an essential service, the applicant should describe those activities and how they support quality of life. Unless the concurrent activities support transportation, they will not be eligible for reimbursement.

(f) Innovation

This section of the application should describe innovative strategies used and the anticipated benefits of using those strategies, including those corresponding to three categories (described in Section E.1.i.(f) of this notice): (i) Innovative Technologies, (ii) Innovative Project Delivery, or (iii) Innovative Financing.

(i) Innovative Technologies

If an applicant is proposing to adopt innovative safety approaches or technology, the application should demonstrate the applicant's capacity to implement those innovations, the applicant's understanding of whether the innovations will require extraordinary permitting, approvals, or other procedural actions, and the effects of those innovations on the project delivery timeline.

(ii) Innovative Project Delivery

If an applicant plans to use innovative approaches to project delivery, applicants should describe those project delivery methods and how they are expected to improve the efficiency of the project development or expedite project delivery.

If an applicant is proposing to use SEP–14 or SEP–15 (as described in section E.1.i.(f) of this notice) the applicant should describe that proposal. The applicant should also provide sufficient information for evaluators to confirm that the applicant's proposal would meet the requirements of the specific experimental authority program.[5]

(iii) Innovative Financing

If an applicant plans to incorporate innovative funding or financing, the applicant should describe the funding or financing approach, including a description of all activities undertaken to pursue private funding or financing for the project and the outcomes of those activities.

(g) Partnership

This section of the application should include information to assess the partnership criterion (described in Section E.1.i.(g) of this notice) including a list of all project parties and details about the proposed grant recipient and other public and private parties who are involved in delivering the project. This section should also describe efforts to collaborate among stakeholders, including with the private sector.

(h) Non-Federal Revenue for Transportation Infrastructure Investment

If an applicant generates additional non-Federal revenue (as described in Section E.1.i.(h) of this notice), this section should provide evidence of newly secured and committed revenue for transportation infrastructure investments and identify the source of the revenue. If new revenue for transportation infrastructure investments has not already been secured, the applicant should explain necessary steps to securing revenue and provide a timeline of key milestones leading to its commitment. To ensure new revenue does not supplant existing sources, applications should provide estimates of future revenue levels absent and, separately, with the new revenue. If applicable, this section should describe any fiscal or legal constraints that affect the applicant's ability to generate non-Federal revenue.

(2) Project Readiness

This section of the application should include information that, when considered with the project budget information presented elsewhere in the application, is sufficient for the Department to evaluate whether the project is reasonably expected to begin

[5] SEP–14 information is available at *https://www.fhwa.dot.gov/programadmin/contracts/sep_a.cfm.* SEP–15 information is available at *https://www.fhwa.dot.gov/ipd/p3/tools_programs/sep15_procedures.aspx.*

construction in a timely manner. To assist the Department's project readiness assessment, the applicant should provide the information requested on technical feasibility, project schedule, project approvals, and project risks, each of which is described in greater detail in the following sections. Applicants are not required to follow the specific format described here, but this organization, which addresses each relevant aspect of project readiness, promotes a clear discussion that assists project evaluators. To minimize redundant information in the application, the Department encourages applicants to cross-reference from this section of their application to relevant substantive information in other sections of the application.

The guidance here is about what information applicants should provide and how the applicant should organize their application. Guidance describing how the Department will evaluate a project's readiness is described in Section E.1.ii of this notice. Applicants also should review that section when considering how to organize their application.

(a) Technical Feasibility

The applicant should demonstrate the technical feasibility of the project with engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the BUILD application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Applicants should include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed.

(b) Project Schedule

The applicant should include a detailed project schedule that identifies all major project milestones. Examples of such milestones include State and local planning approvals (programming on the Statewide Transportation Improvement Program); start and completion of NEPA and other Federal environmental reviews and approvals including permitting; design completion; right of way acquisition; approval of plans, specifications and estimates; procurement; State and local approvals; project partnership and implementation agreements, including agreements with railroads; and construction. The project schedule should be sufficiently detailed to demonstrate that:

(1) All necessary activities will be complete to allow BUILD Transportation funds to be obligated sufficiently in advance of the statutory deadline (September 30, 2020 for FY 2018 funds), and that any unexpected delays will not put the funds at risk of expiring before they are obligated;

(2) the project can begin construction quickly upon obligation of BUILD Transportation funds, and that the grant funds will be spent expeditiously once construction starts, with all BUILD Transportation funds expended by September 30, 2025; and

(3) all real property and right-of-way acquisition will be completed in a timely manner in accordance with 49 CFR part 24, 23 CFR part 710, and other applicable legal requirements or a statement that no acquisition is necessary.

(c) Required Approvals

(1) Environmental Permits and Reviews. The application should demonstrate receipt (or reasonably anticipated receipt) of all environmental approvals and permits necessary for the project to proceed to construction on the timeline specified in the project schedule and necessary to meet the statutory obligation deadline, including satisfaction of all Federal, State and local requirements and completion of the NEPA process. Specifically, the application should include:

(a) Information about the NEPA status of the project. If the NEPA process is complete, an applicant should indicate the date of completion, and provide a website link or other reference to the final Categorical Exclusion, Finding of No Significant Impact, Record of Decision, and any other NEPA documents prepared. If the NEPA process is underway, but not complete, the application should detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all milestones and of the final NEPA determination. If the last agency action with respect to NEPA documents occurred more than three years before the application date, the applicant should describe why the project has been delayed and include a proposed approach for verifying and, if necessary, updating this material in accordance with applicable NEPA requirements.

(b) Information on reviews, approvals, and permits by other agencies. An application should indicate whether the proposed project requires reviews or approval actions by other agencies,[6] indicate the status of such actions, and provide detailed information about the status of those reviews or approvals and should demonstrate compliance with any other applicable Federal, State or local requirements, and when such approvals are expected. Applicants should provide a website link or other reference to copies of any reviews, approvals, and permits prepared.

(c) Environmental studies or other documents, preferably through a website link, that describe in detail known project impacts, and possible mitigation for those impacts.

(d) A description of discussions with the appropriate DOT operating administration field or headquarters office regarding the project's compliance with NEPA and other applicable Federal environmental reviews and approvals.

(e) A description of public engagement about the project that has occurred, including details on the degree to which public comments and commitments have been integrated into project development and design.

(2) State and Local Approvals. The applicant should demonstrate receipt of State and local approvals on which the project depends, such as State and local environmental and planning approvals and Statewide Transportation Improvement Program (STIP) or (Transportation Improvement Program) TIP funding. Additional support from relevant State and local officials is not required; however, an applicant should demonstrate that the project has broad public support.

(3) Federal Transportation Requirements Affecting State and Local Planning. The planning requirements applicable to the relevant operating administration apply to all BUILD Transportation projects,[7] including

[6] Projects that may impact protected resources such as wetlands, species habitat, cultural or historic resources require review and approval by Federal and State agencies with jurisdiction over those resources.

[7] Under 23 U.S.C. 134 and § 135, all projects requiring an action by FHWA must be in the applicable plan and programming documents (*e.g.,* metropolitan transportation plan, transportation improvement program (TIP) and statewide transportation improvement program (STIP)). Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. Inclusion in the STIP is required under certain circumstances. To the extent a project is required to be on a metropolitan transportation plan, TIP, and/or STIP, it will not receive a BUILD Transportation grant until it is included in such plans. Projects not currently included in these plans can be amended by the State and MPO. Projects that are not required to be in long range transportation plans, STIPs, and TIPs will not need to be included in such plans in order to receive a BUILD Transportation grant. Port, freight rail, and intermodal projects are not required to be on the State Rail Plans called for in the Passenger Rail Investment and Improvement Act of

intermodal projects located at airport facilities.[8] Applicants should demonstrate that a project that is required to be included in the relevant State, metropolitan, and local planning documents has been or will be included in such documents. If the project is not included in a relevant planning document at the time the application is submitted, the applicant should submit a statement from the appropriate planning agency that actions are underway to include the project in the relevant planning document.

To the extent possible, freight projects should be included in a State Freight Plan and supported by a State Freight Advisory Committee (49 U.S.C. 70201, 70202), if these exist. Applicants should provide links or other documentation supporting this consideration.

Because projects have different schedules, the construction start date for each BUILD Transportation grant must be specified in the project-specific agreements signed by relevant operating administration and the grant recipients, based on critical path items that applicants identify in the application and will be consistent with relevant State and local plans.

(d) Assessment of Project Risks and Mitigation Strategies

Project risks, such as procurement delays, environmental uncertainties, increases in real estate acquisition costs, uncommitted local match, or lack of legislative approval, affect the likelihood of successful project start and completion. The applicant should identify all material risks to the project and the strategies that the lead applicant and any project partners have undertaken or will undertake in order to mitigate those risks. The applicant should assess the greatest risks to the project and identify how the project parties will mitigate those risks.

To the extent it is unfamiliar with the Federal program, the applicant should contact the appropriate DOT operating administration field or headquarters offices, as found in contact information at *www.transportation.gov/BUILDgrants,* for information on the pre-requisite steps to obligate Federal funds in order to ensure that their project schedule is reasonable and that there are no risks of delays in satisfying Federal requirements.

BUILD Transportation Planning Grant applicants should describe their capacity to successfully implement the proposed activities in a timely manner.

(3) Benefit Cost Analysis

This section describes the recommended approach for the completion and submission of a benefit-cost analysis (BCA) as an appendix to the Project Narrative. The results of the analysis should be summarized in the Project Narrative directly, as described in Section D.2.

Applicants should delineate each of their project's expected outcomes in the form of a complete BCA to enable the Department to evaluate the project's cost-effectiveness by estimating a benefit-cost ratio and calculating the magnitude of net benefits and costs for the project. In support of each project for which an applicant seeks funding, that applicant should submit a BCA that quantifies the expected benefits of the project against a no-build baseline, provides monetary estimates of the benefits' economic value, and compares the properly-discounted present values of these benefits to the project's estimated costs.

The primary economic benefits from projects eligible for BUILD Transportation Grants are likely to include savings in travel time costs, vehicle operating costs, and safety costs for both existing users of the improved facility and new users who may be attracted to it as a result of the project. Reduced damages from vehicle emissions and savings in maintenance costs to public agencies may also be quantified. Applicants may describe other categories of benefits in the BCA that are more difficult to quantify and value in economic terms, such as improving the reliability of travel times or improvements to the existing human and natural environments (such as increased connectivity, improved public health, storm water runoff mitigation, and noise reduction), while also providing numerical estimates of the magnitude and timing of each of these additional impacts wherever possible. Any benefits claimed for the project, both quantified and unquantified, should be clearly tied to the expected outcomes of the project.

The BCA should include the full costs of developing, constructing, operating, and maintaining the proposed project, as well as the expected timing or schedule for costs in each of these categories. The BCA may also consider the present discounted value of any remaining service life of the asset at the end of the analysis period. The costs and benefits that are compared in the BCA should also cover the same project scope.

The BCA should carefully document the assumptions and methodology used to produce the analysis, including a description of the baseline, the sources of data used to project the outcomes of the project, and the values of key input parameters. Applicants should provide all relevant files used for their BCA, including any spreadsheet files and technical memos describing the analysis (whether created in-house or by a contractor). The spreadsheets and technical memos should present the calculations in sufficient detail and transparency to allow the analysis to be reproduced by DOT evaluators. Detailed guidance for estimating some types of quantitative benefits and costs, together with recommended economic values for converting them to dollar terms and discounting to their present values, are available in the Department's guidance for conducting BCAs for projects seeking funding under the BUILD Transportation program (see *www.transportation.gov/BUILDgrants/additional-guidance*).

*3. Unique Entity Identifier and System for Award Management (SAM)*

Each applicant must: (1) Be registered in SAM before submitting its application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. The Department may not make a BUILD Transportation grant to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Department is ready to make a BUILD Transportation grant, the Department may determine that the applicant is not qualified to receive a BUILD Transportation grant and use that determination as a basis for making

2008, or in a State Freight Plan as described in the FAST Act. However, applicants seeking funding for freight projects are encouraged to demonstrate that they have done sufficient planning to ensure that projects fit into a prioritized list of capital needs and are consistent with long-range goals. Means of demonstrating this consistency would include whether the project is in a TIP or a State Freight Plan that conforms to the requirements Section 70202 of Title 49 prior to the start of construction. Port planning guidelines are available at *StrongPorts.gov.*

[8] Projects at grant obligated airports must be compatible with the FAA-approved Airport Layout Plan, as well as aeronautical surfaces associated with the landing and takeoff of aircraft at the airport. Additionally, projects at an airport: Must comply with established Sponsor Grant Assurances, including (but not limited to) requirements for non-exclusive use facilities, consultation with users, consistency with local plans including development of the area surrounding the airport, and consideration of the interest of nearby communities, among others; and must not adversely affect the continued and unhindered access of passengers to the terminal.

a BUILD Transportation grant to another applicant.

*4. Submission Dates and Times*

i. Deadline

Applications must be submitted by 8:00 p.m. E.D.T. on July 18, 2018. The *Grants.gov* ''Apply'' function will open by June 3, 2018.

To submit an application through *Grants.gov*, applicants must:

(1) Obtain a Data Universal Numbering System (DUNS) number;

(2) Register with the System for Award Management (SAM) at *www.SAM.gov;*

(3) Create a *Grants.gov* username and password; and

(4) The E-Business Point of Contact (POC) at the applicant's organization must respond to the registration email from *Grants.gov* and login at *Grants.gov* to authorize the applicant as the Authorized Organization Representative (AOR). Please note that there can be more than one AOR for an organization.

Please note that the *Grants.gov* registration process usually takes 2–4 weeks to complete and that the Department will not consider late applications that are the result of failure to register or comply with *Grants.gov* applicant requirements in a timely manner. For information and instruction on each of these processes, please see instructions at *http://www.grants.gov/web/grants/applicants/applicant-faqs.html.* If applicants experience difficulties at any point during the registration or application process, please call the *Grants.gov* Customer Service Support Hotline at 1(800) 518–4726, Monday–Friday from 7:00 a.m. to 9:00 p.m. EST.

ii. Consideration of Applications

Only applicants who comply with all submission deadlines described in this notice and electronically submit valid applications through *Grants.gov* will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.

iii. Late Applications

Applicants experiencing technical issues with *Grants.gov* that are beyond the applicant's control must contact *BUILDgrants@dot.gov* prior to the application deadline with the user name of the registrant and details of the technical issue experienced. The applicant must provide:

(1) Details of the technical issue experienced;

(2) Screen capture(s) of the technical issues experienced along with corresponding *Grants.gov* ''Grant tracking number'';

(3) The ''Legal Business Name'' for the applicant that was provided in the SF–424;

(4) The AOR name submitted in the SF–424;

(5) The DUNS number associated with the application; and

(6) The *Grants.gov* Help Desk Tracking Number.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline; (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its website; (3) failure to follow all instructions in this notice of funding opportunity; and (4) technical issues experienced with the applicant's computer or information technology environment. After the Department reviews all information submitted and contact the *Grants.gov* Help Desk to validate reported technical issues, DOT staff will contact late applicants to approve or deny a request to submit a late application through *Grants.gov*. If the reported technical issues cannot be validated, late applications will be rejected as untimely.

**E. Application Review Information**

*1. Criteria*

This section specifies the criteria that DOT will use to evaluate and award applications for BUILD Transportation Discretionary Grants. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice as relevant. Projects will also be evaluated for demonstrated project readiness and benefits and costs.

i. Merit Criteria

Applications that do not demonstrate a likelihood of significant long-term benefits based on these criteria will not proceed in the evaluation process. DOT does not consider any merit criterion more important than the others. BUILD Transportation Planning Grant applications will be evaluated against the same criteria as capital grant applications. While the FY 2018 Appropriations Act allows funding solely for pre-construction activities, the Department will prioritize FY 2018 BUILD Transportation funding for projects which demonstrate the ability to move into the construction phase within the period of obligation. The selection criteria, which will receive equal consideration, are:

(a) Safety

The Department will assess the project's ability to foster a safe transportation system for the movement of goods and people. The Department will consider the projected impacts on the number, rate, and consequences of crashes, fatalities and injuries among transportation users; the project's contribution to the elimination of highway/rail grade crossings, or the project's contribution to preventing unintended releases of hazardous materials.

(b) State of Good Repair

The Department will assess whether and to what extent: (1) The project is consistent with relevant plans to maintain transportation facilities or systems in a state of good repair and address current and projected vulnerabilities; (2) if left unimproved, the poor condition of the asset will threaten future transportation network efficiency, mobility of goods or accessibility and mobility of people, or economic growth; (3) the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure; (4) a sustainable source of revenue is available for operations and maintenance of the project and the project will reduce overall life-cycle costs; (5) maintain or improve transportation infrastructure that supports border security functions; and (6) the project includes a plan to maintain the transportation infrastructure in a state of good repair. The Department will prioritize projects that ensure the good condition of transportation infrastructure, including rural transportation infrastructure, that support commerce and economic growth.

(c) Economic Competitiveness

The Department will assess whether the project will (1) decrease transportation costs and improve access, especially for rural communities, through reliable and timely access to employment centers and job opportunities; (2) improve long-term efficiency, reliability or costs in the movement of workers or goods; (3) increase the economic productivity of land, capital, or labor; (4) result in long-term job creation and other economic opportunities; or (5) help the United States compete in a global economy by facilitating efficient and reliable freight movement.

Projects that address congestion in major urban areas, particularly those that do so through the use of congestion

pricing or the deployment of advanced technology, projects that bridge gaps in service in rural areas, and projects that attract private economic development, all support local or regional economic competitiveness.

(d) Environmental Protection

The Department will consider the extent to which the project improves energy efficiency, reduces dependence on oil, reduces congestion-related emissions, improves water quality, avoids and mitigates environmental impacts and otherwise benefits the environment, including through alternative right of way uses demonstrating innovative ways to improve or streamline environmental reviews while maintaining the same outcomes. The Department will assess the project's ability to: (i) Reduce energy use and air or water pollution through congestion mitigation strategies; (ii) avoid adverse environmental impacts to air or water quality, wetlands, and endangered species; or (iii) provide environmental benefits, such as brownfield redevelopment, ground water recharge in areas of water scarcity, wetlands creation or improved habitat connectivity, and stormwater mitigation.

(e) Quality of Life

The Department will consider the extent to which the project: (i) Increases transportation choices for individuals to provide more freedom on transportation decisions; (ii) expands access to essential services for communities across the United States, particularly for rural communities; and (iii) improves connectivity for citizens to jobs, health care, and other critical destinations, particularly for rural communities. Americans living in rural areas and on Tribal lands continue to disproportionately lack access and connectivity, and the Department will consider whether and the extent to which the construction of the transportation project will allow concurrent installation of fiber or other broadband deployment as an essential service.

(f) Innovation

The Department will assess the extent to which the applicant uses innovative strategies, including: (i) Innovative technologies, (ii) innovative project delivery, or (iii) innovative financing.

(i) Innovative Technologies

DOT will assess innovative approaches to transportation safety, particularly in relation to automated vehicles and the detection, mitigation, and documentation of safety risks. When making BUILD Transportation award decisions, the Department will consider any innovative safety approaches proposed by the applicant, particularly projects which incorporate innovative design solutions, enhance the environment for automated vehicles, or use technology to improve the detection, mitigation, and documentation of safety risks. Innovative safety approaches may include, but are not limited to:

- Conflict detection and mitigation technologies (*e.g.,* intersection alerts and signal prioritization);
- Dynamic signaling or pricing systems to reduce congestion;
- Signage and design features that facilitate autonomous or semi-autonomous vehicle technologies;
- Applications to automatically capture and report safety-related issues (*e.g.,* identifying and documenting near-miss incidents); and
- Cybersecurity elements to protect safety-critical systems.

For innovative safety proposals, the Department will evaluate safety benefits that those approaches could produce and the broader applicability of the potential results. DOT will also assess the extent to which the project uses innovative technology that supports surface transportation to significantly enhance the operational performance of the transportation system.

Innovative technologies include: broadband deployment and the installation of high-speed networks concurrent with the project construction; connecting Intelligent Transportation System (ITS) infrastructure; and providing direct fiber connections that support surface transportation to public and private entities, which can provide a platform and catalyst for growth of rural communities. The Department will consider whether and the extent to which the construction of the transportation project will allow concurrent broadband deployment and the installation of high-speed networks.

(ii) Innovative Project Delivery

DOT will consider the extent to which the project utilizes innovative practices in contracting, congestion management, asset management, or long-term operations and maintenance.

The Department also seeks projects that employ innovative approaches to improve the efficiency and effectiveness of the environmental permitting and review to accelerate project delivery and achieve improved outcomes for communities and the environment. The Department's objective is to achieve timely and consistent environmental review and permit decisions. Participation in innovative project delivery approaches will not remove any statutory requirements affecting project delivery. While BUILD Transportation award recipients are not required to employ innovative approaches, the Department encourages BUILD Transportation applicants to describe innovative project delivery methods for proposed projects.

Additionally, DOT is interested in projects that apply innovative strategies to improve the efficiency of project development or expedite project delivery by using FHWA's Special Experimental Project No. 14 (SEP–14) and Special Experimental Project No. 15 (SEP–15). Under SEP–14 and SEP–15, FHWA may waive statutory and regulatory requirements under title 23 on a project-by-project basis to explore innovative processes that could be adopted through legislation. This experimental authority is available to test changes that would improve the efficiency of project delivery in a manner that is consistent with the purposes underlying existing requirements; it is not available to frustrate the purposes of existing requirements.

When making BUILD Transportation award decisions, the Department will consider the applicant's proposals to use SEP–14 or SEP–15, whether the proposals are consistent with the objectives and requirements of those programs, the potential benefits that experimental authorities or waivers might provide to the project, and the broader applicability of potential results. The Department is not replacing the application processes for SEP–14 or SEP–15 with this notice or the BUILD Transportation program application. Instead, it seeks detailed expressions of interest in those programs. If selected for an BUILD Transportation award, the applicant would need to satisfy the relevant programs' requirements and complete the appropriate application processes. Selection for a BUILD Transportation award does not mean a project's SEP–14 or SEP–15 proposal has been approved. The Department will make a separate determination in accordance with those programs' processes on the appropriateness of a waiver.

(iii) Innovative Financing

DOT will assess the extent to which the project incorporates innovations in transportation funding and finance through both traditional and innovative means, including by using private sector funding or financing and recycled

revenue from the competitive sale or lease of publicly owned or operated assets.

(g) Partnership

The Department will consider the extent to which projects demonstrate strong collaboration among a broad range of stakeholders. Projects with strong partnership typically involve multiple partners in project development and funding, such as State and local governments, other public entities, and private or nonprofit entities. DOT will consider rural applicants that partner with State, local, or private entities for the completion and operation of transportation infrastructure to have strong partnership. DOT will also assess the extent to which the project application demonstrates collaboration among neighboring or regional jurisdictions, including neighboring rural areas, to achieve local or regional benefits. In the context of public-private partnerships, DOT will assess the extent to which partners are encouraged to ensure long-term asset performance, such as through pay-for-success approaches.

DOT will also consider the extent to which projects include partnerships that bring together diverse transportation agencies or are supported, financially or otherwise, by other stakeholders that are pursuing similar objectives. For example, DOT will consider the extent to which transportation projects are coordinated with economic development, housing, water and waste infrastructure, power and electric infrastructure, broadband and land use plans and policies or other public service efforts.

(h) Non-Federal Revenue for Transportation Infrastructure Investment

The Administration believes that attracting significant new, non-Federal revenue streams dedicated to transportation infrastructure investment is desirable to maximize investment in transportation infrastructure. The Department will assess the extent that applications provide evidence that the applicant will secure and commit new, non-Federal revenue to transportation infrastructure investment.

New revenue means revenue that is not included in current and projected funding levels and results from specific actions taken to increase transportation infrastructure investment. For example, an applicant may generate new revenue through asset recycling, tolling, tax-increment financing, or sales or gas tax increases. New revenue does not include the proceeds of a new bond issuance unless an applicant raises or commits to raising new revenue to repay the bonds. The Department will consider actions to create new revenue only if those actions occurred after January 1, 2015 or will occur in the future; it will not consider actions that occurred before January 1, 2015. For applications that propose to generate revenue over multiple years, the maximum time period that should be used is 10 years, beginning on January 1, 2018. Among otherwise similar applications, applicants that generate more new non-Federal revenue for future transportation infrastructure investment will be more competitive. The Department recognizes that applicants have varying abilities and resources to generate non-Federal revenue. If an applicant describes broader legal or fiscal constraints that affect its ability to generate non-Federal revenue, the Department will consider those constraints. As mandated by the FY 2018 Appropriations Act, the Department will not use the Federal share as a selection criterion in awarding projects.

ii. Demonstrated Project Readiness

During application evaluation, the Department may consider project readiness to assess the likelihood of a successful project. In that analysis, the Department will consider significant risks to successful completion of a project, including risks associated with environmental review, permitting, technical feasibility, funding, and the applicant's capacity to manage project delivery. Risks do not disqualify projects from award, but competitive applications clearly and directly describe achievable risk mitigation strategies. A project with mitigated risks or with a risk mitigation plan is more competitive than a comparable project with unaddressed risks.

iii. Project Costs and Benefits

The Department may consider the costs and benefits of projects seeking BUILD Transportation funding. To the extent possible, the Department will rely on quantitative, data-supported analysis to assess how well a project addresses this criterion, including an assessment of the project's estimated benefit-cost ratio and net quantifiable benefits based on the applicant-supplied BCA described in Section D.2.vi.

iv. Additional Considerations

The FY 2018 Appropriations Act requires the Department to consider contributions to geographic diversity among recipients, including the need for a balance between the needs of rural and urban communities when selecting BUILD Transportation projects.

*2. Review and Selection Process*

DOT reviews all eligible applications received by the deadline. The BUILD Transportation grants review and selection process consists of at least Technical Review and Senior Review. In the Technical Review, teams comprising staff from the Office of the Secretary (OST) and operating administrations review all eligible applications and rate projects based on how well the projects align with the selection criteria. The Senior Review Team, which includes senior leadership from OST and the operating administrations determines which projects to advance to the Secretary as Highly Rated. The FY 2018 Appropriations Act mandated BUILD Transportation grant awards by December 18, 2018. To ensure the Department meets the statutory deadline specified in the FY 2018 Appropriations Act, the Department may revise the evaluation process based on the number of applications received. The Secretary selects from the Highly Rated projects for final awards.

*3. Additional Information*

Prior to award, each selected applicant will be subject to a risk assessment as required by 2 CFR 200.205. The Department must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). An applicant may review information in FAPIIS and comment on any information about itself. The Department will consider comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

**F. Federal Award Administration Information**

*1. Federal Award Notice*

Following the evaluation outlined in Section E, the Secretary will announce awarded projects by posting a list of selected projects at *www.transportation.gov/BUILDgrants.* Notice of selection is not authorization to begin performance. Following that announcement, the relevant operating administration will contact the point of contact listed in the SF 424 to initiate negotiation of the grant agreement for authorization.

*2. Administrative and National Policy Requirements*

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR part 200, as adopted by DOT at 2 CFR part 1201. Additionally, applicable Federal laws, rules and regulations of the relevant operating administration administering the project will apply to the projects that receive BUILD Transportation Discretionary Grants awards, including planning requirements, Service Outcome Agreements, Stakeholder Agreements, Buy America compliance, and other requirements under DOT's other highway, transit, rail, and port grant programs.

For projects administered by FHWA, applicable Federal laws, rules, and regulations set forth in Title 23 U.S.C. and Title 23 CFR apply. For an illustrative list of the applicable laws, rules, regulations, executive orders, polices, guidelines, and requirements as they relate to a BUILD Transportation project administered by the FHWA, please see *https://ops.fhwa.dot.gov/Freight/infrastructure/tiger/fy2016_gr_exhbt/index.htm.* For BUILD Transportation projects administered by the Federal Transit Administration and partially funded with Federal transit assistance, all relevant requirements under chapter 53 of title 49 U.S.C. apply. For transit projects funded exclusively with BUILD Transportation Discretionary Grants funds, some requirements of chapter 53 of title 49 U.S.C. and chapter VI of title 49 CFR apply. For projects administered by the Federal Railroad Administration, FRA requirements described in 49 U.S.C. Subtitle V, Part C apply.

Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, U.S.C., apply to all projects receiving funds under this program, and apply to all parts of the project, whether funded with BUILD Transportation Discretionary Grant funds, other Federal funds, or non-Federal funds.

*3. Reporting*

i. Progress Reporting on Grant Activities

Each applicant selected for BUILD Transportation Discretionary Grants funding must submit quarterly progress reports and Federal Financial Reports (SF–425) to monitor project progress and ensure accountability and financial transparency in the BUILD Transportation program.

ii. System Performance Reporting

Each applicant selected for BUILD Transportation Discretionary Grant funding must collect information and report on the project's observed performance with respect to the relevant long-term outcomes that are expected to be achieved through construction of the project. Performance indicators will not include formal goals or targets, but will include observed measures under baseline (pre-project) as well as post-implementation outcomes for an agreed-upon timeline, and will be used to evaluate and compare projects and monitor the results that grant funds achieve to the intended long-term outcomes of the BUILD Transportation program are achieved. To the extent possible, performance indicators used in the reporting should align with the measures included in the application and should relate to at least one of the selection criteria defined in Section E. Performance reporting continues for several years after project construction is completed, and DOT does not provide BUILD Transportation Discretionary Grant funding specifically for performance reporting.

iii. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110–417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111–212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

**G. Federal Awarding Agency Contacts**

For further information concerning this notice please contact the BUILD Transportation program staff via email at *BUILDgrants@dot.gov,* or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will post answers to questions and requests for clarifications on DOT's website at *www.transportation.gov/BUILDgrants.* To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact DOT directly, rather than through intermediaries or third parties, with questions. DOT staff may also conduct briefings on the BUILD Transportation Discretionary Grants selection and award process upon request.

**H. Other information**

*1. Protection of Confidential Business Information*

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

Issued on: April 20, 2018.

**Elaine L. Chao,**

*Secretary.*

[FR Doc. 2018–08906 Filed 4–26–18; 8:45 am]

BILLING CODE 4910–9X–P

# FEDERAL REGISTER

Vol. 83 Friday,

No. 82 April 27, 2018


Part II

## Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Low-Energy Geophysical Survey in the Northwest Atlantic Ocean; Notice

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XF986**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Low-Energy Geophysical Survey in the Northwest Atlantic Ocean

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received a request from the Scripps Institution of Oceanography (SIO) for authorization to take marine mammals incidental to a low-energy marine geophysical survey in the Northwest Atlantic Ocean. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

**DATES:** Comments and information must be received no later than May 29, 2018.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Carduner@noaa.gov.*

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities.* 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 (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 preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

## Summary of Request

On November 20, 2017, NMFS received a request from SIO for an IHA to take marine mammals incidental to conducting a low-energy marine geophysical survey in the Northwest Atlantic Ocean. On February 8, 2018, we deemed SIO's application for authorization to be adequate and complete. SIO's request is for take of a small number of 35 species of marine mammals by Level B harassment and Level A harassment. Neither SIO nor NMFS expects mortality to result from this activity, and, therefore, an IHA is appropriate. The planned activity is not expected to exceed one year, hence, we do not expect subsequent MMPA incidental harassment authorizations would be issued for this particular activity.

## Description of Proposed Activity

### *Overview*

SIO proposes to conduct low-energy marine seismic surveys in the Northwest Atlantic Ocean during June–July 2018. The surveys would take place in International Waters in water deeper than 1,000 meters (m) (See Figure 1 in the IHA application). The proposed surveys would involve one source vessel, the R/V *Atlantis.* The *Atlantis* would tow a pair of 45 cubic inch ($in^3$) GI airguns at a depth of 2–4 m with a total discharge volume of approximately

90 in³ as an energy source along predetermined lines.

*Dates and Duration*

The seismic survey would be carried out for approximately 25 days. The *Atlantis* would likely depart from St. George's, Bermuda, on or about June 14, 2018 and would return to Woods Hole, Massachusetts, on or about July 17, 2018. Some deviation in timing could result from unforeseen events such as weather, logistical issues, or mechanical issues with the research vessel and/or equipment. Seismic activities would occur 24 hours per day during the proposed survey.

*Specific Geographic Region*

The proposed surveys would take place in International Waters of the Northwest Atlantic Ocean, between ~33.5° and 53.5° N, and 37° and 49° W. Representative survey track lines for the survey area is shown in Figure 1 of the IHA application. The *Atlantis* would depart from St. George's, Bermuda, and would return to Woods Hole, Massachusetts.

*Detailed Description of Specific Activity*

SIO proposes to conduct low-energy seismic surveys low-energy seismic surveys in the Northwest Atlantic Ocean in International Waters between ~33.5° and 53.5° N, and 37° and 49° W, in water deeper than 1,000 m. The survey area and representative survey tracklines are shown in Figure 1 in the IHA application. As described above, some deviation in actual tracklines and timing could be necessary. The proposed surveys would be in support of a potential future International Ocean Discovery Program (IODP) project and would examine regional seismic stratigraphy and provide seismic images of changing sediment distributions from deepwater production changes. The proposed surveys would thus take place in an area that is of interest to the IODP and that has older Deep Sea Drilling Project (DSDP) sites. To achieve the program's goals, the Principal Investigators propose to collect low-energy, high-resolution multi-channel seismic (MCS) profiles.

The procedures to be used for the seismic surveys would be similar to those used during previous seismic surveys by SIO and would use conventional seismic methodology. The surveys would involve one source vessel, R/V *Atlantis,* which is operated by Woods Hole Oceanographic Institution (WHOI). R/V *Atlantis* would deploy a pair of 45-in³ GI airguns as an energy source with a total volume of 90 in³. The receiving system would consist of one hydrophone streamer, either 200 or 600 m in length, as described below. As the airguns are towed along the survey lines, the hydrophone streamer would receive the returning acoustic signals and transfer the data to the on-board processing system.

The proposed surveys would consist of: (1) Digital bathymetric, echosounding and MCS surveys at six locations to enable the selection and analysis of potential future IODP drill sites (see Survey Areas 1–6 in Figure 1 in the IHA application); and (2) digital bathymetric, echo-sounding and MCS reflection profiles that tie the proposed drill sites to existing DSDP drill sites and replace poor-quality analog seismic data. Each of the six site surveys would consist of grids of ship tracks that would be acquired using two different types of airgun array configurations. The first would be a reconnaissance grid designed to identify the optimum orientation and length of seismic lines needed for a second, higher-data quality survey designed to locate exactly the most suitable potential future drill site suggested by results of the reconnaissance survey. This two-step effort is needed for two reasons. First, most of the proposed survey sites have been crossed by low-resolution, single-channel, analog seismic data collected 30–40 years ago, and as such are only marginally suitable for proper drill site selection. Second, basement ridges are typically spaced closer than the 10–20 kilometer (km) resolution of satellite bathymetry that currently provides constraints on seafloor features in this region, making it necessary to conduct ship-borne bathymetric surveys as a first indicator of potential future drill locations.

Each reconnaissance grid would be collected using a pair of 45-in³ airguns, with airguns spaced 8 m apart at a water depth of 2–4 m, with a 200 m hydrophone streamer and with the vessel traveling at 8 knots (kt). Each high-quality site-selection grid, embedded entirely within the boundaries of the reconnaissance grid, would be collected using a pair of 45-in³ airguns, with airguns spaced 2 m apart at a depth of 2–4 m, with a 600 m hydrophone streamer and with the vessel traveling at to 5 kt to achieve especially high-quality seismic reflection data.

A reconnaissance grid and an embedded high-quality survey grid would be centered at each of the six Survey Areas, as shown in Figure 1 of the IHA application. Figure 1 of the IHA application also shows representative tracklines for a potential reconnaissance grid consisting of four 30 nautical mile (nm) long main lines, three 20 nm cross lines, and ~60 nm of turns, for a total of ~240 nm data per reconnaissance grid. All data, including turns, would be collected inside the boundaries of a 40 x 40 nm box. The location, orientation, and size of the embedded high-quality survey grid would depend on the information obtained during the reconnaissance survey. A potential high-quality grid could have 10 intersecting tracklines. A site appropriate for potential future drilling by the IODP would be identified with each of these high-quality digital data grids. These latter grids would comprise at least 120 nm of data. In addition to the six site surveys, MCS profiles would be acquired at a speed of 8 kt, with a pair of 45-in³ airguns towed 8 m apart at a water depth of 2–4 m, using a 200-m streamer.

The six proposed site surveys would collect up to 4,334 km of data; survey lines connecting several grids and existing DSDP drill sites, as shown in Figure 1, comprise another 3,577 km, for a total of 7,911 km of seismic acquisition. All data would be collected in water depths of more than 1,000 m. There could be additional seismic operations in the project area associated with equipment testing, re-acquisition due to equipment malfunction, data degradation during poor weather, or interruption due to shutdown or track deviation in compliance with IHA requirements. To account for these additional seismic operations, 25 percent has been added in the form of operational days, which is equivalent to adding 25 percent to the proposed line km to be surveyed.

In addition to the operations of the airgun array, a multibeam echosounder (MBES) and a sub-bottom profiler (SBP) would also be operated continuously throughout the survey, but not during transits to and from the project area. All planned geophysical data acquisition activities would be conducted by SIO with on-board assistance by the scientists who have proposed the study. The vessel would be self-contained, and the crew would live aboard the vessel for the entire cruise.

The *Atlantis* has a length of 84 m, a beam of 16 m, and a maximum draft of 5.8 m. The ship is powered by diesel electric motors and 1,180 SHP azimuthing stern thrusters. An operation speed of approximately 5–8 kt (9–15 km/hr) would be used during seismic acquisition. When not towing seismic survey gear, the *Atlantis* cruises at approximately 11 kt (20 km/hr). It has a normal operating range of approximately 32,000 km. The *Atlantis* would also serve as the platform from

which vessel-based protected species visual observers (PSO) would watch for marine mammals during airgun operations.

During the survey, the *Atlantis* would tow a pair of 45-in$^3$ GI airguns and a 200- or 600-m long streamer containing hydrophones along predetermined lines. The generator chamber of each GI airgun, the one responsible for introducing the sound pulse into the ocean, is 45 in$^3$. The larger (105 in$^3$) injector chamber injects air into the previously generated bubble to maintain its shape, and does not introduce more sound into the water. The two 45-in$^3$ GI airguns would be towed 21 m behind R/V *Atlantis,* 2 m (during 5-kt grid surveys) or 8 m (8-kt reconnaissance and seismic transect surveys) apart side by side, at a depth of 2–4 m. Surveys with the 2-m airgun separation configuration would use a 600-m hydrophone streamer, whereas surveys with the 8-m airgun separation configuration would use a 200-m hydrophone streamer. Seismic pulses would be emitted at intervals of 25 m for the 5 kt surveys using the 2-m GI airgun separation and at intervals of 50 m for the 8 kt surveys using the 8-m airgun separation.

TABLE 1—SPECIFICATIONS OF THE R/V ATLANTIS AIRGUN ARRAY

| | |
|---|---|
| Number of airguns | 2. |
| Gun positions used | Two inline airguns 2- or 8-m apart. |
| Tow depth of energy source. | 2–4 m. |
| Dominant frequency components. | 0–188 Hz. |
| Air discharge volume | Approximately 90 in$^3$. |
| Shot interval | 7.8 seconds. |

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'').

**Description of Marine Mammals in the Area of Specified Activities**

Section 4 of the application summarizes available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*www.fisheries.noaa.gov/find-species*).

The populations of marine mammals considered in this document do not occur within the U.S. EEZ and are therefore not assigned to stocks and are not assessed in NMFS' Stock Assessment Reports (SAR). As such, information on potential biological removal (PBR; defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population) and on annual levels of serious injury and mortality from anthropogenic sources are not available for these marine mammal populations. Abundance estimates for marine mammals in the survey location are lacking; therefore the abundance estimates presented here are based on the U.S. Atlantic SARs (Hayes *et al.,* 2017), as this is considered the best available information on potential abundance of marine mammals in the area. However, as described above, the marine mammals encountered by the proposed survey are not assigned to stocks. All abundance estimate values presented in Table 2 are the most recent available at the time of publication and are available in the 2017 U.S. Atlantic draft SARs (*e.g.,* Hayes *et al.* 2017) available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments,* except where noted otherwise.

Table 2 lists all species with expected potential for occurrence in the survey area and with the potential to be taken as a result of the proposed survey, and summarizes information related to the population, including regulatory status under the MMPA and ESA. For taxonomy, we follow Committee on Taxonomy (2016).

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA EXPECTED TO BE AFFECTED BY THE SPECIFIED ACTIVITIES

| Species | Stock | ESA/MMPA status; Strategic (Y/N) [1] | Abundance [2] | Relative occurrence in project area |
|---|---|---|---|---|
| **Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)** | | | | |
| Family: Balaenopteridae: | | | | |
| Humpback whale [3] (*Megaptera novaeangliae*) | n/a | -/-; N | 12,312 | Uncommon. |
| Minke whale [4] (*Balaenoptera acutorostrata*) | n/a | -/-; N | 20,741 | Uncommon. |
| Bryde's whale (*Balaenoptera brydei*) | n/a | -/-; N | unknown | Uncommon. |
| Sei whale (*Balaenoptera borealis*) | n/a | E/D; Y | 357 | Uncommon. |
| Fin whale [4] (*Balaenoptera physalus*) | n/a | E/D; Y | 3,522 | Uncommon. |
| Blue whale (*Balaenoptera musculus*) | n/a | E/D; Y | 440 | Uncommon. |
| **Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | |
| Family: Physeteridae: | | | | |
| Sperm whale (*Physeter macrocephalus*) | n/a | E/D; Y | 2,288 | Uncommon. |
| **Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | |
| Family: Kogiidae: | | | | |
| Pygmy sperm whale [5] (*Kogia breviceps*) | n/a | -/-; N | 3,785 | Rare. |
| Dwarf sperm whale [5] (*Kogia sima*) | n/a | -/-; N | 3,785 | Rare. |

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA EXPECTED TO BE AFFECTED BY THE SPECIFIED ACTIVITIES—Continued

| Species | Stock | ESA/ MMPA status; Strategic (Y/N) [1] | Abundance [2] | Relative occurrence in project area |
|---|---|---|---|---|
| **Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | |
| Family: Delphinidae: | | | | |
| Killer whale (*Orcinus orca*) | n/a | -/-; N | unknown | Uncommon. |
| False killer whale (*Pseudorca crassidens*) | n/a | -/-; N | 442 | Uncommon. |
| Pygmy killer whale (*Feresa attenuata*) | n/a | -/-; N | unknown | Rare. |
| Short-finned pilot whale (*Globicephala macrorhynchus*) | n/a | -/-; N | 21,515 | Uncommon. |
| Long-finned pilot whale (*Globicephala melas*) | n/a | -/-; N | 5,636 | Uncommon. |
| Harbor porpoise (*Phocoena phocoena*) | n/a | -/-; N | 79,833 | Uncommon. |
| Bottlenose dolphin (*Tursiops truncatus*) | n/a | -/-; N | 77,532 | Uncommon. |
| Striped dolphin (*Stenella coeruleoala*) | n/a | -/-; N | 54,807 | Uncommon. |
| Risso's dolphin (*Grampus griseus*) | n/a | -/-; N | 18,250 | Uncommon. |
| Common dolphin [4] (*Delphinus delphis*) | n/a | -; N | 173,486 | Uncommon. |
| Atlantic white-sided dolphin (*Lagenorhynchus obliquidens*) | n/a | -; N | 48,819 | Uncommon. |
| Atlantic spotted dolphin (*Stenella frontalis*) | n/a | -; N | 44,715 | Uncommon. |
| Pantropical spotted dolphin (*Stenella attenuate*) | n/a | -; N | 3,333 | Uncommon. |
| White beaked dolphin (*Lagenorhynchus albirostris*) | n/a | -; N | 2,003 | Uncommon. |
| Rough-toothed dolphin (*Steno bredanensis*) | n/a | -; N | 271 | Rare. |
| **Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | |
| Family: Ziphiidae: | | | | |
| Cuvier's beaked whale (*Ziphius cavirostris*) | n/a | -/-; N | 6,532 | Uncommon. |
| Blainville's beaked whale [6] (*Mesoplodon densirostris*) | n/a | -; N | 7,092 | Uncommon. |
| True's beaked whale [6] (*Mesoplodon mirus*) | n/a | -/-; N | 7,092 | Rare. |
| Gervais beaked whale [6] (*Mesoplodon europaeus*) | n/a | -; N | 7,092 | Uncommon. |
| Sowerby's beaked whale [6] (*Mesoplodon bidens*) | n/a | -; N | 7,092 | Uncommon. |
| Northern bottlenose whale (*Hyperoodon ampullatus*) | n/a | -; N | unknown | Uncommon. |
| **Order Carnivora—Superfamily Pinnipedia** | | | | |
| Family: Phocidae (earless seals): | | | | |
| Hooded seal (*Cystophora cristata*) | n/a | -; N | 592,100 | Rare. |
| Harp seal (*Pagophilus groenlandicus*) | n/a | -; N | 7,100,000 | Rare. |
| Ringed seal (*Pusa hispida*) [7] | n/a | -; N | unknown | Rare. |

[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] Abundance estimates are from the NMFS 2017 draft Atlantic SAR (Hayes *et al.,* 2017) unless otherwise noted. We note that marine mammals in the survey area would not belong to NMFS stocks, as the survey area is outside the geographic boundaries for stock assessments, thus stock abundance estimates are provided for comparison purposes only.

[3] NMFS defines a stock of humpback whales only on the basis of the Gulf of Maine feeding population; however, multiple feeding populations originate from the Distinct Population Segment (DPS) that is expected to occur in the proposed survey area (the West Indies DPS). As West Indies DPS whales from multiple feeding populations may be encountered in the proposed survey area, the total abundance of the West Indies DPS best reflects the abundance of the population that may encountered by the proposed survey. The West Indies DPS abundance estimate shown here reflects the latest estimate as described in the NMFS Status Review of the Humpback Whale under the Endangered Species Act (Bettridge *et al.,* 2015).

[4] Abundance for these species is from the 2007 Canadian Trans-North Atlantic Sighting Survey (TNASS), which provided full coverage of the Atlantic Canadian coast (Lawson and Gosselin, 2009). Abundance estimates from TNASS were corrected for perception and availability bias, when possible. In general, where the TNASS survey effort provided superior coverage of a stock's range (as compared with NOAA shipboard survey effort), we elect to use the resulting abundance estimate over the current NMFS abundance estimate (derived from survey effort with inferior coverage of the stock range).

[5] Abundance estimate represents pygmy and dwarf sperm whales combined.

[6] Abundance estimate represents all species of *Mesoplodon* in the Atlantic.

[7] NMFS does not have a defined stock of ringed seals in the Atlantic Ocean.

Four marine mammal species that are listed under the Endangered Species Act (ESA) may be present in the survey area and are included in the take request: The fin whale, sei whale, blue whale and sperm whale.

Below is a description of the species that are both common in the survey area and that have the highest likelihood of occurring in the survey area and thus are expected to have the potential to be taken by the proposed activities. Though other marine mammal species are known to occur in the North Atlantic Ocean, the temporal and/or spatial occurrence of several of these species is such that take of these species is not expected to occur, and they are therefore not discussed further beyond the explanation provided here. Four cetacean species, although present in the wider North Atlantic Ocean, likely would not be found near the proposed project area because their ranges generally do not extend as far north: Clymene dolphin, Fraser's dolphin, spinner dolphin, and melon-headed

whale. Another cetacean species, the North Atlantic right whale, occurs in nearshore waters off the U.S. coast, and its range does not extend as far offshore as the proposed project area. Another three cetacean species occur in arctic waters, and their ranges generally do not extend as far south as the proposed project area: The bowhead whale, narwhal, and beluga. Two additional cetacean species, the Atlantic humpback dolphin (which occurs in coastal waters of western Africa) and the long-beaked common dolphin (which occurs in coastal waters of South America and western Africa) do not occur in deep offshore waters. Several pinniped species also are known to occur in North Atlantic waters, but are not expected to occur in deep offshore waters of the proposed project area, including the gray seal, harbor seal, and bearded seal.

We have reviewed SIO's species descriptions, including life history information, distribution, regional distribution, diving behavior, and acoustics and hearing, for accuracy and completeness. We refer the reader to Section 4 of SIO's IHA application, rather than reprinting the information here.

*Humpback Whale*

Humpback whales are found worldwide in all ocean basins. In winter, most humpback whales occur in the subtropical and tropical waters of the Northern and Southern Hemispheres (Muto *et al.,* 2015). These wintering grounds are used for mating, giving birth, and nursing new calves. Humpback whales were listed as endangered under the Endangered Species Conservation Act (ESCA) in June 1970. In 1973, the ESA replaced the ESCA, and humpbacks continued to be listed as endangered. NMFS recently evaluated the status of the species, and on September 8, 2016, NMFS divided the species into 14 distinct population segments (DPS), removed the current species-level listing, and in its place listed four DPSs as endangered and one DPS as threatened (81 FR 62259; September 8, 2016). The remaining nine DPSs were not listed. The West Indies DPS, which is not listed under the ESA, is the only DPS of humpback whale that is expected to occur in the survey area.

Based on density modeling by Mannocci *et al.* (2017) for the western North Atlantic, higher densities are expected to occur north of 40° N during the summer; very low densities are expected south of 40° N. Several sightings have been made in water >2,000 m deep during the summer to the west of SIO's proposed Survey Areas 4, 5, and 6, and northwest of Survey Area 6 (Figure 1 in the IHA application) (DFO Sightings Database 2017; OBIS, 2017). Two humpback whales outfitted with satellite transmitters near the Dominican Republic during winter and spring of 2008 to 2012 were later reported off the east coast of Canada, as well as near the proposed project area between Survey Sites 4 and 5 (Kennedy *et al.* 2014). Humpback whales were sighted during a summer survey along the Mid-Atlantic Ridge from Iceland to north of the Azores, including east of the survey area (Waring *et al.* 2008) and they have also been sighted near the Mid-Atlantic Ridge near the Azores (Silva *et al.* 2014; OBIS, 2017). Humpback whales could be encountered in the proposed project area during June–July, especially north of 40° N.

*Minke Whale*

The minke whale has a cosmopolitan distribution ranging from the tropics and subtropics to the ice edge in both hemispheres (Jefferson *et al.* 2008). Some populations migrate from high latitude summering grounds to lower latitude wintering grounds (Jefferson *et al.* 2015). In the Northern Hemisphere, the minke whale is usually seen in coastal areas, but can also occur in pelagic waters during northward migrations in spring and summer, and southward migration in autumn (Stewart and Leatherwood, 1985; Perrin and Brownell, 2009). Based on density modeling by Mannocci et al. (2017) for the western North Atlantic, higher densities are expected to occur north of 40° N; very low densities are expected south of 40° N. One minke whale was sighted during a summer survey along the Mid-Atlantic Ridge from Iceland to north of the Azores, east of SIO's proposed Survey Area 5 (Figure 1 in the IHA application) (Waring et al., 2008), and one sighting was made during June 2006 to the east of SIO's proposed Survey Area 6 at 53.3° N, 40.9° W (OBIS 2017). Other minke whale sightings have also been reported between the proposed project area and the Mid-Atlantic Ridge (OBIS 2017), and sightings have been made to the west of SIO's proposed Survey Areas 2 to 6 during summer and other seasons (DFO Sightings Database 2017; OBIS 2017).

*Bryde's Whale*

Bryde's whales are distributed worldwide in tropical and sub-tropical waters, but the taxonomy and number of species and/or subspecies of Bryde's whales in the world is currently a topic of debate (Kato and Perrin 2009; Rosel and Wilcox 2014). In the western Atlantic Ocean, Bryde's whales are reported from the southeastern United States including the Gulf of Mexico and the southern West Indies to Cabo Frio, Brazil (Leatherwood and Reeves, 1983). Bryde's whales have been observed feeding in the Azores during their northward spring migration (Villa *et al.* 2011), but the distribution of Bryde's whale elsewhere in the North Atlantic is not well known, though there are records from Virginia south to Brazil in the west, and from Morocco south to Cape of Good Hope in the east (Kato and Perrin, 2009). There was one Bryde's whale sighting reported at ~40° N during a survey along the Mid-Atlantic Ridge north of the Azores (Waring *et al.* 2008). Bryde's whales could be encountered in the proposed project area during June–July.

*Sei Whale*

The sei whale occurs in all ocean basins (Horwood 2009) but appears to prefer mid-latitude temperate waters (Jefferson *et al.* 2008). It undertakes seasonal migrations to feed in subpolar latitudes during summer and returns to lower latitudes during winter to calve (Horwood 2009). The sei whale is pelagic and generally not found in coastal waters (Harwood and Wilson 2001). It occurs in deeper waters characteristic of the continental shelf edge region (Hain *et al.* 1985) and in other regions of steep bathymetric relief such as seamounts and canyons (Kenney and Winn 1987; Gregr and Trites 2001).

Based on density modeling by Mannocci et al. (2017) for the western North Atlantic, higher densities are expected to occur north of 40° N during the summer; very low densities are expected south of 40° N. Sei whales are regularly sighted near the Azores during spring (Víkingsson et al. 2010; Ryan et al. 2013; Silva et al. 2014), and numerous sightings have also been made there during summer (Silva et al. 2014; OBIS 2017). One sei whale that was tagged in the Azores during 2005 (Olsen *et al.* 2009) and seven individuals that were tagged in the Azores during May–June 2008 and 2009 travelled to the Labrador Sea, where they spent extended periods of time on the northern shelf, presumably to feed (Prieto *et al.* 2010, 2014), then travelled northbound from the Azores just to the east of SIO's proposed Survey Areas 3 and 4, and between Survey Areas 5 and 6, during May and June, en route to the Labrador Sea (Olsen et al. 2009; Prieto et al. 2010, 2014). Sei whales could be encountered in the proposed project area during June–July, especially north of 40° N.

*Fin Whale*

Fin whales are found throughout all oceans from tropical to polar latitudes. The species occurs most commonly offshore but can also be found in coastal areas (Aguilar, 2009). Most populations migrate seasonally between temperate waters where mating and calving occur in winter, and polar waters where feeding occurs in summer (Aguilar, 2009). However, recent evidence suggests that some animals may remain at high latitudes in winter or low latitudes in summer (Edwards *et al.* 2015).

Based on density modeling by Mannocci *et al.* (2017) for the western North Atlantic, higher densities are expected to occur north of 40° N; very low densities are expected south of 40° N. Fin whales are commonly sighted off Newfoundland and Labrador, with most records for June through November (DFO Sightings Database 2017). Several fin whale sightings have been made to the west of SIO's proposed Survey Areas 3 to 6 (see Figure 1 in IHA application) (DFO Sightings Database 2017; OBIS 2017). One sighting was made near SIO's proposed Survey Area 5 at 53° N, 40° W (OBIS 2017). Fin whales were sighted during a summer survey along the Mid-Atlantic Ridge from Iceland to north of the Azores, including east of SIO's proposed Survey Area 5 and between 40 and 45° N (Waring et al. 2008). Several sightings have also been made between the proposed project area and the Mid-Atlantic Ridge (OBIS 2017) and fin whales were seen near the Mid-Atlantic Ridge at ~60° N in July 2012 (Ryan et al. 2013). Fin whales could be encountered in the proposed project area during June–July, especially north of 40° N.

*Blue Whale*

The blue whale has a cosmopolitan distribution and tends to be pelagic, only coming nearshore to feed and possibly to breed (Jefferson *et al.* 2008). Blue whale migration is less well defined than for some other rorquals, and their movements tend to be more closely linked to areas of high primary productivity, and hence prey, to meet their high energetic demands (Branch *et al.* 2007). Generally, blue whales are seasonal migrants between high latitudes in the summer, where they feed, and low latitudes in the winter, where they mate and give birth (Lockyer and Brown 1981). Some individuals may stay in low or high latitudes throughout the year (Reilly and Thayer 1990; Watkins *et al.* 2000).

Blue whales are uncommon in the waters of Newfoundland, but are seen from spring through fall, with most sightings reported for July and August (DFO Sightings Database 2017). Blue whales have also been observed off Newfoundland to the west of SIO's proposed Survey Areas 2 and 3 (DFO Sightings Database 2017; OBIS 2017), as well as northwest of SIO's proposed Survey Area 6 (OBIS 2017). Blue whales were seen during a summer survey along the Mid-Atlantic Ridge from Iceland to north of the Azores, between 40 and 45° N (Waring *et al.* 2008). Additionally, blue whales outfitted with satellite tags were tracked from the Azores northward along the Mid-Atlantic Ridge during spring 2009 and 2011 (Silva et al. 2013). They have also been sighted in the Azores during late spring and summer (Ryan et al. 2013; OBIS 2017). Blue whales could be encountered within the proposed project area during June–July, but are considered to be uncommon in the area.

*Sperm Whale*

Sperm whales are found throughout the world's oceans in deep waters between about 60° N and 60° S latitudes. Their distribution is dependent on their food source and suitable conditions for breeding, and varies with the sex and age composition of the group. They are generally distributed over large areas that have high secondary productivity and steep underwater topography, in waters at least 1,000 m deep (Jaquet and Whitehead 1996; Whitehead 2009). Based on density modeling by Mannocci et al. (2017), sperm whale are expected to occur throughout the deeper offshore waters of the western North Atlantic. Sightings of sperm whales were also made on and east of the Flemish Cap, along the Mid-Atlantic Ridge from at least 32 to 57° N, and near SIO's proposed Survey Areas 1–4 and the seismic transects south of 45.5° N (OBIS 2017). Sperm whales were the second most commonly sighted cetacean species (n = 48) during a summer survey along the Mid-Atlantic Ridge from Iceland to north of the Azores; sightings were more abundant at and north of ~52° N, including to the east of SIO's proposed Survey Site 5 (Waring et al. 2008). Sperm whales were also sighted ~500 km north of Survey Area 1 during the summer 2004 seismic survey by L–DEO (Haley and Koski, 2004). There are also numerous sightings of sperm whales in the Azores (Morato et al. 2008; Ryan et al. 2013; Silva et al. 2014; OBIS 2017). Sperm whales could be encountered in the proposed project area during June–July.

*Pygmy and Dwarf Sperm Whale*

Pygmy sperm whales are found in tropical and warm-temperate waters throughout the world (Ross and Leatherwood 1994) and prefer deeper waters with observations of this species in greater than 4,000 m depth (Baird *et al.,* 2013). Both *Kogia* species are sighted primarily along the continental shelf edge and slope and over deeper waters off the shelf (Hansen et al. 1994; Davis et al. 1998). Several studies have suggested that pygmy sperm whales live mostly beyond the continental shelf edge, whereas dwarf sperm whales tend to occur closer to shore, often over the continental shelf (Rice 1998; Wang et al. 2002; MacLeod et al. 2004). Based on density modeling by Mannocci et al. (2017) for the western North Atlantic, slightly higher densities are expected to occur south of 40° N compared to northern regions. Pygmy and dwarf sperm whales likely would be rare in the proposed project area.

*Cuvier's Beaked Whale*

Cuvier's beaked whale is the most widespread of the beaked whales occurring in almost all temperate, subtropical, and tropical waters and even some sub-polar and polar waters (MacLeod *et al.* 2006). It is found in deep water over and near the continental slope (Jefferson *et al.* 2008). There is one record of a Cuvier's beaked whale from June 2006 between the proposed seismic transects at 51.4° N, 43.1° W, as well as numerous sightings from the Azores (Silva *et al.* 2014; OBIS 2017). Cuvier's beaked whales could be encountered in the proposed project area.

*Mesoplodont Beaked Whales (Including True's, Gervais', Sowerby's, and Blainville's Beaked Whale)*

Mesoplodont beaked whales are distributed throughout deep waters and along the continental slopes of the North Atlantic Ocean. True's beaked whale is mainly oceanic and occurs in warm temperate waters of the North Atlantic and southern Indian oceans (Pitman 2009). Gervais' beaked whale is mainly oceanic and occurs in tropical and warmer temperate waters of the Atlantic Ocean (Jefferson et al. 2015). Sowerby's beaked whale occurs in cold temperate waters of the Atlantic from the Labrador Sea to the Norwegian Sea, and south to New England, the Azores, and Madeira (Mead 1989). Blainville's beaked whale is found in tropical and warm temperate waters of all oceans; it has the widest distribution throughout the world of all mesoplodont species and appears to be relatively common

(Pitman 2009). Relatively few records exist of Mesoplodont beaked whale observations in the proposed survey area. There are 16 records of Sowerby's beaked whale near the Azores (OBIS 2017) and 10 records of stranded Sowerby's beaked whales were recorded in the central group of islands in the Azores from 2002 through 2009 (Pereira et al. 2011). Mesoplodont beaked whales, including True's, Gervais', Sowerby's, and Blainville's beaked whale, may be encountered in the proposed project area.

*Northern Bottlenose Whale*

Northern bottlenose whales are distributed in the North Atlantic from Nova Scotia to about 70° N in the Davis Strait, along the east coast of Greenland to 77° N and from England, Norway, Iceland and the Faroe Islands to the south coast of Svalbard. It is largely a deep-water species and is very seldom found in waters less than 2,000 m deep (Mead, 1989; Whitehead and Hooker, 2012). There are two records just west of SIO's proposed Survey Area 4, four records for the Mid-Atlantic Ridge between 52.8 and 54.3° N, and one record northeast of the beginning of the southwestern-most seismic transect (OBIS 2017). Northern bottlenose whales were also sighted ~520 km north of Survey Area 1 during the summer 2004 seismic survey by L–DEO (Haley and Koski 2004). Sightings have also been made in the Azores, including during summer (Silva et al. 2014; OBIS 2017). Northern bottlenose whales could be encountered in the proposed project area.

*Killer Whale*

Killer whales have been observed in all oceans and seas of the world (Leatherwood and Dahlheim 1978). Killer whale distribution in the Western Atlantic extends from the Arctic ice edge to the West Indies. Although reported from tropical and offshore waters (Heyning and Dahlheim 1988), killer whales prefer the colder waters of both hemispheres, with greatest abundances found within 800 km of major continents (Mitchell 1975). Killer whales have been sighted in shelf and offshore waters of Newfoundland and Labrador during June to September (DFO Sightings Database 2017; OBIS 2017). There is one record near SIO's proposed Survey Area 6, one near the end of the proposed seismic transect heading southwest of Survey Area 6, east of the Flemish Cap, and northwest of Survey Area 1 (OBIS 2017). One record was made on the Mid-Atlantic Ridge at ~56° N, and there are numerous records for the Azores (OBIS 2017). Killer whales could be encountered within the proposed project area during June–July.

*False Killer Whale*

The false killer whale is distributed worldwide throughout warm temperate and tropical oceans (Jefferson et al., 2008). This species is usually sighted in offshore waters but in some cases inhabits waters closer shore (*e.g.,* Hawaii, Baird et al., 2013). While records from the U.S. western North Atlantic have been uncommon, the combination of sighting, stranding and bycatch records indicates that this species routinely occurs in the western North Atlantic. The pelagic range in the North Atlantic is usually southward of ~30° N but wanderers have been recorded as far north as Norway (Jefferson et al., 2015). There is one record just to the west of Survey Areas 3 and 4, two records on the Mid-Atlantic Ridge between 51° and 52° N, and numerous records in and around the Azores (OBIS 2017). Silva et al. (2014) also reported records for the Azores. False killer whales could be encountered in the proposed project area.

*Pygmy Killer Whale*

The pygmy sperm whale is distributed worldwide in temperate to tropical waters (Caldwell and Caldwell, 1989; McAlpine, 2002). Sightings in the western North Atlantic occur in oceanic waters (Mullin and Fulling, 2003). There are no records of this species near the proposed project area in the OBIS database (OBIS 2017). Pygmy killer whales are expected to be rare within and near the proposed project area.

*Short-Finned Pilot Whale*

Short-finned pilot whales are found in all oceans, primarily in tropical and warm-temperate waters (Carretta *et al.,* 2016). The species prefers deeper waters, ranging from 324 m to 4,400 m, with most sightings between 500 m and 3,000 m (Baird 2016). Although there are no records near the proposed project area, sightings have been reported for the Azores (OBIS 2017). Short-finned pilot whales could be encountered in the proposed project area.

*Long-Finned Pilot Whale*

Long-finned pilot whales occur in temperate and sub-polar zones (Jefferson et al. 2015) and can be found in inshore or offshore waters of the North Atlantic (Olson 2009). In the Northern Hemisphere, their range includes the U.S. east coast, Gulf of St. Lawrence, the Azores, Madeira, North Africa, western Mediterranean Sea, North Sea, Greenland and the Barents Sea. Long-finned pilot whales are commonly sighted off Newfoundland and Labrador (DFO Sightings Database 2017; OIBS 2017); although sightings have been reported year-round, most have occurred during July and August (DFO Sightings Database 2017). There are numerous records near the deep waters of the proposed project area, including sightings near SIO's proposed Survey Area 5 and near the end of the seismic transect heading south of Area 5, and on and east of the Flemish Cap (OBIS 2017). Long-finned pilot whales were also sighted ~520 km north of Survey Area 1 during the summer 2004 seismic survey by L–DEO (Haley and Koski 2004). The long-finned pilot whale could be encountered in the proposed study area.

*Bottlenose Dolphin*

Bottlenose dolphins are widely distributed throughout the world in tropical and warm-temperate waters (Perrin *et al.* 2009). Generally, there are two distinct bottlenose dolphin ecotypes: One mainly found in coastal waters and one mainly found in oceanic waters (Duffield *et al.* 1983; Hoelzel *et al.* 1998; Walker *et al.* 1999). As well as inhabiting different areas, these ecotypes differ in their diving abilities (Klatsky 2004) and prey types (Mead and Potter 1995). Only the offshore ecotype is expected to occur in the proposed survey area. Based on modeling by Mannocci et al. (2017), densities are expected to be low throughout the deep offshore waters of the western North Atlantic. However, in the OBIS database, there are records throughout the North Atlantic, including in offshore waters near the proposed project area between SIO's proposed survey transects at 49.3° N, 42.7° W; near Survey Areas 2, 3, and 4; near Sites 558 and 563; and west of Survey Area 1 near the seismic transect (OBIS 2017). Bottlenose dolphins were sighted ~500 km north of Survey Area 1 during the summer 2004 seismic survey by L–DEO (Haley and Koski 2004). They have also been reported in the Azores (Morato et al. 2008; Silva et al. 2014; OBIS 2017). Bottlenose dolphins could be encountered in the proposed project area.

*Pantropical Spotted Dolphin*

The pantropical spotted dolphin is distributed worldwide in tropical and some sub-tropical oceans (Perrin et al. 1987; Perrin and Hohn 1994). In the Atlantic, it can occur from ~40° N to 40° S but is much more abundant in the lower latitudes (Jefferson et al. 2015). Pantropical spotted dolphins are usually

pelagic, although they occur close to shore where water near the coast is deep (Jefferson et al. 2015). One sighting was made in May 2012 in the proposed project area at 36.3° N, 53.3° W north of the southern-most seismic transect (OBIS 2017). Pantropical spotted dolphins could be encountered in the proposed project area.

*Atlantic Spotted Dolphin*

Atlantic spotted dolphins are distributed in tropical and warm temperate waters of the western North Atlantic (Leatherwood et al., 1976). Based on density modeling by Mannocci et al. (2017), Atlantic spotted dolphins occur throughout the western North Atlantic up to ~45° N, with slightly higher densities along 40° N and ~32° N. There are sighting records near SIO's proposed Survey Area 2, and between the Grand Banks and the southern-most seismic transect (OBIS 2017). One sighting was made at 34.0° N, 51.7° W just to the northwest of Survey Area 1 during the spring 2013 L–DEO seismic survey in the Mid-Atlantic (Milne et al. 2013). Atlantic spotted dolphins were also sighted ~520 km north of Survey Area 1 during the summer 2004 seismic survey by L–DEO (Haley and Koski 2004). Sightings have also been made near the Azores, including during spring and summer (Morato et al. 2008; Ryan et al. 2013; Silva et al. 2014; OBIS 2017). Atlantic spotted dolphins could be encountered in the proposed project area.

*Striped Dolphin*

Striped dolphins are found in tropical to warm-temperate waters throughout the world (Carretta *et al.,* 2016). Striped dolphins are a deep water species, preferring depths greater than 3,500 m (Baird 2016), but have been observed approaching shore where there is deep water close to the coast (Jefferson *et al.* 2008). Based on density modeling by Mannocci et al. (2017) for the western North Atlantic, higher densities are expected in offshore waters north of ~38° N, with the lowest densities south of ~30° N. There are sighting records for the deep offshore waters between the coast of Canada and the Mid-Atlantic Ridge for May through August, including near SIO's proposed Survey Areas 2 and 3 (OBIS 2017). Sightings were also made in June 2004 along the Mid-Atlantic Ridge between 41° and 49° N (Doksæter et al. 2008). Striped dolphins also occur in the Azores (Ryan et al. 2013; Silva et al. 2014; OBIS 2017). Striped dolphins could be encountered in the proposed project area.

*Common Dolphin*

The common dolphin may be one of the most widely distributed species of cetaceans, as it is found world-wide in temperate and subtropical seas. It is common in coastal waters 200–300 m deep (Evans 1994), but it can also occur thousands of kilometers offshore; the pelagic range in the North Atlantic extends south to ~35° N (Jefferson et al. 2015). Based on density modeling by Mannocci et al. (2017) for the western North Atlantic, higher densities occur in offshore areas north of ~40° N; very low densities are expected south of 40° N. There are records throughout the North Atlantic, including sightings on the shelf and offshore of Newfoundland and the deep waters of the proposed project area (OBIS 2017). There are sighting records just south of SIO's proposed Survey Area 5 along the seismic transect and near Survey Areas 1–4 (OBIS 2017). There are numerous records along the Mid-Atlantic Ridge between 35° and 52° N (Doksæter et al. 2008; OBIS 2017). Common dolphins also occur in the Azores (Morato et al. 2008; Ryan et al. 2013; Silva et al. 2014; OBIS 2017). Common dolphins could be encountered in the proposed project area.

*Atlantic White-Sided Dolphin*

White-sided dolphins are found in temperate and sub-polar waters of the North Atlantic, primarily in continental shelf waters to the 100-m depth contour. In the western North Atlantic the species inhabits waters from central West Greenland to North Carolina (about 35° N) and perhaps as far east as 29° W in the vicinity of the mid-Atlantic Ridge (Evans 1987; Hamazaki 2002; Doksaeter et al. 2008; Waring et al. 2008). Based on density modeling by Mannocci et al. (2017) for the western North Atlantic, densities are highest north of 40° N, with densities gradually decreasing to the south. Sighting records exist within or near the proposed project area, including near SIO's proposed Survey Areas 5 and 6, along the seismic transect heading southwest of Survey Area 6, near Survey Areas 3 and 4, Site 563, and north of Survey Area 1 (OBIS 2017). There are also several records along the Mid-Atlantic Ridge between 35° and 60° N (Doksæter et al. 2008; OBIS 2017). Atlantic white-sided dolphins are likely to be encountered in the proposed project area during June–July.

*White-Beaked Dolphin*

The white-beaked dolphin is found in waters from southern New England to southern Greenland and Davis Straits (Leatherwood et al. 1976; CETAP 1982), across the Atlantic to the Barents Sea and south to at least Portugal (Reeves et al. 1999). It appears to prefer deep waters along the outer shelf and slope, but can also occur in shallow areas and far offshore (Jefferson et al. 2015). One sighting of white-beaked dolphin was made in the deep waters off Newfoundland, southwest of SIO's proposed Survey Area 6 near the proposed seismic transect, during July 2012 (Ryan et al. 2013). Another sighting was made near the proposed seismic transect southwest of Survey Area 5 at 50.1° N, 40.8° W during March 2011 (OBIS 2017). White-beaked dolphins were observed on the Mid-Atlantic Ridge at 56.4° N during June 2004 (Skov et al. 2004). White-beaked dolphins could be encountered in the proposed project area during June–July.

*Risso's Dolphin*

Risso's dolphins are found in tropical to warm-temperate waters (Carretta *et al.,* 2016). The species occurs from coastal to deep water but is most often found in depths greater than 3,000 m with the highest sighting rate in depths greater than 4,500 m (Baird 2016). It primarily occurs between 60° N and 60° S where surface water temperatures are at least 10 °C (Kruse *et al.* 1999). Based on density modeling by Mannocci et al. (2017) for the western North Atlantic, higher densities are expected to occur north of 40° N; very low densities are expected south of 40° N. There is one sighting record near SIO's proposed Survey Area 4, just north of the end of the proposed seismic transect; and one sighting has been reported near Survey Area 2 (OBIS 2017). There are numerous records for the Azores (Silva et al. 2014; OBIS 2017). Risso's dolphin could be encountered in the proposed project area during June–July.

*Harbor Porpoise*

The harbor porpoise inhabits temperate, subarctic, and arctic waters. It is typically found in shallow water (<100 m) nearshore, but it is occasionally sighted in deeper offshore water (Jefferson et al. 2015). In the western North Atlantic, it occurs from the southeastern United States to Baffin Island; in the eastern North Atlantic (Jefferson et al. 2015). The harbor porpoise is generally considered uncommon in the offshore regions of the proposed project area, although sightings have been made along the outer shelf of Newfoundland and the Flemish Cap (DFO Sightings Database 2017; OBIS 2017). Mannocci et al. (2017) reported relatively high densities in offshore waters north of ~40° N; very

low densities are expected to occur south of ~38° N. Harbor porpoises have been sighted in the Azores from May through September (OBIS 2017). Given their preference for coastal waters, harbor porpoises are expected to be uncommon near the proposed survey area.

*Ringed Seal*

Ringed seals have a circumpolar distribution and are found in all seasonally ice-covered seas of the Northern Hemisphere as well as in certain freshwater lakes (King 1983). The subspecies *P.h. hispida* (Arctic ringed seal) occurs in the Northwest Atlantic Ocean. The southern range of the ringed seal extends to the coasts of Labrador and northern Newfoundland, where it most commonly occurs from November to January (Stenson 1994). As the range of this species includes the waters off southern Greenland and the Labrador Sea, it could be encountered in the proposed project area, but ringed seals are likely to be rare within and near the proposed project area.

*Harp Seal*

The harp seal occurs throughout much of the North Atlantic and Arctic Oceans (Ronald and Healey 1981; Lavigne and Kovacs 1988). Harp seals are highly migratory (Sergeant 1965; Stenson and Sjare 1997). Breeding occurs at different times for each stock between late February and April. Adults then assemble on suitable pack ice to undergo the annual molt. The migration then continues north to Arctic summer feeding grounds. Harp seals have mainly been sighted on the shelf off Newfoundland, but there are no sightings in the OBIS database for the proposed project area (OBIS 2017). Harp seals are likely to be rare within and near the proposed project area during June–July.

*Hooded Seal*

The hooded seal occurs throughout much of the North Atlantic and Arctic Oceans (King 1983) preferring deeper water and occurring farther offshore than harp seals (Sergeant 1976a; Campbell 1987; Lavigne and Kovacs 1988; Stenson et al. 1996). Hooded seals remain on the Newfoundland continental shelf during winter/spring (Stenson et al. 1996) and breeding occurs in March. Hooded seals have been reported in shelf and offshore waters of Newfoundland throughout the year, including west of Survey Area 6 and near the seismic transect southwest of SIO's proposed Survey Area 6, during summer (Stenson and Kavanagh 1994; Andersen et al. 2009, 2012). Vagrants, especially juveniles, have been reported in the Azores and off northwestern Africa (Jefferson et al. 2015). However, there are no sightings in the OBIS database for the proposed project area (OBIS 2017). Hooded seals are likely to be rare within and near the proposed project area during June–July.

*Marine Mammal Hearing*

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hertz (Hz) and 35 kilohertz (kHz);
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz; and
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kH.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Thirty-three marine mammal species (thirty cetacean and three pinniped (all phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, six are classified as low-frequency cetaceans (*i.e.,* all mysticete species), twenty-two are classified as mid-frequency cetaceans (*i.e.,* all delphinid species, beaked whales, and the sperm whale), and three are classified as a high-frequency cetaceans (*i.e.,* harbor porpoise, pygmy and dwarf sperm whales).

**Potential Effects of Specified Activities on Marine Mammals and Their Habitat**

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

*Description of Active Acoustic Sound Sources*

This section contains a brief technical background on sound, the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a

discussion of the potential effects of the specified activity on marine mammals found later in this document.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the decibel (dB). A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)) and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa) while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 $\mu Pa^2$-s) represents the total energy contained within a pulse and considers both intensity and duration of exposure. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-p) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk-pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.,* 2007).

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for pulses produced by the airgun arrays considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kilohertz (kHz) (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf sound becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions;
- *Precipitation:* Sound from rain and hail impacting the water surface can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times;
- *Biological:* Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz; and
- *Anthropogenic:* Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly. Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from a given activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient

pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Airgun arrays produce pulsed signals with energy in a frequency range from about 10–2,000 Hz, with most energy radiated at frequencies below 200 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.,* omnidirectional), but airgun arrays do possess some directionality due to different phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

As described above, a MBES and a SBP would also be operated from the *Atlantis* continuously throughout the survey, but not during transits to and from the project area. Due to the lower source level of the SBP relative to the *Atlantis's* airgun array, the sounds from the SBP are expected to be effectively subsumed by the sounds from the airgun array. Thus, any marine mammal that was exposed to sounds from the SBP would already have been exposed to sounds from the airgun array, which are expected to propagate further in the water. As such, the SBP is not expected to result in the take of any marine mammal that has not already been taken by the sounds from the airgun array, and therefore we do not consider noise from the SBP further in this analysis. Each ping emitted by the MBES consists of four successive fan-shaped transmissions, each ensonifying a sector that extends 1° fore–aft. Given the movement and speed of the vessel, the intermittent and narrow downward-directed nature of the sounds emitted by the MBES would result in no more than one or two brief ping exposures of any individual marine mammal, if any exposure were to occur. Thus, we conclude that the likelihood of marine mammal take resulting from MBES exposure is discountable and therefore we do not consider noise from the MBES further in this analysis.

*Acoustic Impacts*

*Potential Effects of Underwater Sound*—Please refer to the information given previously (''Description of Active Acoustic Sound Sources'') regarding sound, characteristics of sound types, and metrics used in this document. Note that, in the following discussion, we refer in many cases to a recent review article concerning studies of noise-induced hearing loss conducted from 1996–2015 (*i.e.,* Finneran, 2015). For study-specific citations, please see that work. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Götz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to the use of airguns.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects certain non-auditory physical or physiological effects only briefly as we do not expect that use of airgun arrays are reasonably likely to result in such effects (see below for further discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007; Tal *et al.,* 2015). The survey activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

1. *Threshold Shift*—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal

bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, and there is no PTS data for cetaceans but such relationships are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above (a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.,* Southall *et al.* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as airgun pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level ($SEL_{cum}$) thresholds are 15 to 20 dB higher than TTS $SEL_{cum}$ thresholds (Southall *et al.,* 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

For mid-frequency cetaceans in particular, potential protective mechanisms may help limit onset of TTS or prevent onset of PTS. Such mechanisms include dampening of hearing, auditory adaptation, or behavioral amelioration (*e.g.,* Nachtigall and Supin, 2013; Miller *et al.,* 2012; Finneran *et al.,* 2015; Popov *et al.,* 2016).

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Finneran *et al.* (2015) measured hearing thresholds in three captive bottlenose dolphins before and after exposure to ten pulses produced by a seismic airgun in order to study TTS induced after exposure to multiple pulses. Exposures began at relatively low levels and gradually increased over a period of several months, with the highest exposures at peak SPLs from 196 to 210 dB and cumulative (unweighted) SELs from 193–195 dB. No substantial TTS was observed. In addition, behavioral reactions were observed that indicated that animals can learn behaviors that effectively mitigate noise exposures (although exposure patterns must be learned, which is less likely in wild animals than for the captive animals considered in this study). The authors note that the failure to induce more significant auditory effects likely due to the intermittent nature of exposure, the relatively low peak pressure produced by the acoustic source, and the low-frequency energy in airgun pulses as compared with the frequency range of best sensitivity for dolphins and other mid-frequency cetaceans.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale, harbor porpoise, and Yangtze finless porpoise) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). In general, harbor porpoises have a lower TTS onset than other measured cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes.

Critical questions remain regarding the rate of TTS growth and recovery after exposure to intermittent noise and the effects of single and multiple pulses. Data at present are also insufficient to construct generalized models for recovery and determine the time necessary to treat subsequent exposures as independent events. More information is needed on the relationship between auditory evoked potential and behavioral measures of TTS for various stimuli. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and NMFS (2016).

2. *Behavioral Effects*—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive

marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007). However, many delphinids approach acoustic source vessels with no apparent discomfort or obvious behavioral change (*e.g.,* Barkaszi *et al.,* 2012).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark 2000; Ng and Leung 2003; Nowacek *et al.* 2004; Goldbogen *et al.* 2013). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.* 2001; Nowacek *et al.* 2004; Madsen *et al.* 2006; Yazvenko *et al.* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Visual tracking, passive acoustic monitoring, and movement recording tags were used to quantify sperm whale behavior prior to, during, and following exposure to airgun arrays at received levels in the range 140–160 dB at distances of 7–13 km, following a phase-in of sound intensity and full array exposures at 1–13 km (Madsen *et al.,* 2006; Miller *et al.,* 2009). Sperm whales did not exhibit horizontal avoidance behavior at the surface. However, foraging behavior may have been affected. The sperm whales exhibited 19 percent less vocal (buzz) rate during full exposure relative to post exposure, and the whale that was approached most closely had an extended resting period and did not resume foraging until the airguns had ceased firing. The remaining whales continued to execute foraging dives throughout exposure; however, swimming movements during foraging dives were six percent lower during exposure than control periods (Miller *et al.,* 2009). These data raise concerns that seismic surveys may impact foraging behavior in sperm whales, although more data are required to understand whether the differences were due to exposure or natural variation in sperm whale behavior (Miller *et al.,* 2009).

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005, 2006; Gailey *et al.,* 2007; Gailey *et al.,* 2016).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Cerchio *et al.* (2014) used passive acoustic monitoring to document the presence of singing humpback whales off the coast of northern Angola and to opportunistically test for the effect of seismic survey activity on the number of singing whales. Two recording units were deployed between March and December 2008 in the offshore environment; numbers of singers were counted every hour. Generalized Additive Mixed Models were used to assess the effect of survey day (seasonality), hour (diel variation), moon phase, and received levels of noise (measured from a single pulse during each ten minute sampled period) on singer number. The number of singers significantly decreased with increasing received level of noise, suggesting that humpback whale breeding activity was disrupted to some extent by the survey activity.

Castellote *et al.* (2012) reported acoustic and behavioral changes by fin whales in response to shipping and airgun noise. Acoustic features of fin whale song notes recorded in the Mediterranean Sea and northeast Atlantic Ocean were compared for areas with different shipping noise levels and traffic intensities and during a seismic airgun survey. During the first 72 hours of the survey, a steady decrease in song received levels and bearings to singers indicated that whales moved away from the acoustic source and out of the study area. This displacement persisted for a time period well beyond the 10-day duration of seismic airgun activity, providing evidence that fin whales may avoid an area for an extended period in the presence of increased noise. The

authors hypothesize that fin whale acoustic communication is modified to compensate for increased background noise and that a sensitization process may play a role in the observed temporary displacement.

Seismic pulses at average received levels of 131 dB re 1 $\mu Pa^2$-s caused blue whales to increase call production (Di Iorio and Clark, 2010). In contrast, McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of 10 km from the acoustic source vessel (estimated received level 143 dB pk-pk). Blackwell *et al.* (2013) found that bowhead whale call rates dropped significantly at onset of airgun use at sites with a median distance of 41–45 km from the survey. Blackwell *et al.* (2015) expanded this analysis to show that whales actually increased calling rates as soon as airgun signals were detectable before ultimately decreasing calling rates at higher received levels (*i.e.,* 10-minute $SEL_{cum}$ of ~127 dB). Overall, these results suggest that bowhead whales may adjust their vocal output in an effort to compensate for noise before ceasing vocalization effort and ultimately deflecting from the acoustic source (Blackwell *et al.,* 2013, 2015). These studies demonstrate that even low levels of noise received far from the source can induce changes in vocalization and/or behavior for mysticetes.

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Humpback whales showed avoidance behavior in the presence of an active seismic array during observational studies and controlled exposure experiments in western Australia (McCauley *et al.,* 2000). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil 1997; Fritz *et al.* 2002; Purser and Radford 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch 1992; Daan *et al.* 1996; Bradshaw *et al.* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stone (2015) reported data from at-sea observations during 1,196 seismic surveys from 1994 to 2010. When large arrays of airguns (considered to be 500 $in^3$ or more) were firing, lateral displacement, more localized avoidance, or other changes in behavior were evident for most odontocetes. However, significant responses to large arrays were found only for the minke whale and fin whale. Behavioral responses observed included changes in swimming or surfacing behavior, with indications that cetaceans remained near the water surface at these times. Cetaceans were recorded as feeding less often when large arrays were active. Behavioral observations of gray whales during a seismic survey monitored whale movements and respirations pre-, during and post-seismic survey (Gailey *et al.,* 2016). Behavioral state and water depth were the best 'natural' predictors of whale movements and respiration and, after considering natural variation, none of the response variables were significantly associated with seismic survey or vessel sounds.

3. *Stress Responses*—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg 1987; Blecha 2000).

Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficiently to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

4. *Auditory Masking*—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.* 2000; Foote *et al.* 2004; Parks *et al.* 2007; Di Iorio and Clark 2009; Holt *et al.* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore 2014). Masking can be tested directly in captive species (*e.g.,* Erbe 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

*Ship Strike*

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. Wounds resulting from ship strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. Superficial strikes may not kill or result in the death of the animal. These interactions are typically associated with large whales (*e.g.,* fin whales), which are occasionally found draped across the bulbous bow of large commercial ships upon arrival in port. Although smaller cetaceans are more maneuverable in relation to large vessels than are large whales, they may also be susceptible to strike. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus 2001; Laist *et al.* 2001; Vanderlaan and Taggart 2007; Conn and Silber 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.* 2010; Gende *et al.* 2011).

Pace and Silber (2005) also found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 kn, and exceeded 90 percent at 17 kn. Higher speeds during collisions result in greater force of impact, but higher speeds also appear to increase the chance of severe injuries or death through increased likelihood of collision by pulling whales toward the vessel (Clyne, 1999; Knowlton *et al.* 1995). In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large

whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 8.6 and 15 kt. The chances of a lethal injury decline from approximately 80 percent at 15 kt to approximately 20 percent at 8.6 kt. At speeds below 11.8 kt, the chances of lethal injury drop below 50 percent, while the probability asymptotically increases toward one hundred percent above 15 kt.

The *Atlantis* would travel at a speed of either 5 kt (9.3 km/hour) or 8 kt (14.8 km/hour) while towing seismic survey gear (LGL, 2018). At these speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are discountable. At average transit speed, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again discountable. Ship strikes, as analyzed in the studies cited above, generally involve commercial shipping, which is much more common in both space and time than is geophysical survey activity. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). Commercial fishing vessels were responsible for three percent of recorded collisions, while no such incidents were reported for geophysical survey vessels during that time period.

It is possible for ship strikes to occur while traveling at slow speeds. For example, a hydrographic survey vessel traveling at low speed (5.5 kt) while conducting mapping surveys off the central California coast struck and killed a blue whale in 2009. The State of California determined that the whale had suddenly and unexpectedly surfaced beneath the hull, with the result that the propeller severed the whale's vertebrae, and that this was an unavoidable event. This strike represents the only such incident in approximately 540,000 hours of similar coastal mapping activity ($p = 1.9 \times 10^{-6}$; 95% CI = 0–$5.5 \times 10^{-6}$; NMFS, 2013b). In addition, a research vessel reported a fatal strike in 2011 of a dolphin in the Atlantic, demonstrating that it is possible for strikes involving smaller cetaceans to occur. In that case, the incident report indicated that an animal apparently was struck by the vessel's propeller as it was intentionally swimming near the vessel. While indicative of the type of unusual events that cannot be ruled out, neither of these instances represents a circumstance that would be considered reasonably foreseeable or that would be considered preventable.

Although the likelihood of the vessel striking a marine mammal is low, we require a robust ship strike avoidance protocol (see ''Proposed Mitigation''), which we believe eliminates any foreseeable risk of ship strike. We anticipate that vessel collisions involving a seismic data acquisition vessel towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the required mitigation measures, the relatively slow speed of the vessel towing gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), the presence of marine mammal observers, and the short duration of the survey (25 days), we believe that the possibility of ship strike is discountable and, further, that were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from ship strike is anticipated, and this potential effect of the specified activity will not be discussed further in the following analysis.

*Stranding*

When a living or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is a ''stranding'' (Geraci *et al.* 1999; Perrin and Geraci 2002; Geraci and Lounsbury 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is (A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

Marine mammals strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.* 1976; Eaton, 1979; Odell *et al.* 1980; Best 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos 2000; Creel 2005; DeVries *et al.* 2003; Fair and Becker 2000; Foley *et al.* 2001; Moberg, 2000; Relyea 2005; Romero 2004; Sih *et al.* 2004).

Use of military tactical sonar has been implicated in a majority of investigated stranding events, although one stranding event was associated with the use of seismic airguns. This event occurred in the Gulf of California, coincident with seismic reflection profiling by the R/V *Maurice Ewing* operated by Lamont-Doherty Earth Observatory (LDEO) of Columbia University and involved two Cuvier's beaked whales (Hildebrand 2004). The vessel had been firing an array of 20 airguns with a total volume of 8,500 $in^3$ (Hildebrand 2004; Taylor *et al.* 2004). Most known stranding events have involved beaked whales, though a small number have involved deep-diving delphinids or sperm whales (*e.g.,* Mazzariol *et al.* 2010; Southall *et al.* 2013). In general, long duration (~1 second) and high-intensity sounds (≤235 dB SPL) have been implicated in stranding events (Hildebrand 2004). With regard to beaked whales, mid-frequency sound is typically implicated (when causation can be determined) (Hildebrand 2004). Although seismic airguns create predominantly low-frequency energy, the signal does include a mid-frequency component. We have considered the potential for the proposed survey to result in marine mammal stranding and have concluded that, based on the best available information, stranding is not expected to occur.

*Other Potential Impacts*

Here, we briefly address the potential risks due to entanglement and contaminant spills. We are not aware of any records of marine mammal entanglement in towed arrays such as those considered here. The discharge of trash and debris is prohibited (33 CFR 151.51–77) unless it is passed through a machine that breaks up solids such that they can pass through a 25-mm mesh screen. All other trash and debris must

be returned to shore for proper disposal with municipal and solid waste. Some personal items may be accidentally lost overboard. However, U.S. Coast Guard and Environmental Protection Act regulations require operators to become proactive in avoiding accidental loss of solid waste items by developing waste management plans, posting informational placards, manifesting trash sent to shore, and using special precautions such as covering outside trash bins to prevent accidental loss of solid waste. There are no meaningful entanglement risks posed by the described activity, and entanglement risks are not discussed further in this document.

Marine mammals could be affected by accidentally spilled diesel fuel from a vessel associated with proposed survey activities. Quantities of diesel fuel on the sea surface may affect marine mammals through various pathways: Surface contact of the fuel with skin and other mucous membranes, inhalation of concentrated petroleum vapors, or ingestion of the fuel (direct ingestion or by the ingestion of oiled prey) (*e.g.,* Geraci and St. Aubin, 1980, 1985, 1990). However, the likelihood of a fuel spill during any particular geophysical survey is considered to be remote, and the potential for impacts to marine mammals would depend greatly on the size and location of a spill and meteorological conditions at the time of the spill. Spilled fuel would rapidly spread to a layer of varying thickness and break up into narrow bands or windrows parallel to the wind direction. The rate at which the fuel spreads would be determined by the prevailing conditions such as temperature, water currents, tidal streams, and wind speeds. Lighter, volatile components of the fuel would evaporate to the atmosphere almost completely in a few days. Evaporation rate may increase as the fuel spreads because of the increased surface area of the slick. Rougher seas, high wind speeds, and high temperatures also tend to increase the rate of evaporation and the proportion of fuel lost by this process (Scholz *et al.,* 1999). We do not anticipate potentially meaningful effects to marine mammals as a result of any contaminant spill resulting from the proposed survey activities, and contaminant spills are not discussed further in this document.

*Anticipated Effects on Marine Mammal Habitat*

*Effects to Prey*—Marine mammal prey varies by species, season, and location and, for some, is not well documented. Fish react to sounds which are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pulsed sound on fish, although several are based on studies in support of construction projects (*e.g.,* Scholik and Yan 2001, 2002; Popper and Hastings 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.* 1992; Skalski *et al.* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality. The most likely impact to fish from survey activities at the project area would be temporary avoidance of the area. The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated.

Information on seismic airgun impacts to zooplankton, which represent an important prey type for mysticetes, is limited. However, McCauley *et al.* (2017) reported that experimental exposure to a pulse from a 150 $in^3$ airgun decreased zooplankton abundance when compared with controls, as measured by sonar and net tows, and caused a two- to threefold increase in dead adult and larval zooplankton. Although no adult krill were present, the study found that all larval krill were killed after air gun passage. Impacts were observed out to the maximum 1.2 km range sampled.

In general, impacts to marine mammal prey are expected to be limited due to the relatively small temporal and spatial overlap between the proposed survey and any areas used by marine mammal prey species. The proposed survey would occur over a relatively short time period (25 days) and would occur over a very small area relative to the area available as marine mammal habitat in the Northwest Atlantic Ocean. We do not have any information to suggest the proposed survey area represents a significant feeding area for any marine mammal, and we believe any impacts to marine mammals due to adverse effects to their prey would be insignificant due to the limited spatial and temporal impact of the proposed survey. However, adverse impacts may occur to a few species of fish and to zooplankton.

*Acoustic Habitat*—Acoustic habitat is the soundscape—which encompasses all of the sound present in a particular location and time, as a whole—when considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (communication during feeding, mating, and other social activities), other animals (finding prey or avoiding predators), and the physical environment (finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (*e.g.,* produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic, or may be intentionally introduced to the marine environment for data acquisition purposes (as in the use of airgun arrays). Anthropogenic noise varies widely in its frequency content, duration, and loudness and these characteristics greatly influence the potential habitat-mediated effects to marine mammals (please see also the previous discussion on masking under ''Acoustic Effects''), which may range from local effects for brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). For more detail on these concepts see, *e.g.,* Barber *et al.,* 2010; Pijanowski *et al.* 2011; Francis and Barber 2013; Lillis *et al.* 2014.

Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber 2013). Although the signals emitted by seismic airgun arrays are generally low frequency, they would also likely be of short duration and transient in any given area due to the nature of these surveys. As described previously, exploratory surveys such as these cover a large area but would be transient rather than focused in a given location over time and therefore would not be considered chronic in any given location.

In summary, activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat or populations of fish species or on the quality of acoustic

habitat. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

**Estimated Take**

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the seismic airguns have the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency cetaceans. Auditory injury is unlikely to occur for low- and mid-frequency cetaceans given very small modeled zones of injury for those species. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) and the number of days of activities. Below, we describe these components in more detail and present the exposure estimate and associated numbers of take proposed for authorization.

*Acoustic Thresholds*

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

*Level B Harassment for non-explosive sources*—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.* 2011). Based on the best available science and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider to fall under Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. SIO's proposed activity includes the use of impulsive seismic sources. Therefore, the 160 dB re 1 μPa (rms) criteria is applicable for analysis of level B harassment.

*Level A harassment for non-explosive sources*—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). As described above, SIO's proposed activity includes the use of intermittent and impulsive seismic sources. These thresholds are provided in Table 4.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT IN MARINE MAMMALS

| Hearing group | PTS Onset thresholds | |
|---|---|---|
| | Impulsive * | Non-impulsive |
| Low-Frequency (LF) Cetaceans | $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB | $L_{E,LF,24h}$: 199 dB. |
| Mid-Frequency (MF) Cetaceans | $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB | $L_{E,MF,24h}$: 198 dB. |
| High-Frequency (HF) Cetaceans | $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB | $L_{E,HF,24h}$: 173 dB. |
| Phocid Pinnipeds (PW) (Underwater) | $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB | $L_{E,PW,24h}$: 201 dB. |
| Otariid Pinnipeds (OW) (Underwater) | $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB | $L_{E,OW,24h}$: 219 dB. |

**Note:** * Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

**Note:** Peak sound pressure (Lpk) has a reference value of 1 μPa, and cumulative sound exposure level (LE) has a reference value of 1μPa2s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

*Ensonified Area*

Here, we describe operational and environmental parameters of the activity that will feed into estimating the area ensonified above the acoustic thresholds.

The proposed survey would entail the use of a 2-airgun array with a total discharge of 90 in$^3$ at a tow depth of 2–4 m. The distances to the predicted isopleths corresponding to the threshold for Level B harassment (160 dB re 1 μPa) were calculated for both proposed array configurations based on results of modeling performed by LDEO. Received sound levels were predicted by LDEO's model (Diebold *et al.* 2010) as a function of distance from the airgun array. The LDEO modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer unbounded by a seafloor). In addition, propagation measurements of pulses from a 36-airgun array at a tow depth of 6 m have been reported in deep water (~1,600 m), intermediate water depth on the slope (~600–1100 m), and shallow water (~50 m) in the Gulf of Mexico in 2007–2008 (Tolstoy *et al.* 2009; Diebold *et al.* 2010). The estimated distances to Level B harassment isopleths for the two proposed configurations of the *Atlantis* airgun array are shown in Table 5.

TABLE 5—PREDICTED RADIAL DISTANCES FROM R/V ATLANTIS 90 in$^3$ SEISMIC SOURCE TO ISOPLETH CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

| Array configuration | Predicted distance to threshold (160 dB re 1 μPa) (m) |
|---|---|
| 2 m airgun separation | 578 |
| 8 m airgun separation | 539 |

For modeling of radial distances to predicted isopleths corresponding to harassment thresholds in deep water (≤ 1,000 m), LDEO used the deep-water radii for various Sound Exposure Levels obtained from LDEO model results down to a maximum water depth of 2,000 m (see Figures 2 and 3 in the IHA application). LDEO's modeling methodology is described in greater detail in the IHA application (LGL, 20178) and we refer to the reader to that document rather than repeating it here.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal functional hearing groups (Table 3), were calculated based on modeling performed by LDEO using the Nucleus software program and the NMFS User Spreadsheet, described below. The updated acoustic thresholds for impulsive sounds (such as airguns) contained in the Technical Guidance (NMFS, 2016) were presented as dual metric acoustic thresholds using both $SEL_{cum}$ and peak sound pressure level metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded *(i.e.,* metric resulting in the largest isopleth). The $SEL_{cum}$ metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new $SEL_{cum}$ thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The values for $SEL_{cum}$ and peak SPL for the *Atlantis* airgun array were derived from calculating the modified farfield signature (Table 6). The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance below the array (*e.g.,* 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, when the source is an array of multiple airguns separated in space, the source level from the theoretical farfield signature is not necessarily the best measurement of the source level that is physically achieved at the source (Tolstoy *et al.* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively, as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the array effect near the source and is calculated as a point source, the modified farfield signature is a more appropriate measure of the sound source level for distributed sound sources, such as airgun arrays. Though the array effect is not expected to be as pronounced in the case of a 2-airgun array as it would be with a larger airgun array, the modified farfield method is considered more appropriate than use of the theoretical farfield signature.

TABLE 6—MODELED SOURCE LEVELS (dB) FOR R/V ATLANTIS 90 in$^3$ AIRGUN ARRAY

| Functional hearing group | 8-kt survey with 8-m airgun separation: Peak $SPL_{flat}$ | 8-kt survey with 8-m airgun separation: $SEL_{cum}$ | 5-kt survey with 2-m airgun separation: Peak $SPL_{flat}$ | 5-kt survey with 2-m airgun separation: $SEL_{cum}$ |
|---|---|---|---|---|
| Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB) | 228.8 | 207 | 232.8 | 206.7 |
| Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB) | N/A | 206.7 | 229.8 | 206.9 |
| High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB) | 233 | 207.6 | 232.9 | 207.2 |
| Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB) | 230 | 206.7 | 232.8 | 206.9 |
| Otariid Pinnipeds (Underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB) | N/A | 203 | 225.6 | 207.4 |

In order to more realistically incorporate the Technical Guidance's weighting functions over the seismic array's full acoustic band, unweighted spectrum data for the *Atlantis*'s airgun array (modeled in 1 Hz bands) was used to make adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. These adjusted/weighted spectrum levels were then converted to pressures (μPa) in order to integrate them over the entire broadband spectrum, resulting in broadband weighted source levels by hearing group that could be directly incorporated within the User Spreadsheet (*i.e.,* to override the Spreadsheet's more simple weighting factor adjustment). Using the User Spreadsheet's ''safe distance'' methodology for mobile sources (described by Sivle *et al.,* 2014) with the hearing group-specific weighted source levels, and inputs assuming spherical spreading propagation, a source velocity of 2.06 m/second (for the 2 m airgun separation) and 5.14 m/second (for the 8 m airgun separation), and a shot interval of 12.15 seconds (for the 2 m airgun separation) and 9.72 seconds (for the 8 m airgun separation) (LGL, 2018), potential radial distances to auditory injury zones were calculated for $SEL_{cum}$ thresholds, for both array configurations. Inputs to the User Spreadsheet are shown in Table 6. Outputs from the User Spreadsheet in the form of estimated distances to Level A harassment isopleths are shown in Table 7. As described above, the larger distance of the dual criteria ($SEL_{cum}$ or Peak $SPL_{flat}$) is used for estimating takes by Level A harassment. The weighting functions used are shown in Table 3 of the IHA application.

TABLE 7—MODELED RADIAL DISTANCES (m) FROM R/V ATLANTIS 90 in³ AIRGUN ARRAY TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

| Functional hearing group (Level A harassment thresholds) | 8-kt survey with 8-m airgun separation: Peak $SPL_{flat}$ | 8-kt survey with 8-m airgun separation: $SEL_{cum}$ | 5-kt survey with 2-m airgun separation: Peak $SPL_{flat}$ | 5-kt survey with 2-m airgun separation: $SEL_{cum}$ |
|---|---|---|---|---|
| Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB) | 3.08 | 2.4 | 4.89 | 6.5 |
| Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB) | 0 | 0 | 0.98 | 0 |
| High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB) | 34.84 | 0 | 34.62 | 0 |
| Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB) | 4.02 | 0 | 5.51 | 0.1 |
| Otariid Pinnipeds (Underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB) | 0 | 0 | 0.48 | 0 |

Note that because of some of the assumptions included in the methods used, isopleths produced may be overestimates to some degree, which will ultimately result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate. For mobile sources, such as the proposed seismic survey, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

*Marine Mammal Occurrence*

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. The best available scientific information was considered in conducting marine mammal exposure estimates (the basis for estimating take). For all cetacean species, densities calculated by Mannocci *et al.* (2017) were used. These represent the most comprehensive and recent density data available for cetacean species in the survey area. Mannocci *et al.* (2017) modeled marine mammal densities using available line transect survey data and habitat-based covariates and extrapolated model predictions to unsurveyed regions, including the proposed survey area. The authors considered line transect surveys that used two or more protected species observers and met the assumptions of the distance sampling methodology as presented by Buckland *et al.* (2001), and included data from shipboard and aerial surveys conducted from 1992 to 2014 by multiple U.S. organizations (details provided in Roberts *et al.* (2016)). The data underlying the model predictions for the proposed survey area originated from shipboard survey data presented in Waring *et al.* (2008). To increase the success of model transferability to new regions, the authors considered biological covariates expected to be related directly to cetacean densities (Wenger & Olden, 2012), namely biomass and production of epipelagic micronekton and zooplankton predicted with the Spatial Ecosystem and Population DYnamics Model (SEAPODYM) (Lehodey *et al.* 2010). Zooplankton and epipelagic micronekton (*i.e.,* squid, crustaceans, and fish) constitute potential prey for many of the cetaceans considered, in particular dolphins and mysticetes (Pauly *et al.* 1998), and all these covariates correlate with cetacean distributions (*e.g.,* Ferguson *et al.* 2006; Doniol-Valcroze *et al.* 2007; Lambert *et al.* 2014). There is some uncertainty related to the estimated density data and the assumptions used in their calculations, as with all density data estimates. However, the approach used is based on the best available data.

*Take Calculation and Estimation*

Here we describe how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level B harassment or Level A harassment, radial distances to predicted isopleths corresponding to the Level A harassment and Level B harassment thresholds are calculated, as described above (Table 8). Those distances are then used to calculate the area(s) around the airgun array predicted to be ensonified to sound levels that exceed the Level A and Level B harassment thresholds. The areas estimated to be ensonified in a single day of the survey are then calculated, based on the areas predicted to be ensonified around the array and the estimated trackline distance traveled per day (Table 9). This number is then multiplied by the number of survey days (*i.e.,* 7.5 days for the 5-kt survey with 2-m airgun separation and 17.5 days for the 8-kt survey with 8-m airgun separation). The product is then multiplied by 1.25 to account for an additional 25 percent contingency for potential additional

seismic operations, as described above. This results in an estimate of the total areas (km²) expected to be ensonified to the Level A harassment and Level B harassment thresholds. For purposes of Level B take calculations, areas estimated to be ensonified to Level A harassment thresholds are subtracted from total areas estimated to be ensonified to Level B harassment thresholds in order to avoid double counting the animals taken (*i.e.,* if an animal is taken by Level A harassment, it is not also counted as taken by Level B harassment). Areas estimated to be ensonified over the duration of the survey are shown in Table 10. The marine mammals predicted to occur within these respective areas, based on estimated densities, are assumed to be incidentally taken. Estimated takes for all marine mammal species are shown in Table 11.

TABLE 8—DISTANCES (m) TO ISOPLETHS CORRESPONDING TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS

| Survey | Level B harassment threshold | Level A harassment threshold [1] | | | | |
|---|---|---|---|---|---|---|
| | All marine mammals | Low frequency cetaceans | Mid frequency cetaceans | High frequency cetaceans | Otariid pinnipeds | Phocid pinnipeds |
| 5-kt survey with 2-m airgun separation ... | 539 | 6.5 | 0.98 | 34.62 | 5.51 | 0.48 |
| 8-kt survey with 8-m airgun separation ... | 578 | 3.08 | 0 | 34.84 | 4.02 | 0 |

[1] Level A ensonified areas are estimated based on the greater of the distances calculated to Level A isopleths using dual criteria ($SEL_{cum}$ and peak PL).

TABLE 9—AREAS (km²) ESTIMATED TO BE ENSONIFIED TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS PER DAY

| Survey | Level B harassment threshold | Level A harassment threshold [1] | | | | |
|---|---|---|---|---|---|---|
| | All marine mammals | Low frequency cetaceans | Mid frequency cetaceans | High frequency cetaceans | Otariid pinnipeds | Phocid pinnipeds |
| 5-kt survey with 2-m airgun separation ... | 240.68 | 2.90 | 0.44 | 15.40 | 2.45 | 0.21 |
| 8-kt survey with 8-m airgun separation ... | 412.10 | 2.19 | 0 | 24.78 | 2.86 | 0 |

[1] Level A ensonified areas are estimated based on the greater of the distances calculated to Level A isopleths using dual criteria ($SEL_{cum}$ and peak PL).

**Note:** Estimated areas shown for single day do not include additional 25 percent contingency.

TABLE 10—AREAS (km²) ESTIMATED TO BE ENSONIFIED TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS OVER DURATION OF SURVEY

| Survey | Level B harassment threshold | Level A harassment threshold [1] | | | | |
|---|---|---|---|---|---|---|
| | All marine mammals | Low frequency cetaceans | Mid frequency cetaceans | High frequency cetaceans | Otariid pinnipeds | Phocid pinnipeds |
| 5-kt survey with 2-m airgun separation ... | 2256.33 | 27.10 | 4.09 | 144.40 | 22.97 | 2.0 |
| 8-kt survey with 8-m airgun separation ... | 9014.56 | 47.84 | 0 | 542.09 | 62.50 | 0 |

[1] Level A ensonified areas are estimated based on the greater of the distances calculated to Level A isopleths using dual criteria ($SEL_{cum}$ and peak PL).

**Note:** Estimated areas shown include additional 25 percent contingency.

TABLE 11—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION

| Species | Density (#/1,000 km²) | Estimated Level A takes | Proposed Level A takes | Estimated Level B takes | Proposed Level B takes | Total proposed Level A and Level B takes | Total proposed instances of takes as a percentage of SAR abundance [1] |
|---|---|---|---|---|---|---|---|
| Humpback whale [2] ..... | 10 | 1 | 0 | 112 | 113 | 113 | 0.9 *. |
| Minke whale ..... | 4 | 0 | 0 | 45 | 45 | 45 | 0.2 *. |
| Bryde's whale ..... | 0.1 | 0 | 0 | 1 | 1 | 1 | unknown. |
| Sei whale [2] ..... | 10 | 1 | 0 | 112 | 113 | 113 | 31.4. |
| Fin whale ..... | 8 | 1 | 0 | 89 | 90 | 90 | 2.6 *. |
| Blue whale ..... | 0 | 0 | 0 | 0 | 1 | 1 | 0.2. |
| Sperm whale ..... | 40 | 0 | 0 | 451 | 451 | 451 | 19.7. |
| Cuvier's beaked whale [3] | 60 | 0 | 0 | 135 | 135 | 135 | 2.0. |
| Northern bottlenose whale [4]. | 0.8 | 0 | 0 | 9 | 9 | 9 | unknown. |
| True's beaked whale [3] .... | 60 | 0 | 0 | 135 | 135 | 135 | 1.9. |

TABLE 11—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION—Continued

| Species | Density (#/1,000 km²) | Estimated Level A takes | Proposed Level A takes | Estimated Level B takes | Proposed Level B takes | Total proposed Level A and Level B takes | Total proposed instances of takes as a percentage of SAR abundance [1] |
|---|---|---|---|---|---|---|---|
| Gervais beaked whale [3] | 60 | 0 | 0 | 135 | 135 | 135 | 1.9. |
| Sowerby's beaked whale [3]. | 60 | 0 | 0 | 135 | 135 | 135 | 1.9. |
| Blainville's beaked whale [3]. | 60 | 0 | 0 | 135 | 135 | 135 | 1.9. |
| Rough-toothed dolphin ... | 3 | 0 | 0 | 34 | 34 | 34 | 12.5. |
| Bottlenose dolphin ..... | 60 | 0 | 0 | 677 | 677 | 677 | 0.9. |
| Pantropical spotted dolphin. | 10 | 0 | 0 | 113 | 113 | 113 | 3.4. |
| Atlantic spotted dolphin .. | 40 | 0 | 0 | 451 | 451 | 451 | 1.0. |
| Striped dolphin ..... | 80 | 0 | 0 | 902 | 902 | 902 | 1.6. |
| Atlantic white-sided dolphin. | 60 | 0 | 0 | 677 | 677 | 677 | 1.4. |
| White-beaked dolphin ..... | 1 | 0 | 0 | 11 | 11 | 11 | 0.6. |
| Common dolphin ..... | 800 | 3 | 0 | 9014 | 9017 | 9017 | 5.2 *. |
| Risso's dolphin ..... | 20 | 0 | 0 | 226 | 226 | 226 | 1.2. |
| Pygmy killer whale [4 5] ..... | 1.5 | 0 | 0 | 17 | 17 | 17 | unknown. |
| False killer whale ..... | 2 | 0 | 0 | 23 | 23 | 23 | 5.2. |
| Killer whale [4 thnsp;6] .... | 0.2 | 0 | 0 | 2 | 5 | 5 | unknown. |
| Long-finned/short-finned Pilot whale [7]. | 200 | 1 | 0 | 2253 | 2254 | 2254 | 8.3. |
| Pygmy/dwarf sperm whale. | 0.6 | 0 | 0 | 7 | 7 | 7 | 0.2. |
| Harbor porpoise ..... | 60 | 41 | 41 | 635 | 635 | 676 | 0.8. |
| Ringed seal [4] ..... | 0 | 0 | 0 | 0 | 1 | 1 | unknown. |
| Hooded seal ..... | 0 | 0 | 0 | 0 | 1 | 1 | <0.1. |
| Harp seal ..... | 0 | 0 | 0 | 0 | 1 | 1 | <0.1. |

[1] While we have in most cases provided comparisons of the proposed instances of takes as a percentage of SAR abundance as the best available information regarding population abundance, we note that these are likely underestimates of the relevant North Atlantic populations, as the proposed survey area is outside the U.S. EEZ. Asterisks denote that instances of takes are shown as a percentage of abundance as described by TNASS or NMFS Status Review, as described above.

[2] We have determined Level A take of these species is not likely, therefore estimated Level A takes have been added to the number of Level B takes proposed for authorization.

[3] Density value represents the value for all beaked whales combined. Requested take and take proposed for authorization based on proportion of all beaked whales expected to be taken (677 total estimated beaked whale takes divided by 5 species of beaked whales).

[4] The population abundance for the species is unknown.

[5] The density estimate for pygmy killer whales shown in Table 8 in the IHA application is incorrect; the correct density is 1.5 animals/km² as shown here.

[6] Proposed take number for killer whales has been increased from the calculated take to mean group size for the species. Source for mean group size is Waring *et al.* (2008).

[7] Values for density, proposed take number, and percentage of population proposed for authorization are for short-finned and long-finned pilot whales combined.

For some marine mammal species, we propose to authorize a different number of incidental takes than the number of incidental takes requested by SIO (see Table 8 in the IHA application for requested take numbers). For instance, SIO requested 1 take of a North Atlantic right whale and 3 takes of bowhead whales; however, we have determined the likelihood of the survey encountering these species is so low as to be discountable, therefore we do not propose to authorize takes of these species. Also, SIO requested Level A takes of humpback whales, sei whales, fin whales, common dolphins, and pilot whales; however, due to very small zones corresponding to Level A harassment for low-frequency and mid-frequency cetaceans (Table 7) we have determined the likelihood of Level A take occurring for species from these functional hearing groups is so low as to be discountable, therefore we do not propose to authorize Level A take of these species. Note that the Level A takes that were calculated for these species (humpback whales, sei whales, fin whales, common dolphins, and pilot whales) have been included in the proposed number of Level B takes. Finally, SIO requested 2,254 takes of short-finned pilot whales and 2,254 takes of long-finned pilot whales (total 4,508 pilot whale takes requested); however, as Mannocci *et al.* (2017) presents one single density estimate for all pilot whales (the pilot whale ''guild''), a total of 2,254 takes of pilot whales were calculated as potentially taken by the proposed survey. Thus SIO's request take number is actually double the number of take that was calculated. We do not think doubling the take estimate is warranted, thus we propose to authorize a total of 2,254 takes of pilot whales (short-finned and long-finned pilot whales combined).

*Species With Take Estimates Less Than Mean Group Size:* Using the approach described above to estimate take, the take estimate for killer whales was less than the average group size estimated for the species (Waring *et al.,* 2008). Information on the social structure and life history of the species indicates it is common for the species to be encountered in groups. The results of

take calculations support the likelihood that SIO's survey may encounter and incidentally take the species, and we believe it is likely that the species may be encountered in groups; therefore it is reasonable to conservatively assume that one group of the species will be taken during the proposed survey. We therefore propose to authorize the take of the average (mean) group size for the species to account for the possibility that SIO's survey encounters a group of killer whales.

*Species With No Available Density Data:* No density data were available for the blue whale; however, blue whales have been observed in the survey area (Waring *et al.,* 2008), thus we determined there is a possibility that the proposed survey may encounter one blue whale and that one blue whale may be taken by Level B harassment by the proposed survey; we therefore propose to authorize one take of blue whale as requested by SIO. No density data were available for ringed seal, hooded seal or harp seal; however based on the ranges of these species we have determined it is possible they may be encountered and taken by Level B harassment by the proposed survey, therefore we propose to authorize one take of each species as requested by SIO.

It should be noted that the proposed take numbers shown in Table 11 are believed to be conservative for several reasons. First, in the calculations of estimated take, 25 percent has been added in the form of operational survey days (equivalent to adding 25 percent to the proposed line km to be surveyed) to account for the possibility of additional seismic operations associated with airgun testing, and repeat coverage of any areas where initial data quality is sub-standard. Additionally, marine mammals would be expected to move away from a sound source that represents an aversive stimulus. However, the extent to which marine mammals would move away from the sound source is difficult to quantify and is therefore not accounted for in take estimates shown in Table 8.

**Proposed Mitigation**

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned), and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

SIO has reviewed mitigation measures employed during seismic research surveys authorized by NMFS under previous incidental harassment authorizations, as well as recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), Weir and Dolman (2007), Nowacek *et al.* (2013), Wright (2014), and Wright and Cosentino (2015), and has incorporated a suite of proposed mitigation measures into their project description based on the above sources.

To reduce the potential for disturbance from acoustic stimuli associated with the activities, SIO has proposed to implement the following mitigation measures for marine mammals:

(1) Vessel-based visual mitigation monitoring;

(2) Establishment of a marine mammal exclusion zone (EZ);

(3) Shutdown procedures;

(4) Ramp-up procedures; and

(5) Vessel strike avoidance measures.

In addition to the measures proposed by SIO, NMFS has proposed the following mitigation measure: Establishment of a marine mammal buffer zone.

PSO observations would take place during all daytime airgun operations and nighttime start ups (if applicable) of the airguns. If airguns are operating throughout the night, observations would begin 30 minutes prior to sunrise. If airguns are operating after sunset, observations would continue until 30 minutes following sunset. Following a shutdown for any reason, observations would occur for at least 30 minutes prior to the planned start of airgun operations. Observations would also occur for 30 minutes after airgun operations cease for any reason. Observations would also be made during daytime periods when the *Atlantis* is underway without seismic operations, such as during transits, to allow for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Airgun operations would be suspended when marine mammals are observed within, or about to enter, the designated EZ (as described below).

During seismic operations, three visual PSOs would be based aboard the *Atlantis.* PSOs would be appointed by SIO with NMFS approval. During the majority of seismic operations, two PSOs would monitor for marine mammals around the seismic vessel. A minimum of one PSO must be on duty at all times when the array is active. PSO(s) would be on duty in shifts of duration no longer than 4 hours. Other crew would also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). Before the start of the seismic survey, the crew would be given additional instruction in detecting marine mammals and implementing mitigation requirements.

The *Atlantis* is a suitable platform from which PSOs would watch for marine mammals. Standard equipment for marine mammal observers would be 7 x 50 reticule binoculars and optical range finders. At night, night-vision equipment would be available. The observers would be in communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or seismic source shutdown.

The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes would be provided to NMFS for approval. At least

one PSO must have a minimum of 90 days at-sea experience working as PSOs during a seismic survey. One ''experienced'' visual PSO will be designated as the lead for the entire protected species observation team. The lead will serve as primary point of contact for the vessel operator. The PSOs must have successfully completed relevant training, including completion of all required coursework and passing a written and/or oral examination developed for the training program, and must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate training, including (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

*Exclusion Zone and Buffer Zone*

An EZ is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, *e.g.,* auditory injury, disruption of critical behaviors. The PSOs would establish a minimum EZ with a 100 m radius for the airgun array. The 100 m EZ would be based on radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within, enters, or appears on a course to enter this zone, the acoustic source would be shut down (see Shutdown Procedures below).

The 100 m radial distance of the standard EZ is precautionary in the sense that it would be expected to contain sound exceeding injury criteria for all marine mammal hearing groups (Table 7) while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. In this case, the 100 m radial distance would also be expected to contain sound that would exceed the Level A harassment threshold based on sound exposure level ($SEL_{cum}$) criteria for all marine mammal hearing groups (Table 7). In the 2011 Programmatic Environmental Impact Statement for marine scientific research funded by the National Science Foundation or the U.S. Geological Survey (NSF–USGS 2011), Alternative B (the Preferred Alternative) conservatively applied a 100 m EZ for all low-energy acoustic sources in water depths >100 m, with low-energy acoustic sources defined as any towed acoustic source with a single or a pair of clustered airguns with individual volumes of ≤250 $in^3$. Thus the 100 m EZ proposed for this survey is consistent with the PEIS.

Our intent in prescribing a standard EZ distance is to (1) encompass zones within which auditory injury could occur on the basis of instantaneous exposure; (2) provide additional protection from the potential for more severe behavioral reactions (*e.g.,* panic, antipredator response) for marine mammals at relatively close range to the acoustic source; (3) provide consistency for PSOs, who need to monitor and implement the EZ; and (4) define a distance within which detection probabilities are reasonably high for most species under typical conditions.

PSOs would also establish and monitor a 200 m buffer zone. During use of the acoustic source, occurrence of marine mammals within the buffer zone (but outside the EZ) would be communicated to the operator to prepare for potential shutdown of the acoustic source. The buffer zone is discussed further under *Ramp Up Procedures* below.

*Shutdown Procedures*

If a marine mammal is detected outside the EZ but is likely to enter the EZ, the airguns would be shut down before the animal is within the EZ. Likewise, if a marine mammal is already within the EZ when first detected, the airguns would be shut down immediately.

Following a shutdown, airgun activity would not resume until the marine mammal has cleared the 100 m EZ. The animal would be considered to have cleared the 100 m EZ if the following conditions have been met:

- It is visually observed to have departed the 100 m EZ, or
- it has not been seen within the 100 m EZ for 15 min in the case of small odontocetes, or
- it has not been seen within the 100 m EZ for 30 min in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, and beaked whales.

This shutdown requirement would be in place for all marine mammals, with the exception of small delphinoids under certain circumstances. As defined here, the small delphinoid group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.,* bow riding). This exception to the shutdown requirement would apply solely to specific genera of small dolphins—*Tursiops, Steno, Stenella, Lagenorhynchus* and *Delphinus*—and would only apply if the animals were traveling, including approaching the vessel. If, for example, an animal or group of animals is stationary for some reason (*e.g.,* feeding) and the source vessel approaches the animals, the shutdown requirement applies. An animal with sufficient incentive to remain in an area rather than avoid an otherwise aversive stimulus could either incur auditory injury or disruption of important behavior. If there is uncertainty regarding identification (*i.e.,* whether the observed animal(s) belongs to the group described above) or whether the animals are traveling, the shutdown would be implemented.

We propose this small delphinoid exception because shutdown requirements for small delphinoids under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small delphinoids are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine mammals likely to intentionally approach the vessel. As described below, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (*e.g.,* delphinids), as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (*i.e.,* permanent threshold shift). Please see ''Potential Effects of the Specified Activity on Marine Mammals'' above for further discussion of sound metrics and thresholds and marine mammal hearing.

A large body of anecdotal evidence indicates that small delphinoids commonly approach vessels and/or towed arrays during active sound production for purposes of bow riding, with no apparent effect observed in those delphinoids (*e.g.,* Barkaszi *et al.,* 2012). The potential for increased shutdowns resulting from such a measure would require the *Atlantis* to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area. Although other

mid-frequency hearing specialists (*e.g.,* large delphinoids) are no more likely to incur auditory injury than are small delphinoids, they are much less likely to approach vessels. Therefore, retaining a shutdown requirement for large delphinoids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a shutdown requirement for large delphinoids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the source vessel.

At any distance, shutdown of the acoustic source would also be required upon observation of any of the following:

- A large whale (*i.e.,* sperm whale or any baleen whale) with a calf; or
- an aggregation of large whales of any species (*i.e.,* sperm whale or any baleen whale) that does not appear to be traveling (*e.g.,* feeding, socializing, etc.).

These would be the only two potential situations that would require shutdown of the array for marine mammals observed beyond the 100 m EZ.

*Ramp-Up Procedures*

Ramp-up of an acoustic source is intended to provide a gradual increase in sound levels following a shutdown, enabling animals to move away from the source if the signal is sufficiently aversive prior to its reaching full intensity. Ramp-up would be required after the array is shut down for any reason. Ramp-up would begin with the activation of one 45 $in^3$ airgun, with the second 45 $in^3$ airgun activated after 5 minutes.

At least two PSOs would be required to monitor during ramp-up. During ramp up, the PSOs would monitor the EZ, and if marine mammals were observed within the EZ or buffer zone, a shutdown would be implemented as though the full array were operational. If airguns have been shut down due to PSO detection of a marine mammal within or approaching the 100 m EZ, ramp-up would not be initiated until all marine mammals have cleared the EZ, during the day or night. Criteria for clearing the EZ would be as described above.

Thirty minutes of pre-clearance observation are required prior to ramp-up for any shutdown of longer than 30 minutes (*i.e.,* if the array were shut down during transit from one line to another). This 30 minute pre-clearance period may occur during any vessel activity (*i.e.,* transit). If a marine mammal were observed within or approaching the 100 m EZ during this pre-clearance period, ramp-up would not be initiated until all marine mammals cleared the EZ. Criteria for clearing the EZ would be as described above. If the airgun array has been shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual observation and no detections of any marine mammal have occurred within the EZ or buffer zone. Ramp-up would be planned to occur during periods of good visibility when possible. However, ramp-up would be allowed at night and during poor visibility if the 100 m EZ and 200 m buffer zone have been monitored by visual PSOs for 30 minutes prior to ramp-up.

The operator would be required to notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed. The operator must provide information to PSOs documenting that appropriate procedures were followed. Following deactivation of the array for reasons other than mitigation, the operator would be required to communicate the near-term operational plan to the lead PSO with justification for any planned nighttime ramp-up.

*Vessel Strike Avoidance Measures*

Vessel strike avoidance measures are intended to minimize the potential for collisions with marine mammals. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

The proposed measures include the following: Vessel operator and crew would maintain a vigilant watch for all marine mammals and slow down or stop the vessel or alter course to avoid striking any marine mammal. A visual observer aboard the vessel would monitor a vessel strike avoidance zone around the vessel according to the parameters stated below. Visual observers monitoring the vessel strike avoidance zone would be either third-party observers or crew members, but crew members responsible for these duties would be provided sufficient training to distinguish marine mammals from other phenomena. Vessel strike avoidance measures would be followed during surveys and while in transit.

The vessel would maintain a minimum separation distance of 100 m from large whales (*i.e.,* baleen whales and sperm whales). If a large whale is within 100 m of the vessel the vessel would reduce speed and shift the engine to neutral, and would not engage the engines until the whale has moved outside of the vessel's path and the minimum separation distance has been established. If the vessel is stationary, the vessel would not engage engines until the whale(s) has moved out of the vessel's path and beyond 100 m. The vessel would maintain a minimum separation distance of 50 m from all other marine mammals (with the exception of delphinids of the genera *Tursiops, Steno, Stenella, Lagenorhynchus* and *Delphinus* that approach the vessel, as described above). If an animal is encountered during transit, the vessel would attempt to remain parallel to the animal's course, avoiding excessive speed or abrupt changes in course. Vessel speeds would be reduced to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near the vessel.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Proposed Monitoring and Reporting**

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved

understanding of one or more of the following:

• Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);

• Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);

• Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

• How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and

• Mitigation and monitoring effectiveness.

SIO submitted a marine mammal monitoring and reporting plan in their IHA application. Monitoring that is designed specifically to facilitate mitigation measures, such as monitoring of the EZ to inform potential shutdowns of the airgun array, are described above and are not repeated here.

SIO's monitoring and reporting plan includes the following measures:

*Vessel-Based Visual Monitoring*

As described above, PSO observations would take place during daytime airgun operations and nighttime start-ups (if applicable) of the airguns. During seismic operations, three visual PSOs would be based aboard the *Atlantis.* PSOs would be appointed by SIO with NMFS approval. During the majority of seismic operations, one PSO would monitor for marine mammals around the seismic vessel. PSOs would be on duty in shifts of duration no longer than 4 hours. Other crew would also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). During daytime, PSOs would scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7x50 Fujinon) and with the naked eye. At night, PSOs would be equipped with night-vision equipment.

PSOs would record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data would be used to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They would also provide information needed to order a shutdown of the airguns when a marine mammal is within or near the EZ. When a sighting is made, the following information about the sighting would be recorded:

(1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, etc.), and behavioral pace; and

(2) Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

All observations and shutdowns would be recorded in a standardized format. Data would be entered into an electronic database. The accuracy of the data entry would be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database. These procedures would allow initial summaries of data to be prepared during and shortly after the field program and would facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving. The time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare would also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

Results from the vessel-based observations would provide:

(1) The basis for real-time mitigation (*e.g.,* airgun shutdown);

(2) Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS;

(3) Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted;

(4) Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity; and

(5) Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

*Reporting*

A report would be submitted to NMFS within 90 days after the end of the survey. The report would describe the operations that were conducted and sightings of marine mammals near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring and would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that occurred above the harassment threshold based on PSO observations, including an estimate of those on the trackline but not detected.

**Negligible Impact Analysis and Determination**

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 2, given that NMFS expects the

anticipated effects of the proposed seismic survey to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis.

NMFS does not anticipate that serious injury or mortality would occur as a result of SIO's proposed seismic survey, even in the absence of proposed mitigation. Thus the proposed authorization does not authorize any mortality. As discussed in the *Potential Effects* section, non-auditory physical effects, stranding, and vessel strike are not expected to occur.

We propose to authorize a limited number of instances of Level A harassment (Table 11) for one species. However, we believe that any PTS incurred in marine mammals as a result of the proposed activity would be in the form of only a small degree of PTS and not total deafness that would not be likely to affect the fitness of any individuals, because of the constant movement of both the *Atlantis* and of the marine mammals in the project area, as well as the fact that the vessel is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time (*i.e.,* since the duration of exposure to loud sounds will be relatively short). Also, as described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the *Atlantis's* approach due to the vessel's relatively low speed when conducting seismic surveys. We expect that the majority of takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007).

Potential impacts to marine mammal habitat were discussed previously in this document (see *Potential Effects of the Specified Activity on Marine Mammals and their Habitat*). Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. Feeding behavior is not likely to be significantly impacted, as marine mammals appear to be less likely to exhibit behavioral reactions or avoidance responses while engaged in feeding activities (Richardson *et al.,* 1995). Prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, and the lack of important or unique marine mammal habitat, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. In addition, there are no feeding, mating or calving areas known to be biologically important to marine mammals within the proposed project area.

As described above, though marine mammals in the survey area would not be assigned to NMFS stocks, for purposes of the small numbers analysis we rely on stock numbers from the U.S. Atlantic SARs as the best available information on the abundance estimates for the species of marine mammals that could be taken. The activity is expected to impact a very small percentage of all marine mammal populations that would be affected by SIO's proposed survey (less than 34 percent each for all marine mammal stocks, when compared with stocks from the U.S. Atlantic as described above). Additionally, the acoustic ''footprint'' of the proposed survey would be very small relative to the ranges of all marine mammals that would potentially be affected. Sound levels would increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the proposed survey area. The seismic array would be active 24 hours per day throughout the duration of the proposed survey. However, the very brief overall duration of the proposed survey (25 days) would further limit potential impacts that may occur as a result of the proposed activity.

The proposed mitigation measures are expected to reduce the number and/or severity of takes by allowing for detection of marine mammals in the vicinity of the vessel by visual and acoustic observers, and by minimizing the severity of any potential exposures via shutdowns of the airgun array. Based on previous monitoring reports for substantially similar activities that have been previously authorized by NMFS, we expect that the proposed mitigation will be effective in preventing at least some extent of potential PTS in marine mammals that may otherwise occur in the absence of the proposed mitigation.

Of the marine mammal species under our jurisdiction that are likely to occur in the project area, the following species are listed as endangered under the ESA: Fin, sei, blue, and sperm whales. There are currently insufficient data to determine population trends for these species (Hayes *et al.,* 2017); however, we are proposing to authorize very small numbers of takes for these species (Table 11), relative to their population sizes (again, when compared to U.S. Atlantic stocks, for purposes of comparison only), therefore we do not expect population-level impacts to any of these species. The other marine mammal species that may be taken by harassment during SIO's seismic survey are not listed as threatened or endangered under the ESA. There is no designated critical habitat for any ESA-listed marine mammals within the project area; of the non-listed marine mammals for which we propose to authorize take, none are considered ''depleted'' or ''strategic'' by NMFS under the MMPA.

NMFS concludes that exposures to marine mammal species due to SIO's proposed seismic survey would result in only short-term (temporary and short in duration) effects to individuals exposed, or some small degree of PTS to a very small number of individuals of four species. Marine mammals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the proposed take estimates to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- The anticipated impacts of the proposed activity on marine mammals would primarily be temporary behavioral changes due to avoidance of the area around the survey vessel. The relatively short duration of the proposed survey (25 days) would further limit the potential impacts of any temporary behavioral changes that would occur;
- The number of instances of PTS that may occur are expected to be very small in number (Table 11). Instances of PTS that are incurred in marine mammals would be of a low level, due

to constant movement of the vessel and of the marine mammals in the area, and the nature of the survey design (not concentrated in areas of high marine mammal concentration);

- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the proposed survey to avoid exposure to sounds from the activity;
- The proposed project area does not contain areas of significance for feeding, mating or calving;
- The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the proposed survey would be temporary and spatially limited; and
- The proposed mitigation measures, including visual and acoustic monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

**Small Numbers**

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers 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.

Marine mammals potentially taken by the proposed survey would not be expected to originate from the U.S. Atlantic stocks as defined by NMFS (Hayes *et al.,* 2017). However, population abundance data for marine mammal species in the survey area is not available, therefore in most cases the U.S. Atlantic SARs represent the best available information on marine mammal abundance in the Northwest Atlantic Ocean. For certain species (*i.e.,* fin whale, minke whale and common dolphin) the 2007 Canadian Trans-North Atlantic Sighting Survey (TNASS), which provided full coverage of the Atlantic Canadian coast (Lawson and Gosselin, 2009) represents the best available information on abundance. Abundance estimates from TNASS were corrected for perception and availability bias, when possible. In general, where the TNASS survey effort provided more extensive coverage of a stock's range (as compared with NOAA shipboard survey effort), we elected to use the resulting abundance estimate over the current NMFS abundance estimate (derived from survey effort with more limited coverage of the stock range). For the humpback whale, NMFS defines a stock of humpback whales in the Atlantic only on the basis of the Gulf of Maine feeding population; however, multiple feeding populations originate from the DPS of humpback whales that is expected to occur in the proposed survey area (the West Indies DPS). As West Indies DPS whales from multiple feeding populations may be encountered in the proposed survey area, the total abundance of the West Indies DPS best reflects the abundance of the population that may encountered by the proposed survey. The West Indies DPS abundance estimate used here reflects the latest estimate as described in the NMFS Status Review of the Humpback Whale under the Endangered Species Act (Bettridge *et al.,* 2015). Therefore, we use abundance data from the SARs in most cases, as well as from the TNASS and NMFS Status Review, for purposes of the small numbers analysis. The numbers of takes that we propose for authorization to be taken, for all species and stocks are less than a third of the population abundance for all species and stocks, when compared to abundance estimates from U.S. Atlantic SARs and TNASS and NMFS Status Review (Table 11). We again note that while some animals from U.S. stocks may occur in the proposed survey area, the proposed survey area is outside the geographic boundaries of the U.S. Atlantic SARs, thus populations of marine mammals in the proposed survey area would not be limited to the U.S. stocks and those populations may in fact be larger than the U.S. stock abundance estimates. In addition, it should be noted that take numbers represent instances of take, not individuals taken. Given the relatively small survey grids (Figure 1 in the IHA application), it is reasonable to expect that some individuals may be exposed more than one time, which would mean that the number of individuals taken is somewhat smaller than the total instances of take indicated in Table 1.

No known current regional population estimates are available for 5 marine mammal species that could be incidentally taken as a result of the proposed survey: The Bryde's whale, killer whale, pygmy killer whale, Northern bottlenose whale, and ringed seal. NMFS has reviewed the geographic distributions of these species in determining whether the numbers of takes proposed for authorization herein are likely to represent small numbers. Bryde's whales are distributed worldwide in tropical and sub-tropical waters (Kato and Perrin, 2009). Killer whales are broadly distributed in the Atlantic from the Arctic ice edge to the West Indies (Waring *et al.,* 2015). The pygmy killer whale is distributed worldwide in tropical to sub-tropical waters (Jefferson *et al.* 1994). Northern bottlenose whales are distributed in the North Atlantic from Nova Scotia to about 70° N in the Davis Strait, along the east coast of Greenland to 77° N and from England, Norway, Iceland and the Faroe Islands to the south coast of Svalbard (Waring *et al.,* 2015). The harp seal occurs throughout much of the North Atlantic and Arctic Oceans (Lavigne and Kovacs 1988). Based on the broad spatial distributions of these species relative to the areas where the proposed surveys would occur, NMFS preliminarily concludes that the authorized take of these species represent small numbers relative to the affected species' overall population sizes, though we are unable to quantify the proposed take numbers as a percentage of population.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

**Unmitigable Adverse Impact Analysis and Determination**

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Endangered Species Act (ESA)**

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued

existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the ESA Interagency Cooperation Division, whenever we propose to authorize take for endangered or threatened species.

The NMFS Permits and Conservation Division is proposing to authorize the incidental take of 4 species of marine mammals which are listed under the ESA: the sei whale, fin whale, blue whale and sperm whale. We have requested initiation of Section 7 consultation with the Interagency Cooperation Division for the issuance of this IHA. NMFS will conclude the ESA section 7 consultation prior to reaching a determination regarding the proposed issuance of the authorization.

**Proposed Authorization**

As a result of these preliminary determinations, NMFS proposes to issue an IHA to SIO for conducting a low-energy seismic survey in the Northwest Atlantic Ocean in June-July 2018, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This IHA is valid for a period of one year from the date of issuance.

2. This IHA is valid only for marine geophysical survey activity, as specified in the SIO IHA application and using an airgun array aboard the R/V *Atlantis* with characteristics specified in the application, in the Northwest Atlantic Ocean.

3. General Conditions

(a) A copy of this IHA must be in the possession of SIO, the vessel operator and other relevant personnel, the lead PSO, and any other relevant designees of SIO operating under the authority of this IHA.

(b) The species authorized for taking are listed in Table 11. The taking, by Level A and Level B harassment only, is limited to the species and numbers listed in Table 11. Any taking exceeding the authorized amounts listed in Table 11 is prohibited and may result in the modification, suspension, or revocation of this IHA.

(c) The taking by serious injury or death of any species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(d) During use of the airgun(s), if marine mammal species other than those listed in Table 11 are detected by PSOs, the acoustic source must be shut down to avoid unauthorized take.

(e) SIO shall ensure that the vessel operator and other relevant vessel personnel are briefed on all responsibilities, communication procedures, marine mammal monitoring protocol, operational procedures, and IHA requirements prior to the start of survey activity, and when relevant new personnel join the survey operations.

4. Mitigation Requirements

The holder of this Authorization is required to implement the following mitigation measures:

(a) SIO must use at least three (3) dedicated, trained, NMFS-approved PSOs. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval.

(b) At least one PSO must have a minimum of 90 days at-sea experience working as a PSO during a deep penetration seismic survey, with no more than eighteen months elapsed since the conclusion of the at-sea experience. One ''experienced'' visual PSO shall be designated as the lead for the entire protected species observation team. The lead PSO shall serve as primary point of contact for the vessel operator.

(c) Visual Observation

(i) During survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur; whenever the acoustic source is in the water, whether activated or not), typically two, and minimally one, PSO(s) must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset).

(ii) Visual monitoring must begin not less than 30 minutes prior to ramp-up, including for nighttime ramp-ups of the airgun array, and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset.

(iii) PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

(iv) PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours observation per 24 hour period.

(v) During good conditions (*e.g.,* daylight hours; Beaufort sea state 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

(d) Exclusion Zone and buffer zone—PSOs shall establish and monitor a 100 m EZ and 200 m buffer zone. The zones shall be based upon radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source, occurrence of marine mammals outside the EZ but within 200 m from any element of the airgun array shall be communicated to the operator to prepare for potential further mitigation measures as described below. During use of the acoustic source, occurrence of marine mammals within the EZ, or on a course to enter the EZ, shall trigger further mitigation measures as described below.

(i) Ramp-up—A ramp-up procedure is required at all times as part of the activation of the acoustic source. Ramp-up would begin with one 45 $in^3$ airgun, and the second 45 $in^3$ airgun would be added after 5 minutes.

(ii) If the airgun array has been shut down due to a marine mammal detection, ramp-up shall not occur until all marine mammals have cleared the EZ. A marine mammal is considered to have cleared the EZ if:

(A) It has been visually observed to have left the EZ; or

(B) It has not been observed within the EZ, for 15 minutes (in the case of small odontocetes) or for 30 minutes (in the case of mysticetes and large odontocetes including sperm, pygmy sperm, and beaked whales).

(iii) Thirty minutes of pre-clearance observation of the 100 m EZ and 200 m buffer zone are required prior to ramp-up for any shutdown of longer than 30 minutes. This pre-clearance period may occur during any vessel activity. If any marine mammal (including delphinids) is observed within or approaching the EZ or buffer zone during the 30 minute pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the EZ or buffer zone or until an additional time period has elapsed with no further sightings (*i.e.,* 15 minutes for small odontocetes and 30 minutes for all other species).

(iv) During ramp-up, at least two PSOs shall monitor the 100 m EZ and 200 m buffer zone. Ramp-up may not be initiated if any marine mammal (including delphinids) is observed within or approaching the 100 m EZ. If

a marine mammal is observed within or approaching the 100 m EZ during ramp-up, a shutdown shall be implemented as though the full array were operational. Ramp-up may not begin again until the animal(s) has been observed exiting the 100 m EZ or until an additional time period has elapsed with no further sightings (*i.e.,* 15 minutes for small odontocetes and 30 minutes for mysticetes and large odontocetes including sperm, pygmy sperm, and beaked whales).

(v) If the airgun array has been shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual observation and no visual detections of any marine mammal have occurred within the buffer zone.

(vi) Ramp-up at night and at times of poor visibility shall only occur where operational planning cannot reasonably avoid such circumstances. Ramp-up may occur at night and during poor visibility if the 100 m EZ and 200 m buffer zone have been continually monitored by visual PSOs for 30 minutes prior to ramp-up with no marine mammal detections.

(vii) The vessel operator must notify a designated PSO of the planned start of ramp-up. The designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

(e) Shutdown requirements—An exclusion zone of 100 m shall be established and monitored by PSOs. If a marine mammal is observed within, entering, or approaching the 100 m exclusion zone all airguns shall be shut down.

(i) Any PSO on duty has the authority to call for shutdown of the airgun array. When there is certainty regarding the need for mitigation action on the basis of visual detection, the relevant PSO(s) must call for such action immediately.

(ii) The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the airgun array to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch.

(iii) When a shutdown is called for by a PSO, the shutdown must occur and any dispute resolved only following shutdown.

(iv) The shutdown requirement is waived for dolphins of the following genera: *Tursiops, Steno, Stenella, Lagenorhynchus* and *Delphinus.* The shutdown waiver only applies if animals are traveling, including approaching the vessel. If animals are stationary and the vessel approaches the animals, the shutdown requirement applies. If there is uncertainty regarding identification (*i.e.,* whether the observed animal(s) belongs to the group described above) or whether the animals are traveling, shutdown must be implemented.

(v) Upon implementation of a shutdown, the source may be reactivated under the conditions described at 4(e)(vi). Where there is no relevant zone (*e.g.,* shutdown due to observation of a calf), a 30-minute clearance period must be observed following the last observation of the animal(s).

(vi) Shutdown of the array is required upon observation of a whale (*i.e.,* sperm whale or any baleen whale) with calf, with ''calf'' defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult, at any distance.

(vii) Shutdown of the array is required upon observation of an aggregation (*i.e.,* six or more animals) of large whales of any species (*i.e.,* sperm whale or any baleen whale) that does not appear to be traveling (*e.g.,* feeding, socializing, etc.) at any distance.

(f) Vessel Strike Avoidance—Vessel operator and crew must maintain a vigilant watch for all marine mammals and slow down or stop the vessel or alter course, as appropriate, to avoid striking any marine mammal. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel according to the parameters stated below. Visual observers monitoring the vessel strike avoidance zone can be either third-party observers or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena.

(i) The vessel must maintain a minimum separation distance of 100 m from large whales. The following avoidance measures must be taken if a large whale is within 100 m of the vessel:

(A) The vessel must reduce speed and shift the engine to neutral, when feasible, and must not engage the engines until the whale has moved outside of the vessel's path and the minimum separation distance has been established.

(B) If the vessel is stationary, the vessel must not engage engines until the whale(s) has moved out of the vessel's path and beyond 100 m.

(ii) The vessel must maintain a minimum separation distance of 50 m from all other marine mammals, with an exception made for animals described in 4(e)(iv) that approach the vessel. If an animal is encountered during transit, the vessel shall attempt to remain parallel to the animal's course, avoiding excessive speed or abrupt changes in course.

(iii) Vessel speeds must be reduced to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near the vessel.

(g) Miscellaneous Protocols

(i) The airgun array must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source shall be avoided. Operational capacity of 90 $in^3$ (not including redundant backup airguns) must not be exceeded during the survey, except where unavoidable for source testing and calibration purposes. All occasions where activated source volume exceeds notified operational capacity must be noticed to the PSO(s) on duty and fully documented. The lead PSO must be granted access to relevant instrumentation documenting acoustic source power and/or operational volume.

(ii) Testing of the acoustic source involving all elements requires normal mitigation protocols (*e.g.,* ramp-up). Testing limited to individual source elements or strings does not require ramp-up but does require pre-clearance.

5. Monitoring Requirements

The holder of this Authorization is required to conduct marine mammal monitoring during survey activity. Monitoring shall be conducted in accordance with the following requirements:

(a) The operator must provide a night-vision device suited for the marine environment for use during nighttime ramp-up pre-clearance, at the discretion of the PSOs. At minimum, the device should feature automatic brightness and gain control, bright light protection, infrared illumination, and optics suited for low-light situations.

(b) PSOs must also be equipped with reticle binoculars (*e.g.,* 7x50) of appropriate quality (*i.e.,* Fujinon or equivalent), GPS, compass, and any other tools necessary to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals.

(c) PSO Qualifications

(i) PSOs must have successfully completed relevant training, including completion of all required coursework and passing a written and/or oral examination developed for the training program.

(ii) PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver must include written justification. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

(d) Data Collection—PSOs must use standardized data forms, whether hard copy or electronic. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source to resume survey. If required mitigation was not implemented, PSOs should submit a description of the circumstances. We require that, at a minimum, the following information be reported:

(i) PSO names and affiliations

(ii) Dates of departures and returns to port with port name

(iii) Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort

(iv) Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts

(v) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change

(vi) Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon

(vii) Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions)

(viii) Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-ramp-up survey, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.)

(ix) If a marine mammal is sighted, the following information should be recorded:

(A) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

(B) PSO who sighted the animal;

(C) Time of sighting;

(D) Vessel location at time of sighting;

(E) Water depth;

(F) Direction of vessel's travel (compass direction);

(G) Direction of animal's travel relative to the vessel;

(H) Pace of the animal;

(I) Estimated distance to the animal and its heading relative to vessel at initial sighting;

(J) Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;

(K) Estimated number of animals (high/low/best);

(L) Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);

(M) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

(N) Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

(O) Animal's closest point of approach and/or closest distance from the center point of the acoustic source;

(P) Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other); and

(Q) Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

6. Reporting

(a) SIO shall submit a draft comprehensive report on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals near the activities, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). Geospatial data regarding locations where the acoustic source was used must be provided as an ESRI shapefile with all necessary files and appropriate metadata. In addition to the report, all raw observational data shall be made available to NMFS. The report must summarize the data collected as required under condition 5(d) of this IHA. The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly to NMFS a statement concerning implementation and effectiveness of the required mitigation and monitoring. A final report must be submitted within 30 days following resolution of any comments from NMFS on the draft report.

(b) Reporting injured or dead marine mammals:

(i) In the event that the specified activity clearly causes the take of a marine mammal in a manner not prohibited by this IHA (if issued), such as serious injury or mortality, SIO shall immediately cease the specified activities and immediately report the incident to the NMFS Office of Protected Resources. The report must include the following information:

(A) Time, date, and location (latitude/longitude) of the incident;

(B) Vessel's speed during and leading up to the incident;

(C) Description of the incident;

(D) Status of all sound source use in the 24 hours preceding the incident;

(E) Water depth;

(F) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(G) Description of all marine mammal observations in the 24 hours preceding the incident;

(H) Species identification or description of the animal(s) involved;

(I) Fate of the animal(s); and

(J) Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take.

NMFS will work with SIO to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SIO may not resume their activities until notified by NMFS.

(ii) In the event that SIO discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), SIO shall immediately report the incident to the NMFS Office of Protected Resources. The report must include the same information identified in condition 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with SIO to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that SIO discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the specified activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SIO shall report the incident to the NMFS Office of Protected Resources within 24 hours of the discovery. SIO shall provide photographs or video footage or other documentation of the sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

## Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed survey. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

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: April 24, 2018.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2018–08891 Filed 4–26–18; 8:45 am]

BILLING CODE 3510–22–P

# FEDERAL REGISTER

Vol. 83 Friday,

No. 82 April 27, 2018


Part III

## Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Removing Textual Descriptions of Critical Habitat Boundaries for Mammals, Birds, Amphibians, Fishes, Clams, Snails, Arachnids, Crustaceans, and Insects; Final Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[Docket No. FWS–HQ–ES–2015–0008; 4500030113]**

**RIN 1018–BA81**

# Endangered and Threatened Wildlife and Plants; Removing Textual Descriptions of Critical Habitat Boundaries for Mammals, Birds, Amphibians, Fishes, Clams, Snails, Arachnids, Crustaceans, and Insects

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are removing the textual descriptions of critical habitat boundaries from those designations for mammals, birds, amphibians, fishes, clams, snails, arachnids, crustaceans, and insects for which the maps have been determined to be sufficient to stand as the official delineation of critical habitat. For these entries, the boundaries of critical habitat as mapped or otherwise described will be the official delineation of the designation. The coordinates and/or plot points that we are removing from the Code of Federal Regulations will be available to the public at the lead field office of the Service responsible for the designation and online at the Federal eRulemaking Portal. This action does not increase, decrease, or otherwise change the boundaries of any critical habitat designation. We are taking this action in accordance with our May 1, 2012, revision of the regulations related to publishing textual descriptions of critical habitat boundaries in the Code of Federal Regulations and as part of our response to Executive Order 13563 (January 18, 2011) directing Federal agencies to review their existing regulations and then to modify or streamline them in accordance with what they learned.

**DATES:** This rule is effective May 29, 2018.

**ADDRESSES:** This final rule is available online at the Federal eRulemaking Portal at *http://www.regulations.gov.* Supporting documentation used in the preparation of this rule will be available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Branch of Listing Policy and Support, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2171.

**FOR FURTHER INFORMATION CONTACT:** Carey Galst, U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–1954. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Executive Summary

*Why we need to publish a rule amendment.* We have reviewed our critical habitat designations published in the Code of Federal Regulations for mammals, birds, amphibians, fishes, clams, snails, arachnids, crustaceans, and insects. Based on that review, we have found that we can provide more cost-efficient, helpful, and streamlined critical habitat designations by removing the often-lengthy textual descriptions of critical habitat boundaries from those designations for which the maps have been determined to be sufficient to stand as the official delineation of critical habitat. This rule does not increase, decrease, or in any other way alter the critical habitat designations from which we are removing the textual descriptions of boundaries. A change to the Code of Federal Regulations can only be completed by issuing a final rule.

*The basis for our action.* Executive Order 13563 directs Federal agencies to review their existing regulations and then to modify or streamline them in accordance with what they learned. This action results from our review of our critical habitat regulations. This change will save taxpayer resources and make the critical habitat designations published in the Code of Federal Regulations more user-friendly.

## Background

On May 1, 2012, we published a final rule (77 FR 25611) revising our regulations related to publishing textual descriptions of proposed and final critical habitat boundaries in the **Federal Register** for codification in the Code of Federal Regulations (CFR). In the interest of making the process of designating critical habitat more user-friendly for affected parties and the public as a whole, as well as more efficient and cost effective, we maintained the publication of maps of proposed and final critical habitat designations but made optional the inclusion of any textual description of the boundaries of the designation in the **Federal Register** for codification in the CFR. The boundaries of critical habitat as mapped or otherwise described in the Regulation Promulgation section of a rulemaking that is published in the **Federal Register** is the official delineation of the critical habitat designation. This approach began with critical habitat designations published after the effective date of the final rule (May 31, 2012).

Specifically, for critical habitat rules published after May 31, 2012, the map(s), as clarified or refined by any textual language within the rule, constitutes the definition of the boundaries of a critical habitat. Each critical habitat area is shown on a map, with more-detailed information discussed in the preamble or the rulemaking documents published in the **Federal Register.** The map published in the CFR is generated from the coordinates and/or plot points corresponding to the location of the boundaries. These coordinates and/or plot points are included in the administrative record for the designation and are available to the public either online or at the Service field office responsible for the designation or both. In addition, if the Service concludes that additional tools or supporting information are appropriate and would help the public understand the official boundary map, we make the additional tools and supporting information available on our internet site and at the Service field office responsible for the critical habitat designation.

The preamble to the May 1, 2012, final rule (77 FR 25611) explained how the Service would handle boundaries for critical habitat that had already been designated before May 31, 2012; the rule states that ''for existing critical habitat designations, we also intend to remove the textual descriptions of final critical habitat boundaries set forth in the CFR in order to save the annual reprinting cost, but we must do so in separate rulemakings to ensure that removing the textual descriptions does not change the existing boundaries of those designations'' (77 FR 25618). We have now begun applying this approach to critical habitat designations promulgated prior to May 31, 2012. This rule is the second in a series of rules based on our evaluation of the map(s) in each critical habitat designation at 50 CFR 17.95, 17.96, and 17.99 to determine whether or not the map(s) will be sufficient to inform the public of the boundaries of the designations and can therefore stand as the official delineation of the designation.

On October 27, 2017, we published a final rule (82 FR 49751) removing textual descriptions of critical habitat boundaries from those designations for plants on the Hawaiian Islands of Kauai, Niihau, and Hawaii at 50 CFR 17.99.

That final rule established that the map, as clarified or refined by any textual language within the rule, constitutes the definition of the boundaries of the critical habitat for the applicable designation. It did not alter the locations of any boundaries. This is the second rule in a series of rules to remove the textual descriptions of critical habitat boundaries from those designations for which the maps have been determined to be sufficient to stand as the official delineation of critical habitat.

**This Rule**

For 50 CFR 17.95(a), (b), (d), (e), (f), (g), (h), and (i), the critical habitat designations for mammals, birds, amphibians, fishes, clams and snails, arachnids, crustaceans, and insects, respectively, we evaluated the map(s) in each entry to determine whether or not it can stand as the official delineation of the designation. We looked for a combination of certain map elements, including, but not limited to, the name of the species (or of the grouping of species), the unit number and/or name, the names of counties and/or States shown, a clear map key, and an appropriate map scale, to determine whether or not a map is sufficient to serve as the official delineation of the designation.

In this rule, we are removing the textual descriptions of critical habitat boundaries from those entries at 50 CFR 17.95(a), (b), (d), (e), (f), (g), (h), and (i) that have maps sufficient to stand as the official delineation of the designation. In those entries, we are removing the word ''Note:'' (or ''NOTE:'' or ''*Note:*'') if it precedes a map that will now stand as the official delineation of the critical habitat designation. For critical habitat designations at 50 CFR 17.95(a), (b), (d), (e), (f), (g), (h), and (i) with maps that do not meet our sufficiency criteria, we are adding a statement (''The map provided is for informational purposes only.'') to clarify that the textual descriptions, not the maps, in those entries are the official delineation of critical habitat.

For certain designations, we are retaining the textual descriptions of the boundaries of either the entire designated critical habitat unit or of the areas excluded from the critical habitat designation to clarify or refine the provided map, in accordance with 50 CFR 17.94. We determined that for some designations providing textual descriptions of the boundaries enhanced the clarity of the designation, so we have opted to retain those textual descriptions. In addition, we found that in some instances retaining the textual description of an excluded area is necessary because the relevant map(s) does not adequately show the excluded area(s), which can be very small within a much larger critical habitat unit. Retaining those textual descriptions ensures that the public has accurate and complete information regarding critical habitat units and areas excluded from critical habitat designation.

Also, for certain designations with unit maps that display multiple units on one map, if a unit or subunit description does not state where the unit map is provided in the regulations, we are adding that information with this rule. This nonsubstantive change will allow users to locate unit maps more easily in our critical habitat regulations.

We are also making the following corrections to our regulations in this rule:

(1) We are correcting the map provided in the CFR for the critical habitat designation at 50 CFR 17.95(e) for yellowfin madtom (*Noturus flavipinnis*). The map in that entry was for the critical habitat designation for the slender chub (*Erimystax =(Hybopsis) cahni*) rather than the correct one published on September 9, 1977, at 42 FR 45526, and republished on September 22, 1977, at 42 FR 47840, for the yellowfin madtom. The map in the critical habitat designation for yellowfin madtom is provided for informational purposes only; because the map is not sufficient to inform the public of the boundaries, the map does not stand as the official delineation of critical habitat for that species.

(2) We are correcting the spelling of the scientific name in the heading of the critical habitat designation for the Leon Springs pupfish at 50 CFR 17.95(e).

(3) We are correcting an erroneous reference to the San Bernardino springsnail (*Pyrgulopsis bernardina*) in paragraph (2) of the entry for Three Forks springsnail (*Pyrgulopsis trivialis*) at 50 CFR 17.95(f).

(4) We are correcting an erroneous reference to multiple ''maps'' in the entry for the Salt Creek tiger beetle (*Cicindela nevadica lincolniana*). Only one map is provided in that entry.

This rule does not increase, decrease, or in any other way alter the critical habitat designations from which we are removing the textual descriptions of boundaries. This administrative action will save taxpayer resources. The Service spent approximately $163,000 to reprint the critical habitat designations at 50 CFR 17.95 for the most-recent print edition of the CFR. Based on a review of the print edition of the CFR, we estimate that this rule will remove approximately 411 pages of the relevant CFR volumes, amounting to a savings of approximately $34,935 per year in printing costs for the Service. Over many years, eliminating the need to reprint Universal Transverse Mercator (UTM) coordinate pairs and other textual descriptions at 50 CFR 17.95 will result in a considerable cumulative cost savings for the Service and the public as a whole.

We will publish a series of rules, of which this is the second, to remove the textual descriptions from all of the critical habitat designations at 50 CFR 17.95, 17.96, and 17.99 that have map(s) sufficient to stand as the official delineation of the designation.

The detailed UTM coordinates or other textual descriptions we are removing in this rule will continue to be available online at the Federal eRulemaking Portal (see **ADDRESSES**) and at the lead Service field office responsible for the designation to assist the public in understanding the official boundary.

We note that the Service never maintained that requiring detailed textual descriptions was legally necessary. Instead, the first critical habitat regulations required only that critical habitat designations be ''accompanied by maps and/or geographical descriptions'' (43 FR 870, 876; January 4, 1978). Although the Service subsequently added the requirement that critical habitat designations include textual descriptions describing the specific boundary limits of the critical habitat, there is nothing in the preamble to that rule indicating that the Service did so because the Act required it. Rather, it was in response to several commenters, who had opined that the proposed rule was not sufficiently clear in setting out the method by which critical habitat boundaries would be described (45 FR 13009, 13015; February 27, 1980).

Removing these unnecessary textual descriptions will significantly reduce the length of some critical habitat designations, making each designation easier to locate in the CFR; will not weaken the effectiveness of the Act; and will not undermine the public's ability to identify the boundaries of critical habitat designations.

The information printed in the CFR is the legally binding delineation of critical habitat. If there is ambiguity due to the scale of the map such that additional regulatory text is needed to ensure that the public has adequate notice of the boundaries, we provide additional regulation text. The only change to the CFR that we are making with this action is removing the detailed textual description of the boundaries of the specific areas designated as critical

habitat (*e.g.,* latitude-longitude and UTM coordinates). We still generate those data, and make them available at *http://www.regulations.gov* and at the lead field office of the Service responsible for the critical habitat designation. Neither the critical habitat designation nor the underlying data on which it is based can be changed without undergoing a further rulemaking.

As stated earlier, the actions we are taking in this rule do not increase, decrease, or otherwise alter the critical habitat boundaries or areas. For 50 CFR 17.95(a), (b), (d), (e), (f), (g), (h), and (i), we are merely removing the reference points (*e.g.,* UTM or latitude-longitude coordinates) of the textual descriptions from existing final critical habitat designations, and we are doing so only where we have determined that the existing maps are sufficient to inform the public of the boundaries of the designations and can therefore stand as the official delineation of critical habitat. However, we will continue to provide the reference points of the textual descriptions at *http://www.regulations.gov* and at the lead field office of the Service responsible for the critical habitat designation.

The actions we are taking in this rule require us to also revise 50 CFR 17.94(b), to set forth an explanation of which critical habitat designations have maps that stand as the official delineation of critical habitat and which do not.

We are publishing this final rule without a prior proposal because we find that there is good cause for doing so pursuant to 5 U.S.C. 553(b)(3)(B). The ''good cause'' exception applies when an agency finds ''that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Publication of a proposed rule for this action is unnecessary because this is an administrative action that does not increase, decrease, or otherwise change critical habitat boundaries or areas. Therefore, this action will not affect any legal rights. Rather, it will merely reduce the publication length of some rules designating critical habitat, which will save taxpayer resources and make each designation easier to locate in the CFR. We find that it is in the best interest of the public to promulgate these administrative and technical changes to 50 CFR 17.95 and without undergoing procedures that are unnecessary.

## Required Determinations

### *Regulatory Planning and Review—Executive Orders 12866 and 13563*

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

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

### *Executive Order 13771*

This rule is not an E.O. 13771 (''Reducing Regulation and Controlling Regulatory Costs'') (82 FR 9339, February 3, 2017) regulatory action because this rule is not significant under E.O. 12866.

### *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

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

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include such businesses as manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, and retail and service businesses with less than $5 million in annual sales. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

This rule will not have a significant economic impact on a substantial number of small entities as defined under the RFA. This rule is an administrative action to remove the textual descriptions from critical habitat designations at 50 CFR 17.95(a), (b), (d), (e), (f), (g), (h), and (i) that have maps sufficient to stand as the official delineation of critical habitat. This action does not increase, decrease, or in any other way alter the areas or boundaries of the critical habitat designations from which we are removing the textual descriptions of boundaries.

This action will save taxpayer resources. The Service spent approximately $163,000 to reprint the critical habitat designations at 50 CFR 17.95 for the most-recent print edition of the CFR. Based on a review of the print edition of the CFR, we estimate that this rule will remove approximately 411 pages of the relevant CFR volumes, amounting to a savings of approximately $34,935 per year in printing costs for the Service. While over many years, eliminating the need to reprint Universal Transverse Mercator (UTM) coordinate pairs and other textual descriptions at 50 CFR 17.95 will result in a considerable cumulative cost savings to the Service and the public as a whole, this rule will result in only a small annual savings to the Service and the public.

Therefore, for the reasons above, we certify that this rule will not have a significant economic impact on a substantial number of small entities.

### *Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Services make the following findings:

a. This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or

tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions: (1) ''a condition of Federal assistance'' or (2) ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority''; the provision would either ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding''; and the State, local, or tribal governments ''lack authority . . . to amend their financial or programmatic responsibilities to continue providing required services.'' At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.'' This rule does not produce a Federal mandate under either of these definitions.

b. This rule will not significantly or uniquely affect small governments, because the revisions to the regulations in this rule should make our critical habitat designations more user-friendly and will make the process more cost-effective for the Service and the public as a whole. As such, we do not believe that a Small Government Agency Plan is required.

*Takings—Executive Order 12630*

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have evaluated this rule, and we have determined that this rule does not pose significant takings implications. The revisions to the regulations set forth in this rule do not involve individual property rights.

*Federalism—Executive Order 13132*

In accordance with Executive Order 13132 (Federalism), the rule does not have significant Federalism effects. A federalism summary impact statement is not required. The revisions to the regulations addressed in this rule are intended to promote the usability of the regulations and make the process of designating critical habitat more cost-effective, and thus should not significantly affect or burden the authority of the States to govern themselves.

*Civil Justice Reform—Executive Order 12988*

In accordance with Executive Order 12988 (Civil Justice Reform), this rule follows the Civil Justice Reform principles for regulations that do not unduly burden the Federal judicial system, by meeting the requirements of sections 3(a) and 3(b) of the Executive Order. The revisions to the regulations addressed in this rule should not significantly affect or burden the judicial system.

*Paperwork Reduction Act of 1995*

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

*National Environmental Policy Act (NEPA)*

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), 43 CFR part 46, and 516 Departmental Manual (DM) 2 and 8.

A categorical exclusion from NEPA documentation applies to policies, directives, regulations, and guidelines that are ''of an administrative, financial, legal, technical, or procedural nature'' (43 CFR 46.210(i)). This rule falls within this categorical exclusion because it is administrative and technical in nature—it affects only the format in which the critical habitat boundaries are delineated in the regulations.

However, even if an individual Federal action falls within a categorical exclusion, the Service must still prepare environmental documents pursuant to NEPA if one of the 12 exceptions listed in 43 CFR 46.215 applies. We have reviewed each of the 12 exceptions and have found that because this rule is administrative in nature, none of the exceptions apply. Although the exception at 43 CFR 46.215(h) applies to actions that ''have a significant impact'' on listed species or designated critical habitat, this action will not have any such significant impact, because it is administrative in nature and affects only the format in which critical habitat boundaries are delineated and not the substance of the critical habitat designations. Therefore, this action meets the requirements for a categorical exclusion from the NEPA process.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments,'' and the Department of the Interior Manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Native American Tribes on a government-to-government basis. We have evaluated the potential effects on federally recognized Tribes from these revisions to our regulations. We have determined that there are no potential effects to federally recognized Tribes, as the revisions to the regulations are intended to promote the usability of critical habitat designations and save taxpayer monies. We will continue to coordinate with Tribes as we promulgate critical habitat designations.

*Energy Supply, Distribution, or Use*

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. ''Significant energy action'' means any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking that is a significant regulatory action under Executive Order 12866 or any successor order, and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rule does

not qualify as a significant regulatory action under Executive Order 12866 and will not have a significant adverse effect on the supply, distribution, or use of energy, and has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulation Promulgation**

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.94 by revising paragraph (b) to read as follows:

**§ 17.94 Critical habitats.**

* * * * *

(b) *Maps.*

| If the critical habitat map appears in . . . | Then . . . |
|---|---|
| (1) A critical habitat designation in § 17.95(a), (b), (d), (e), (f), (g), (h), or (i), and the designation does not state that the map(s) is for informational purposes only, or (2) A critical habitat designation in § 17.99, or (3) A critical habitat designation published and effective after May 31, 2012. | The map provided by the Secretary of the Interior, as clarified or refined by any textual language within the rule, constitutes the definition of the boundaries of a critical habitat. Each critical habitat area will be shown on a map, with more-detailed information discussed in the preamble of the rulemaking documents published in the **Federal Register** and made available from the lead field office of the Service responsible for such designation. Each area will be referenced to the State(s), county(ies), or other local government units within which all or part of the critical habitat is located. General descriptions of the location and boundaries of each area may be provided to clarify or refine what is included within the boundaries depicted on the map, or to explain the exclusion of sites (*e.g.*, paved roads, buildings) within the mapped area. Unless otherwise indicated within the critical habitat descriptions, the names of the State(s) and county(ies) are provided for informational purposes only and do not constitute the boundaries of the area. |
| (4) A critical habitat designation that states that the map(s) is for informational purposes only, or (5) A critical habitat designation published and effective on or prior to May 31, 2012, that is set forth at § 17.95(c) or § 17.96. | The map provided by the Secretary of the Interior is for reference purposes to guide Federal agencies and other interested parties in locating the general boundaries of the critical habitat. The map does not, unless otherwise indicated, constitute the definition of the boundaries of a critical habitat. Critical habitats are described by reference to surveyable landmarks found on standard topographic maps of the area and to the States and county(ies) within which all or part of the critical habitat is located. Unless otherwise indicated within the critical habitat description, the State and county(ies) names are provided for informational purposes only. |

■ 3. Amend § 17.95 as follows:

■ a. Amend paragraph (a) as follows:

■ i. In the entry for ''Mariana Fruit Bat (*Pteropus mariannus mariannus*),'' by removing and reserving paragraph (4)(ii)(A), and by removing the word ''NOTE:'' at the beginning of paragraph (4)(ii)(B).

■ ii. In the entry for ''Virginia Big-eared Bat (*Plecotus townsendii virginianus*),'' by revising the note.

■ iii. In the entry for ''Fresno Kangaroo Rat (*Dipodomys nitratoides exilis*),'' by revising the note.

■ iv. In the entry for ''Morro Bay Kangaroo Rat (*Dipodomys heermanni morroensis*),'' by revising the note.

■ v. In the entry for ''San Bernardino Kangaroo Rat (*Dipodomys merriami parvus*),'' by revising paragraphs (6)(i) and (8)(i) to read as set forth below; by removing and reserving paragraphs (7)(i), (9)(i), and (10)(i); and by removing ''Note:'' at the beginning of paragraphs (6)(ii), (7)(ii), (8)(ii), (9)(ii), and (10)(ii).

■ vi. In the entry for ''Alabama Beach Mouse (*Peromyscus polionotus ammobates*),'' by adding a sentence to the end of paragraph (1).

■ vii. In the entry for ''Choctawhatchee Beach Mouse (*Peromyscus polionotus allophrys*),'' by revising paragraph (6)(ii); by removing paragraph (7)(ii) and redesignating paragraph (7)(iii) as (7)(ii); by revising paragraph (8)(ii); by removing paragraph (9)(ii) and redesignating paragraph (9)(iii) as (9)(ii); by removing paragraph (10)(ii) and redesignating paragraph (10)(iii) as (10)(ii); and by removing ''Note:'' at the beginning of newly redesignated paragraphs (7)(ii), (9)(ii), and (10)(ii).

■ viii. In the entry for ''Perdido Key Beach Mouse (*Peromyscus polionotus trissyllepsis*),'' by adding a sentence to the end of paragraph (1).

■ ix. In the entry for ''Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*),'' by adding a sentence to the end of paragraph (1).

■ x. In the entry for ''St. Andrew Beach Mouse (*Peromyscus polionotus peninsularis*),'' by removing paragraph (6)(ii) and redesignating paragraph (6)(iii) as (6)(ii); by revising paragraph (7)(ii); by removing paragraph (8)(ii) and redesignating paragraph (8)(iii) as (8)(ii); and by removing ''Note:'' at the beginning of newly redesignated paragraphs (6)(ii) and (8)(ii).

■ xi. In the entry for ''Northern Sea Otter (*Enhydra lutris kenyoni*), Southwest Alaska Distinct Population Segment,'' by adding a sentence to the end of paragraph (1).

■ xii. In the entry for ''Silver Rice Rat (*Oryzomys palustris natator (=O. argentatus)*),'' by revising the note.

■ xiii. In the entry for ''Peninsular Bighorn Sheep, A Distinct Population Segment of Desert Bighorn Sheep (*Ovis canadensis nelsoni*),'' by removing and reserving paragraph (6)(i), (7)(i), (8)(i), and (9)(i); by removing the word ''NOTE:'' at the beginning of paragraphs (6)(ii) and (7)(ii); and by removing the word ''Note:'' at the beginning of paragraphs (8)(ii) and (9)(ii).

■ xiv. In the entry for ''Sierra Nevada Bighorn Sheep (*Ovis canadensis sierrae*),'' by revising paragraphs (6)(i) and (9)(i); by removing and reserving paragraphs (7)(i), (8)(i), (10)(i), (11)(i), (12)(i), (13)(i), (14)(i), (15)(i), (16)(i), and (17)(i); and by removing ''Note:'' at the beginning of paragraphs (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(ii), (16)(ii), and (17)(ii).

■ xv. In the entry for ''Mount Graham Red Squirrel (*Tamiasciurus hudsonicus grahamensis*),'' by revising the note.

■ xvi. In the entry for ''Amargosa Vole (*Microtus californicus scirpensis*),'' by revising the note.

■ b. Amend paragraph (b) as follows:
■ i. In the entry for ''Akekee (*Loxops caeruleirostris*),'' by adding a sentence to the end of paragraph (1).
■ ii. In the entry for ''Akikiki (*Oreomystis bairdi*),'' by adding a sentence to the end of paragraph (1).
■ iii. In the entry for ''Whooping Crane (*Grus americana*),'' by revising the note above each of the four maps.
■ iv. In the entry for ''Mariana Crow (*Corvus kubaryi*),'' by removing and reserving paragraph (4)(ii)(A); by removing paragraphs (4)(iii)(A) and (C); by redesignating paragraph (4)(iii)(B) as (4)(iii)(A) and paragraph (4)(iii)(D) as (4)(iii)(B); by revising the introductory text of newly redesignated paragraph (4)(iii)(A); and by removing the word ''Note:'' from the beginning of paragraph (4)(ii)(B) and newly redesignated paragraph (4)(iii)(B).
■ v. In the entry for ''Spectacled Eider (*Somateria fischeri*),'' by adding a new second sentence.
■ vi. In the entry for ''Steller's Eider (*Polysticta stelleri*),'' in paragraph 1, by removing the words, ''The maps are for reference only'' and by adding in their place the words, ''The maps provided are for informational purposes only''.
■ vii. In the entry for ''Oahu Elepaio (*Chasiempis sandwichensis ibidis*),'' by adding a sentence to the end of paragraph (1).
■ viii. In the entry for the ''Coastal California Gnatcatcher (*Polioptila californica californica),*'' by revising paragraphs (6)(i), (8)(i), (9)(i), (11)(i), (12)(i), (13)(i), (14)(i), (15)(i), and (16)(i) to read as set forth below; by removing and reserving paragraphs (7)(i) and (10)(i); and by removing ''Note:'' from the beginning of paragraphs (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(ii), and (16)(ii).
■ ix. In the entry for ''Guam Micronesian Kingfisher (*Halcyon cinnamomina cinnamomina*),'' by removing and reserving paragraph (4)(ii)(A), and by removing the word ''Note:'' from the beginning of paragraph (4)(ii)(B).
■ x. In the entry for ''Everglade Snail Kite (*Rostrhamus sociabilis plumbeus*),'' by revising the note.
■ xi. In the entry for ''Marbled Murrelet (*Brachyramphus marmoratus*),'' by adding a sentence to the end of paragraph 1.
■ xii. In the entry for ''Mexican Spotted Owl (*Strix occidentalis lucida*),'' by revising paragraphs (8), (9), (10), (12), (13), (15), (16), (17), (19), (21), (22), (23), (24), (25), (26), (28), (29), (30), (31), (32), (34), (35), (36), (37), (38), (39), (41), (42), (43), (44), (45), (47), (49), (50), (51), (52), (53), (54), (56), (57), (58), (59), (60), (61), (63), (64), (65), (66), (68), (69), (70), and (71).
■ xiii. In the entry for ''Palila (*Psittirostra bailleui*),'' by revising the note.
■ xiv. In the entry for ''Piping Plover (*Charadrius melodus*)—Great Lakes Breeding Population,'' by adding a sentence to the end of paragraph 1.
■ xv. In the entry for ''Piping Plover (*Charadrius melodus*) Wintering Habitat,'' by removing the fourth sentence of paragraph 3., and by adding a sentence immediately following the second sentence of paragraph 3.
■ xvi. In the entry for ''Piping Plover (*Charadrius melodus*)—Northern Great Plains Breeding Population,'' by adding a sentence to the end of paragraph 1.
■ xvii. In the entry for ''Cape Sable Seaside Sparrow (*Ammodramus maritimus mirabilis*),'' by removing and reserving paragraphs (5)(ii), (6)(ii), (7)(ii), (8)(ii), and (9)(ii), and by removing ''NOTE:'' at the beginning of paragraph (10).
■ xviii. In the entry for ''Inyo Brown Towhee (*Pipilo fuscus eremophilus*),'' by revising the note in paragraphs (10) and (11).
■ xix. In the entry for ''Least Bell's Vireo (*Vireo bellii pusillus*),'' by revising the introductory text.
■ xx. In the entry for ''Rota Bridled White-Eye (*Zosterops rotensis*),'' by removing paragraph (5)(i); by redesignating paragraph (5)(ii) as (5)(i) and paragraph (5)(iii) as (5)(ii); by revising the introductory text of newly designated paragraph (5)(i); and by removing ''NOTE:'' from the beginning of newly redesignated paragraph (5)(ii).
■ c. Amend paragraph (d) as follows:
■ i. In the entry for ''Golden Coqui (*Eleutherodactylus jasperi*),'' by revising the two notes in paragraph (3)
■ ii. In the entry for ''California Red-legged Frog (*Rana draytonii*),'' by:
■ A. Removing and reserving paragraphs (7)(i), (8)(i), (9)(i), (12)(i), (13)(i), (14)(i), (15)(i), (16)(i), (17)(i), (18)(i), (19)(i), (20)(i), (21)(i), (22)(i), (23)(i), (24)(i), (26)(i), (27)(i), (30)(i), (31)(i), (33)(i), (34)(i), (35)(i), (36)(i), (37)(i), (38)(i), (39)(i), (40)(i), (41)(i), (42)(i), (43)(i), (44)(i), (45)(i), (46)(i), (47)(i), (48)(i), (49)(i), (50)(i), (51)(i), (52)(i), (53)(i), and (54)(i);
■ B. Revising paragraphs (10)(i), (11)(i), and (25)(i);
■ C. Removing paragraphs (25)(ii) and (26)(ii);
■ D. Redesignating paragraph (25)(iii) as (25)(ii) and paragraph (26)(iii) as (26)(ii);
■ E. Revising paragraphs (28)(i), (29)(i), and (32)(i); and
■ F. Removing ''Note:'' at the beginning of paragraphs (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(ii), (16)(ii), (17)(ii), (18)(ii), (19)(ii), (20)(ii), (21)(ii), (22)(ii), (23)(ii), (24)(ii), newly redesignated (25)(ii), newly redesignated (26)(ii), (27)(ii), (28)(ii), (29)(ii), (30)(ii), (31)(ii), (32)(ii), (33)(ii), (34)(ii), (35)(ii), (36)(ii), (37)(ii), (38)(ii), (39)(ii), (40)(ii), (41)(ii), (42)(ii), (43)(ii), (44)(ii), (45)(ii), (46)(ii), (47)(ii), (48)(ii), (49)(ii), (50)(ii), (51)(ii), (52)(ii), (53)(ii), and (54)(ii).
■ iii. In the entry for ''Chiricahua Leopard Frog (*Lithobates chiricahuensis*),'' by removing ''NOTE:'' at the beginning of paragraphs (6)(iii), (7)(ii), (8)(xxiii), (9)(vi), (10)(xiv), (11)(xi), (12)(ii), (13)(viii), (14)(iii), (15)(vi), (16)(ii), (17)(iv), (18)(x), (19)(iv), (20)(ii), (21)(x), (22)(ii), (23)(v), (24)(xiii), (25)(xi), (26)(iv), (27)(ii), (28)(iii), (29)(ii), (30)(ii), (31)(ix), (32)(ii), (33)(ii), (34)(ii), (35)(ii), (36)(vi), (37)(ii), (38)(ii), (39)(ii), (40)(ii), (41)(ii), (42)(ii), (43)(v), and (44)(iii).
■ iv. In the entry for ''Dusky Gopher Frog (*Rana sevosa*),'' by:
■ A. Removing and reserving paragraphs (6)(i), (7)(i), (8)(i), (9)(i), (10)(i), (11)(i), (12)(i), (13)(i), (14)(i), (15)(i), (16)(i), and (17)(i);
■ B. Removing paragraphs (7)(ii), (9)(ii), and (10)(ii);
■ C. Redesignating paragraph (7)(iii) as (7)(ii), paragraph (9)(iii) as (9)(ii), and paragraph (10)(iii) as (10)(ii); and
■ D. Removing ''NOTE:'' at the beginning of paragraphs (6)(ii), newly redesignated (7)(ii), (8)(ii), newly redesignated (9)(ii) and (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(ii), (16)(ii), and (17)(ii).
■ v. In the entry for ''Mountain Yellow-Legged Frog (*Rana muscosa*), Southern California DPS,'' by:
■ A. Removing and reserving paragraphs (5)(i)(A), (5)(ii)(A), (5)(iii)(A), (5)(iv)(A), (5)(v)(A), (5)(vi)(A), and (5)(vii)(A);
■ B. Revising paragraph (6)(i)(A); and
■ C. Removing and reserving paragraphs (6)(ii)(A), (6)(iii)(A), (7)(i)(A), (7)(ii)(A), (7)(iii)(A), and (7)(iv)(A).
■ vi. In the entry for ''Guajón (*Eleutherodactylus cooki*),'' by:
■ A. Removing paragraphs (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(ii), (16)(ii), (17)(ii), (18)(ii), (19)(ii), (20)(ii), (21)(ii), and (22)(ii);
■ B. Redesignating paragraph (6)(iii) as (6)(ii), paragraph (7)(iii) as (7)(ii), paragraph (8)(iii) as (8)(ii), paragraph (9)(iii) as (9)(ii), paragraph (10)(iii) as (10)(ii), paragraph (11)(iii) as (11)(ii), paragraph (12)(iii) as (12)(ii), paragraph (13)(iii) as (13)(ii), paragraph (14)(iii) as (14)(ii), paragraph (15)(iii) as (15)(ii), paragraph (16)(iii) as (16)(ii), paragraph (17)(iii) as (17)(ii), paragraph (18)(iii) as (18)(ii), paragraph (19)(iii) as (19)(ii),

paragraph (20)(iii) as (20)(ii), paragraph (21)(iii) as (21)(ii), and paragraph (22)(iii) as (22)(ii);

■ C. Revising newly redesignated paragraphs (11)(ii), (13)(ii), (16)(ii), and (19)(ii); and

■ D. Removing ''Note:'' at the beginning of newly redesignated paragraphs (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (12)(ii), (14)(ii), (15)(ii), (17)(ii), (18)(ii), (20)(ii), (21)(ii), and (22)(ii).

■ vii. In the entry for ''California Tiger Salamander (*Ambystoma californiense*) in Santa Barbara County,'' by:

■ A. Redesignating the second paragraph (7)(i) as (7)(ii);

■ B. Removing and reserving paragraphs (6)(i), (7)(i), (8)(i), (9)(i), and (10)(i);

■ C. Removing (10)(ii);

■ D. Redesignating paragraph (10)(iii) as (10)(ii); and

■ E. Removing ''Note:'' at the beginning of paragraphs (6)(ii), newly redesignated (7)(ii), (8)(ii), (9)(ii), and newly redesignated (10)(ii).

■ viii. In the entry for ''Central Population of the California Tiger Salamander (*Ambystoma californiense*),'' by:

■ A. Removing and reserving paragraphs (16)(i), (19)(i), (20)(i), (21)(i), (22)(i), (23)(i), (24)(i), (25)(i), (26)(i), (27)(i), (28)(i), (29)(i), (30)(i), (31)(i), (32)(i), (33)(i), (34)(i), (35)(i), (36)(i), (37)(i), (38)(i), (39)(i), (40)(i), (41)(i), (42)(i), (43)(i), (44)(i), (45)(i), (46)(i), (47)(i), (48)(i), (49)(i), (50)(i), and (51)(i);

■ B. Revising paragraphs (17)(i) and (18)(i); and

■ C. Removing ''Note:'' at the beginning of paragraphs (16)(ii), (17)(ii), (18)(ii), (19)(ii), (20)(ii), (21)(ii), (22)(ii), (23)(ii), (24)(ii), (25)(ii), (26)(ii), (27)(ii), (28)(ii), (29)(ii), (30)(ii), (31)(ii), (32)(ii), (33)(ii), (34)(ii), (35)(ii), (36)(ii), (37)(ii), (38)(ii), (39)(ii), (40)(ii), (41)(ii), (42)(ii), (43)(ii), (44)(ii), (45)(ii), (46)(ii), (47)(ii), (48)(ii), (49)(ii), (50)(ii), and (51)(ii).

■ ix. In the entry for ''California Tiger Salamander (*Ambystoma californiense*) in Sonoma County,'' by removing and reserving paragraph (56)(i).

■ x. In the entry for ''Frosted Flatwoods Salamander (*Ambystoma cingulatum*),'' by:

■ A. Removing and reserving paragraphs (6)(i)(A), (6)(ii)(A), (6)(iii)(A), (6)(iv)(A), (6)(v)(A), (6)(vi)(A), (6)(vii)(A), (6)(viii)(A), (6)(ix)(A), (6)(x)(A), (6)(xi)(A), (6)(xii)(A), (6)(xiii)(A), (6)(xiv)(A), (6)(xv)(A), (7)(i)(A), (7)(ii)(A), (7)(iii)(A), and (7)(iv)(A); and

■ B. Removing ''Note:'' at the beginning of paragraphs (6)(i)(B), (6)(ii)(B), (6)(iii)(B), (6)(iv)(B), (6)(v)(B), (6)(vi)(B), (6)(vii)(B), (6)(viii)(B), (6)(ix)(B), (6)(x)(B), (6)(xi)(B), (6)(xii)(B), (6)(xiii)(B), (6)(xiv)(B), (6)(xv)(B), (7)(i)(B), (7)(ii)(B), (7)(iii)(B), and (7)(iv)(B).

■ xi. In the entry for ''Reticulated Flatwoods Salamander (*Ambystoma bishopi*),'' by adding a sentence at the end of paragraph (1),

■ xii. In the entry for ''San Marcos Salamander (*Eurycea nana*),'' by revising the note.

■ xiii. In the entry for ''Arroyo Toad (*Anaxyrus californicus*),'' by adding a sentence at the end of paragraph (1).

■ xiv. In the entry for ''Houston Toad (*Bufo houstonensis*),'' by revising the note in both paragraphs (1) and (2).

■ d. Amend paragraph (e) as follows:

■ i. In the entry for ''Yaqui Catfish (*Ictalurus pricei*),'' by revising the note.

■ ii. In the entry for ''Bonytail Chub (*Gila elegans*),'' by revising the note.

■ iii. In the entry for ''Borax Lake Chub (*Gila boraxobius*),'' by revising the note.

■ iv. In the entry for ''Gila Chub (*Gila intermedia*),'' by removing ''Note:'' at the beginning of paragraphs (7)(v), (8)(ii), (9)(iii), (10)(iv), (11)(v), (12)(v), and (13)(vii).

■ v. In the entry for ''Humpback Chub (*Gila cypha*),'' by adding a note above the map.

■ vi. In the entry for ''Owens Tui Chub (*Gila bicolor snyderi*),'' by revising the note above the map in paragraphs 1 and 2.

■ vii. In the entry for ''Slender Chub (*Erimystax =(Hybopsis) cahni*),'' revising the note.

■ viii. In the entry for ''Sonora Chub (*Gila ditaenia*),'' by revising the note in paragraph 4.

■ ix. In the entry for ''Spotfin Chub (*Erimonax monachus*),'' by revising the notes above the three maps.

■ x. In the entry for ''Virgin River Chub (*Gila seminuda*),'' by adding a note above the map.

■ xi. In the entry for ''Yaqui Chub (*Gila purpurea*),'' by revising the note.

■ xii. In the entry for ''Ash Meadows Speckled Dace (*Rhinichthys osculus nevadensis*),'' by revising the note.

■ xiii. In the entry for ''Desert Dace (*Eremichthys acros*),'' by revising the note.

■ xiv. In the entry for ''Amber Darter (*Percina antesella*),'' by revising the note.

■ xv. In the entry for ''Diamond Darter (*Crystallaria cincotta*),'' by removing ''Note:'' at the beginning of paragraphs (6)(ii) and (7)(ii).

■ xvi. In the entry for ''Fountain Darter (*Etheostoma fonticola*),'' by revising the note.

■ xvii. In the entry for ''Leopard Darter (*Percina pantherina*),'' by revising the note.

■ xviii. In the entry for ''Maryland Darter (*Etheostoma sellare*),'' by revising the note.

■ xix. In the entry for ''Niangua Darter (*Etheostoma nianguae*),'' by revising the notes above the four maps.

■ xx. In the entry for ''Slackwater Darter (*Etheostoma boschungi*),'' by revising the note.

■ xxi. In the entry for ''San Marcos Gambusia (*Gambusia georgei*),'' by revising the note.

■ xxii. In the entry for ''Conasauga Logperch (*Percina jenkinsi*),'' by revising the note.

■ xxiii. In the entry for ''Smoky Madtom (*Noturus baileyi*),'' by revising the note.

■ xxiv. Revising the entry for ''Yellowfin Madtom (*Noturus flavipinnis*)''.

■ xxv. In the entry for ''Devils River Minnow (*Dionda diaboli*),'' by removing ''Note:'' at the beginning of paragraphs (6)(ii) and (7)(ii).

■ xxvi. In the entry for ''Loach Minnow (*Tiaroga cobitis*),'' by removing ''Note:'' at the beginning of paragraphs (6)(vi), (7)(v), (8)(vii), (9)(ii), (10)(ii), (11)(v), (12)(vii), and (13)(vii).

■ xxvii. In the entry for ''Rio Grande Silvery Minnow (*Hybognathus amarus*),'' by adding a sentence to the end of paragraph (1).

■ xxviii. In the entry for ''Ash Meadows Amargosa Pupfish (*Cyprinodon nevadensis mionectes*),'' by revising the note.

■ xxix. In the entry for ''Desert Pupfish (*Cyprinodon macularius*),'' by revising the two notes.

■ xxx. In the entry for ''Leon Springs Pupfish (*Cyprindon bovinus*),'' by revising the word ''Cyprindon'' to read ''Cyprinodon'' in its heading and by revising the note.

■ xxxi. In the entry for ''Arkansas River Shiner (*Notropis girardi*),'' by removing ''Note:'' at the beginning of paragraph (6)(iii).

■ xxxii. In the entry for ''Beautiful Shiner (*Notropis formosus*),'' by revising the note.

■ xxxiii. In the entry for ''Cape Fear Shiner (*Notropis mekistocholas*),'' by revising the note in paragraph (3).

■ xxxiv. In the entry for ''Pecos Bluntnose Shiner (*Notropis simus pecosensis*),'' by revising the notes in paragraphs 1 and 2.

■ xxxv. In the entry for ''Sharpnose Shiner (*Notropis oxyrhynchus*),'' by removing ''Note:'' at the beginning of paragraphs (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), and (12)(ii).

■ xxxvi. In the entry for ''Topeka Shiner (*Notropis topeka*),'' by removing ''Note:'' at the beginning of paragraphs (6), (8), (10), (12), and (14).

■ xxxvii. In the entry for ''Waccamaw Silverside (*Menidia extensa*),'' by removing the note.

■ xxxviii. In the entry for ''Delta Smelt (*Hypomesus transpacificus*),'' by revising the note.
■ xxxix. In the entry for ''Spikedace (*Meda fulgida*),'' by adding a sentence to the end of paragraph (1).
■ xl. In the entry for ''Big Spring Spinedace (*Lepidomeda mollispinus pratensis*),'' by revising the note.
■ xli. In the entry for ''Little Colorado Spinedace (*Lepidomeda vittata*),'' by adding a note immediately before each map in paragraphs 1, 2, and 3.
■ xlii. In the entry for ''White River Spinedace (*Lepidomeda albivallis*),'' by revising the notes above the two maps.
■ xliii. In the entry for ''Hiko White River Springfish (*Crenichthys baileyi grandis*),'' by revising the note.
■ xliv. In the entry for ''Railroad Valley Springfish (*Crenichthys nevadae*),'' by redesignating the second paragraph 1 as paragraph 2, and by revising the note in each paragraph.
■ xlv. In the entry for ''White River Springfish (*Crenichthys baileyi baileyi*),'' by revising the note.
■ xlvi. In the entry for ''Colorado Squawfish (*Ptychocheilus lucius*),'' by adding a note above the map.
■ xlvii. In the entry for ''Alabama Sturgeon (*Scaphirhynchus suttkusi*),'' by removing ''Note:'' at the beginning of paragraph (5)(ii).
■ xlviii. In the entry for ''Gulf Sturgeon (*Acipenser oxyrinchus desotoi*)'' by adding a sentence to the end of paragraph (1).
■ xlix. In the entry for ''White Sturgeon (*Acipenser transmontanus*); Kootenai River Population,'' by removing ''Note:'' at the beginning of paragraph (3).
■ l. In the entry for ''June Sucker (*Chasmistes liorus*),'' by revising the note.
■ li. In the entry for ''Razorback Sucker (*Xyrauchen texanus*),'' by adding a note before the map.
■ lii. In the entry for ''Santa Ana Sucker (*Catostomus santaanae*),'' by removing and reserving paragraphs (6)(i), (7)(i), and the first (8)(i), designating the second paragraph (8)(i) as paragraph (8)(ii), and by removing and reserving paragraphs (9)(i), (10)(i), and (11)(i).
■ liii. In the entry for ''Shortnose Sucker (*Chasmistes brevirostris*),'' by removing ''NOTE:'' from paragraphs (6) and (7).
■ liv. In the entry for ''Warner Sucker (*Catostomus warnerensis*),'' by revising the note in paragraphs 2 and 5.
■ lv. In the entry for ''Little Kern Golden Trout (*Salmo aguabonita whitei*),'' by revising the note.
■ lvi. In the entry for ''Woundfin (*Plagopterus argentissimus*),'' by adding note before the map.
■ e. Amend paragraph (f) as follows:
■ i. In the entry for ''Appalachian Elktoe (*Alasmidonta raveneliana*),'' by adding a sentence to the end of paragraph (1) introductory text.
■ ii. In the entry for ''Carolina Heelsplitter (*Lasmigona decorata*),'' by adding a sentence to the end of paragraph (1).
■ iii. In the entry for ''Eleven Mobile River Basin Mussel Species: Southern acornshell (*Epioblasma othcaloogensis*), ovate clubshell (*Pleurobema perovatum*), southern clubshell (*Pleurobema decisum*), upland combshell (*Epioblasma metastriata*), triangular kidneyshell (*Ptychobranchus greenii*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), orange-nacre mucket (*Lampsilis perovalis*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), and fine-lined pocketbook (*Lampsilis altilis*),'' by adding a sentence to the end of paragraph (2) introductory text.
■ iv. In the entry for ''Five Tennessee and Cumberland River Basin Mussels Species: Purple bean (*Villosa perpurpurea*), Cumberlandian combshell (*Epioblasma brevidens*), Cumberland elktoe (*Alasmidonta atropurpurea*), oyster mussel (*Epioblasma capsaeformis*), and rough rabbitsfoot (*Quadrula cylindrica strigillata*),'' by adding a sentence to the end of paragraph (2) introductory text.
■ v. In the entry for ''Seven Mussel Species (in Four Northeast Gulf of Mexico Drainages): Purple bankclimber (*Elliptoideus sloatianus*), Gulf moccasinshell (*Medionidus penicillatus*), Ochlockonee moccasinshell (*Medionidus simpsonianus*), Oval pigtoe (*Pleurobema pyriforme*), Shinyrayed pocketbook (*Lampsilis subangulata*), Chipola slabshell (*Elliptio chipolaensis*), and Fat threeridge (*Amblema neislerii*),'' by removing ''NOTE:'' at the beginning of paragraphs (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(ii), (16)(ii), and (17)(ii).
■ vi. In the entry for ''Georgia Pigtoe (*Pleurobema hanleyianum*),'' by removing ''NOTE:'' from the beginning of paragraphs (6)(ii), (7)(ii), and (8)(ii).
■ vii. In the entry for ''Altamaha Spinymussel (*Elliptio spinosa*),'' by removing ''NOTE:'' from the beginning of paragraphs (6)(ii), (7)(ii), (8)(ii), and (9)(ii).
■ viii. In the entry for ''Tumbling Creek Cavesnail (*Antrobia culveri*),'' by adding a sentence to the end of paragraph (1).
■ ix. In the entry for ''Rough Hornsnail (*Pleurocera foremani*),'' by removing ''NOTE:'' from the beginning of paragraphs (6)(ii) and (7)(ii).
■ x. In the entry for ''Morro Shoulderband Snail (*Helminthoglypta walkeriana*),'' by adding a sentence to the end of paragraph 1.
■ xi. In the entry for ''Newcomb's Snail (*Erinna newcombi*),'' by adding a sentence to the end of paragraph (1).
■ xii. In the entry for ''Pecos Assiminea (*Assiminea pecos*),'' by removing and reserving paragraphs (5)(i), (6)(i), (7)(i), and (8)(i), and by removing ''NOTE:'' at the beginning of paragraphs (5)(ii), (6)(ii), and (7)(ii).
■ xiii. In the entry for ''Interrupted Rocksnail (*Leptoxis foremani*),'' by removing ''NOTE:'' from the beginning of paragraphs (6)(ii), (7)(ii), and (8)(ii).
■ xiv. In the entry for ''Koster's Springsnail (*Juturnia kosteri*) and Roswell Springsnail (Pyrgulopsis roswellensis),'' by removing and reserving paragraphs (5)(i) and (6)(i), and by removing ''NOTE:'' from the beginning of paragraph (5)(ii).
■ xv. In the entry for ''San Bernardino Springsnail (*Pyrgulopsis bernardina*),'' by revising the introductory text of paragraph (5).
■ xvi. In the entry for ''Three Forks Springsnail (*Pyrgulopsis trivialis*),'' by revising paragraphs (2) introductory text and (5) introductory text and by removing paragraphs (6), (7), and (8).
■ f. Amend paragraph (g) as follows:
■ i. In the entry for ''Cokendolpher Cave Harvester (*Texella cokendolpheri*),'' by removing and reserving paragraph (6)(i), and by removing ''NOTE:'' at the beginning of paragraph (6)(ii).
■ ii. In the entry for Braken Bat Cave Meshweaver (*Cicurina venii*),'' by removing and reserving paragraph (4)(i) and by removing ''NOTE:'' at the beginning of paragraph (4)(ii).
■ iii. In the entry for ''Government Canyon Bat Cave Meshweaver (*Cicurina vespera*),'' by removing and reserving paragraph (4)(i) and by removing ''NOTE:'' at the beginning of paragraph (4)(ii).
■ iv. In the entry for ''Madla Cave Meshweaver (*Cicurina madla*),'' by:
■ A. Removing and reserving paragraphs (5)(i), (6)(i), (7)(i), (8)(i), (9)(i), (10)(i), (11)(i), (12)(i), (13)(i), (14)(i), (15)(i), and (16)(i);
■ B. Removing paragraph (15)(ii);
■ C. Redesignating paragraph (15)(iii) as (15)(ii); and
■ D. Removing ''NOTE:'' at the beginning of paragraphs (5)(ii), (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), newly redesignated (15)(ii), and (16)(ii).
■ v. In the entry for Robber Baron Cave Meshweaver (*Cicurina baronia*),'' by removing and reserving paragraphs (4)(i) and (5)(i) and by removing ''NOTE:'' at the beginning of paragraphs (4)(ii) and (5)(ii).
■ vi. In the entry for ''Government Canyon Bat Cave Spider (*Neoleptoneta*

*microps*),'' by removing and reserving paragraph (4)(i) and by removing the ''NOTE:'' at the beginning of paragraph (4)(ii).

■ vii. In the entry for ''Kauai Cave Wolf Spider (*Adelocosa anops*),'' by adding a sentence to the end of paragraph (1).

■ viii. In the entry for ''Spruce-Fir Moss Spider (*Microhexura montivaga*),'' by adding a sentence to the end of paragraph 1.

■ g. Amend paragraph (h) as follows:

■ i. In the entry for ''Kauai Cave Amphipod (*Spelaeorchestia koloana*),'' by adding a sentence to the end to paragraph (1).

■ ii. In the entry for ''Noel's Amphipod (*Gammarus desperatus*),'' by removing and reserving paragraphs (5)(i), (6)(i), and (7)(i) and by removing ''NOTE:'' at the beginning of paragraphs (5)(ii) and (7)(ii).

■ iii. In the entry for ''Conservancy Fairy Shrimp (*Branchinecta conservatio*),'' by:

■ A. Removing and reserving paragraphs (4)(i) and (11)(i);

■ B. Removing paragraphs (4)(ii), (4)(iii), (4)(iv), (4)(v), (11)(ii), (11)(iii), (11)(iv), (11)(v), and (11)(vi);

■ C. Redesignating paragraph (4)(vi) as (4)(ii) and paragraph (11)(vii) as (11)(ii);

■ D. Removing the second and third sentences of paragraphs (5), (7), (9), and (12); and

■ E. Removing ''NOTE:'' from the beginning of newly redesignated paragraph (4)(ii) and paragraphs (6), (8), (10), newly redesignated (11)(ii), and (13).

■ iv. In the entry for ''Longhorn Fairy Shrimp (*Branchinecta longiantenna*),'' by:

■ A. Removing and reserving paragraph (4)(i);

■ B. Removing paragraph (4)(ii);

■ C. Redesignating paragraph (4)(iii) as (4)(ii);

■ D. Removing the second sentence of paragraphs (5) and (7); and

■ E. Removing ''NOTE:'' from the beginning of newly redesignated paragraph (4)(ii) and paragraphs (6) and (8).

■ v. In the entry for ''San Diego Fairy Shrimp (*Branchinecta sandiegonensis*),'' by:

■ A. Removing and reserving paragraphs (6)(i) and (7)(i);

■ B. Removing the second sentence of the introductory text of paragraphs (8), (9), and (10);

■ C. Removing paragraphs (8)(i), (8)(ii), (8)(iii), (8)(iv), (8)(v), (8)(vi), (8)(vii), (9)(i), (9)(ii), (9)(iii), (9)(iv), (9)(v), (9)(vi), (9)(vii), (9)(viii), (9)(ix), (9)(x), (9)(xi), (9)(xii), (10)(i), (10)(ii), (10)(iii), (10)(iv), (10)(v), (10)(vi), (10)(vii), and (10)(viii);

■ D. Redesignating paragraphs (8)(viii) as (8)(i), (8)(ix) as (8)(ii), (9)(xiii) as (9)(i), (9)(xiv) as (9)(ii), (9)(xv) as (9)(iii), (9)(xvi) as (9)(iv), (10)(ix) and (10)(i), (10)(x) as (10)(ii), and (10)(xi) as (10)(iii); and

■ E. Removing ''NOTE:'' from the beginning of paragraphs (6)(ii) and (7)(ii), and newly redesignated paragraphs (8)(i), (8)(ii), (9)(i), (9)(ii), (9)(iii), (9)(iv), (10)(i), (10)(ii), and (10)(iii).

■ vi. In the entry for ''Vernal Pool Fairy Shrimp (*Branchinecta lynchi*),'' by:

■ A. Revising paragraphs (4), (5), (6), (8), (9), (10), (11), (12), (15), (17), (19), (20), (22), (23), (24), (26), (27), (30), (31), (35), (38), (40), and (42);

■ B. Removing and reserving paragraphs (7)(i), (16)(i), (18)(i), (29)(i), (33)(i), (34)(i), and (37)(i);

■ C. Removing paragraphs (7)(ii), (16)(ii), (18)(ii), (29)(ii), (29)(iii), (29)(iv), (29)(v), (29)(vi), (29)(vii), (29)(viii), (29)(ix), (29)(x), (29)(xi), (33)(ii), (33)(iii), (33)(iv), (33)(v), (33)(vi), (34)(ii), (34)(iii), (34)(iv), (37)(ii), (37)(iii), (37)(iv), (37)(v), (37)(vi), (37)(vii), and (37)(viii);

■ D. Redesignating paragraphs (7)(iii) as (7)(ii), (16)(iii) as (16)(ii), (18)(iii) as (18)(ii), (29)(xii) as (29)(ii), (33)(vii) as (33)(ii), (34)(v) as (34)(ii), and (37)(ix) as (37)(ii); and

■ E. Removing ''NOTE:'' from the beginning of newly redesignated paragraph (7)(ii), paragraph (13), newly redesignated paragraphs (16)(ii), and (18)(ii), paragraphs (21), (25), and (28), newly redesignated paragraph (29)(ii), paragraph (32), newly redesignated paragraph (33)(ii), paragraph (36), newly redesignated paragraph (37)(ii), and paragraphs (39), (41), and (43).

■ vii. In the entry for ''Kentucky Cave Shrimp (*Palaemonias ganteri*),'' by revising the note.

■ viii. In the entry for ''Vernal Pool Tadpole Shrimp (*Lepidurus packardi*),'' by:

■ A. Revising paragraphs (4), (8), (9), (11), (13), (17), and (20);

■ B. Removing and reserving paragraphs (5)(i), (6)(i), (7)(i), (12)(i), (14)(i), (15)(i), (16)(i), (19)(i), and (22)(i);

■ C. Removing paragraphs (5)(ii), (6)(ii), (6)(iii), (6)(iv), (6)(v), (6)(vi), (7)(ii), (7)(iii), (7)(iv), (7)(v), (7)(vi), (12)(ii), (14)(ii), (14)(iii), (14)(iv), (15)(ii), (15)(iii), (16)(ii), (19)(ii), (19)(iii), (19)(iv), (19)(v), (19)(vi), (19)(vii), (19)(viii), (19)(ix), (19)(x), (19)(xi), (22)(ii), (22)(iii), (22)(iv), (22)(v), and (22)(vi);

■ D. Redesignating paragraphs (5)(iii) as (5)(ii), (6)(vii) as (6)(ii), (7)(vii) as (7)(ii), (12)(iii) as (12)(ii), (14)(v) as (14)(ii), (15)(iv) as (15)(ii), (16)(iii) as (16)(ii), (19)(xii) as (19)(ii), and (22)(vii) as (22)(ii);

■ E. Removing the word ''NOTE:'' from newly redesignated paragraphs (5)(ii), (6)(ii), and (7)(ii), paragraph (10), newly redesignated paragraphs (12)(ii), (14)(ii), (15)(ii), and (16)(ii), paragraph (18), newly redesignated paragraph (19)(ii), paragraph (21), and newly redesignated paragraph (22)(ii).

■ h. Amend paragraph (i) as follows:

■ i. In the entry for ''Casey's June Beetle (*Dinacoma caseyi*),'' by removing ''NOTE:'' at the beginning of paragraph (5) and by removing paragraph (6).

■ ii. In the entry for ''Delta Green Ground Beetle (*Elaphrus viridis*),'' by revising the note.

■ iii. In the entry for ''Helotes Mold Beetle (*Batrisodes venyivi*),'' by removing and reserving paragraphs (6)(i), (7)(i), and (8)(i) and by removing ''NOTE:'' at the beginning of paragraphs (6)(ii), (7)(ii), and (8)(ii).

■ iv. In the entry for ''Beetle (No Common Name) (*Rhadine exilis*),'' by:

■ A. Removing and reserving paragraphs (5)(i), (6)(i), (7)(i), (8)(i), (9)(i), (10)(i), (11)(i), (12)(i), (13)(i), (14)(i), (15)(i), (16)(i), (17)(i), (18)(i), and (19)(i); and

■ B. Removing ''NOTE:'' at the beginning of paragraphs (5)(ii), (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(ii), (16)(ii), (17)(ii), (18)(ii), and (19)(ii).

■ v. In the entry for ''Beetle (No Common Name) (*Rhadine infernalis*),'' by:

■ A. Removing and reserving paragraphs (5)(i), (6)(i), (7)(i), (8)(i), (9)(i), (10)(i), (11)(i), (12)(i), (13)(i), (14)(i), (15)(i), (16)(i), (17)(i), (18)(i), (19)(i), (20)(i), (21)(i), (22)(i), (23)(i), and (24)(i);

■ B. Removing paragraph (21)(ii);

■ C. Redesignating paragraph (21)(iii) as (21)(ii); and

■ D. Removing ''NOTE:'' at the beginning of paragraphs (5)(ii), (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(ii), (16)(ii), (17)(ii), (18)(ii), (19)(ii), (20)(ii), newly redesignated paragraph (21)(ii), and paragraphs (22)(ii), (23)(ii), and (24)(ii).

■ vi. In the entry for ''Salt Creek Tiger Beetle (*Cicindela nevadica lincolniana*),'' by revising paragraph (1).

■ vii. In the entry for ''Valley Elderberry Longhorn Beetle (*Desmocerus californicus dimorphus*) California, Sacramento County,'' by revising the notes in paragraphs (1) and (2).

■ viii. In the entry for ''Bay Checkerspot Butterfly (*Euphydryas editha bayensis*),'' by:

■ A. Removing and reserving paragraphs (6)(i), (7)(i), (8)(i), (9)(i), (10)(i), (11)(i), (12)(i), (13)(i), (14)(i), (15)(i), (16)(i), (17)(i), and (18)(i);

■ B. Removing paragraph (14)(ii);
■ C. Redesignating paragraph (14)(iii) as (14)(ii); and
■ D. Removing ''NOTE:'' at the beginning of paragraphs (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), newly redesignated paragraph (14)(ii), and paragraphs (15)(ii), (16)(ii), (17)(ii), and (18)(ii).
■ ix. In the entry for ''Fender's Blue Butterfly (*Icaricia icarioides fenderi*),'' by:
■ A. Removing and reserving paragraphs (6)(i), (7)(i), (8)(i), (9)(i), (10)(i), (11)(i), (12)(i), (13)(i), and (14)(i);
■ B. Removing paragraphs (6)(ii), (9)(ii), (11)(ii), (12)(ii), (12)(iii), (13)(ii), (13)(iii), (13)(iv), (13)(v), (13)(vi), (13)(vii), (13)(viii), (13)(ix), (13)(x), (13)(xi), (13)(xii), (13)(xiii), (13)(xiv), (13)(xv), (13)(xvi), and (14)(ii);
■ C. Redesignating paragraphs (6)(iii) as (6)(ii), (9)(iii) as (9)(ii), (11)(iii) as (11)(ii), (12)(iv) as (12)(ii), (13)(xvii) as (13)(ii), and (14)(iii) as (14)(ii); and
■ D. Removing ''NOTE:'' from the beginning of newly redesignated paragraph (6)(ii), paragraphs (7)(ii) and (8)(ii), newly redesignated paragraph (9)(ii), paragraph (10)(ii), and newly redesignated paragraphs (11)(ii), (12)(ii), (13)(ii), and (14)(ii).
■ x. In the entry for ''Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*),'' by revising the note.
■ xi. In the entry for ''Palos Verdes Blue Butterfly (*Glaucopsyche lygdamus palosverdesensis*),'' by adding a sentence to end of the introductory text.
■ xii. In the entry for ''Quino Checkerspot Butterfly (*Euphydryas editha quino*),'' by:
■ A. Revising paragraphs (6)(i) and (11)(i);
■ B. Removing and reserving paragraphs (7)(i), (8)(i), (9)(i), (10)(i), (12)(i), (13)(i), and (14)(i); and
■ C. Removing ''NOTE:'' from the beginning of paragraphs (6)(ii), (7)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), and (14)(ii).
■ xiii. In the entry for ''Hine's Emerald Dragonfly (*Somatochlora hineana*),'' by adding a sentence at the end of paragraph (1).
■ xiv. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila aglaia*),'' by adding a sentence at the end of paragraph (1).
■ xv. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila differens*),'' by adding a sentence at the end of paragraph (1).
■ xvi. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila hemipeza*),'' by adding a sentence at the end of paragraph (1).
■ xvii. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila heteroneura*),'' by adding a sentence at the end of paragraph (1).
■ xviii. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila montgomeryi*),'' by adding, at the end of paragraph (1).
■ xix. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila mulli*),'' by adding a sentence at the end of paragraph (1).
■ xx. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila musaphilia*),'' by adding a sentence at the end of paragraph (1).
■ xxi. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila neoclavisetae*),'' by adding a sentence at the end of paragraph (1).
■ xxii. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila obatai*),'' by adding a sentence at the end of paragraph (1).
■ xxiii. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila ochrobasis*),'' by adding a sentence at the end of paragraph (1).
■ xxiv. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila sharpi*),'' by adding a sentence at the end of paragraph (1).
■ xxv. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila substenoptera*),'' by adding a sentence at the end of paragraph (1).
■ xxvi. In the entry for ''Hawaiian Picture-Wing Fly (*Drosophila tarphytrichia*),'' by adding a sentence at the end of paragraph (1).
■ xxvii. In the entry for ''Zayante Band-Winged Grasshopper (*Trimerotropis infantilis*),'' by adding a sentence to the end of paragraph 1.
■ xxviii. In the entry for ''Blackburn's Sphinx Moth (*Manduca blackburni*),'' by adding a sentence at the end of paragraph (1).
■ xxix. In the entry for ''Ash Meadows Naucorid (*Ambrysus amargosus*),'' by revising the note.
■ xxx. In the entry for ''Laguna Mountains Skipper (*Pyrgus ruralis lagunae*),'' by adding a sentence to the end of paragraph (1).

The revisions and additions read as follows:

**§ 17.95 Critical habitat—fish and wildlife.**

(a) *Mammals.*

* * * * *

Virginia Big-eared Bat (*Plecotus townsendii virginianus*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Fresno Kangaroo Rat (*Dipodomys nitratoides exilis*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Morro Bay Kangaroo Rat (*Dipodomys heermanni morroensis*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

San Bernardino Kangaroo Rat (*Dipodomys merriami parvus*)

* * * * *

(6) * * *

(i) Unit 1 is shown on the map in paragraph (6)(ii) of this entry, excluding lands bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD83) coordinates (E, N):

(A) 487253, 3772752; 487254, 3772752; 487290, 3772752; 487290, 3772752; 487290, 3772752; 487589, 3772747; 487589, 3772747; 487778, 3772648; 487787, 3772643; 487790, 3772642; 487808, 3772632; 487808, 3772632; 487808, 3772632; 487808, 3772632; 487838, 3772617; 487842, 3772614; 487978, 3772543; 487996, 3772533; 488008, 3772533; 488010, 3772533; 488122, 3772533; 488122, 3772533; 488230, 3772532; 488230, 3772532; 488351, 3772531; 488390, 3772530; 488404, 3772530; 488405, 3772530; 488471, 3772529; 488608, 3772528; 488608, 3772528; 488812, 3772526; 488812, 3772526; 488812, 3772447; 488811, 3772326; 488811, 3772326; 488803, 3772326; 488614, 3772329; 488614, 3772329; 488614, 3772329; 488614, 3772329; 488607, 3772329; 488409, 3772332; 488403, 3772332; 488403, 3772332; 488144, 3772336; 488139, 3772336; 488140, 3772340; 488139, 3772336; 488139, 3772336; 487995, 3772338; 487995, 3772338; 487849, 3772340; 487849, 3772340; 487828, 3772341; 487806, 3772341; 487790, 3772341; 487775, 3772341; 487768, 3772342; 487763, 3772342; 487758, 3772342; 487726, 3772342; 487674, 3772343; 487586, 3772344; 487310, 3772348; 487309, 3772348; 487303, 3772349; 487303, 3772349; 487302, 3772349; 487233, 3772350; 487232, 3772350; 487229, 3772350; 487229, 3772350; 487227, 3772350; 487226, 3772350; 487223, 3772350; 487214, 3772350; 487213, 3772350; 487178, 3772350; 487178, 3772350; 487177, 3772350; 487173, 3772350; 487167, 3772350; 487117, 3772350; 487117, 3772350; 487118, 3772293; 487118, 3772179; 487119, 3772154; 487032, 3772153; 486981, 3772152; 486935, 3772151; 486896, 3772151; 486587, 3772146; 486580, 3772146; 486556, 3772146; 486534,

3772145; 486434, 3772144; 486380, 3772143; 486380, 3772143; 485983, 3772032; 485982, 3772032; 485983, 3771987; 485983, 3771961; 485983, 3771945; 485983, 3771941; 485983, 3771941; 485653, 3771939; 485651, 3771939; 485650, 3771939; 485594, 3771939; 485585, 3771939; 485586, 3771875; 485595, 3771841; 485595, 3771840; 485595, 3771822; 485595, 3771821; 485595, 3771821; 485577, 3771821; 485334, 3771821; 485184, 3771821; 485184, 3771821; 484918, 3771821; 484852, 3771821; 484782, 3771821; 484782, 3771821; 484693, 3771820; 484693, 3771820; 484482, 3771819; 484482, 3771819; 484383, 3771819; 484381, 3771819; 484381, 3771824; 484381, 3771875; 484381, 3771879; 484381, 3771881; 484381, 3771882; 484381, 3771943; 484381, 3771943; 484381, 3771996; 484445, 3771996; 484782, 3771994; 484782, 3771992; 484782, 3771945; 484782, 3771941; 484909, 3771941; 485184, 3771940; 485184, 3771944; 485184, 3771948; 485183, 3771998; 485182, 3772335; 485573, 3772333; 485582, 3772333; 485582, 3772333; 485981, 3772338; 485981, 3772338; 485980, 3772361; 485976, 3772665; 485975, 3772732; 485975, 3772734; 486377, 3772741; 486380, 3772362; 486380, 3772342; 486463, 3772343; 486779, 3772346; 486778, 3772618; 486778, 3772747; 486778, 3772747; 486887, 3772749; 486908, 3772749; 486925, 3772750; 487178, 3772754; 487178, 3772754; 487184, 3772754; 487184, 3772754; 487202, 3772753; 487205, 3772753; 487209, 3772753; 487213, 3772753 ; thence returning to 487253, 3772752;

(B) 482603, 3772347; 482603, 3772347; 482602, 3772348; 483160, 3772346; 483160, 3772089; 483160, 3772072; 483160, 3771972; 483160, 3771893; 483159, 3771893; 483159, 3771893; 483071, 3771893; 483032, 3771892; 483032, 3771892; 483032, 3771892; 482989, 3771930; 482972, 3771945; 482972, 3771945; 482644, 3772097; 482622, 3772108; 482537, 3772147; 482377, 3772221; 482368, 3772227; 482368, 3772227; 482368, 3772227; 482368, 3772263; 482367, 3772336; 482367, 3772348; 482367, 3772348; 482376, 3772348; 482385, 3772348; 482394, 3772348; thence returning to 482603, 3772347; and

(C) 483188, 3772080; 483211, 3772076; 483211, 3772346; 483211, 3772346; 483374, 3772346; 483600, 3772345; 483969, 3772344; 483970, 3772008; 483970, 3771985; 483971, 3771945; 483971, 3771945; 483914, 3771945; 483913, 3771945; 483902, 3771945; 483848, 3771945; 483409, 3771944; 483272, 3771944; 483215, 3771944; 483210, 3771944; 483210, 3771944; 483210, 3771944; 483210, 3771944; 483200, 3771933; 483200, 3771933; 483200, 3771933; 483187, 3771946; 483185, 3771948; thence returning to 483188, 3772080.

* * * * *

(8) * * *

(i) Unit 3 is shown on the map in paragraph (8)(ii) of this entry, excluding lands bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD83) coordinates (E, N):

(A) 506793, 3736955; 506803, 3736965; 506858, 3736912; 506834, 3736888; 506826, 3736879; 506771, 3736932; thence returning to 506793, 3736955;

(B) 506995, 3736726; 507035, 3736768; 507090, 3736715; 507050, 3736673; thence returning to 506995, 3736726;

(C) 507212, 3736516; 507248, 3736554; 507295, 3736509; 507260, 3736471; thence returning to 507212, 3736516; and

(D) 512090, 3734474; 512104, 3734481; 512118, 3734488; 512130, 3734464; 512130, 3734464; 512113, 3734456; 512104, 3734464; 512093, 3734472; thence returning to 512090, 3734474.

* * * * *

Alabama Beach Mouse (*Peromyscus polionotus ammobates*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Choctawhatchee Beach Mouse (*Peromyscus polionotus allophrys*)

* * * * *

(6) * * *

(ii) Map of Unit CBM—Unit 1 is provided at paragraph (7)(ii) of this entry.

* * * * *

(8) * * *

(ii) Map of Unit CBM—Unit 3 is provided at paragraph (9)(ii) of this entry.

* * * * *

Perdido Key Beach Mouse (*Peromyscus polionotus trissyllepsis*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

St. Andrew Beach Mouse (*Peromyscus polionotus peninsularis)*

* * * * *

(7) * * *

(ii) Map of SABM—Unit 2 is provided at paragraph (8)(ii) of this entry.

* * * * *

Northern Sea Otter (*Enhydra lutris kenyoni*), Southwest Alaska Distinct Population Segment

(1) * * * The index map provided is for informational purposes only.

* * * * *

Silver Rice Rat (*Oryzomys palustris natator (=O. argentatus*))

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Sierra Nevada Bighorn Sheep (*Ovis canadensis sierrae*)

* * * * *

(6) * * *

(i) Unit 1 is shown on the map in paragraph (6)(ii) of this entry, excluding land bounded by 304870, 4211718; 304755, 4211663; 304590, 4211666; 304426, 4211699; 304273, 4211615; 304237, 4211614; 304100, 4211575; 304119, 4211576; 304068, 4211562; 304036, 4211567; 303925, 4211593; 303824, 4211552; 303714, 4211495; 303668, 4211501; 303558, 4211486; 303473, 4211423; 303421, 4211366; 303381, 4211308; 303223, 4211322; 303176, 4211295; 303181, 4211202; 303103, 4211161; 303208, 4210962; 303418, 4211073; 303481, 4211022; 303500, 4211020; 303617, 4211098; 303675, 4211109; 303894, 4211096; 303983, 4211127; 304053, 4211125; 304053, 4211124; 304106, 4211121; 304460, 4211207; 304518, 4211250; 304590, 4211261; 304644, 4211303; 304747, 4211336; 304863, 4211395; 304882, 4211457; 305018, 4211524; 305128, 4211543; 305289, 4211677; 305397, 4211739; 305477, 4211807; 305515, 4211863; 305405, 4211903; 305374, 4211907; 305176, 4211813; 305029, 4211770; returning to 304870, 4211718.

* * * * *

(9) * * *

(i) Unit 4 is shown on the map in paragraph (9)(ii) of this entry, excluding

(A) Land bounded by 352666, 4139452; 352330, 4139197; 352261, 4139018; 352280, 4139004; 352300, 4138988; 352332, 4138964; 352634, 4139235; 352732, 4139417; 352718, 4139424; 352718, 4139425; 352694, 4139437; 352694, 4139437; 352690, 4139439; 352687, 4139441; 352687, 4139441; returning to 352666, 4139452;

(B) Land bounded by 350254, 4136280; 350216, 4136187; 350216, 4136187; 350178, 4136094; 350363, 4136018; 350402, 4136111; 350402, 4136111; 350440, 4136204; 350478, 4136296; 350305, 4136368; 350300,

4136361; 350295, 4136351; 350293, 4136348; 350287, 4136341; 350283, 4136338; 350280, 4136335; 350276, 4136333; 350276, 4136333; returning to 350254, 4136280; and

(C) Land bounded by 349527, 4136002; 349500, 4136201; 349450, 4136194; 349408, 4136200; 349404, 4136201; 349391, 4136206; 349321, 4136238; 349317, 4136223; 349126, 4136278; 349099, 4136181; 349045, 4135990; 349139, 4135963; 349138, 4135962; 349235, 4135934; 349212, 4135851; 349308, 4135823; 349406, 4135799; 349478, 4135988; 349478, 4135995; returning to 349527, 4136002.

* * * * *

Mount Graham Red Squirrel (*Tamiasciurus hudsonicus grahamensis*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Amargosa Vole (*Microtus californicus scirpensis*)

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

(b) *Birds.*

Akekee (*Loxops caeruleirostris*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Akikiki (*Oreomystis bairdi*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Whooping Crane (*Grus americana*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Mariana Crow (*Corvus kubaryi*)

* * * * *

(4) * * *

(iii) * * *

(A) Subunit B–1 excludes seven areas:

* * * * *

Spectacled Eider (*Somateria fischeri*)

1. * * * The maps provided are for informational purposes only. * * *

* * * * *

Oahu Elepaio (*Chasiempis sandwichensis ibidis*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Coastal California Gnatcatcher (*Polioptila californica californica*)

* * * * *

(6) * * *

(i) Unit 1 excludes land bounded by the following UTM NAD27 coordinates (E, N):

(A) 502178, 3637276; 502177, 3637276; 501978, 3637278; 501980, 3637232; 501981, 3637232; 501994, 3637232; 502031, 3637232; 502061, 3637232; 502114, 3637232; 502146, 3637232; 502181, 3637232; 502184, 3637232; 502201, 3637232; 502221, 3637232; 502240, 3637232; 502260, 3637231; 502280, 3637231; 502300, 3637231; 502321, 3637230; 502338, 3637230; 502366, 3637229; 502365, 3637274; 502184, 3637276.

(B) 510284, 3634915; 510296, 3634942; 510326, 3634956; 510366, 3634970; 510406, 3634967; 510441, 3634947; 510476, 3634940; 510494, 3634910; 510509, 3634845; 510477, 3634753; 510510, 3634757; 510534, 3634749; 510554, 3634730; 510577, 3634712; 510604, 3634705; 510627, 3634714; 510623, 3634743; 510621, 3634777; 510627, 3634803; 510633, 3634847; 510656, 3634854; 510663, 3634868; 510681, 3634891; 510708, 3634903; 510727, 3634910; 510748, 3634933; 510791, 3634964; 510774, 3634965; 510746, 3634975; 510703, 3634974; 510677, 3634985; 510657, 3634996; 510644, 3635018; 510627, 3635037; 510617, 3635064; 510615, 3635089; 510621, 3635119; 510632, 3635145; 510650, 3635170; 510671, 3635183; 510692, 3635189; 510715, 3635194; 510791, 3635240; 510785, 3635318; 510808, 3635363; 510842, 3635380; 510879, 3635382; 510902, 3635382; 510933, 3635386; 510961, 3635384; 510982, 3635375; 510989, 3635365; 511006, 3635353; 511030, 3635355; 511055, 3635355; 511078, 3635373; 511112, 3635388; 511146, 3635410; 511189, 3635416; 511244, 3635406; 511265, 3635408; 511274, 3635433; 511290, 3635439; 511293, 3635465; 511315, 3635504; 511337, 3635539; 511354, 3635548; 511388, 3635619; 511350, 3635596; 511323, 3635588; 511308, 3635560; 511277, 3635527; 511231, 3635506; 511202, 3635490; 511169, 3635485; 511132, 3635496; 511064, 3635529; 511042, 3635544; 511015, 3635556; 510984, 3635553; 510963, 3635566; 510952, 3635592; 510949, 3635623; 510960, 3635651; 510962, 3635677; 510956, 3635703; 510962, 3635727; 510974, 3635756; 510959, 3635776; 510908, 3635689; 510875, 3635617; 510850, 3635584; 510829, 3635568; 510798, 3635566; 510782, 3635582; 510775, 3635597; 510766, 3635606; 510742, 3635580; 510723, 3635567; 510713, 3635567; 510713, 3635592; 510719, 3635624; 510719, 3635652; 510698, 3635701; 510689, 3635746; 510677, 3635848; 510685, 3635890; 510710, 3635923; 510736, 3635949; 510737, 3635965; 510756, 3635991; 510770, 3636004; 510793, 3635998; 510791, 3636004; 510793, 3636035; 510823, 3636097; 510791, 3636074; 510770, 3636048; 510741, 3636025; 510712, 3636012; 510687, 3635991; 510646, 3635988; 510622, 3636004; 510620, 3636032; 510597, 3636027; 510589, 3636056; 510556, 3636014; 510563, 3636005; 510573, 3635986; 510567, 3635955; 510570, 3635920; 510557, 3635885; 510552, 3635858; 510563, 3635825; 510573, 3635790; 510541, 3635700; 510505, 3635663; 510531, 3635631; 510548, 3635599; 510559, 3635560; 510559, 3635522; 510556, 3635465; 510539, 3635419; 510458, 3635380; 510429, 3635421; 510425, 3635473; 510399, 3635546; 510388, 3635583; 510358, 3635543; 510274, 3635591; 510238, 3635591; 510215, 3635557; 510188, 3635298; 510173, 3635207; 510161, 3635114; 510159, 3635019; 510159, 3634911; 510187, 3634878; 510273, 3634898.

(C) 506682, 3621550; 506686, 3621550; 506686, 3621550; 506687, 3621529; 506808, 3621536; 506800, 3621660; 506794, 3621660; 506792, 3621686; 506671, 3621673.

(D) 506187, 3621805; 506178, 3621773; 506176, 3621764; 506176, 3621764; 506185, 3621761; 506184, 3621757; 506234, 3621742; 506247, 3621782; 506236, 3621786; 506238, 3621791; 506220, 3621796.

(E) 505512, 3621342; 505467, 3621263; 505439, 3621174; 505417, 3621134; 505381, 3621102; 505331, 3621007; 505327, 3620957; 505289, 3620909; 505307, 3620898; 505324, 3620919; 505332, 3620915; 505345, 3620930; 505362, 3620948; 505394, 3621024; 505408, 3621058; 505429, 3621087; 505463, 3621131; 505485, 3621161; 505485, 3621161; 505477, 3621165; 505477, 3621165; 505561, 3621314; 505520, 3621338.

(F) 504820, 3615789; 504819, 3615718; 504819, 3615670; 505229, 3615660; 505228, 3615602; 505227, 3615537; 505225, 3615435; 505325, 3615434; 505324, 3615404; 505325, 3615404; 505326, 3615444; 505226, 3615445; 505230, 3615681; 505230,

3615681; 504832, 3615678; 504831, 3615789.

* * * * *

(8) * * *

(i) Unit 3 excludes land bounded by the following UTM NAD27 coordinates (E, N):

(A) 466299, 3675700; 466168, 3675903; 466115, 3675831; 466043, 3675831; 466043, 3675721; 466024, 3675695; 465956, 3675698; 465960, 3675608; 466005, 3675596; 466047, 3675623; 466066, 3675540; 465998, 3675479; 465930, 3675479; 465899, 3675453; 465778, 3675347; 465778, 3675044; 465779, 3675036; 466150, 3675053; 466364, 3675147; 466394, 3675211; 466424, 3675305; 466510, 3675361; 466529, 3675389; 466538, 3675422; 466493, 3675460; 466489, 3675385; 466308, 3675358; 466225, 3675464; 466342, 3675634; 466300, 3675699; 466300, 3675700.

(B) 468627, 3675422; 468626, 3675421; 468624, 3675421; 468623, 3675420; 468622, 3675419; 468620, 3675418; 468619, 3675417; 468618, 3675417; 468617, 3675416; 468615, 3675415; 468614, 3675414; 468613, 3675413; 468612, 3675412; 468611, 3675411; 468576, 3675383; 468585, 3675358; 468592, 3675340; 468598, 3675322; 468605, 3675303; 468611, 3675286; 468618, 3675267; 468625, 3675249; 468632, 3675230; 468639, 3675211; 468646, 3675190; 468655, 3675166; 468659, 3675153; 468671, 3675120; 468672, 3675122; 468672, 3675123; 468672, 3675125; 468672, 3675126; 468672, 3675128; 468672, 3675129; 468673, 3675131; 468673, 3675132; 468673, 3675134; 468674, 3675135; 468674, 3675136; 468675, 3675138; 468675, 3675139; 468676, 3675141; 468676, 3675142; 468677, 3675144; 468677, 3675145; 468678, 3675146; 468679, 3675148; 468680, 3675149; 468680, 3675150; 468681, 3675152; 468682, 3675153; 468683, 3675154; 468684, 3675155; 468685, 3675157; 468686, 3675158; 468687, 3675159; 468688, 3675160; 468689, 3675161; 468690, 3675162; 468691, 3675163; 468692, 3675164; 468693, 3675165; 468695, 3675166; 468696, 3675167; 468697, 3675168; 468698, 3675169; 468700, 3675170; 468701, 3675170; 468702, 3675171; 468703, 3675172; 468705, 3675173; 468706, 3675174; 468707, 3675175; 468708, 3675176; 468709, 3675178; 468710, 3675179; 468711, 3675180; 468712, 3675181; 468713, 3675182; 468698, 3675223; 468690, 3675248; 468683, 3675267; 468676, 3675285; 468669, 3675305; 468662, 3675324; 468656, 3675343; 468649, 3675361; 468642, 3675381; 468635, 3675400.

(C) 468576, 3675565; 468544, 3675538; 468526, 3675523; 468559, 3675431; 468570, 3675402; 468599, 3675425; 468600, 3675426; 468601, 3675427; 468603, 3675428; 468604, 3675429; 468605, 3675430; 468606, 3675431; 468607, 3675431; 468609, 3675432; 468610, 3675433; 468611, 3675434; 468613, 3675435; 468614, 3675435; 468615, 3675436; 468617, 3675437; 468618, 3675438; 468619, 3675438; 468621, 3675439; 468621, 3675439; 468610, 3675472.

(D) 497956, 3669589; 498160, 3669567; 498162, 3669567; 498240, 3669558; 498258, 3669556; 498250, 3669607; 498283, 3669607; 498283, 3669643; 498250, 3669640; 498247, 3669670; 498202, 3669670; 498187, 3669703; 498164, 3669709; 498161, 3669732; 498134, 3669735; 498128, 3669768; 497999, 3669762; 498005, 3669694; 497961, 3669697; 497961, 3669697; 497956, 3669697.

(E) 496241, 3669292; 496264, 3669299; 496298, 3669307; 496321, 3669326; 496324, 3669349; 496319, 3669376; 496322, 3669391; 496339, 3669432; 496380, 3669467; 496399, 3669480; 496427, 3669501; 496445, 3669531; 496448, 3669556; 496413, 3669573; 496344, 3669572; 496289, 3669563; 496231, 3669553; 496216, 3669543; 496220, 3669289.

(F) 497814, 3670051; 497691, 3669856; 497574, 3669769; 497592, 3669667; 497628, 3669659; 497650, 3669648; 497659, 3669675; 497731, 3669769; 497793, 3669800; 497858, 3669818; 497858, 3669842; 497855, 3669873; 497957, 3669924; 497957, 3669847; 497999, 3669852; 497999, 3669825; 498071, 3669828; 498062, 3669947; 498035, 3669947; 498032, 3669980; 497979, 3669980; 497979, 3670034; 497955, 3670040; 497955, 3670058; 497817, 3670061; 497813, 3670051.

(G) 490504, 3670067; 490502, 3670067; 490501, 3670068; 490500, 3670069; 490499, 3670070; 490497, 3670070; 490496, 3670071; 490495, 3670072; 490493, 3670073; 490492, 3670073; 490491, 3670074; 490489, 3670075; 490488, 3670076; 490487, 3670077; 490485, 3670077; 490484, 3670078; 490484, 3670078; 490482, 3670079; 490481, 3670079; 490479, 3670079; 490478, 3670079; 490476, 3670078; 490475, 3670077; 490474, 3670076; 490474, 3670076; 490456, 3670049; 490460, 3670049; 490508, 3670048; 490504, 3670066.

(H) 490396, 3670451; 490431, 3670451; 490464, 3670452; 490512, 3670631; 490521, 3670668; 490533, 3670711; 490544, 3670754; 490563, 3670826; 490563, 3670826; 490563, 3670826; 490576, 3670875; 490589, 3670923; 490613, 3671012; 490624, 3671056; 490635, 3671098; 490577, 3671114; 490562, 3671118; 490547, 3671122; 490546, 3671117; 490518, 3671012; 490510, 3670983; 490485, 3670888; 490477, 3670856; 490474, 3670848; 490430, 3670681; 490401, 3670571; 490382, 3670576; 490380, 3670568; 490344, 3670450.

(I) 478427, 3664552; 478445, 3664555; 478472, 3664560; 478500, 3664570; 478514, 3664586; 478514, 3664605; 478503, 3664621; 478505, 3664643; 478520, 3664661; 478534, 3664676; 478539, 3664707; 478534, 3664727; 478508, 3664749; 478484, 3664765; 478475, 3664786; 478470, 3664815; 478478, 3664905; 478489, 3664950; 478499, 3664972; 478514, 3664990; 478534, 3665004; 478544, 3665029; 478549, 3665061; 478541, 3665100; 478521, 3665136; 478514, 3665144; 478503, 3665143; 478493, 3665132; 478477, 3665113; 478429, 3665019; 478397, 3664972; 478387, 3664934; 478385, 3664897; 478386, 3664848; 478370, 3664805; 478364, 3664762; 478364, 3664707; 478336, 3664649; 478332, 3664620; 478352, 3664588; 478388, 3664559; 478417, 3664551.

(J) 481458, 3661671; 481178, 3661673; 481159, 3661674; 481159, 3661673; 481137, 3661659; 481167, 3661658; 481477, 3661655; 481477, 3661671.

(K) 481109, 3661659; 481131, 3661674; 481109, 3661674; 481078, 3661674; 481077, 3661674; 481075, 3661674; 480911, 3661676; 480895, 3661676; 480711, 3661678; 480721, 3661667; 480727, 3661661; 480727, 3661661; 480728, 3661660; 480729, 3661659; 480730, 3661658; 480731, 3661656; 480732, 3661655; 480733, 3661654; 480734, 3661653; 480735, 3661652; 480736, 3661651; 480771, 3661606; 480772, 3661605; 480773, 3661604; 480774, 3661603; 480775, 3661602; 480776, 3661601; 480777, 3661600; 480778, 3661599; 480779, 3661598; 480781, 3661597; 480782, 3661596; 480783, 3661595; 480784, 3661594; 480786, 3661594; 480787, 3661593; 480788, 3661592; 480790, 3661591; 480791, 3661591; 480793, 3661590; 480793, 3661590; 480794, 3661590; 480843, 3661567; 480845, 3661571; 480899, 3661545; 480903, 3661543; 480907, 3661542; 480914, 3661541; 480920, 3661541; 480925, 3661541; 480933, 3661543; 480938, 3661545; 480942, 3661546; 480946, 3661548; 480964, 3661560; 480969, 3661564; 480973, 3661567; 481075, 3661642; 481075, 3661659.

(L) 482060, 3660866; 482119, 3661074; 482021, 3661208; 481862, 3661306; 481672, 3661355; 481427, 3661377; 481422, 3661445; 481251, 3661481; 481066, 3661377; 481068,

3661064; 481093, 3660981; 481093, 3660893; 481200, 3660849; 481261, 3660763; 481388, 3660671; 481532, 3660663; 481691, 3660710; 481811, 3660680; 481838, 3660624; 481921, 3660585; 482009, 3660673; 482065, 3660776.

(M) 482222, 3659770; 482283, 3659774; 482483, 3659767; 482510, 3659640; 482610, 3659643; 482613, 3659873; 482719, 3659883; 482707, 3659955; 482731, 3660034; 482779, 3659995; 482816, 3659910; 482831, 3659843; 482788, 3659761; 482752, 3659698; 482716, 3659634; 482649, 3659595; 482607, 3659510; 482604, 3659468; 482667, 3659371; 482601, 3659374; 482616, 3659198; 482722, 3659155; 482776, 3659116; 482843, 3659149; 482967, 3659162; 483164, 3659165; 483245, 3659150; 483247, 3659152; 483297, 3659146; 483397, 3659083; 483455, 3659071; 483437, 3659131; 483397, 3659262; 483428, 3659343; 483449, 3659443; 483516, 3659504; 483516, 3659561; 483519, 3659792; 483631, 3659795; 483628, 3659577; 483822, 3659568; 483809, 3659207; 483991, 3659201; 484037, 3659192; 484115, 3659131; 484185, 3659122; 484206, 3659575; 483922, 3659589; 483922, 3659604; 483837, 3659613; 483831, 3659986; 483900, 3660004; 483900, 3660058; 483931, 3660073; 483925, 3660146; 483806, 3660146; 483746, 3660152; 483722, 3660183; 483706, 3660267; 483609, 3660355; 483613, 3660410; 483491, 3660419; 483470, 3660067; 483461, 3660092; 483428, 3660128; 483364, 3660152; 483349, 3660179; 483304, 3660189; 483294, 3660237; 483279, 3660255; 483270, 3660295; 483182, 3660298; 483176, 3660337; 483143, 3660361; 483155, 3660482; 483097, 3660495; 483013, 3660434; 482976, 3660325; 482876, 3660414; 482871, 3660414; 482685, 3660734; 482698, 3660828; 482940, 3660852; 482907, 3660910; 482910, 3661043; 482885, 3661043; 482788, 3660888; 482792, 3661046; 482907, 3661146; 482904, 3661191; 482737, 3661200; 482731, 3661116; 482707, 3661116; 482704, 3661013; 482579, 3661022; 482579, 3661043; 482610, 3661055; 482607, 3661073; 482579, 3661079; 482579, 3661134; 482604, 3661143; 482637, 3661170; 482640, 3661225; 482292, 3661222; 482291, 3661178; 482291, 3661140; 482296, 3660467; 482280, 3660467; 482280, 3660461; 482283, 3660213; 482398, 3660222; 482452, 3660170; 482507, 3660113; 482640, 3660010; 482271, 3660030; 482204, 3660034; 482205, 3660014.

(N) 484270, 3659831; 484228, 3659834; 484234, 3659574; 484223, 3659574; 484331, 3659349; 484312, 3659334; 484270, 3659301; 484273, 3659255; 484315, 3659228; 484394, 3659219; 484473, 3659043; 484512, 3659028; 484576, 3659013; 484622, 3658986; 484611, 3659016; 484685, 3659025; 484740, 3659083; 484749, 3659165; 484779, 3659259; 484883, 3659366; 484964, 3659449; 484982, 3659513; 485045, 3659598; 485121, 3659616; 485221, 3659655; 485224, 3659698; 485079, 3659922; 485073, 3659989; 484685, 3659976; 484727, 3659828; 484636, 3659798; 484603, 3659783; 484582, 3659813; 484537, 3659780; 484506, 3659722; 484437, 3659677; 484385, 3659616; 484337, 3659652; 484312, 3659677; 484337, 3659731; 484473, 3659822; 484467, 3659998; 484355, 3660001; 484331, 3659961; 484309, 3659937; 484270, 3659937.

(O) 480469, 3662072; 480641, 3661757; 480663, 3661718; 480664, 3661716; 480663, 3661812; 480521, 3662072.

* * * * *

(9) * * *

(i) Unit 5 excludes land bounded by the following UTM NAD27 coordinates (E, N):

(A) 483452, 3697555; 483350, 3697542; 483196, 3697434; 483371, 3697277; 483411, 3697277; 483568, 3697188; 483677, 3697243; 483765, 3697290; 483935, 3697195; 483969, 3697243; 484064, 3697460; 484254, 3697487; 484342, 3697535; 484512, 3697705; 484500, 3698094; 484500, 3698100; 484500, 3698100; 484499, 3698133; 484669, 3698303; 484669, 3698833; 484560, 3698860; 484553, 3699026; 484553, 3699030; 484539, 3699026; 484376, 3698982; 484376, 3698799; 484342, 3698785; 484139, 3698656; 484003, 3698595; 483955, 3698432; 483880, 3698445; 483826, 3698391; 483826, 3698323; 483704, 3698316; 483697, 3698146; 483609, 3697949; 483547, 3697630.

(B) 481384, 3696569; 481521, 3696524; 481560, 3696502; 481592, 3696518; 481614, 3696896; 481653, 3696995; 481685, 3697030; 481755, 3696905; 481807, 3696921; 481819, 3697203; 481723, 3697184; 481765, 3697293; 481781, 3697418; 481903, 3697425; 481903, 3697389; 482040, 3697405; 482121, 3697380; 482242, 3697405; 482387, 3697466; 482364, 3697527; 482252, 3697527; 482249, 3697630; 482105, 3697524; 482063, 3697598; 482098, 3697684; 482137, 3697690; 482137, 3697755; 481989, 3697729; 481989, 3697620; 481829, 3697604; 481688, 3697652; 481563, 3697697; 481500, 3697699; 481500, 3697700; 481483, 3697700; 481403, 3697703; 481246, 3697723; 481102, 3697716; 481092, 3697607; 481191, 3697575; 481230, 3697575; 481230, 3697562; 481066, 3697540; 481118, 3697466; 481073, 3697431; 480980, 3697396; 480980, 3697306; 480980, 3697072; 481124, 3697104; 481179, 3697072; 481236, 3696998; 481294, 3696970; 481387, 3696979; 481483, 3697037; 481457, 3696966; 481409, 3696915; 481118, 3696912; 481118, 3696825; 481130, 3696726; 481060, 3696704; 481073, 3696806; 480999, 3696912; 480964, 3696941; 480970, 3697072; 480845, 3697046; 480839, 3696899; 480954, 3696902; 480964, 3696639; 481006, 3696588; 480970, 3696531; 481002, 3696460; 481114, 3696476; 481175, 3696434; 481206, 3696404; 481225, 3696399; 481371, 3696409.

(C) 484902, 3696525; 484974, 3696633; 485107, 3696822; 485079, 3696845; 484977, 3696836; 484965, 3696892; 485085, 3697047; 485032, 3697150; 484921, 3697142; 484907, 3697064; 484860, 3697028; 484777, 3697031; 484663, 3696958; 484518, 3696747; 484393, 3696658; 484388, 3696564; 484274, 3696575; 484213, 3696395; 484124, 3696386; 484121, 3696309; 484193, 3696275; 484324, 3696331; 484510, 3696386; 484610, 3696459.

(D) 484190, 3695014; 484183, 3695013; 484145, 3694889; 484187, 3694904.

(E) 481586, 3699023; 481398, 3699023; 481024, 3699021; 480874, 3699020; 480839, 3699020; 480777, 3699021; 480771, 3699020; 480765, 3699020; 480606, 3699020; 480605, 3699020; 480443, 3699019; 480341, 3699018; 480334, 3699018; 480329, 3699018; 480316, 3699018; 480293, 3699017; 480190, 3699016; 480181, 3699016; 480173, 3699016; 480044, 3699017; 480017, 3699017; 480013, 3699017; 479816, 3699016; 479742, 3699016; 479725, 3699015; 479703, 3699015; 479652, 3699015; 479359, 3699013; 479359, 3698985; 479358, 3698949; 479671, 3698952; 479683, 3698887; 479690, 3698889; 479691, 3698884; 479733, 3698896; 479768, 3698890; 479811, 3698903; 479812, 3698904; 479813, 3698905; 479815, 3698906; 479816, 3698907; 479817, 3698907; 479818, 3698908; 479820, 3698909; 479839, 3698953; 479888, 3698952; 479921, 3698953; 480180, 3698954; 480211, 3698955; 480224, 3698955; 480250, 3698955; 480264, 3698955; 480309, 3698955; 480324, 3698955; 480429, 3698956; 480434, 3698956; 480442, 3698956; 480444, 3698956; 480603, 3698957; 481022, 3698957; 481398, 3698958; 481416, 3698958; 481581, 3698957; 481656,

3698957; 481868, 3698957; 481871, 3699025; 481660, 3699024.

(F) 487429, 3690440; 487459, 3690484; 487495, 3690333; 487491, 3690321; 487463, 3690185; 487469, 3689913; 487474, 3689613; 487395, 3689573; 487384, 3689499; 487446, 3689398; 487486, 3689392; 487520, 3689364; 487622, 3689205; 487695, 3689120; 487707, 3689035; 487701, 3688900; 487700, 3688900; 487700, 3688884; 487678, 3688389; 487823, 3688217; 488066, 3688110; 488154, 3688208; 488313, 3688225; 488364, 3688372; 488415, 3688355; 488550, 3688276; 488584, 3688146; 488675, 3688135; 488675, 3688401; 488760, 3688440; 488811, 3688474; 488811, 3688548; 488794, 3688588; 488743, 3688559; 488675, 3688571; 488664, 3688644; 488709, 3688760; 488680, 3688792; 488377, 3689129; 488252, 3689267; 488250, 3689267; 488143, 3689488; 488131, 3689601; 488109, 3689896; 488086, 3689970; 488046, 3690066; 488041, 3690207; 488080, 3690275; 488154, 3690264; 488177, 3690156; 488205, 3690117; 488250, 3690111; 488262, 3690315; 488284, 3690360; 488284, 3690508; 488046, 3690508; 488029, 3690530; 487944, 3690549; 487932, 3690630; 487967, 3690666; 487882, 3690745; 487848, 3690853; 487854, 3690932; 487888, 3690995; 487882, 3691080; 487656, 3691068; 487610, 3691029; 487571, 3690802; 487469, 3690802; 487406, 3690519.

(G) 486340, 3685163; 486663, 3685169; 486674, 3684932; 486542, 3684892; 486357, 3684731; 486311, 3684511; 486294, 3684264; 486346, 3683820; 486340, 3683381; 486366, 3683305; 486422, 3683338; 486787, 3683310; 486984, 3683254; 487013, 3683224; 487121, 3683287; 487123, 3683308; 487128, 3683311; 487130, 3683358; 487376, 3683604; 487475, 3683660; 487531, 3683857; 487755, 3683857; 487853, 3684067; 487841, 3684086; 487713, 3684278; 487475, 3684292; 487432, 3684081; 487432, 3683885; 487194, 3683787; 487096, 3684334; 487026, 3684628; 487306, 3684628; 487475, 3684572; 487797, 3684600; 487895, 3684755; 487811, 3684839; 487531, 3684853; 487208, 3684783; 486998, 3684881; 486871, 3685119; 486871, 3685386; 487012, 3685596; 487137, 3686264; 487217, 3686264; 487228, 3686236; 487335, 3686222; 487347, 3686199; 487372, 3686194; 487372, 3686169; 487349, 3686169; 487354, 3686132; 487368, 3686122; 487395, 3686104; 487402, 3686053; 487430, 3686039; 487440, 3685988; 487502, 3685979; 487507, 3686027; 487625, 3686153; 487648, 3686157; 487676, 3686171; 487704, 3686166; 487804, 3686162; 487804, 3686306; 487834, 3686338; 487862, 3686361; 487857, 3686739; 487806, 3686749; 487797, 3686784; 487586, 3686784; 487586, 3686726; 487551, 3686719; 487400, 3686723; 487393, 3686774; 487375, 3686781; 487372, 3686814; 487273, 3686816; 487279, 3686862; 487163, 3686867; 487163, 3686837; 487076, 3686825; 486998, 3687139; 486731, 3687139; 486661, 3687420; 486633, 3687855; 486815, 3688079; 487096, 3688500; 487180, 3688640; 487180, 3688837; 486927, 3688837; 486647, 3688584; 486380, 3688556; 486226, 3688795; 486228, 3689035; 486254, 3689286; 486438, 3689516; 487038, 3689239; 487027, 3689652; 486874, 3689692; 486773, 3689875; 486759, 3690085; 486619, 3690212; 486493, 3690352; 486493, 3690534; 486450, 3690618; 486268, 3690450; 486212, 3690310; 486142, 3690155; 485917, 3690001; 485861, 3689566; 486072, 3689244; 486156, 3688444; 485356, 3687953; 485244, 3687616; 485245, 3687612; 485250, 3687593; 485300, 3687402; 485300, 3687400; 485300, 3687400; 485403, 3687007; 485412, 3687002; 485483, 3687027; 485570, 3686920; 485889, 3686331; 486038, 3686253; 486200, 3686201; 486200, 3686200; 486203, 3686200; 486279, 3686175; 486357, 3685977; 486357, 3685867; 486318, 3685750; 486227, 3685643; 486239, 3685532; 486248, 3685521; 486237, 3685509; 486254, 3685221; 486268, 3685221; 486277, 3685221; 486326, 3685176.

(H) 485279, 3680882; 485306, 3680969; 485337, 3681064; 485371, 3681151; 485371, 3681152; 485255, 3681155; 485246, 3681121; 485192, 3681123; 485192, 3681095; 485163, 3681095; 485160, 3681066; 485195, 3681064; 485194, 3680817; 485061, 3680816; 485064, 3680788; 485131, 3680789; 485131, 3680763; 485213, 3680759; 485223, 3680725; 485246, 3680729.

(I) 480199, 3680423; 480069, 3680417; 479977, 3680531; 479815, 3680347; 480196, 3680357; 480345, 3680576; 480409, 3680569; 480419, 3680668; 480203, 3680658.

(J) 480496, 3680485; 480449, 3680438; 480443, 3680331; 480442, 3680318; 480626, 3680088; 480573, 3680054; 480376, 3680044; 480386, 3679944; 480747, 3679947; 480797, 3680124; 480934, 3679977; 480964, 3679950; 480934, 3679954; 480937, 3679931; 480985, 3679932; 480997, 3679921; 480994, 3679533; 481388, 3679547; 481391, 3679941; 481017, 3679932; 481010, 3679944; 481010, 3680234; 480990, 3680236; 481012, 3680492; 480927, 3680555; 480848, 3680567; 480768, 3680633; 480646, 3680698; 480587, 3680717; 480557, 3680738; 480498, 3680659.

(K) 481186, 3678938; 481307, 3678984; 481438, 3678919; 481494, 3678667; 481624, 3678555; 481811, 3678481; 481913, 3678499; 482091, 3678285; 482259, 3678052; 482417, 3677865; 482455, 3677650; 482585, 3677445; 482734, 3677343; 482987, 3677334; 482948, 3677417; 482940, 3677520; 482800, 3677622; 482744, 3677772; 482594, 3677940; 482473, 3678098; 482501, 3678201; 482408, 3678322; 482221, 3678378; 482119, 3678518; 482025, 3678565; 481969, 3678611; 481960, 3678677; 481792, 3678723; 481755, 3678891; 481764, 3679087; 481186, 3679162.

(L) 486761, 3676144; 486926, 3675728; 486943, 3675686; 486957, 3675650; 486955, 3675649; 487099, 3675368; 487138, 3675426; 487319, 3675757; 487348, 3676085; 487320, 3676632; 487208, 3677502; 487110, 3677432; 486885, 3677390; 486661, 3677530; 486605, 3677713; 486352, 3677713; 486548, 3676944; 486550, 3676942.

* * * * *

(11) * * *

(i) Unit 7 excludes land bounded by the following UTM NAD27 coordinates (E, N):

(A) 427280, 3738801; 427329, 3738859; 427365, 3738879; 427333, 3738938; 427232, 3738884; 427235, 3738870; 427240, 3738856; 427231, 3738844; 427235, 3738831; 427255, 3738801.

(B) 426475, 3738412; 426469, 3738431; 426463, 3738449; 426464, 3738471; 426464, 3738488; 426456, 3738499; 426454, 3738515; 426462, 3738526; 426479, 3738537; 426480, 3738529; 426488, 3738522; 426502, 3738525; 426518, 3738537; 426538, 3738545; 426542, 3738538; 426542, 3738525; 426540, 3738505; 426533, 3738484; 426526, 3738459; 426519, 3738432; 426511, 3738411; 426491, 3738405.

* * * * *

(12) * * *

(i) Unit 8 excludes land bounded by the following UTM NAD27 coordinates (E, N):

(A) 374717, 3735861; 374771, 3735963; 374736, 3736039; 374714, 3736090; 374758, 3736109; 374768, 3736141; 374717, 3736236; 374739, 3736287; 374714, 3736379; 374663, 3736436; 374717, 3736496; 374800, 3736433; 374860, 3736452; 374822, 3736591; 374715, 3736627; 374685, 3736563; 374688, 3736531; 374558, 3736537; 374533, 3736468; 374606, 3736391; 374593, 3736372; 374571,

3736350; 374593, 3736293; 374622, 3736293; 374650, 3736268; 374622, 3736236; 374622, 3736195; 374644, 3736175; 374631, 3736106; 374666, 3736042; 374622, 3735975; 374641, 3735883; 374707, 3735848.

(B) 375495, 3735728; 375546, 3735807; 375603, 3735864; 375616, 3735921; 375555, 3735909; 375479, 3735848; 375463, 3735893; 375530, 3735960; 375584, 3736001; 375625, 3736061; 375708, 3736093; 375777, 3736137; 375787, 3736175; 375692, 3736172; 375603, 3736185; 375596, 3736214; 375606, 3736283; 375593, 3736315; 375536, 3736315; 375523, 3736351; 375476, 3736331; 375473, 3736268; 375479, 3736210; 375485, 3736141; 375454, 3736172; 375390, 3736191; 375352, 3736128; 375352, 3736058; 375339, 3735982; 375317, 3735858; 375362, 3735823; 375365, 3735725; 375438, 3735677.

(C) 375847, 3735410; 375898, 3735445; 375924, 3735477; 375936, 3735534; 375965, 3735534; 375987, 3735566; 375955, 3735607; 375885, 3735626; 375854, 3735661; 375889, 3735702; 376022, 3735652; 376076, 3735744; 376111, 3735756; 376171, 3735807; 376165, 3735861; 376149, 3735915; 376162, 3735966; 376203, 3735972; 376219, 3736010; 376225, 3736087; 376238, 3736137; 376251, 3736214; 376308, 3736207; 376326, 3736273; 376279, 3736283; 376162, 3736341; 376108, 3736318; 376070, 3736315; 376047, 3736341; 376073, 3736385; 376019, 3736423; 375958, 3736458; 375857, 3736388; 375847, 3736334; 375860, 3736283; 375898, 3736245; 375936, 3736248; 375949, 3736207; 376006, 3736153; 376038, 3736106; 376022, 3736023; 376016, 3735969; 375971, 3735982; 375936, 3736017; 375904, 3736064; 375822, 3736058; 375771, 3736039; 375774, 3735925; 375749, 3735934; 375717, 3735909; 375692, 3735848; 375670, 3735788; 375692, 3735763; 375698, 3735740; 375673, 3735702; 375660, 3735648; 375663, 3735623; 375644, 3735591; 375660, 3735556; 375685, 3735521; 375701, 3735493; 375749, 3735452; 375739, 3735410; 375739, 3735363; 375835, 3735353.

(D) 374869, 3735734; 374809, 3735760; 374720, 3735782; 374628, 3735785; 374584, 3735772; 374542, 3735702; 374568, 3735642; 374603, 3735607; 374705, 3735626; 374718, 3735518; 374610, 3735467; 374582, 3735456; 374565, 3735426; 374561, 3735391; 374568, 3735337; 374590, 3735309; 374682, 3735325; 374746, 3735318; 374765, 3735302; 374838, 3735312; 374876, 3735366; 374930, 3735423; 374946, 3735493; 374949, 3735556; 374933, 3735620; 374908, 3735655; 374935, 3735694.

(E) 375263, 3736252; 375269, 3736309; 375285, 3736366; 375308, 3736407; 375339, 3736445; 375377, 3736487; 375428, 3736522; 375514, 3736576; 375577, 3736550; 375625, 3736560; 375692, 3736677; 375638, 3736703; 375508, 3736604; 375431, 3736636; 375352, 3736604; 375346, 3736509; 375260, 3736496; 375228, 3736534; 375158, 3736544; 375092, 3736455; 375098, 3736356; 375114, 3736287; 375120, 3736220; 375122, 3736219.

(F) 375590, 3735321; 375501, 3735340; 375438, 3735366; 375377, 3735398; 375269, 3735525; 375187, 3735585; 375203, 3735677; 375279, 3735680; 375273, 3735756; 375228, 3735810; 375209, 3735893; 375146, 3735928; 375088, 3735852; 375063, 3735779; 375054, 3735737; 375114, 3735687; 375085, 3735626; 375082, 3735579; 375098, 3735521; 375006, 3735442; 374993, 3735340; 374965, 3735283; 374908, 3735232; 374819, 3735172; 374761, 3735163; 374714, 3735128; 374695, 3735086; 374650, 3735017; 374698, 3734966; 374673, 3734858; 374704, 3734829; 374730, 3734788; 374755, 3734731; 374723, 3734686; 374755, 3734645; 374812, 3734686; 374854, 3734683; 374923, 3734642; 374974, 3734683; 374949, 3734721; 374961, 3734766; 374987, 3734817; 374974, 3734845; 374923, 3734845; 374869, 3734877; 374812, 3734893; 374777, 3734918; 374736, 3734940; 374755, 3734978; 374777, 3735004; 374828, 3735061; 374869, 3735118; 374984, 3735163; 375019, 3735232; 375066, 3735290; 375146, 3735337; 375209, 3735252; 375273, 3735315; 375416, 3735242; 375412, 3735220; 375422, 3735156; 375498, 3735061; 375536, 3735112; 375577, 3735175; 375609, 3735258; 375623, 3735294.

(G) 375644, 3734531; 375644, 3734578; 375638, 3734613; 375609, 3734648; 375552, 3734683; 375504, 3734683; 375539, 3734712; 375568, 3734747; 375571, 3734798; 375568, 3734832; 375558, 3734883; 375543, 3734915; 375489, 3734893; 375419, 3734848; 375377, 3734810; 375339, 3734782; 375349, 3734699; 375381, 3734636; 375403, 3734597; 375485, 3734566; 375549, 3734499; 375620, 3734474.

(H) 375374, 3734293; 375381, 3734340; 375365, 3734378; 375336, 3734407; 375298, 3734455; 375292, 3734531; 375241, 3734585; 375177, 3734607; 375127, 3734607; 375108, 3734628; 375082, 3734601; 375025, 3734547; 375028, 3734521; 375050, 3734490; 375123, 3734448; 375193, 3734477; 375215, 3734394; 375273, 3734369; 375292, 3734328; 375317, 3734274.

(I) 372554, 3735106; 372468, 3735135; 372392, 3735150; 372332, 3735096; 372310, 3735030; 372316, 3734960; 372354, 3734912; 372430, 3734855; 372564, 3734734; 372665, 3734674; 372621, 3734601; 372541, 3734525; 372475, 3734519; 372465, 3734468; 372437, 3734430; 372399, 3734395; 372386, 3734353; 372370, 3734343; 372386, 3734334; 372433, 3734312; 372551, 3734299; 372621, 3734271; 372672, 3734242; 372726, 3734198; 372770, 3734157; 372853, 3734096; 372888, 3734125; 372921, 3734182; 372918, 3734230; 372918, 3734255; 372932, 3734265; 372957, 3734242; 372970, 3734230; 372989, 3734236; 373008, 3734258; 373015, 3734287; 373011, 3734331; 373049, 3734598; 373043, 3734785; 373053, 3734830; 373116, 3734792; 373124, 3734781; 373142, 3734754; 373142, 3734749; 373161, 3734668; 373170, 3734560; 373142, 3734461; 373113, 3734366; 373084, 3734319; 373075, 3734284; 373119, 3734246; 373170, 3734246; 373256, 3734252; 373264, 3734251; 373280, 3734234; 373300, 3734168; 373339, 3734141; 373342, 3734138; 373343, 3734138; 373363, 3734125; 373409, 3734151; 373419, 3734201; 373427, 3734201; 373434, 3734185; 373443, 3734172; 373462, 3734163; 373484, 3734166; 373494, 3734182; 373507, 3734182; 373510, 3734181; 373526, 3734176; 373545, 3734157; 373554, 3734157; 373570, 3734157; 373596, 3734166; 373602, 3734192; 373646, 3734195; 373665, 3734157; 373678, 3734144; 373686, 3734142; 373710, 3734138; 373723, 3734134; 373738, 3734138; 373780, 3734303; 373783, 3734372; 373757, 3734468; 373748, 3734531; 373773, 3734582; 373789, 3734607; 373792, 3734658; 373767, 3734706; 373742, 3734719; 373704, 3734719; 373653, 3734677; 373630, 3734658; 373608, 3734639; 373538, 3734709; 373599, 3734769; 373605, 3734807; 373332, 3734903; 373345, 3735014; 373338, 3735049; 373272, 3735071; 373262, 3735115; 373275, 3735176; 373249, 3735217; 373116, 3735296; 373024, 3735315; 373024, 3735582; 372964, 3735576; 372922, 3735554; 372884, 3735449; 372878, 3735357; 372872, 3735309; 372859, 3735281; 372884, 3735242; 372919, 3735227; 372961, 3735198; 372989, 3735150; 373015, 3735112; 373015, 3735100; 372983, 3735090; 372932, 3735112; 372853, 3735087; 372776, 3735074; 372729, 3735049; 372735, 3735011; 372741, 3734985; 372751, 3734969; 372618, 3734954;

372551, 3734944; 372551, 3734998; 372583, 3735033; 372586, 3735065; 372578, 3735075; 372578, 3735078; 372576, 3735078.

(J) 374061, 3737786; 374013, 3737868; 373975, 3737938; 373972, 3737989; 374000, 3738087; 373975, 3738125; 373956, 3738170; 373937, 3738214; 373959, 3738240; 374004, 3738268; 374064, 3738278; 374124, 3738259; 374178, 3738221; 374219, 3738195; 374254, 3738154; 374267, 3738132; 374258, 3738100; 374216, 3738055; 374181, 3738011; 374159, 3737957; 374153, 3737903; 374145, 3737858; 374137, 3737846; 374115, 3737808; 374099, 3737786.

* * * * *

(13) * * *

(i) Unit 9 excludes land bounded by the following UTM NAD27 coordinates (E, N): 418541, 3755066; 418231, 3755073; 418244, 3755423; 418551, 3755416.

* * * * *

(14) * * *

(i) Unit 10 excludes land bounded by the following UTM NAD27 coordinates (E, N):

(A) 497619, 3716257; 497604, 3716268; 497581, 3716300; 497571, 3716311; 497557, 3716324; 497542, 3716337; 497528, 3716347; 497513, 3716355; 497500, 3716364; 497491, 3716373; 497484, 3716384; 497484, 3716395; 497492, 3716404; 497507, 3716411; 497522, 3716414; 497549, 3716413; 497559, 3716418; 497572, 3716422; 497588, 3716426; 497608, 3716426; 497622, 3716419; 497635, 3716410; 497649, 3716399; 497668, 3716410; 497682, 3716417; 497694, 3716419; 497712, 3716414; 497728, 3716405; 497744, 3716395; 497754, 3716385; 497761, 3716375; 497766, 3716364; 497769, 3716349; 497767, 3716339; 497761, 3716329; 497749, 3716320; 497728, 3716313; 497718, 3716312; 497704, 3716308; 497691, 3716301; 497681, 3716294; 497672, 3716286; 497658, 3716270; 497648, 3716258; 497633, 3716254.

(B) 496452, 3715265; 496460, 3715297; 496475, 3715302; 496490, 3715304; 496500, 3715306; 496517, 3715306; 496538, 3715300; 496557, 3715294; 496580, 3715281; 496592, 3715277; 496611, 3715258; 496666, 3715222; 496692, 3715219; 496719, 3715219; 496745, 3715228; 496769, 3715253; 496779, 3715290; 496805, 3715302; 496828, 3715311; 496854, 3715317; 496872, 3715322; 496889, 3715320; 496897, 3715320; 496915, 3715314; 496937, 3715303; 496956, 3715297; 496977, 3715291; 496988, 3715285; 496989, 3715272; 497001, 3715130; 497015, 3714996; 497022, 3714929; 497015, 3714716; 497010, 3714699; 496997, 3714671; 496977, 3714642; 496959, 3714621; 496944, 3714618; 496918, 3714616; 496678, 3714617; 496660, 3714616; 496641, 3714625; 496620, 3714633; 496603, 3714639; 496586, 3714655; 496569, 3714669; 496550, 3714691; 496527, 3714712; 496499, 3714746; 496474, 3714778; 496468, 3714793; 496461, 3714801; 496455, 3714810; 496454, 3714991.

* * * * *

(15) * * *

(i) Unit 12 excludes land bounded by the following UTM NAD27 coordinates (E, N): 427036, 3771756; 427083, 3771721; 427106, 3771719; 427131, 3771702; 427144, 3771670; 427169, 3771658; 427210, 3771664; 427271, 3771661; 427318, 3771654; 427363, 3771670; 427379, 3771708; 427382, 3771740; 427350, 3771727; 427344, 3771715; 427274, 3771727; 427252, 3771756; 427236, 3771794; 427137, 3771769; 427099, 3771797; 427074, 3771807; 427042, 3771819; 427017, 3771794; 427026, 3771775.

* * * * *

(16) * * *

(i) Unit 13 excludes land bounded by the following UTM NAD27 coordinates (E, N):

(A) 349305, 3798421; 349605, 3798121; 349805, 3798021; 349905, 3797921; 350005, 3797921; 350005, 3798221; 349905, 3798321; 349705, 3798421; 349605, 3798521; 349305, 3798521.

(B) 349005, 3797921; 349005, 3798221; 348805, 3798421; 348505, 3798521; 348293, 3798521; 348005, 3798521; 347705, 3798421; 347705, 3798221; 347305, 3798121; 347305, 3798021; 347805, 3798021; 348005, 3798121; 348405, 3797921; 348526, 3797921.

(C) 348405, 3796321; 348205, 3796221; 348205, 3796121; 348405, 3795921; 348605, 3795621; 348705, 3795521; 348905, 3795421; 349005, 3795321; 349405, 3795321; 349466, 3795382; 349505, 3795421; 349505, 3795621; 349407, 3795646; 349105, 3795721; 349105, 3796121; 349005, 3796221; 348905, 3796421; 349050, 3796567; 349105, 3796621; 349105, 3796721; 348978, 3796753; 348705, 3796821; 348505, 3796921; 348405, 3796921.

(D) 342505, 3798721; 342705, 3798821; 342805, 3798921; 343105, 3799021; 343105, 3799421; 343805, 3799421; 343905, 3799621; 343905, 3799721; 343605, 3799721; 343505, 3799821; 343605, 3799921; 343705, 3800121; 343705, 3800721; 343605, 3801021; 342705, 3801021; 342505, 3800921; 342405, 3800821; 342105, 3800821; 341905, 3800921; 341505, 3800921; 341305, 3800821; 341205, 3800721; 340705, 3800621; 340405, 3800521; 340005, 3800421; 339805, 3800321; 339605, 3800221; 339505, 3800121; 339505, 3799621; 339605, 3799521; 340005, 3799521; 340105, 3799721; 340305, 3799921; 341605, 3800021; 341605, 3799821; 341705, 3799621; 341805, 3799321; 342005, 3799321; 342605, 3799921; 342805, 3799821; 342805, 3799521; 342605, 3799221; 342305, 3799121; 342105, 3799021; 342005, 3798921; 341905, 3798721; 341905, 3798521; 342005, 3798421; 342205, 3798421.

* * * * *

Everglade Snail Kite (*Rostrhamus sociabilis plumbeus*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Marbled Murrelet (*Brachyramphus marmoratus*)

1. * * * The maps provided are for informational purposes only.

* * * * *

Mexican Spotted Owl (*Strix occidentalis lucida*)

* * * * *

(8) Unit CP–11: Iron, Kane, and Washington Counties, Utah. The map of Unit CP–11 is provided at paragraph (11) of this entry.

(9) Unit CP–12: Garfield and Kane Counties, Utah. The map of Unit CP–12 is provided at paragraph (11) of this entry.

(10) Unit CP–13: Garfield, Kane, San Juan, and Wayne Counties, Utah. The map of Unit CP–13 is provided at paragraph (11) of this entry.

* * * * *

(12) Unit CP–14: Garfield, Grand, San Juan, and Wayne Counties, Utah. The map of Unit CP–14 is provided at paragraph (14) of this entry.

(13) Unit CP–15: Carbon and Emery Counties, Utah. The map of Unit CP–15 is provided at paragraph (14) of this entry.

* * * * *

(15) Unit SRM–C–1a: El Paso, Fremont, and Teller Counties, Colorado. The map of Unit SRM–C–1a is provided at paragraph (18) of this entry.

(16) Unit SRM–C–1b: Custer, Fremont, Huerfano, and Pueblo Counties, Colorado. The map of Unit SRM–C–1b is provided at paragraph (18) of this entry.

(17) Unit SRM–C–2: Douglas and Jefferson Counties, Colorado. The map

of Unit SRM–C–2 is provided at paragraph (18) of this entry.

* * * * *

(19) Unit CP–10: Coconino and Mohave Counties, Arizona. The map of Unit CP–10 is provided at paragraph (20) of this entry.

* * * * *

(21) Unit UGM–11: Coconino County, Arizona. The map of Unit UGM–11 is provided at paragraph (27) of this entry.

(22) Unit UGM–12: Coconino County, Arizona. The map of Unit UGM–12 is provided at paragraph (27) of this entry.

(23) Unit UGM–13: Coconino and Yavapai Counties, Arizona. The map of Unit UGM–13 is provided at paragraph (27) of this entry.

(24) Unit UGM–14: Coconino County, Arizona. The map of Unit UGM–14 is provided at paragraph (27) of this entry.

(25) Unit UGM–15: Coconino County, Arizona. The map of Unit UGM–15 is provided at paragraph (27) of this entry.

(26) Unit UGM–17: Coconino County, Arizona. The map of Unit UGM–17 is provided at paragraph (27) of this entry.

* * * * *

(28) Unit BR–W–2: Yavapai County, Arizona. The map of Unit BR–W–2 is provided at paragraph (33) of this entry.

(29) Unit BR–W–3: Yavapai County, Arizona. The map of Unit BR–W–3 is provided at paragraph (33) of this entry.

(30) Unit BR–W–4: Gila, Maricopa, and Yavapai Counties, Arizona. The map of Unit BR–W–4 is provided at paragraph (33) of this entry.

(31) Unit BR–W–5: Gila County, Arizona. The map of Unit BR–W–5 is provided at paragraph (33) of this entry.

(32) Unit UGM–10: Coconino, Gila, and Navajo Counties, Arizona. The map of Unit UGM–10 is provided at paragraph (33) of this entry.

* * * * *

(34) Unit BR–W–6: Gila County, Arizona. The map of Unit BR–W–6 is provided at paragraph (40) of this entry.

(35) Unit BR–W–7: Graham County, Arizona. The map of Unit BR–W–7 is provided at paragraph (40) of this entry.

(36) Unit BR–W–8: Graham County, Arizona. The map of Unit BR–W–8 is provided at paragraph (40) of this entry.

(37) Unit BR–W–9: Graham County, Arizona. The map of Unit BR–W–9 is provided at paragraph (40) of this entry.

(38) Unit BR–W–10: Cochise County, Arizona. The map of Unit BR–W–10 is provided at paragraph (40) of this entry.

(39) Unit BR–W–11: Pima and Pinal Counties, Arizona. The map of Unit BR–W–11 is provided at paragraph (40) of this entry.

* * * * *

(41) Unit BR–W–12: Pima and Santa Cruz Counties, Arizona. The map of Unit BR–W–12 is provided at paragraph (46) of this entry.

(42) Unit BR–W–13: Santa Cruz County, Arizona. The map of Unit BR–W–13 is provided at paragraph (46) of this entry.

(43) Unit BR–W–14: Santa Cruz County, Arizona. The map of Unit BR–W–14 is provided at paragraph (46) of this entry.

(44) Unit BR–W–15: Cochise County, Arizona. The map of Unit BR–W–15 is provided at paragraph (46) of this entry.

(45) Unit BR–W–16: Cochise County, Arizona. The map of Unit BR–W–16 is provided at paragraph (46) of this entry.

* * * * *

(47) Unit BR–W–18: Cochise County, Arizona. The map of Unit BR–W–18 is provided at paragraph (48) of this entry.

* * * * *

(49) Unit UGM–2: Socorro County, New Mexico. The map of Unit UGM–2 is provided at paragraph (55) of this entry.

(50) Unit UGM–3: Socorro County, New Mexico. The map of Unit UGM–3 is provided at paragraph (55) of this entry.

(51) Unit UGM–5a: Catron and Grant Counties, New Mexico. The map of Unit UGM–5a is provided at paragraph (55) of this entry.

(52) Unit UGM–5b: Catron, Grant, and Sierra Counties, New Mexico. The map of Unit UGM–5b is provided at paragraph (55) of this entry.

(53) Unit UGM–6: Catron County, New Mexico. The map of Unit UGM–6 is provided at paragraph (55) of this entry.

(54) Unit UGM–7: Apache and Greenlee Counties, Arizona, and Catron County, New Mexico. The map of Unit UGM–7 is provided at paragraph (55) of this entry.

* * * * *

(56) Unit SRM–NM–1: Los Alamos County, New Mexico. The map of Unit SRM–NM–1 is provided at paragraph (62) of this entry.

(57) Unit SRM–NM–4: Los Alamos County, New Mexico. The map of Unit SRM–NM–4 is provided at paragraph (62) of this entry.

(58) Unit SRM–NM–5a: San Miguel and Santa Fe Counties, New Mexico. The map of Unit SRM–NM–5a is provided at paragraph (62) of this entry.

(59) Unit SRM–NM–5b: Mora and San Miguel Counties, New Mexico. The map of Unit SRM–NM–5b is provided at paragraph (62) of this entry.

(60) Unit SRM–NM–11: Rio Arriba County, New Mexico. The map of Unit SRM–NM–11 is provided at paragraph (62) of this entry.

(61) Unit SRM–M–12: Rio Arriba County, New Mexico. The map of Unit SRM–NM–12 is provided at paragraph (62) of this entry.

* * * * *

(63) Unit BR–E–5: Torrance and Valencia Counties, New Mexico. The map of Unit BR–E–5 is provided at paragraph (67) of this entry.

(64) Unit BR–E–7: Bernalillo and Sandoval Counties, New Mexico. The map of Unit BR–E–7 is provided at paragraph (67) of this entry.

(65) Unit CP–1: Cibola and McKinley Counties, New Mexico. The map of Unit CP–1 is provided at paragraph (67) of this entry.

(66) Unit CP–2: Cibola and McKinley Counties, New Mexico. The map of Unit CP–2 is provided at paragraph (67) of this entry.

* * * * *

(68) Unit BR–E–1a: Lincoln County, New Mexico. The map of Unit BR–E–1a is provided at paragraph (72) of this entry.

(69) Unit BR–E–1b: Otero County, New Mexico. The map of Unit BR–E–1b is provided at paragraph (72) of this entry.

(70) Unit BR–E–3: Lincoln County, New Mexico. The map of Unit BR–E–3 is provided at paragraph (72) of this entry.

(71) Unit BR–E–4: Lincoln County, New Mexico. The map of Unit BR–E–4 is provided at paragraph (72) of this entry.

* * * * *

Palila (*Psittirostra bailleui*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Piping Plover (*Charadrius melodus*)—Great Lakes Breeding Population

1. * * * The maps provided are for informational purposes only.

* * * * *

Piping Plover (*Charadrius melodus*) Wintering Habitat

* * * * *

3. * * * The maps provided are for informational purposes only. * * *

* * * * *

Piping Plover (*Charadrius melodus*)—Northern Great Plains Breeding Population

1. * * * The maps provided are for informational purposes only.

* * * * *

Inyo Brown Towhee (*Pipilo fuscus eremophilus*)

* * * * *

(10) * * *

**Note:** The map provided is for informational purposes only.

* * * * *

(11) * * *

**Note:** The map provided is for informational purposes only.

* * * * *

Least Bell's Vireo (*Vireo bellii pusillus*)

*California.* The maps provided in this entry are for informational purposes only. Areas of land and water as follows:

* * * * *

Rota Bridled White-Eye (*Zosterops rotensis*)

* * * * *

(5) * * *

(i) Unit excludes 13 areas:

* * * * *

(d) *Amphibians.*

Golden Coqui (*Eleutherodactylus jasperi*)

* * * * *

(3) * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

California Red-legged Frog (*Rana draytonii*)

* * * * *

(10) * * *

(i) Unit PLA–1 excludes land bounded by the following UTM Zone 10, NAD83 coordinates (E, N): 695636, 4324153; 695563, 4324116; 695471, 4324147; 695380, 4324137; 695482, 4323950; 695575, 4323941; 695636, 4323824; 695782, 4323867; 695815, 4323840; 695885, 4323710; 695875, 4323548; 695757, 4323455; 695789, 4323364; 695821, 4323355; 695847, 4323389; 695974, 4323437; 695975, 4323571; 696121, 4323615; 696178, 4323884; 696037, 4323867; 695941, 4323923; 695775, 4324220; returning to 695636, 4324153.

* * * * *

(11) * * *

(i) Unit ELD–1 excludes land bounded by the following UTM Zone 10, NAD83 coordinates (E, N): 708426, 4291544; 708412, 4291176; 709003, 4291194; 709025, 4291561; returning to 708426, 4291544.

* * * * *

(25) * * *

(i) Subunit CCS–2B excludes land bounded by the following UTM Zone 10, NAD83 coordinates (E, N): 622742, 4184043; 622742, 4183973; 623170, 4183986; 623154, 4184309; 622828, 4184300; 622828, 4184064; returning to 622742, 4184043.

* * * * *

(28) * * *

(i) Unit SNM–1 excludes land bounded by the following UTM Zone 10, NAD83 coordinates (E, N):

(A) 549620, 4162507; 549728, 4162401; 549733, 4162310; 549683, 4162274; 549645, 4162279; 549425, 4162399; 549337, 4162318; 549333, 4162206; 549471, 4161976; 549525, 4161940; 549606, 4161951; 549662, 4161921; 549738, 4161921; 549790, 4161808; 549961, 4161760; 549981, 4161667; 549936, 4161577; 550072, 4161454; 550273, 4161361; 550401, 4161273; 550411, 4161245; 550383, 4161187; 550284, 4161178; 550229, 4161142; 550232, 4161107; 550278, 4161061; 550265, 4160978; 550296, 4160957; 550492, 4160966; 550678, 4160838; 550717, 4160754; 550720, 4160671; 550687, 4160604; 550718, 4160544; 550642, 4160424; 550503, 4160326; 550549, 4160316; 550788, 4160361; 550839, 4160318; 550799, 4160219; 550867, 4160247; 551032, 4160256; 551116, 4160229; 551150, 4160166; 551254, 4160120; 551344, 4159994; 551357, 4159933; 551294, 4159806; 551508, 4159782; 551595, 4159711; 551646, 4159623; 551441, 4159474; 551439, 4159451; 551668, 4159445; 551731, 4159463; 551897, 4159386; 552018, 4159435; 552054, 4159463; 552045, 4159580; 552096, 4159641; 552077, 4159681; 551989, 4159676; 551861, 4159820; 551881, 4159858; 551964, 4159881; 551967, 4159927; 551829, 4159929; 551816, 4160002; 551722, 4159971; 551646, 4160052; 551643, 4160146; 551561, 4160173; 551525, 4160211; 551412, 4160393; 551447, 4160589; 551385, 4160624; 551415, 4160711; 551397, 4160774; 551341, 4160817; 551329, 4160715; 551311, 4160685; 551266, 4160674; 551055, 4160965; 551009, 4161066; 551003, 4161183; 550912, 4161188; 550873, 4161215; 550765, 4161415; 550679, 4161473; 550553, 4161622; 550578, 4161686; 550432, 4161883; 550432, 4161911; 550307, 4162062; 550094, 4162246; 549866, 4162573; 549757, 4162635; 549715, 4162724; 549544, 4162890; 549421, 4163070; 549362, 4163128; 549301, 4163145; 549351, 4162963; 549402, 4162869; 549563, 4162687; returning to 549620, 4162507.

(B) 549220, 4157011; 549541, 4156838; 549722, 4156775; 549735, 4156697; 549801, 4156710; 549883, 4156632; 549886, 4156573; 549977, 4156553; 550000, 4156528; 550158, 4156504; 550288, 4156436; 550357, 4156345; 550347, 4156266; 550457, 4156277; 550492, 4156234; 550495, 4156194; 550420, 4156053; 550582, 4156065; 550631, 4156017; 550684, 4156004; 550738, 4155941; 550809, 4155916; 550841, 4155787; 550925, 4155803; 551002, 4155930; 551019, 4156093; 551077, 4156152; 551073, 4156327; 551032, 4156400; 551040, 4156464; 550998, 4156603; 550857, 4156826; 550788, 4156876; 550768, 4156856; 550806, 4156762; 550914, 4156646; 550936, 4156369; 550988, 4156222; 550986, 4156177; 550940, 4156123; 550708, 4156302; 550626, 4156334; 550616, 4156367; 550384, 4156493; 550300, 4156553; 550297, 4156578; 550218, 4156578; 550172, 4156621; 550063, 4156618; 549941, 4156723; 549933, 4156777; 549876, 4156814; 549576, 4156911; 549550, 4156944; 549555, 4157013; 549474, 4156969; 549416, 4156974; 549204, 4157059; returning to 549220, 4157011.

(C) 554142, 4155908; 554257, 4155782; 554311, 4155675; 554264, 4155586; 554381, 4155549; 554414, 4155493; 554518, 4155471; 554527, 4155397; 554641, 4155337; 554746, 4155191; 554701, 4155114; 554798, 4155071; 554842, 4154935; 554782, 4154761; 554914, 4154795; 554950, 4154775; 554920, 4154722; 555022, 4154651; 555084, 4154509; 555230, 4154328; 555279, 4154214; 555309, 4154193; 555413, 4154197; 555439, 4154108; 555369, 4154054; 555329, 4153947; 555293, 4153942; 555250, 4153982; 555184, 4153984; 555094, 4154029; 555056, 4154088; 554883, 4154165; 554832, 4154145; 554702, 4154172; 554646, 4154240; 554336, 4154291; 554257, 4154362; 554255, 4154245; 554318, 4154248; 554555, 4154173; 554586, 4154107; 554652, 4154090; 554841, 4153964; 555218, 4153835; 555223, 4153761; 555356, 4153696; 555397, 4153653; 555420, 4153577; 555501, 4153590; 555526, 4153695; 555693, 4153711; 555904, 4153415; 556072, 4153271; 556063, 4153182; 555943, 4153217; 556034, 4152959; 556026, 4152910; 555996, 4152895; 555856, 4152935; 555854, 4152909; 555992, 4152788; 556078, 4152756; 556331, 4152585; 556318, 4152547; 556184, 4152574; 556174, 4152538; 556235, 4152493; 556286, 4152488; 556279, 4152435; 556373, 4152428; 556444, 4152362; 556450, 4152283; 556488, 4152197; 556382, 4152194; 556425, 4152138; 556499, 4152098; 556517, 4152025; 556574, 4151989; 556576, 4151956; 556513, 4151890; 556555, 4151751; 556608, 4151715; 556681, 4151881; 556790, 4151955; 556861, 4151946; 557012, 4151776; 557051, 4151695; 557125, 4151632; 557070, 4151495; 557095, 4151457; 557133, 4151460; 557224, 4151552; 557295, 4151667; 557302, 4151720; 557154, 4151833; 557154, 4151861; 557253, 4151844; 557347,

4151878; 557346, 4151923; 557269, 4152007; 557112, 4152067; 557104, 4152095; 556976, 4152193; 556775, 4152285; 556790, 4152321; 556871, 4152332; 556871, 4152367; 556827, 4152405; 556850, 4152446; 556842, 4152489; 556777, 4152679; 556721, 4152755; 556657, 4152793; 556697, 4152889; 556634, 4152881; 556593, 4152919; 556600, 4152998; 556529, 4153023; 556475, 4153091; 556480, 4153132; 556543, 4153186; 556459, 4153213; 556382, 4153312; 556394, 4153456; 556363, 4153502; 556380, 4153596; 556313, 4153684; 556277, 4153796; 555971, 4153969; 555935, 4154093; 555871, 4154136; 555878, 4154256; 555852, 4154271; 555753, 4154255; 555674, 4154320; 555540, 4154299; 555476, 4154324; 555445, 4154453; 555381, 4154478; 555383, 4154504; 555457, 4154527; 555454, 4154563; 555322, 4154552; 555322, 4154582; 555393, 4154608; 555479, 4154713; 555435, 4154756; 555392, 4154715; 555273, 4154671; 555237, 4154721; 555260, 4154780; 555249, 4154889; 555195, 4154889; 555160, 4154924; 555144, 4154972; 555073, 4155038; 555031, 4155149; 554868, 4155306; 554798, 4155473; 554757, 4155485; 554678, 4155589; 554581, 4155647; 554540, 4155725; 554443, 4155780; 554312, 4156018; 554212, 4156101; 554216, 4156203; 554150, 4156246; 554073, 4156436; 553940, 4156567; 553911, 4156648; 553816, 4156762; 553750, 4156804; 553769, 4156678; 553739, 4156596; 553800, 4156508; 553829, 4156414; 553870, 4156363; 553957, 4156321; 553927, 4156252; 553988, 4156194; returning to 554142, 4155908.

(D) 557286, 4151491; 557284, 4151443; 557322, 4151364; 557308, 4151220; 557354, 4151200; 557448, 4151241; 557468, 4151231; 557519, 4151124; 557482, 4151012; 557579, 4150995; 557549, 4150901; 557402, 4150804; 557674, 4150729; 557846, 4150565; 558016, 4150559; 558080, 4150479; 558080, 4150410; 558119, 4150362; 558354, 4150158; 558464, 4150021; 558452, 4150001; 558511, 4149920; 558501, 4149798; 558327, 4149700; 558320, 4149637; 558498, 4149539; 558528, 4149270; 558566, 4149227; 558752, 4149193; 558763, 4149353; 558908, 4149377; 559299, 4148970; 559307, 4148937; 559274, 4148929; 559116, 4148982; 559081, 4148918; 559133, 4148840; 559171, 4148845; 559170, 4148903; 559198, 4148914; 559270, 4148863; 559369, 4148854; 559494, 4148740; 559616, 4148761; 559674, 4148739; 559731, 4148633; 559955, 4148581; 559947, 4148665; 560032, 4148830; 560049, 4148917; 560013, 4148990; 560025, 4149077; 559906, 4149091; 559778, 4149222; 559737, 4149169; 559702, 4149166; 559664, 4149201; 559510, 4149358; 559532, 4149444; 559656, 4149488; 559592, 4149635; 559506, 4149650; 559480, 4149680; 559397, 4149898; 559341, 4149908; 559250, 4149879; 559191, 4149907; 559193, 4150034; 559128, 4150206; 559186, 4150267; 559296, 4150283; 559287, 4150377; 559074, 4150340; 558886, 4150433; 558753, 4150470; 558712, 4150521; 558673, 4150642; 558549, 4150664; 558505, 4150712; 558492, 4150857; 558580, 4150870; 558595, 4150946; 558493, 4150945; 558405, 4150912; 558170, 4151042; 558170, 4151088; 558119, 4151123; 557994, 4151156; 557767, 4151360; 557737, 4151586; 557620, 4151648; 557584, 4151709; 557594, 4151780; 557444, 4151759; 557409, 4151647; returning to 557286, 4151491.

(E) 553227, 4150371; 553132, 4150480; 553085, 4150414; 553085, 4150180; 552935, 4150096; 553085, 4150049; 553319, 4149834; 553553, 4149834; 553646, 4150049; 553581, 4150264; returning to 553227, 4150371.

(F) 552570, 4150315; 552477, 4150517; 552589, 4150966; 552563, 4151254; 552664, 4151452; 552664, 4151733; 552524, 4151686; 552222, 4151263; 551991, 4151097; 551766, 4150854; 551617, 4150480; 551617, 4150115; 551813, 4149956; 552165, 4149863; 552374, 4149890; returning to 552570, 4150315.

* * * * *

(29) * * *

(i) Unit SNM–2 excludes land bounded by the following UTM Zone 10, NAD83 coordinates (E, N):

(A) 555483, 4121713; 555388, 4121749; 555388, 4121320; 555235, 4121428; 555083, 4121390; 554981, 4121263; 554873, 4121256; 554937, 4121205; 555387, 4121177; 556034, 4121027; 556340, 4120843; 556518, 4120862; 556658, 4120996; 556400, 4121122; 556169, 4121332; 556086, 4121497; 555687, 4121566; 555584, 4121675; returning to 555483, 4121713.

(B) 556092, 4122063; 556218, 4122107; 556645, 4122069; 556727, 4122152; 556746, 4122317; 556816, 4122418; 557032, 4122456; 557089, 4122533; 556873, 4122695; 556861, 4122837; 556467, 4122821; 556281, 4123125; 556289, 4123256; 556226, 4123422; 555497, 4123687; 555358, 4123614; 555261, 4123663; 555032, 4123593; 554691, 4123369; 554690, 4123310; 554656, 4123262; 554596, 4123352; 554359, 4123364; 554270, 4123180; 553600, 4123504; 553555, 4123410; 553375, 4123390; 553635, 4122920; 553644, 4122708; 553715, 4122548; 553839, 4122460; 554062, 4122505; 554165, 4122407; 554289, 4122418; 554447, 4122645; 555312, 4122656; 555578, 4122761; 555705, 4122761; 555756, 4122507; 556003, 4122317; returning to 556092, 4122063.

* * * * *

(32) * * *

(i) Unit SCZ–1 excludes land bounded by the following UTM Zone 10, NAD83 coordinates (E, N):

(A) 573194, 4098886; 573212, 4098861; 573233, 4098878; 573215, 4098903; returning to 573194, 4098886.

(B) 573580, 4098341; 573624, 4098338; 573660, 4098454; 573623, 4098464; returning to 573580, 4098341.

(C) 574941, 4098271; 574925, 4098209; 575067, 4098224; returning to 574941, 4098271.

(D) 573381, 4098107; 573397, 4098073; 573480, 4098118; 573464, 4098150; returning to 573381, 4098107.

(E) 575347, 4097747; 575349, 4097646; 575448, 4097670; 575379, 4097752; returning to 575347, 4097747.

(F) 575388, 4097590; 575394, 4097549; 575456, 4097559; 575440, 4097610; returning to 575388, 4097590.

(G) 574744, 4097505; 574777, 4097483; 574803, 4097522; 574771, 4097541; returning to 574744, 4097505.

* * * * *

Mountain Yellow-legged Frog (*Rana muscosa*), Southern California DPS

* * * * *

(6) * * *

(i) * * *

(A) Subunit 2A excludes land bounded by the following UTM NAD27 coordinates (E, N):

(*1*) 483700, 3785100; 483800, 3785100; 483800, 3785000; 483700, 3785000; 483700, 3785100.

(*2*) 483100, 3782700; 483600, 3782700; 483600, 3782600; 483500, 3782600; 483500, 3782500; 483400, 3782500; 483400, 3782400; 483300, 3782400; 483300, 3782300; 483200, 3782300; 483200, 3782100; 483100, 3782100; 483100, 3782700.

(*3*) 483000, 3781800; 483100, 3781800; 483100, 3781500; 483000, 3781500; 483000, 3781800.

* * * * *

Guajón (*Eleutherodactylus cooki*)

* * * * *

(11) * * *

(ii) The map depicting Unit 6 is provided at paragraph (12)(ii) of this entry.

* * * * *

(13) * * *

(ii) The map depicting Unit 8 is provided at paragraph (14)(ii) of this entry.

* * * * *

(16) * * *

(ii) The map depicting Unit 11 is provided at paragraph (17)(ii) of this entry.

* * * * *

(19) * * *

(ii) The map depicting Unit 14 is provided at paragraph (20)(ii) of this entry.

* * * * *

Central Population of California Tiger Salamander (*Ambystoma californiense*)

* * * * *

(17) * * *

(i) Central Valley Region: Unit 2 excludes land bounded by the following UTM Zone 10, NAD83 coordinates (E, N): 603666, 4238548; 604112, 4238500; 604463, 4238516; 604510, 4237050; 604494, 4233370; 601674, 4233354; 600161, 4233354; 599699, 4233386; 599667, 4238197; 602105, 4238197; 602375, 4238548; 602822, 4238548; 603666, 4238548.

* * * * *

(18) * * *

(i) Central Valley Region: Unit 3 excludes land bounded by the following UTM Zone 10, NAD83 coordinates (E, N):

(A) 663699, 4245563; 663773, 4245470; 663872, 4245529; 663908, 4245484; 664132, 4245487; 664193, 4245525; 664343, 4245508; 664446, 4245534; 664455, 4245223; 664686, 4245225; 664681, 4245603; 664669, 4245660; 664669, 4245731; 664793, 4245767; 664776, 4245798; 664712, 4245836; 664686, 4245962; 664629, 4246000; 664643, 4246107; 664517, 4246081; 664512, 4246171; 664315, 4246178; 664236, 4246190; 663987, 4246188; 663813, 4245903; 663732, 4245860; returning to 663699, 4245563.

(B) 663893, 4245225; 663790, 4245261; 663740, 4245213; 663759, 4244776; 663937, 4244476; 664146, 4244482; 664133, 4245143; returning to 663893, 4245225.

* * * * *

Reticulated Flatwoods Salamander (*Ambystoma bishopi*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

San Marcos Salamander (*Eurycea nana*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Arroyo Toad (*Anaxyrus californicus*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Houston Toad (*Bufo houstonensis*)

(1) * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

(2) * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

(e) *Fishes.*

* * * * *

Yaqui Catfish (*Ictalurus pricei*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Bonytail Chub (*Gila elegans*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Borax Lake Chub (*Gila boraxobius*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Humpback Chub (*Gila cypha*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Owens Tui Chub (*Gila bicolor snyderi*)

1. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

2. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Slender Chub (*Erimystax = (Hybopsis) cahni*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Sonora Chub (*Gila ditaenia*)

* * * * *

4. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Spotfin Chub (*Erimonax monachus*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Virgin River Chub (*Gila seminuda*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Yaqui Chub (*Gila purpurea*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Ash Meadows Speckled Dace (*Rhinichthys osculus nevadensis*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Desert Dace (*Eremichthys acros*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Amber Darter (*Percina antesella*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Fountain Darter (*Etheostoma fonticola*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Leopard Darter (*Percina pantherina*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Maryland Darter (*Etheostoma sellare*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Niangua Darter (Etheostoma nianguae)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Slackwater Darter (*Etheostoma boschungi*)

* * * * *

**Note:** The maps provided are for informational purposes only. Map follows:

* * * * *

San Marcos Gambusia (*Gambusia georgei*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Conasauga Logperch (*Percina jenkinsi*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Smoky Madtom (*Noturus baileyi*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

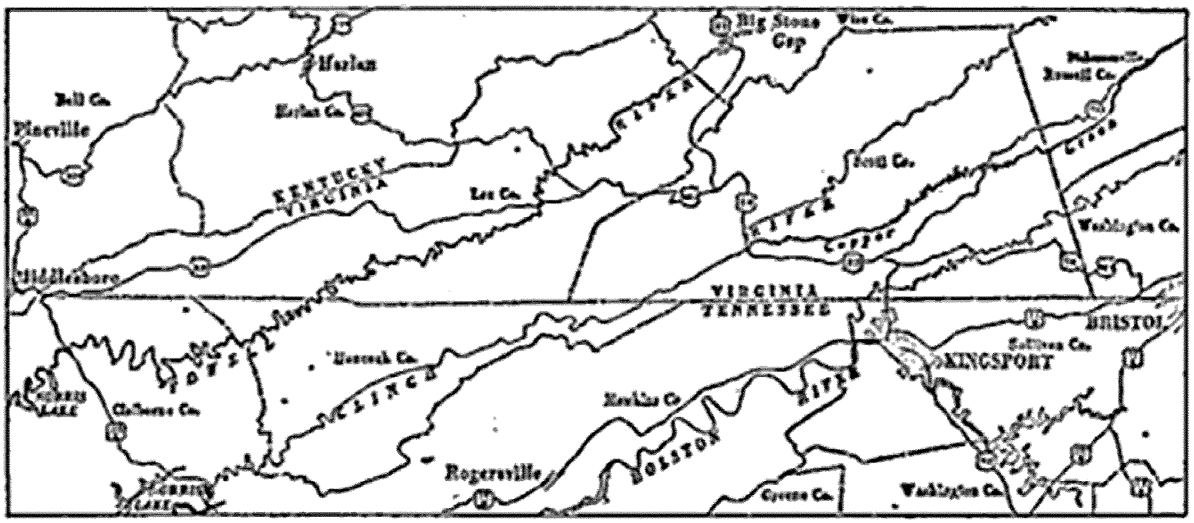
* * * * *

Yellowfin Madtom (*Noturus flavipinnis*)

*Tennessee.* Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line.

*Virginia.* Lee, Scott, and Russell Counties. Powell River, main channel from the Virginia-Tennessee State line upstream through Lee County. Copper Creek, main channel from its junction with Clinch River upstream through Scott County and upstream in Russell County to Dickensonville.

**Note:** The map provided is for informational purposes only. Map follows:




Critical Habitat for Yellowfin Madtom

* * * * *

Rio Grande Silvery Minnow (*Hybognathus amarus*)

* * * * *

(1) * * * The map provided is for informational purposes only.

* * * * *

Ash Meadows Amargosa Pupfish (*Cyprinodon nevadensis mionectes*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Desert Pupfish (*Cyprinodon macularius*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Leon Springs Pupfish *(Cyprinodon bovinus)*

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Beautiful Shiner (*Notropis formosus*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Cape Fear Shiner (*Notropis mekistocholas*)

* * * * *

(3) * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Pecos Bluntnose Shiner (*Notropis simus pecosensis*)

1. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

2. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Waccamaw Silverside (*Menidia extensa*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Delta Smelt (*Hypomesus transpacificus*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Spikedace (*Meda fulgida*)

* * * * *

(1) * * * The maps provided are for informational purposes only.

* * * * *

Big Spring Spinedace (*Lepidomeda mollispinus pratensis*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Little Colorado Spinedace (*Lepidomeda vittata*)

1. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

2. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

3. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

White River Spinedace (*Lepidomeda albivallis*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Hiko White River Springfish (*Crenichthys baileyi grandis*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Railroad Valley Springfish (*Crenichthys nevadae*)

1. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

2. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

White River Springfish (*Crenichthys baileyi baileyi*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Colorado Squawfish (*Ptychocheilus lucius*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Gulf Sturgeon (*Acipenser oxyrinchus desotoi*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

June Sucker (*Chasmistes liorus*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Razorback Sucker (*Xyrauchen texanus*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Warner Sucker (*Catostomus warnerensis*)

* * * * *

2. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

5. * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Little Kern Golden Trout (*Salmo aguabonita whitei*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Woundfin (*Plagopterus argentissimus*)

* * * * *

**Note:** The map provided is for informational purposes only.

* * * * *

(f) *Clams and Snails.*

Appalachian Elktoe (*Alasmidonta raveneliana*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Carolina Heelsplitter (*Lasmigona decorata*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Eleven Mobile River Basin Mussel Species: Southern acornshell (*Epioblasma othcaloogensis*), ovate clubshell (*Pleurobema perovatum*), southern clubshell (*Pleurobema decisum*), upland combshell (*Epioblasma metastriata*), triangular kidneyshell (*Ptychobranchus greenii*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), orange-nacre mucket (*Lampsilis perovalis*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), and fine-lined pocketbook (*Lampsilis altilis*)

* * * * *

(2) * * * The maps provided are for informational purposes only.

* * * * *

Five Tennessee and Cumberland River Basin Mussels Species: Purple bean (*Villosa perpurpurea*), Cumberlandian combshell (*Epioblasma brevidens*), Cumberland elktoe (*Alasmidonta atropurpurea*), oyster mussel (*Epioblasma capsaeformis*), and rough rabbitsfoot (*Quadrula cylindrica strigillata*)

* * * * *

(2) * * * The maps provided are for informational purposes only.

* * * * *

Tumbling Creek Cavesnail (*Antrobia culveri*)

(1) * * * The map provided is for informational purposes only.

* * * * *

Morro Shoulderband Snail (*Helminthoglypta walkeriana*)

1. * * * The map provided is for informational purposes only.

* * * * *

Newcomb's Snail (*Erinna newcombi*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

San Bernardino Springsnail (*Pyrgulopsis bernardina*)

* * * * *

(5) Map of critical habitat units for the San Bernardino springsnail follows:

* * * * *

Three Forks Springsnail (*Pyrgulopsis trivialis*)

* * * * *

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of the Three Forks springsnail consist of four components:

* * * * *

(5) Map of critical habitat units for the Three Forks springsnail follows:

* * * * *

(g) *Arachnids.*

* * * * *

Kauai Cave Wolf Spider (*Adelocosa anops*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Spruce-Fir Moss Spider (*Microhexura montivaga*)

1. * * * The maps provided are for informational purposes only.

* * * * *

(h) *Crustaceans.*

* * * * *

Kauai Cave Amphipod (*Spelaeorchestia koloana*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Vernal Pool Fairy Shrimp (*Branchinecta lynchi*)

* * * * *

(4) Unit 1: Jackson County, Oregon. Map of Unit 1 is provided at paragraph (7)(ii) of this entry.

(5) Unit 2: Jackson County, Oregon. Map of Unit 2 is provided at paragraph (7)(ii) of this entry.

(6) Unit 3: Jackson County, Oregon. Map of Unit 3 is provided at paragraph (7)(ii) of this entry.

* * * * *

(8) Unit 5: Shasta County, California. Map of Unit 5 is provided at paragraph (13) of this entry.

(9) Unit 6: Tehama County, California. Map of Unit 6 is provided at paragraph (13) of this entry.

(10) Unit 7: Tehama County, California. Map of Unit 7 is provided at paragraph (13) of this entry.

(11) Unit 8: Tehama and Glenn Counties, California. Map of Unit 8 is provided at paragraph (13) of this entry.

(12) Unit 9: Butte County, California. Map of Unit 9 is provided at paragraph (13) of this entry.

* * * * *

(15) Unit 11: Yuba County, California. Map of Unit 11 is provided at paragraph (16)(ii) of this entry.

* * * * *

(17) Unit 13: Sacramento County, California. Map of Unit 13 is provided at paragraph (18)(ii) of this entry.

* * * * *

(19) Unit 16: Solano County, California. Map of Unit 16 is provided at paragraph (21) of this entry.

(20) Unit 17: Napa County, California. Map of Unit 17 is provided at paragraph (21) of this entry.

* * * * *

(22) Unit 18: San Joaquin County, California. Map of Unit 18 is provided at paragraph (25) of this entry.

(23) Unit 19: Contra Costa County, California. Map of Unit 19 is provided at paragraph (25) of this entry.

(24) Unit 20: Stanislaus County, California. Map of Unit 20 is provided at paragraph (25) of this entry.

* * * * *

(26) Unit 21: Stanislaus County, California. Map of Unit 21 is provided at paragraph (28) of this entry.

(27) Unit 22: Merced County, California. Map of Unit 22 is provided at paragraph (28) of this entry.

* * * * *

(30) Unit 24: Madera County, California. Map of Unit 24 is provided at paragraph (32) of this entry.

(31) Unit 25: Madera County, California. Map of Unit 25 is provided at paragraph (32) of this entry.

* * * * *

(35) Unit 28: San Benito and Monterey Counties, California. Map of Unit 28 is provided at paragraph (36) of this entry.

* * * * *

(38) Unit 30: San Luis Obispo County, California. Map of Unit 30 is provided at paragraph (39) of this entry.

* * * * *

(40) Unit 31: Santa Barbara County, California. Map of Unit 31 is provided at paragraph (41) of this entry.

* * * * *

(42) Unit 32: Ventura County, California. Map of Unit 32 is provided at paragraph (43) of this entry.

* * * * *

Kentucky Cave Shrimp (*Palaemonias ganteri*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Vernal Pool Tadpole Shrimp (*Lepidurus packardi*)

* * * * *

(4) Unit 1: Shasta County, California. Map of Unit 1 is provided at paragraph (5)(ii) of this entry.

* * * * *

(8) Unit 6: Colusa County, California. Map of Unit 6 is provided at paragraph (10) of this entry.

(9) Unit 7: Yuba County, California. Map of Unit 7 is provided at paragraph (10) of this entry.

* * * * *

(11) Unit 8: Sacramento County, California. Map of Unit 8 is provided at paragraph (12)(ii) of this entry.

* * * * *

(13) Unit 10: Yolo County, California. Map of Unit 10 is provided at paragraph (14)(ii) of this entry.

* * * * *

(17) Unit 15: Merced, Madera, and Mariposa Counties, California. Unit 15 excludes land bounded by the following UTM Zone 10, NAD 83 coordinates (E,N): 757175, 4117475; 757117, 4117435; 757138, 4117438; 757146, 4117439; 757245, 4117516; 757255, 4117530; returning to 757175, 4117475. Map of Unit 15 is provided at paragraph (18) of this entry.

* * * * *

(20) Unit 17: Fresno County, California. Map of Unit 17 is provided at paragraph (21) of this entry.

* * * * *

(i) *Insects.*

* * * * *

Delta Green Ground Beetle (*Elaphrus viridis*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Salt Creek Tiger Beetle (*Cicindela nevadica lincolniana*)

(1) Critical habitat units are depicted for Lancaster and Saunders Counties, Nebraska, on the map below.

* * * * *

Valley Elderberry Longhorn Beetle (*Desmocerus californicus dimorphus*)

California, Sacramento County

(1) * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

(2) * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Palos Verdes Blue Butterfly (*Glaucopsyche lygdamus palosverdesensis*)

* * * The maps provided are for informational purposes only.

* * * * *

Quino Checkerspot Butterfly (*Euphydryas editha quino*)

* * * * *

(6) * * *

(i) From USGS 1:24,000 quadrangles Murrieta, Bachelor Mountain, Winchester, Sage, and Hemet. Unit 2 excludes land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD83) coordinates (E, N): 499546, 3716748; 499545, 3716748; 499545, 3716748; 499545, 3716748; 499545, 3716748; 499545, 3716748; 499545, 3716748; 499545, 3716748; 499544, 3716748; 499544, 3716748; 499544, 3716748; 499544, 3716748; 499544, 3716748; 499544, 3716748; 499543, 3716748; 499543, 3716748; 499543, 3716748; 499543, 3716748; 499543, 3716748; 499543, 3716748; 499543, 3716748; 499542, 3716748; 499542, 3716748; 499542, 3716748; 499542, 3716748; 499542, 3716748; 499542, 3716748; 499541, 3716748; 499541, 3716748; 499541, 3716748; 499541, 3716748; 499541, 3716748; 499540, 3716748; 499540, 3716748; 499540, 3716748; 499540, 3716748; 499540, 3716748; 499540, 3716748; 499540, 3716748; 499539, 3716748; 499539, 3716748; 499539, 3716748; 499539,

3716749; 499539, 3716749; 499539,
3716749; 499538, 3716749; 499538,
3716749; 499538, 3716749; 499538,
3716749; 499538, 3716749; 499538,
3716749; 499538, 3716749; 499537,
3716749; 499537, 3716749; 499537,
3716749; 499537, 3716749; 499537,
3716749; 499537, 3716749; 499537,
3716749; 499536, 3716749; 499536,
3716749; 499536, 3716749; 499536,
3716749; 499536, 3716749; 499536,
3716749; 499535, 3716749; 499535,
3716749; 499535, 3716749; 499535,
3716749; 499535, 3716749; 499535,
3716749; 499535, 3716749; 499534,
3716749; 499534, 3716749; 499534,
3716750; 499534, 3716750; 499534,
3716750; 499534, 3716750; 499534,
3716750; 499533, 3716750; 499533,
3716750; 499533, 3716750; 499533,
3716750; 499533, 3716750; 499533,
3716750; 499533, 3716750; 499532,
3716750; 499532, 3716750; 499532,
3716750; 499532, 3716750; 499532,
3716750; 499532, 3716750; 499532,
3716750; 499531, 3716750; 499531,
3716750; 499531, 3716750; 499531,
3716750; 499531, 3716751; 499531,
3716751; 499531, 3716751; 499530,
3716751; 499530, 3716751; 499530,
3716751; 499530, 3716751; 499530,
3716751; 499530, 3716751; 499530,
3716751; 499529, 3716751; 499529,
3716751; 499529, 3716751; 499529,
3716751; 499529, 3716751; 499529,
3716751; 499529, 3716751; 499528,
3716751; 499528, 3716751; 499528,
3716752; 499528, 3716752; 499528,
3716752; 499528, 3716752; 499528,
3716752; 499527, 3716752; 499527,
3716752; 499527, 3716752; 499527,
3716752; 499527, 3716752; 499527,
3716752; 499527, 3716752; 499526,
3716752; 499526, 3716752; 499526,
3716752; 499526, 3716752; 499526,
3716753; 499526, 3716753; 499526,
3716753; 499525, 3716753; 499525,
3716753; 499525, 3716753; 499525,
3716753; 499525, 3716753; 499525,
3716753; 499525, 3716753; 499525,
3716753; 499524, 3716753; 499524,
3716753; 499524, 3716753; 499524,
3716754; 499524, 3716754; 499524,
3716754; 499524, 3716754; 499523,
3716754; 499523, 3716754; 499523,
3716754; 499523, 3716754; 499523,
3716754; 499523, 3716754; 499523,
3716754; 499523, 3716754; 499522,
3716754; 499522, 3716755; 499522,
3716755; 499522, 3716755; 499522,
3716755; 499522, 3716755; 499522,
3716755; 499521, 3716755; 499521,
3716755; 499521, 3716755; 499521,
3716755; 499521, 3716755; 499521,
3716755; 499521, 3716755; 499521,
3716756; 499520, 3716756; 499520,
3716756; 499520, 3716756; 499520,
3716756; 499520, 3716756; 499520,
3716756; 499520, 3716756; 499520,
3716756; 499519, 3716756; 499519,
3716756; 499519, 3716757; 499519,
3716757; 499519, 3716757; 499519,
3716757; 499519, 3716757; 499519,
3716757; 499518, 3716757; 499518,
3716757; 499518, 3716757; 499518,
3716757; 499518, 3716757; 499518,
3716758; 499518, 3716758; 499518,
3716758; 499518, 3716758; 499517,
3716758; 499517, 3716758; 499517,
3716758; 499517, 3716758; 499517,
3716758; 499517, 3716758; 499517,
3716758; 499517, 3716759; 499516,
3716759; 499516, 3716759; 499516,
3716759; 499516, 3716759; 499516,
3716759; 499516, 3716759; 499516,
3716759; 499516, 3716759; 499516,
3716759; 499515, 3716760; 499515,
3716760; 499515, 3716760; 499515,
3716760; 499515, 3716760; 499515,
3716760; 499515, 3716760; 499515,
3716760; 499514, 3716760; 499514,
3716760; 499514, 3716761; 499514,
3716761; 499514, 3716761; 499514,
3716761; 499514, 3716761; 499514,
3716761; 499514, 3716761; 499514,
3716761; 499513, 3716761; 499513,
3716762; 499513, 3716762; 499513,
3716762; 499513, 3716762; 499513,
3716762; 499513, 3716762; 499513,
3716762; 499513, 3716762; 499512,
3716762; 499512, 3716763; 499512,
3716763; 499512, 3716763; 499512,
3716763; 499512, 3716763; 499512,
3716763; 499512, 3716763; 499512,
3716763; 499512, 3716763; 499511,
3716764; 499511, 3716764; 499511,
3716764; 499511, 3716764; 499511,
3716764; 499511, 3716764; 499511,
3716764; 499511, 3716764; 499511,
3716764; 499511, 3716765; 499511,
3716765; 499510, 3716765; 499508,
3716768; 499493, 3716786; 499493,
3716786; 499492, 3716787; 499492,
3716787; 499492, 3716787; 499492,
3716787; 499492, 3716787; 499492,
3716787; 499492, 3716787; 499492,
3716787; 499492, 3716788; 499492,
3716788; 499491, 3716788; 499491,
3716788; 499491, 3716788; 499491,
3716788; 499491, 3716788; 499491,
3716788; 499491, 3716788; 499491,
3716789; 499491, 3716789; 499491,
3716789; 499491, 3716789; 499490,
3716789; 499490, 3716789; 499490,
3716789; 499490, 3716789; 499490,
3716790; 499490, 3716790; 499490,
3716790; 499490, 3716790; 499490,
3716790; 499490, 3716790; 499490,
3716790; 499489, 3716790; 499489,
3716791; 499489, 3716791; 499489,
3716791; 499489, 3716791; 499489,
3716791; 499489, 3716791; 499489,
3716791; 499489, 3716791; 499489,
3716792; 499489, 3716792; 499489,
3716792; 499489, 3716792; 499488,
3716792; 499488, 3716792; 499488,
3716792; 499488, 3716792; 499488,
3716792; 499488, 3716792; 499488,
3716793; 499488, 3716793; 499488,
3716793; 499488, 3716793; 499488,
3716793; 499488, 3716793; 499487,
3716793; 499487, 3716793; 499487,
3716794; 499487, 3716794; 499487,
3716794; 499487, 3716794; 499487,
3716794; 499487, 3716794; 499487,
3716794; 499487, 3716794; 499487,
3716795; 499487, 3716795; 499486,
3716795; 499486, 3716795; 499486,
3716795; 499486, 3716795; 499486,
3716795; 499486, 3716795; 499486,
3716796; 499486, 3716796; 499486,
3716796; 499486, 3716796; 499486,
3716796; 499486, 3716796; 499486,
3716796; 499485, 3716797; 499485,
3716797; 499485, 3716797; 499485,
3716797; 499485, 3716797; 499485,
3716797; 499485, 3716797; 499485,
3716797; 499485, 3716798; 499485,
3716798; 499485, 3716798; 499485,
3716798; 499485, 3716798; 499484,
3716798; 499484, 3716798; 499484,
3716799; 499484, 3716799; 499484,
3716799; 499484, 3716799; 499484,
3716799; 499484, 3716799; 499484,
3716799; 499484, 3716799; 499484,
3716800; 499484, 3716800; 499484,
3716800; 499484, 3716800; 499483,
3716800; 499483, 3716800; 499483,
3716800; 499483, 3716801; 499483,
3716801; 499483, 3716801; 499483,
3716801; 499483, 3716801; 499483,
3716801; 499483, 3716801; 499483,
3716801; 499483, 3716802; 499483,
3716802; 499483, 3716802; 499482,
3716802; 499482, 3716802; 499482,
3716802; 499482, 3716802; 499482,
3716803; 499482, 3716803; 499477,
3716812; 499477, 3716813; 499453,
3716862; 499453, 3716862; 499453,
3716862; 499444, 3716871; 499353,
3716944; 499347, 3716948; 499248,
3717028; 499067, 3716918; 498635,
3716657; 498635, 3716657; 498634,
3716602; 498629, 3716418; 498795,
3716421; 499116, 3716425; 499299,
3716427; 499334, 3716428; 499415,
3716429; 499415, 3716429; 499806,
3716412; 499810, 3716412; 499814,
3716412; 499816, 3716856; 499816,
3716856; 499809, 3716855; 499684,
3716831; 499675, 3716825; 499659,
3716812; 499602, 3716769; 499564,
3716752; 499564, 3716752; 499564,
3716752; 499564, 3716752; 499564,
3716752; 499564, 3716752; 499564,
3716752; 499563, 3716752; 499563,
3716751; 499563, 3716751; 499563,
3716751; 499563, 3716751; 499563,
3716751; 499563, 3716751; 499562,
3716751; 499562, 3716751; 499562,
3716751; 499562, 3716751; 499562,
3716751; 499562, 3716751; 499562,
3716751; 499561, 3716751; 499561,
3716751; 499561, 3716751; 499561,

3716751; 499561, 3716751; 499561, 3716751; 499561, 3716750; 499560, 3716750; 499560, 3716750; 499560, 3716750; 499560, 3716750; 499560, 3716750; 499560, 3716750; 499560, 3716750; 499559, 3716750; 499559, 3716750; 499559, 3716750; 499559, 3716750; 499559, 3716750; 499559, 3716750; 499559, 3716750; 499558, 3716750; 499558, 3716750; 499558, 3716750; 499558, 3716750; 499558, 3716750; 499558, 3716750; 499558, 3716750; 499557, 3716749; 499557, 3716749; 499557, 3716749; 499557, 3716749; 499557, 3716749; 499557, 3716749; 499556, 3716749; 499556, 3716749; 499556, 3716749; 499556, 3716749; 499556, 3716749; 499556, 3716749; 499556, 3716749; 499555, 3716749; 499555, 3716749; 499555, 3716749; 499555, 3716749; 499555, 3716749; 499555, 3716749; 499555, 3716749; 499554, 3716749; 499554, 3716749; 499554, 3716749; 499554, 3716749; 499554, 3716749; 499554, 3716749; 499554, 3716749; 499553, 3716749; 499553, 3716749; 499553, 3716749; 499553, 3716749; 499553, 3716749; 499553, 3716749; 499552, 3716748; 499552, 3716748; 499552, 3716748; 499552, 3716748; 499552, 3716748; 499552, 3716748; 499552, 3716748; 499551, 3716748; 499551, 3716748; 499551, 3716748; 499551, 3716748; 499551, 3716748; 499551, 3716748; 499550, 3716748; 499550, 3716748; 499550, 3716748; 499550, 3716748; 499550, 3716748; 499550, 3716748; 499550, 3716748; 499549, 3716748; 499549, 3716748; 499549, 3716748; 499549, 3716748; 499549, 3716748; 499549, 3716748; 499549, 3716748; 499548, 3716748; 499548, 3716748; 499548, 3716748; 499548, 3716748; 499548, 3716748; 499548, 3716748; 499547, 3716748; 499547, 3716748; 499547, 3716748; 499547, 3716748; 499547, 3716748; 499547, 3716748.

* * * * *

(11) * * *

(i) From USGS 1:24,000 quadrangles Anza, Butterfly Peak, Blackburn Canyon, and Idyllwild. Unit 7 excludes land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD83) coordinates (E, N):

(A) 525336, 3717346; 525538, 3717338; 525526, 3717651; 525245, 3717656; 525259, 3717478; 525275, 3717451; and

(B) 525483, 3717132; 525482, 3717132; 525478, 3717134; 525478, 3717134; 525473, 3717137; 525473, 3717137; 525468, 3717139; 525468, 3717139; 525463, 3717142; 525463, 3717142; 525459, 3717145; 525458, 3717145; 525454, 3717148; 525454, 3717148; 525449, 3717151; 525449, 3717151; 525445, 3717154; 525445, 3717154; 525440, 3717157; 525440, 3717157; 525436, 3717160; 525436, 3717160; 525431, 3717164; 525431, 3717164; 525427, 3717167; 525427, 3717167; 525423, 3717170; 525423, 3717171; 525419, 3717174; 525418, 3717174; 525414, 3717178; 525414, 3717178; 525410, 3717181; 525410, 3717181; 525406, 3717185; 525406, 3717185; 525402, 3717189; 525402, 3717189; 525398, 3717193; 525398, 3717193; 525395, 3717197; 525394, 3717197; 525391, 3717201; 525391, 3717201; 525387, 3717205; 525387, 3717205; 525384, 3717209; 525383, 3717209; 525380, 3717213; 525380, 3717213; 525377, 3717217; 525376, 3717218; 525373, 3717222; 525373, 3717222; 525370, 3717226; 525370, 3717226; 525367, 3717231; 525366, 3717231; 525363, 3717235; 525363, 3717235; 525360, 3717240; 525360, 3717240; 525357, 3717244; 525357, 3717244; 525354, 3717249; 525354, 3717249; 525351, 3717254; 525255, 3717419; 525269, 3717240; 525299, 3716874; 525328, 3716873; 525366, 3716908; 525367, 3716909; 525367, 3716909; 525368, 3716910; 525368, 3716910; 525369, 3716911; 525369, 3716911; 525370, 3716911; 525370, 3716912; 525371, 3716912; 525371, 3716913; 525372, 3716913; 525372, 3716914; 525372, 3716914; 525373, 3716914; 525373, 3716915; 525374, 3716915; 525374, 3716916; 525375, 3716916; 525375, 3716917; 525376, 3716917; 525376, 3716917; 525377, 3716918; 525377, 3716918; 525378, 3716919; 525378, 3716919; 525379, 3716919; 525379, 3716920; 525380, 3716920; 525380, 3716921; 525381, 3716921; 525381, 3716921; 525382, 3716922; 525382, 3716922; 525383, 3716923; 525383, 3716923; 525384, 3716923; 525384, 3716924; 525385, 3716924; 525385, 3716925; 525386, 3716925; 525386, 3716925; 525387, 3716926; 525387, 3716926; 525388, 3716927; 525388, 3716927; 525389, 3716927; 525389, 3716928; 525390, 3716928; 525390, 3716929; 525391, 3716929; 525392, 3716929; 525392, 3716930; 525393, 3716930; 525393, 3716930; 525394, 3716931; 525394, 3716931; 525395, 3716932; 525395, 3716932; 525396, 3716932; 525396, 3716933; 525397, 3716933; 525397, 3716933; 525398, 3716934; 525398, 3716934; 525399, 3716935; 525399, 3716935; 525400, 3716935; 525400, 3716936; 525401, 3716936; 525402, 3716936; 525402, 3716937; 525403, 3716937; 525403, 3716937; 525404, 3716938; 525404, 3716938; 525405, 3716938; 525405, 3716939; 525406, 3716939; 525406, 3716939; 525407, 3716940; 525408, 3716940; 525408, 3716940; 525409, 3716941; 525409, 3716941; 525410, 3716941; 525410, 3716942; 525411, 3716942; 525411, 3716942; 525412, 3716943; 525412, 3716943; 525413, 3716943; 525414, 3716944; 525414, 3716944; 525415, 3716944; 525415, 3716945; 525416, 3716945; 525416, 3716945; 525417, 3716946; 525418, 3716946; 525418, 3716946; 525419, 3716947; 525419, 3716947; 525420, 3716947; 525420, 3716948; 525421, 3716948; 525421, 3716948; 525422, 3716948; 525423, 3716949; 525423, 3716949; 525424, 3716949; 525424, 3716950; 525425, 3716950; 525425, 3716950; 525426, 3716950; 525427, 3716951; 525427, 3716951; 525428, 3716951; 525428, 3716952; 525429, 3716952; 525430, 3716952; 525430, 3716952; 525431, 3716953; 525431, 3716953; 525432, 3716953; 525432, 3716954; 525433, 3716954; 525434, 3716954; 525434, 3716954; 525435, 3716955; 525435, 3716955; 525436, 3716955; 525436, 3716955; 525437, 3716956; 525438, 3716956; 525438, 3716956; 525439, 3716957; 525439, 3716957; 525440, 3716957; 525441, 3716957; 525441, 3716958; 525442, 3716958; 525442, 3716958; 525443, 3716958; 525444, 3716959; 525444, 3716959; 525445, 3716959; 525445, 3716959; 525446, 3716960; 525447, 3716960; 525447, 3716960; 525448, 3716960; 525448, 3716960; 525449, 3716961; 525449, 3716961; 525450, 3716961; 525450, 3716961; 525451, 3716961; 525451, 3716962; 525452, 3716962; 525452, 3716962; 525453, 3716962; 525453, 3716962; 525454, 3716963; 525455, 3716963; 525455, 3716963; 525456, 3716963; 525456, 3716963; 525457, 3716964; 525457, 3716964; 525458, 3716964; 525458, 3716964; 525459, 3716965; 525459, 3716965; 525460, 3716965; 525460, 3716965; 525461, 3716965; 525461, 3716966; 525462, 3716966; 525462, 3716966; 525463, 3716966; 525463, 3716967; 525464, 3716967; 525464, 3716967; 525465, 3716967; 525466, 3716968; 525466, 3716968; 525467, 3716968; 525467, 3716968; 525468, 3716969; 525468, 3716969; 525469, 3716969; 525469, 3716969; 525470, 3716970; 525470, 3716970; 525471, 3716970; 525471, 3716970; 525472, 3716971; 525472, 3716971; 525473, 3716971; 525473, 3716971; 525474, 3716972; 525474, 3716972; 525475, 3716972; 525475, 3716972; 525476, 3716973; 525476, 3716973; 525477, 3716973; 525477, 3716974; 525478, 3716974; 525478, 3716974; 525479, 3716974; 525479,

3716975; 525480, 3716975; 525480, 3716975; 525481, 3716976; 525481, 3716976; 525482, 3716976; 525482, 3716976; 525483, 3716977; 525483, 3716977; 525484, 3716977; 525484, 3716978; 525485, 3716978; 525485, 3716978; 525486, 3716979; 525486, 3716979; 525487, 3716979; 525487, 3716979; 525487, 3716980; 525488, 3716980; 525488, 3716980; 525489, 3716981; 525489, 3716981; 525490, 3716981; 525490, 3716982; 525491, 3716982; 525491, 3716982; 525492, 3716983; 525492, 3716983; 525493, 3716983; 525493, 3716984; 525494, 3716984; 525494, 3716984; 525495, 3716984; 525495, 3716985; 525496, 3716985; 525496, 3716985; 525496, 3716986; 525497, 3716986; 525497, 3716986; 525498, 3716987; 525498, 3716987; 525499, 3716987; 525499, 3716988; 525500, 3716988; 525500, 3716989; 525501, 3716989; 525501, 3716989; 525502, 3716990; 525502, 3716990; 525502, 3716990; 525503, 3716991; 525503, 3716991; 525504, 3716991; 525504, 3716992; 525505, 3716992; 525505, 3716992; 525506, 3716993; 525506, 3716993; 525506, 3716993; 525507, 3716994; 525507, 3716994; 525508, 3716995; 525508, 3716995; 525509, 3716995; 525509, 3716996; 525510, 3716996; 525510, 3716996; 525510, 3716997; 525511, 3716997; 525511, 3716997; 525512, 3716998; 525512, 3716998; 525513, 3716999; 525513, 3716999; 525513, 3716999; 525514, 3717000; 525514, 3717000; 525515, 3717001; 525515, 3717001; 525516, 3717001; 525516, 3717002; 525516, 3717002; 525517, 3717002; 525517, 3717003; 525518, 3717003; 525518, 3717004; 525518, 3717004; 525519, 3717004; 525519, 3717005; 525520, 3717005; 525520, 3717006; 525520, 3717006; 525521, 3717006; 525521, 3717007; 525522, 3717007; 525522, 3717008; 525522, 3717008; 525523, 3717008; 525523, 3717009; 525524, 3717009; 525524, 3717010; 525524, 3717010; 525525, 3717011; 525525, 3717011; 525526, 3717011; 525526, 3717012; 525526, 3717012; 525527, 3717013; 525527, 3717013; 525528, 3717013; 525528, 3717014; 525528, 3717014; 525529, 3717015; 525529, 3717015; 525530, 3717016; 525530, 3717016; 525530, 3717016; 525531, 3717017; 525531, 3717017; 525531, 3717018; 525532, 3717018; 525532, 3717019; 525533, 3717019; 525533, 3717019; 525533, 3717020; 525534, 3717020; 525534, 3717021; 525534, 3717021; 525535, 3717022; 525535, 3717022; 525535, 3717023; 525536, 3717023; 525536, 3717023; 525536, 3717024; 525537, 3717024; 525537, 3717025; 525538, 3717025; 525538, 3717026; 525538, 3717026; 525539, 3717027; 525539, 3717027; 525539, 3717027; 525540, 3717028; 525540, 3717028; 525540, 3717029; 525541, 3717029; 525541, 3717030; 525541, 3717030; 525542, 3717031; 525542, 3717031; 525542, 3717032; 525543, 3717032; 525543, 3717033; 525543, 3717033; 525544, 3717033; 525544, 3717034; 525544, 3717034; 525545, 3717035; 525545, 3717035; 525545, 3717036; 525546, 3717036; 525546, 3717037; 525546, 3717037; 525547, 3717038; 525547, 3717038; 525547, 3717039; 525548, 3717039; 525548, 3717040; 525548, 3717040; 525548, 3717041; 525549, 3717041; 525549, 3717042; 525549, 3717042; 525550, 3717043; 525550, 3717043; 525550, 3717043; 525551, 3717044; 525551, 3717044; 525551, 3717045; 525551, 3717045; 525552, 3717046; 525552, 3717046; 525552, 3717047; 525553, 3717047; 525553, 3717048; 525553, 3717048; 525553, 3717049; 525554, 3717049; 525554, 3717050; 525554, 3717050; 525555, 3717051; 525555, 3717051; 525555, 3717052; 525555, 3717052; 525556, 3717053; 525556, 3717053; 525556, 3717054; 525557, 3717054; 525557, 3717055; 525557, 3717055; 525557, 3717056; 525558, 3717056; 525558, 3717057; 525558, 3717057; 525558, 3717058; 525559, 3717058; 525559, 3717059; 525559, 3717059; 525559, 3717060; 525560, 3717060; 525560, 3717061; 525560, 3717061; 525560, 3717062; 525561, 3717063; 525561, 3717063; 525561, 3717064; 525561, 3717064; 525562, 3717065; 525562, 3717065; 525562, 3717066; 525562, 3717066; 525563, 3717067; 525563, 3717067; 525563, 3717068; 525563, 3717068; 525564, 3717069; 525564, 3717069; 525564, 3717070; 525564, 3717070; 525564, 3717071; 525565, 3717071; 525565, 3717072; 525565, 3717072; 525565, 3717073; 525565, 3717074; 525566, 3717074; 525566, 3717075; 525566, 3717075; 525566, 3717076; 525567, 3717076; 525567, 3717077; 525567, 3717077; 525567, 3717078; 525567, 3717078; 525568, 3717079; 525568, 3717079; 525568, 3717080; 525568, 3717080; 525568, 3717081; 525569, 3717082; 525569, 3717082; 525570, 3717091; 525560, 3717105; 525560, 3717105; 525555, 3717106; 525555, 3717106; 525550, 3717107; 525550, 3717107; 525544, 3717109; 525544, 3717109; 525539, 3717110; 525539, 3717110; 525534, 3717111; 525534, 3717111; 525529, 3717113; 525528, 3717113; 525523, 3717115; 525523, 3717115; 525518, 3717117; 525518, 3717117; 525513, 3717118; 525513, 3717118; 525508, 3717120; 525508, 3717120; 525503, 3717122; 525503, 3717123; 525498, 3717125; 525497, 3717125; 525493, 3717127; 525492, 3717127; 525488, 3717129; 525487, 3717129; and

(C) 525380, 3716871; 525388, 3716870; 525389, 3716878; 525375, 3716878; 525372, 3716871; and

(D) 525434, 3716924; 525433, 3716924; 525433, 3716924; 525432, 3716923; 525432, 3716923; 525431, 3716923; 525431, 3716923; 525430, 3716922; 525430, 3716922; 525429, 3716922; 525429, 3716921; 525428, 3716921; 525428, 3716921; 525427, 3716921; 525427, 3716920; 525426, 3716920; 525426, 3716920; 525425, 3716919; 525425, 3716919; 525424, 3716919; 525424, 3716918; 525423, 3716918; 525423, 3716918; 525422, 3716918; 525422, 3716917; 525421, 3716917; 525421, 3716917; 525420, 3716916; 525420, 3716916; 525419, 3716916; 525419, 3716915; 525418, 3716915; 525418, 3716915; 525417, 3716915; 525417, 3716914; 525416, 3716914; 525416, 3716914; 525415, 3716913; 525415, 3716913; 525414, 3716913; 525414, 3716912; 525413, 3716912; 525413, 3716912; 525412, 3716911; 525412, 3716911; 525412, 3716911; 525411, 3716910; 525411, 3716910; 525410, 3716910; 525410, 3716909; 525409, 3716909; 525409, 3716909; 525408, 3716908; 525408, 3716908; 525407, 3716908; 525407, 3716907; 525406, 3716907; 525406, 3716907; 525405, 3716906; 525405, 3716906; 525405, 3716906; 525404, 3716905; 525404, 3716905; 525403, 3716905; 525403, 3716904; 525402, 3716904; 525402, 3716904; 525402, 3716885; 525419, 3716876; 525435, 3716876; 525471, 3716881; 525472, 3716881; 525473, 3716881; 525473, 3716881; 525474, 3716881; 525474, 3716881; 525475, 3716881; 525476, 3716880; 525476, 3716880; 525477, 3716880; 525477, 3716880; 525478, 3716879; 525478, 3716879; 525479, 3716879; 525479, 3716879; 525480, 3716878; 525480, 3716878; 525481, 3716877; 525481, 3716877; 525482, 3716877; 525482, 3716876; 525483, 3716876; 525483, 3716875; 525483, 3716875; 525484, 3716874; 525484, 3716874; 525485, 3716873; 525485, 3716873; 525485, 3716872; 525486, 3716872; 525486, 3716871; 525486, 3716871; 525486, 3716870; 525487, 3716870; 525487, 3716869; 525487, 3716868; 525487, 3716868; 525487, 3716867; 525487, 3716867; 525715, 3716858; 526066, 3716845; 526065, 3716845; 526061, 3716847; 526061, 3716847; 526057, 3716849; 526057, 3716849; 526052, 3716850; 526052, 3716850; 526048, 3716852; 526048, 3716852; 526044, 3716854; 526044,

3716854; 526039, 3716856; 526039,
3716856; 526035, 3716858; 526035,
3716858; 526031, 3716860; 526031,
3716860; 526027, 3716862; 526027,
3716863; 526023, 3716865; 526022,
3716865; 526019, 3716867; 526018,
3716867; 526014, 3716869; 526014,
3716870; 526010, 3716872; 526010,
3716872; 526007, 3716875; 526006,
3716875; 526003, 3716877; 526002,
3716877; 525999, 3716880; 525999,
3716880; 525995, 3716883; 525995,
3716883; 525991, 3716885; 525991,
3716886; 525987, 3716888; 525987,
3716888; 525984, 3716891; 525984,
3716891; 525980, 3716894; 525980,
3716894; 525977, 3716897; 525976,
3716897; 525973, 3716901; 525973,
3716901; 525970, 3716904; 525969,
3716904; 525966, 3716907; 525966,
3716907; 525963, 3716910; 525963,
3716910; 525960, 3716914; 525959,
3716914; 525956, 3716917; 525956,
3716917; 525953, 3716921; 525953,
3716921; 525950, 3716924; 525950,
3716924; 525947, 3716928; 525947,
3716928; 525944, 3716931; 525944,
3716932; 525941, 3716935; 525941,
3716935; 525938, 3716939; 525938,
3716939; 525935, 3716943; 525935,
3716943; 525933, 3716947; 525933,
3716947; 525930, 3716951; 525930,
3716951; 525927, 3716954; 525927,
3716955; 525925, 3716958; 525925,
3716959; 525923, 3716962; 525922,
3716963; 525920, 3716967; 525920,
3716967; 525918, 3716971; 525918,
3716971; 525916, 3716975; 525916,
3716975; 525914, 3716978; 525912,
3716981; 525909, 3716985; 525906,
3716989; 525902, 3716992; 525899,
3716996; 525896, 3716999; 525892,
3717003; 525889, 3717006; 525886,
3717010; 525882, 3717013; 525878,
3717016; 525875, 3717019; 525871,
3717023; 525867, 3717026; 525863,
3717029; 525860, 3717031; 525856,
3717034; 525852, 3717037; 525848,
3717040; 525844, 3717042; 525840,
3717045; 525835, 3717047; 525831,
3717050; 525827, 3717052; 525823,
3717055; 525818, 3717057; 525814,
3717059; 525810, 3717061; 525805,
3717063; 525801, 3717065; 525796,
3717067; 525792, 3717068; 525787,
3717070; 525783, 3717072; 525778,
3717073; 525773, 3717074; 525769,
3717076; 525764, 3717077; 525759,
3717078; 525755, 3717079; 525750,
3717080; 525745, 3717081; 525740,
3717082; 525736, 3717083; 525731,
3717083; 525724, 3717084; 525612,
3717098; 525596, 3717085; 525595,
3717076; 525595, 3717075; 525594,
3717074; 525594, 3717073; 525594,
3717073; 525594, 3717072; 525593,
3717071; 525593, 3717071; 525593,
3717070; 525593, 3717069; 525592,
3717069; 525592, 3717068; 525592,
3717068; 525592, 3717067; 525592,
3717066; 525591, 3717066; 525591,
3717065; 525591, 3717065; 525591,
3717064; 525590, 3717063; 525590,
3717063; 525590, 3717062; 525590,
3717062; 525589, 3717061; 525589,
3717060; 525589, 3717060; 525589,
3717059; 525588, 3717059; 525588,
3717058; 525588, 3717057; 525588,
3717057; 525587, 3717056; 525587,
3717056; 525587, 3717055; 525587,
3717055; 525586, 3717054; 525586,
3717053; 525586, 3717053; 525585,
3717052; 525585, 3717052; 525585,
3717051; 525585, 3717050; 525584,
3717050; 525584, 3717049; 525584,
3717049; 525583, 3717048; 525583,
3717047; 525583, 3717047; 525583,
3717046; 525582, 3717046; 525582,
3717045; 525582, 3717045; 525581,
3717044; 525581, 3717043; 525581,
3717043; 525581, 3717042; 525580,
3717042; 525580, 3717041; 525580,
3717041; 525579, 3717040; 525579,
3717039; 525579, 3717039; 525578,
3717038; 525578, 3717038; 525578,
3717037; 525577, 3717037; 525577,
3717036; 525577, 3717036; 525576,
3717035; 525576, 3717034; 525576,
3717034; 525575, 3717033; 525575,
3717033; 525575, 3717032; 525574,
3717032; 525574, 3717031; 525574,
3717031; 525573, 3717030; 525573,
3717029; 525573, 3717029; 525572,
3717028; 525572, 3717028; 525572,
3717027; 525571, 3717027; 525571,
3717026; 525571, 3717026; 525570,
3717025; 525570, 3717024; 525570,
3717024; 525569, 3717023; 525569,
3717023; 525569, 3717022; 525568,
3717022; 525568, 3717021; 525567,
3717021; 525567, 3717020; 525567,
3717020; 525566, 3717019; 525566,
3717019; 525566, 3717018; 525565,
3717018; 525565, 3717017; 525564,
3717016; 525564, 3717016; 525564,
3717015; 525563, 3717015; 525563,
3717014; 525563, 3717014; 525562,
3717013; 525562, 3717013; 525561,
3717012; 525561, 3717012; 525561,
3717011; 525560, 3717011; 525560,
3717010; 525559, 3717010; 525559,
3717009; 525559, 3717009; 525558,
3717008; 525558, 3717008; 525557,
3717007; 525557, 3717007; 525557,
3717006; 525556, 3717006; 525556,
3717005; 525555, 3717005; 525555,
3717004; 525555, 3717004; 525554,
3717003; 525554, 3717003; 525553,
3717002; 525553, 3717002; 525553,
3717001; 525552, 3717001; 525552,
3717000; 525551, 3717000; 525551,
3716999; 525550, 3716999; 525550,
3716998; 525550, 3716998; 525549,
3716997; 525549, 3716997; 525548,
3716996; 525548, 3716996; 525547,
3716995; 525547, 3716995; 525547,
3716994; 525546, 3716994; 525546,
3716993; 525545, 3716993; 525545,
3716992; 525544, 3716992; 525544,
3716992; 525543, 3716991; 525543,
3716991; 525542, 3716990; 525542,
3716990; 525542, 3716989; 525541,
3716989; 525541, 3716988; 525540,
3716988; 525540, 3716987; 525539,
3716987; 525539, 3716986; 525538,
3716986; 525538, 3716986; 525537,
3716985; 525537, 3716985; 525537,
3716984; 525536, 3716984; 525536,
3716983; 525535, 3716983; 525535,
3716982; 525534, 3716982; 525534,
3716982; 525533, 3716981; 525533,
3716981; 525532, 3716980; 525532,
3716980; 525531, 3716979; 525531,
3716979; 525530, 3716979; 525530,
3716978; 525529, 3716978; 525529,
3716977; 525528, 3716977; 525528,
3716976; 525527, 3716976; 525527,
3716976; 525526, 3716975; 525526,
3716975; 525525, 3716974; 525525,
3716974; 525524, 3716974; 525524,
3716973; 525523, 3716973; 525523,
3716972; 525522, 3716972; 525522,
3716971; 525521, 3716971; 525521,
3716971; 525520, 3716970; 525520,
3716970; 525519, 3716969; 525519,
3716969; 525518, 3716969; 525518,
3716968; 525517, 3716968; 525517,
3716967; 525516, 3716967; 525516,
3716967; 525515, 3716966; 525515,
3716966; 525514, 3716966; 525514,
3716965; 525513, 3716965; 525513,
3716964; 525512, 3716964; 525512,
3716964; 525511, 3716963; 525510,
3716963; 525510, 3716963; 525509,
3716962; 525509, 3716962; 525508,
3716961; 525508, 3716961; 525507,
3716961; 525507, 3716960; 525506,
3716960; 525506, 3716960; 525505,
3716959; 525505, 3716959; 525504,
3716959; 525504, 3716958; 525503,
3716958; 525502, 3716957; 525502,
3716957; 525501, 3716957; 525501,
3716956; 525500, 3716956; 525500,
3716956; 525499, 3716955; 525499,
3716955; 525498, 3716955; 525498,
3716954; 525497, 3716954; 525496,
3716954; 525496, 3716953; 525495,
3716953; 525495, 3716953; 525494,
3716952; 525494, 3716952; 525493,
3716952; 525492, 3716951; 525492,
3716951; 525491, 3716951; 525491,
3716950; 525490, 3716950; 525490,
3716950; 525489, 3716950; 525489,
3716949; 525488, 3716949; 525487,
3716949; 525487, 3716948; 525486,
3716948; 525486, 3716948; 525485,
3716947; 525485, 3716947; 525484,
3716947; 525483, 3716946; 525483,
3716946; 525482, 3716946; 525482,
3716946; 525481, 3716945; 525480,
3716945; 525480, 3716945; 525479,
3716944; 525479, 3716944; 525478,
3716944; 525478, 3716944; 525477,
3716943; 525476, 3716943; 525476,

3716943; 525475, 3716943; 525475, 3716942; 525474, 3716942; 525473, 3716942; 525473, 3716941; 525472, 3716941; 525472, 3716941; 525471, 3716941; 525471, 3716940; 525470, 3716940; 525469, 3716940; 525469, 3716940; 525468, 3716939; 525468, 3716939; 525467, 3716939; 525466, 3716939; 525466, 3716938; 525465, 3716938; 525465, 3716938; 525464, 3716938; 525463, 3716937; 525463, 3716937; 525462, 3716937; 525462, 3716937; 525461, 3716936; 525460, 3716936; 525460, 3716936; 525459, 3716936; 525458, 3716936; 525458, 3716935; 525457, 3716935; 525457, 3716935; 525456, 3716935; 525456, 3716935; 525455, 3716934; 525455, 3716934; 525454, 3716934; 525454, 3716934; 525453, 3716934; 525453, 3716933; 525452, 3716933; 525452, 3716933; 525451, 3716933; 525451, 3716932; 525450, 3716932; 525450, 3716932; 525449, 3716932; 525449, 3716931; 525448, 3716931; 525448, 3716931; 525447, 3716931; 525446, 3716931; 525446, 3716930; 525445, 3716930; 525445, 3716930; 525444, 3716930; 525444, 3716929; 525443, 3716929; 525443, 3716929; 525442, 3716929; 525442, 3716928; 525441, 3716928; 525441, 3716928; 525440, 3716928; 525440, 3716927; 525439, 3716927; 525439, 3716927; 525438, 3716927; 525438, 3716926; 525437, 3716926; 525437, 3716926; 525436, 3716926; 525436, 3716925; 525435, 3716925; 525435, 3716925; and

(E) 526091, 3716237; 526123, 3716234; 526132, 3716233; 526136, 3716233; 526136, 3716292; 526136, 3716423; 526136, 3716548; 526166, 3716550; 526362, 3716559; 526366, 3716559; 526374, 3716741; 526380, 3716866; 526386, 3716992; 526278, 3716986; 526183, 3717080; 526131, 3717037; 526131, 3717037; 526125, 3717031; 526122, 3716959; 526119, 3716866; 526118, 3716843; 526104, 3716453; 525716, 3716463; 525596, 3716466; 525300, 3716473; 525291, 3716474; 525289, 3716474; 525223, 3716474; 525115, 3716474; 525115, 3716382; 525115, 3716378; 525076, 3716378; 525084, 3716279; 524986, 3716282; 524885, 3716286; 524875, 3716286; 524875, 3716101; 524875, 3716084; 524875, 3716082; 525714, 3716048; 525704, 3716201; 525927, 3716254; and

(F) 525777, 3717434; 526121, 3717419; 526120, 3717641; 525770, 3717647.

* * * * *

Hine's Emerald Dragonfly (*Somatochlora hineana*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila aglaia*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila differens*)

(1) * * * The map provided is for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila hemipeza*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila heteroneura*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila montgomeryi*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila mulli*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila musaphilia*)

(1) * * * The map provided is for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila neoclavisetae*)

(1) * * * The map provided is for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila obatai*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila ochrobasis*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila sharpi*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila substenoptera*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Hawaiian Picture-Wing Fly (*Drosophila tarphytrichia*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Zayante Band-Winged Grasshopper (*Trimerotropis infantilis*)

1. * * * The map provided is for informational purposes only.

* * * * *

Blackburn's Sphinx Moth (*Manduca blackburni*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Ash Meadows Naucorid (*Ambrysus amargosus*)

* * * * *

**Note:** The map provided is for informational purposes only. Map follows:

* * * * *

Laguna Mountains Skipper (*Pyrgus ruralis lagunae*)

(1) * * * The maps provided are for informational purposes only.

* * * * *

Dated: March 8, 2018.

**James W. Kurth,**

*Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2018–07606 Filed 4–26–18; 8:45 am]

**BILLING CODE 4333–15–P**

# Reader Aids

**Federal Register**

Vol. 83, No. 82

Friday, April 27, 2018

## CUSTOMER SERVICE AND INFORMATION

| | |
|---|---|
| **Federal Register/Code of Federal Regulations** | |
| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |
| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6050** |
| Public Laws Update Service (numbers, dates, etc.) | **741–6043** |

## ELECTRONIC RESEARCH

### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

### E-mail

**FEDREGTOC** (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

**FEDREGTOC** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

## FEDERAL REGISTER PAGES AND DATE, APRIL

13817–14172 ..... 2
14173–14346 ..... 3
14347–14564 ..... 4
14565–14732 ..... 5
14733–15018 ..... 6
15019–15290 ..... 9
15291–15490 ..... 10
15491–15726 ..... 11
15727–15936 ..... 12
15937–16182 ..... 13
16183–16766 ..... 16
16767–17076 ..... 17
17077–17284 ..... 18
17285–17476 ..... 19
17477–17614 ..... 20
17615–17736 ..... 23
17737–17898 ..... 24
17899–18194 ..... 25
18195–18398 ..... 26
18399–18726 ..... 27

## CFR PARTS AFFECTED DURING APRIL

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Proclamations:**
9713 ..... 14341
9714 ..... 14343
9715 ..... 14345
9716 ..... 14559
9717 ..... 14561
9718 ..... 14563
9719 ..... 14727
9720 ..... 15017
9721 ..... 15727
9722 ..... 15729
9723 ..... 15937
9724 ..... 16183
9725 ..... 17075
9726 ..... 17285
9727 ..... 17735
9728 ..... 17899

**Executive Orders:**
4601 (Superseded by EO 13830) ..... 18191
9260 (Superseded by EO 13830) ..... 18191
13828 ..... 15941
13829 ..... 17281
13830 ..... 18191

**Administrative Orders:**
Memorandums:
Memorandum of April 4, 2018 ..... 15289
Memorandum of April 6, 2018 ..... 16179
Memorandum of April 12, 2018 ..... 16761
Notices:
Notice of April 4, 2018 ..... 14731

**4 CFR**

21 ..... 13817

**5 CFR**

630 ..... 15291
890 ..... 18399

**6 CFR**

27 ..... 13826

**Proposed Rules:**
5 ..... 17766
46 ..... 17595

**7 CFR**

205 ..... 14347
215 ..... 14173
227 ..... 14173
246 ..... 14173
247 ..... 14173
248 ..... 14173
249 ..... 14173
272 ..... 14173
277 ..... 14173
319 ..... 14733
457 ..... 16767
900 ..... 14736
905 ..... 14348, 17615
915 ..... 14736
917 ..... 14736
923 ..... 14736
925 ..... 14736
929 ..... 14350
932 ..... 14736
944 ..... 17615
946 ..... 14736
948 ..... 14736
953 ..... 14736
955 ..... 14736
956 ..... 14736
958 ..... 14736
966 ..... 14357
981 ..... 14738
984 ..... 14738
987 ..... 14738
993 ..... 14738

**Proposed Rules:**
1c ..... 17595
205 ..... 16010
319 ..... 17501, 17503
905 ..... 14203
929 ..... 18460, 18462
932 ..... 14379
981 ..... 17506
985 ..... 14766
1051 ..... 14110
1206 ..... 14771

**8 CFR**

270 ..... 13826
274a ..... 13826
280 ..... 13826

**9 CFR**

53 ..... 15491
71 ..... 15491
91 ..... 15491
93 ..... 15491
94 ..... 15491
95 ..... 15491
98 ..... 15491
104 ..... 15491

**Proposed Rules:**
93 ..... 15756
145 ..... 15082
146 ..... 15082
147 ..... 15082

**10 CFR**

**Proposed Rules:**
429 ..... 17944
430 ..... 17768, 17944
431 ..... 15514
712 ..... 18195
745 ..... 17595
1045 ..... 17710

**11 CFR**

**Proposed Rules:**
113 ..... 17509

**12 CFR**

25 ..... 15298
34 ..... 15019
195 ..... 15298
217 ..... 17477
225 ..... 15019
228 ..... 15298
303 ..... 17737
308 ..... 17737
323 ..... 15019
324 ..... 17616, 17737
325 ..... 17737
326 ..... 13839
327 ..... 14565, 17737
333 ..... 17737
337 ..... 17737
343 ..... 13843
345 ..... 15298
347 ..... 17737
349 ..... 17737
360 ..... 17737
362 ..... 17737
363 ..... 17737
364 ..... 17737
365 ..... 17737
390 ..... 13843, 17737
391 ..... 13839
702 ..... 17901
740 ..... 17910
741 ..... 14741

**Proposed Rules:**
6 ..... 17317
208 ..... 17317
217 ..... 17317, 18160
225 ..... 18160
252 ..... 17317, 18160
303 ..... 15327
325 ..... 13880
333 ..... 15327
390 ..... 15327
900 ..... 14205
906 ..... 14205
956 ..... 14205
957 ..... 14205
958 ..... 14205
959 ..... 14205
960 ..... 14205
961 ..... 14205
962 ..... 14205
963 ..... 14205
964 ..... 14205
965 ..... 14205
966 ..... 14205
967 ..... 14205
968 ..... 14205
969 ..... 14205
970 ..... 14205
971 ..... 14205
972 ..... 14205
973 ..... 14205
974 ..... 14205
975 ..... 14205
976 ..... 14205
977 ..... 14205
978 ..... 14205
979 ..... 14205
980 ..... 14205
981 ..... 14205
982 ..... 14205
983 ..... 14205
984 ..... 14205
985 ..... 14205
986 ..... 14205
987 ..... 14205
988 ..... 14205
989 ..... 14205
990 ..... 14205
991 ..... 14205
992 ..... 14205
993 ..... 14205
994 ..... 14205
995 ..... 14205
996 ..... 14205
997 ..... 14205
998 ..... 14205
999 ..... 14205
Ch. XII ..... 14605
1239 ..... 14781
1273 ..... 14781

**13 CFR**

**Proposed Rules:**
121 ..... 18468
124 ..... 17626
126 ..... 17626

**14 CFR**

25 ..... 14360, 15301, 15304, 17744
27 ..... 15945
29 ..... 17077
39 ..... 14568, 14741, 14743, 15036, 15038, 15041, 15043, 15045, 15048, 15310, 15313, 15495, 15731, 15733, 16185, 16188, 16191, 16194, 16768, 17478 , 17617, 17746, 18208
71 ..... 14574, 14576, 14580, 14745, 15050, 17480
73 ..... 14174
95 ..... 18401
97 ..... 15051, 15052, 17481, 17483

**Proposed Rules:**
39 ..... 13883, 13885, 14207, 14606, 15517, 15519, 16010, 16013, 16015, 16243, 16245, 16248, 16251, 16787, 16792, 16794, 16796, 16799, 17510, 18343, 18345, 18348
71 ..... 14608, 14610, 14785, 15521, 16256, 16258, 16259, 16261, 16802, 16804, 17327, 17512, 18237
135 ..... 15332
1230 ..... 17595

**15 CFR**

30 ..... 17749
738 ..... 13849
740 ..... 13849
745 ..... 13849
774 ..... 13849, 14580
2008 ..... 15054

**Proposed Rules:**
27 ..... 17595

**16 CFR**

Ch. II ..... 18219
305 ..... 14583

**Proposed Rules:**
312 ..... 14611
410 ..... 17117
1028 ..... 17595

**18 CFR**

35 ..... 18134
40 ..... 17913

**19 CFR**

4 ..... 13826
101 ..... 15498
149 ..... 15736

**20 CFR**

404 ..... 13862
702 ..... 17287

**Proposed Rules:**
431 ..... 17595

**21 CFR**

510 ..... 14584
520 ..... 14584
522 ..... 14584
526 ..... 14584
558 ..... 14584
890 ..... 13863
900 ..... 13863
1020 ..... 13863
1040 ..... 13863
1308 ..... 17486

**Proposed Rules:**
73 ..... 15089
101 ..... 17961
1303 ..... 17329

**22 CFR**

172 ..... 17488
193 ..... 15740

**Proposed Rules:**
225 ..... 17595

**23 CFR**

**Proposed Rules:**
658 ..... 15524
790 ..... 16262

**24 CFR**

**Proposed Rules:**
60 ..... 17595

**25 CFR**

**Proposed Rules:**
30 ..... 16806

**26 CFR**

1 ..... 14175

**27 CFR**

9 ..... 14745

**Proposed Rules:**
9 ..... 14787, 14791, 14795, 15091

**28 CFR**

16 ..... 14749

**29 CFR**

1926 ..... 15499
4022 ..... 15946

**Proposed Rules:**
21 ..... 17595

**30 CFR**

56 ..... 15055, 17293
57 ..... 15055, 17293
901 ..... 18409

**31 CFR**

148 ..... 17619

**Proposed Rules:**
30 ..... 15095
32 ..... 15095

**32 CFR**

81 ..... 15065
182 ..... 14588
185 ..... 14589
215 ..... 16774
285 ..... 17921
292 ..... 18219
293 ..... 18220
296 ..... 18220
298 ..... 18221
299 ..... 18221
518 ..... 17294
706 ..... 16198
734 ..... 16199

**Proposed Rules:**
219 ..... 17595

**33 CFR**

27 ..... 13826
100 ..... 14364, 14751, 15065, 15741, 17078, 17489, 17621, 17751, 18221, 18223
110 ..... 18412
117 ..... 13865, 13866, 13867, 14365, 14367, 15067, 15315, 15316, 15743, 16774, 16775, 16776, 17492, 17493, 17623, 17921, 18225, 18226, 18414, 18415
165 ..... 14367, 14589, 14752, 15499, 15948, 15950, 15952, 16778, 16780, 17078, 17295, 17493, 17494, 17754, 18227, 18415
334 ..... 16783

**Proposed Rules:**
100 ..... 14219, 14381, 15096, 15099, 16808, 17333
110 ..... 18491
165 ..... 14226, 14384, 14801, 16265, 16267, 16811, 16815, 16817, 17121, 17336, 17341, 17513, 17962, 18241

**34 CFR**

75 ..... 18419
77 ..... 18419

**Proposed Rules:**
Ch. II ..... 17516
97 ..... 17595

**37 CFR**

401 ..... 15954
404 ..... 15954

**Proposed Rules:**
202 ..... 16269

**38 CFR**

4 ..... 15068, 15316, 17756
8 ..... 18421

**Proposed Rules:**
1 ..... 14613
3 ..... 14803
5 ..... 14803
9 ..... 18491
16 ..... 17595
17 ..... 14804, 17777

**39 CFR**

20 ..... 17921
111 ..... 14369, 17922
3020 ..... 18422

**Proposed Rules:**
111 ..... 17518

**40 CFR**

50 ....17226
52 ....13867, 13869, 13871, 13872, 13875, 14175, 14179, 14373, 14591, 14754, 14757, 14759, 14762, 15074, 15744, 15746, 16200, 17081, 18429
60 ....15964
61 ....15964
62 ....13878, 17757, 17923
63 ....15964
70 ....14762
81 ....14373, 14597
82 ....18431
86 ....18436
147 ....17758
180 ....15748, 15971, 15977, 16200, 17496, 17498, 17925
272 ....18436
770 ....14375

**Proposed Rules:**

26 ....17595
52 ....14386, 14389, 14807, 15336, 15343, 15526, 16017, 16021, 16276, 16279, 17123, 17349, 17627, 17964, 18243, 18248, 18255, 18494, 18496, 18499
60 ....15458, 16027
61 ....16027
62 ....14232
63 ....14984, 15458, 16027
81 ....16021
180 ....15528
272 ....18499
700 ....17782
720 ....17782
723 ....17782
725 ....17782
790 ....17782
791 ....17782

**42 CFR**

405 ....16440
417 ....16440
422 ....16440
423 ....16440
438 ....18441
460 ....16440
498 ....16440

**Proposed Rules:**

88 ....17783
100 ....14391

**44 CFR**

64 ....14376
67 ....17930

**45 CFR**

5b ....14183
147 ....16930
153 ....16930
154 ....16930
155 ....16930
156 ....16930
157 ....16930
158 ....16930
1603 ....16785, 17086

**Proposed Rules:**

46 ....17595
690 ....17595
1355 ....18257

**47 CFR**

0 ....17931
1 ....17931, 18441
2 ....15754
9 ....17933
20 ....17088
43 ....17931
51 ....14185
54 ....14185, 15502, 15982, 17934, 18454
63 ....17931
69 ....14185
73 ....18441
74 ....18441

**Proposed Rules:**

1 ....13888, 14395, 15531
2 ....13888
5 ....13888
10 ....18257
15 ....13888
20 ....17131
54 ....17968
64 ....17631
73 ....13903, 15531
101 ....13888

**48 CFR**

202 ....15994
207 ....15995
210 ....15995
211 ....15996
212 ....16001
213 ....16001
215 ....15996
219 ....15995, 15996, 16001
225 ....16003, 18454
237 ....16001, 16004, 17762
239 ....15994
242 ....15996
252 ....15996, 16001, 18454
801 ....16206
802 ....16206
803 ....16206
812 ....16206
814 ....16206
822 ....16206
829 ....17979
846 ....17979
847 ....17979
852 ....16206, 17979
870 ....17979

**Proposed Rules:**

831 ....14826
833 ....14826
844 ....14833
845 ....14833
852 ....14826
871 ....14826
1009 ....15502
1052 ....15502
2402 ....15101
2416 ....15101
2437 ....15101
2442 ....15101
2452 ....15101

**49 CFR**

243 ....18455
370 ....16210
371 ....16210
373 ....16210
375 ....16210
376 ....16210
378 ....16210
379 ....16210
380 ....16210
382 ....16210
387 ....16210
390 ....16210
391 ....16210
395 ....16210
396 ....16210
398 ....16210
571 ....17091
Ch. X ....17299
1001 ....15075, 16786
1003 ....15075, 16786
1004 ....15075, 16786
1005 ....15075, 16786
1007 ....15075, 16786
1011 ....15075, 16786
1012 ....15075, 16786
1013 ....15075, 16786
1016 ....15075, 16786
1018 ....15075, 16786
1019 ....15075, 16786
1033 ....15075, 16786
1034 ....15075, 16786
1035 ....15075, 16786
1037 ....15075, 16786
1090 ....15075, 16786
1100 ....15075, 16786
1101 ....15075, 16786
1103 ....15075, 16786
1104 ....15075, 16786
1105 ....15075, 16786
1106 ....15075, 16786
1108 ....15075, 16786
1110 ....15075, 16786
1112 ....15075, 16786
1113 ....15075, 16786
1114 ....15075, 16786
1116 ....15075, 16786
1117 ....15075, 16786
1119 ....15075, 16786
1120 ....15075, 16786
1132 ....15075, 16786
1133 ....15075, 16786
1135 ....15075, 16786
1141 ....15075, 16786
1144 ....15075, 16786
1146 ....15075, 16786
1147 ....15075, 16786
1150 ....15075, 16786
1152 ....15075, 16786
1155 ....15075, 16786
1177 ....15075, 16786
1180 ....15075, 16786
1182 ....15075, 16786
1184 ....15075, 16786
1185 ....15075, 16786
1200 ....15075, 16786
1220 ....15075, 16786
1242 ....15075, 16786
1243 ....15075, 16786
1244 ....15075, 16786
1245 ....15075, 16786
1246 ....15075, 16786
1247 ....15075, 16786
1248 ....15075, 16786
1253 ....15075, 16786
1305 ....15075, 16786
1310 ....15075, 16786
1312 ....15075, 16786
1313 ....15075, 16786
1319 ....15075, 16786
1331 ....15075, 16786
1333 ....15075, 16786
1503 ....13826

**Proposed Rules:**

11 ....17595
571 ....16280
578 ....13904

**50 CFR**

17 ....14189, 14198, 14958, 16228, 17093, 18698
23 ....15503
300 ....15503, 17762
622 ....14202, 17623, 17942
635 ....17110, 18230
648 ....15240, 15511, 15754, 17300, 17314
660 ....16005, 18233
679 ....14603, 15324, 15325, 15755, 16008, 17114, 18235

**Proposed Rules:**

17 ....13919, 14836, 15758, 15900, 16819
20 ....17987
21 ....17987
217 ....16027
218 ....15117
622 ....14234, 14400, 16282
648 ....14236, 15535, 15780
660 ....18259
665 ....18260
679 ....15538

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List April 25, 2018**

## Public Laws Electronic Notification Service (PENS)

**PENS** is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

**Note:** This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.