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# Contents

## Federal Register

Vol. 83, No. 85

Wednesday, May 2, 2018

### Agriculture Department

*See* National Institute of Food and Agriculture

### Alcohol, Tobacco, Firearms, and Explosives Bureau

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
 FFL Out of Business Records Request, 19297  
 Identification Markings Placed on Firearms, 19298–19299  
 Identification of Imported Explosives Materials, 19298

### Army Department

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19261

### Bonneville Power Administration

#### NOTICES

Proposed Revised Rules of Procedure and Opportunity for Public Review and Comment, 19262–19273

### Bureau of Consumer Financial Protection

#### RULES

Federal Mortgage Disclosure Requirements under the Truth in Lending Act (Regulation Z):  
 Official Interpretation, 19159–19176

### Census Bureau

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19212  
 Charter Renewals:  
 Census Scientific Advisory Committee, 19212–19213  
 National Advisory Committee, 19211–19212

### Centers for Medicare & Medicaid Services

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19288–19289

### Coast Guard

#### RULES

Special Local Regulations:  
 Atlantic City International Triathlon, Atlantic City, NJ, 19179–19180

#### PROPOSED RULES

Safety Zones:  
 Fireworks, Delaware River, Philadelphia, PA, 19189–19191

### Commerce Department

*See* Census Bureau  
*See* Economic Development Administration  
*See* Foreign-Trade Zones Board  
*See* International Trade Administration  
*See* National Oceanic and Atmospheric Administration  
*See* National Telecommunications and Information Administration

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19213

### Community Development Financial Institutions Fund

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19402

### Defense Department

*See* Army Department

*See* Engineers Corps

#### RULES

Defense Nuclear Agency Freedom of Information Act Program, 19179

### Economic Development Administration

#### NOTICES

Trade Adjustment Assistance Eligibility; Petitions, 19213–19214

### Education Department

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
 National Household Education Survey 2019, 19261–19262

### Energy Department

*See* Bonneville Power Administration

*See* Federal Energy Regulatory Commission

### Engineers Corps

#### RULES

Civil Monetary Penalty Inflation Adjustment Rule, 19180–19184

### Environmental Protection Agency

#### RULES

Designated Facilities and Pollutants State Plans; Approvals and Promulgations:  
 Delegation of Authority; North Carolina and Western North Carolina Regional Air Quality Agency of Federal Plan for Existing Sewage Sludge Incineration Units, 19184–19186

#### PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:  
 Alaska; Interstate Transport Requirements for 2012 Annual Fine Particulate Matter National Ambient Air Quality Standard, 19191–19193  
 Indiana; Air Quality Standards Update for 2015 Ozone Standard, 19194–19195  
 Designated Facilities and Pollutants State Plans; Approval and Promulgations:  
 United States Virgin Islands; Commercial and Industrial Solid Waste Incineration Units, 19195–19196

#### NOTICES

Final 2016 Effluent Guidelines Program Plan, 19281–19282  
 National Pollutant Discharge Elimination System Permits:  
 Small Suction Dredges in Idaho, 19281  
 Proposed Settlement Agreements:  
 Ecology Control Industries, Inc. Removal Site, Torrance, CA, 19282–19283  
 Requests for Nominations:  
 National Drinking Water Advisory Council, 19280–19281

**Export-Import Bank****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
Qualitative Feedback on Agency Service Delivery, 19283–19284

**Farm Credit Administration****NOTICES**

Meetings; Sunshine Act, 19284

**Federal Aviation Administration****RULES**

Airworthiness Directives:  
CFM International S.A. Turboprop Engines, 19176–19179  
Special Conditions:  
VT DRB Aviation Consultants, Boeing Model 777–200 Airplanes; Installation of an Airbag System in Shoulder Belts, 19176

**Federal Communications Commission****RULES**

Elimination of Main Studio Rule:  
Petition for Partial Reconsideration, 19186–19187

**PROPOSED RULES**

Protecting Against National Security Threats to Communications Supply Chain through FCC Programs, 19196–19210

**NOTICES**

Incentive Auction Task Force and Media Bureau Extend Post Incentive Auction Special Displacement Window through June 1, 2018, 19284

**Federal Deposit Insurance Corporation****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19284–19288

**Federal Energy Regulatory Commission****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19273–19274  
Applications:  
Loup River Public Power District, 19277  
Combined Filings, 19273, 19276, 19279  
Environmental Reviews:  
Steel Reef Pipelines US, LLC; Saskatchewan Pipeline Project, 19279–19280  
License Applications:  
Brainerd Public Utilities, 19275–19276  
Oregon State University, 19277–19278  
Meetings:  
Transmission Planning within California Independent System Operator Corp.; California Public Utilities Commission, Northern California Power Agency, City and County of San Francisco, etc: Technical Conference, 19278–19279  
Revocation of Market-Based Rate Authority and Termination of Electric Market-Based Rate Tariff:  
Electric Quarterly Reports; Fibrominn, LLC, et al., 19276

**Federal Financial Institutions Examination Council****NOTICES**

Meetings:  
Appraisal Subcommittee, 19288

**Federal Highway Administration****NOTICES**

Indefinite Delivery and Indefinite Quantity Contracts for Federal-aid Construction, 19393–19395

**Federal Housing Finance Agency****PROPOSED RULES**

Affordable Housing Program, 19188–19189

**Federal Railroad Administration****NOTICES**

Applications:  
California; Participation in Surface Transportation Project Delivery Program for Certain Railroad Projects, 19395–19396

**Financial Crimes Enforcement Network****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19402–19403

**Foreign Assets Control Office****NOTICES**

Blocking or Unblocking of Persons and Properties, 19403–19405

**Foreign-Trade Zones Board****NOTICES**

Subzone Status; Approvals:  
International Converter, Inc., Caldwell, OH, 19214

**Health and Human Services Department**

See Centers for Medicare & Medicaid Services

**NOTICES**

Statement of Organization, Functions, and Delegations of Authority, 19289–19292

**Homeland Security Department**

See Coast Guard

See U.S. Customs and Border Protection

**International Trade Administration****NOTICES**

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:  
Carbon and Certain Alloy Steel Wire Rod from Mexico, 19223  
Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China, 19219–19220  
Initiation of Administrative Reviews, 19215–19219  
Large Residential Washers from Republic of Korea, 19222–19223  
Potassium Permanganate from People's Republic of China, 19214–19215  
Utility Scale Wind Towers from the People's Republic of China and Socialist Republic of Vietnam, 19220–19221  
Request for Panel Review under North American Free Trade Agreement, 19221–19222

**Justice Department**

See Alcohol, Tobacco, Firearms, and Explosives Bureau

**Labor Department**

See Wage and Hour Division

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
Mental Health Parity and Addiction Equity Act Notices, 19299–19300

**Maritime Administration****NOTICES**

Requests for Administrative Waivers of the Coastwise Trade Laws:  
Vessel BLUE ISLAND, 19399  
Vessel CHAINED UP, 19396–19397  
Vessel DULCINEA, 19398  
Vessel LIMERICK, 19399–19400  
Vessel LUCKY, 19398–19399  
Vessel METANI, 19397  
Vessel NEGOSEATOR, 19401  
Vessel WILDCAT TOO, 19401–19402  
Vessel WIND, 19400

**National Commission on Military, National, and Public Service****RULES**

Freedom of Information Act, 19414–19421  
Privacy Act Regulations, 19408–19411

**National Institute of Food and Agriculture****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19211

**National Oceanic and Atmospheric Administration****NOTICES**

Takes of Marine Mammals Incidental to Specified Activities:  
Astoria Waterfront Bridge Replacement Project, 19243–19254  
Cook Inlet Pipeline Cross Inlet Extension Project, 19224–19236  
Lighthouse Repair and Tour Operations at Northwest Seal Rock, CA, 19254–19260  
Seabird and Shorebird Research and Monitoring in Massachusetts, 19236–19243

**National Science Foundation****NOTICES**

Meetings; Sunshine Act, 19301–19302

**National Telecommunications and Information Administration****NOTICES**

Meetings:  
2018 Spectrum Policy Symposium, 19260

**Nuclear Regulatory Commission****NOTICES**

Civil Monetary Penalties:  
Qal-Tek Associates, LLC, 19308–19310  
License Renewals; Applications:  
Florida Power and Light Co., Turkey Point Nuclear Generating, Unit Nos. 3 and 4, 19304–19306  
License Terminations:  
Duke Energy Florida, LLC Levy; Nuclear Plant, Units 1 and 2, 19306–19307  
Petitions:  
Exelon Generation Co., LLC, 19302–19304

**Personnel Management Office****NOTICES**

Excepted Service, 19310–19365

**Postal Service****NOTICES**

Product Changes:  
Priority Mail Express, Priority Mail, and First-Class Package Service Negotiated Service Agreement, 19365

**Presidential Documents****PROCLAMATIONS**

Special Observances:

National Small Business Week (Proc. 9730), 19423–19426

**ADMINISTRATIVE ORDERS**

John F. Kennedy, Assassination of; Certification of Certain Related Records (Memorandum of April 26, 2018), 19157–19158

**Securities and Exchange Commission****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19370–19371, 19381–19382, 19386–19387

Applications:

Redwood Investment Management, LLC and Two Roads Shared Trust, 19367–19369

Self-Regulatory Organizations; Proposed Rule Changes:

Cboe BZX Exchange, Inc., 19387–19393

Cboe Exchange, Inc., 19365–19367

Nasdaq GEMX, LLC, 19369–19370

Nasdaq ISE, LLC, 19367

Nasdaq MRX, LLC, 19369

Nasdaq Stock Market, LLC, 19384–19386

New York Stock Exchange, LLC, 19376–19384

NYSE Arca, Inc., 19371–19376

**State Department****NOTICES**

Determinations Pursuant to Foreign Missions Act, 19393

**Transportation Department**

*See* Federal Aviation Administration

*See* Federal Highway Administration

*See* Federal Railroad Administration

*See* Maritime Administration

**Treasury Department**

*See* Community Development Financial Institutions Fund

*See* Financial Crimes Enforcement Network

*See* Foreign Assets Control Office

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 19405–19406

**U.S. Customs and Border Protection****NOTICES**

Commercial Gaugers and Laboratories; Accreditations and Approvals:

Saybolt LP (St. Rose, LA), 19296–19297

Country of Origin Determinations:

Gyrocompasses, 19293–19296

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties, 19292–19293

**Wage and Hour Division****NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Employment Information Form, 19300–19301

---

**Separate Parts In This Issue****Part II**

National Commission on Military, National, and Public  
Service, 19408–19411

**Part III**

National Commission on Military, National, and Public  
Service, 19414–19421

**Part IV**

Presidential Documents, 19423–19426

---

**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.

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---

**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.

**1 CFR**

426 (2 documents) .....19408,  
19414

**3 CFR****Proclamations:**

9730 .....19425

**Administrative Orders:****Memorandums:****Memorandum of April**

26, 2018 .....19157

**12 CFR**

1026 .....19159

**Proposed Rules:**

1290 .....19188

1291 .....19188

**14 CFR**

25 .....19176

39 .....19176

**32 CFR**

291 .....19179

**33 CFR**

100 .....19179

326 .....19180

**Proposed Rules:**

165 .....19189

**40 CFR**

62 .....19184

**Proposed Rules:**

52 (2 documents) .....19191,

19194

62 .....19195

**47 CFR**

1 .....19186

73 .....19186

**Proposed Rules:**

54 .....19196

---

# Presidential Documents

---

Title 3—

Memorandum of April 26, 2018

The President

## Certification for Certain Records Related to the Assassination of President John F. Kennedy

### Memorandum for the Heads of Executive Departments and Agencies

As I explained in my temporary certification of October 26, 2017, the American people expect their Government to provide as much access as possible to the President John F. Kennedy Assassination Records (records) so that they may—as they deserve—finally be fully informed about all aspects of this pivotal event. Over the past 180 days, executive departments and agencies (agencies) have reviewed all of the information within records temporarily withheld from release and have proposed to the Archivist of the United States (Archivist) that certain information should continue to be redacted because of identifiable national security, law enforcement, and foreign affairs concerns. The Archivist has reviewed the information agencies proposed to withhold and believes the proposals are consistent with the standard of section 5(g)(2)(D) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) (the “Act”).

I agree with the Archivist’s recommendation that the continued withholdings are necessary to protect against identifiable harm to national security, law enforcement, or foreign affairs that is of such gravity that it outweighs the public interest in immediate disclosure. I am also ordering agencies to re-review each of those redactions over the next 3 years. At any time during that review period, and no later than the end of that period, agencies shall disclose information that no longer warrants continued withholding.

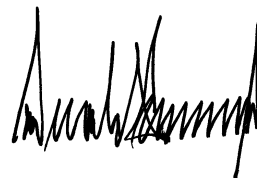
Accordingly, by the authority vested in me as President and Commander in Chief by the Constitution and the laws of the United States of America, I hereby certify that all information within records that agencies have proposed for continued postponement under section 5(g)(2)(D) of the Act shall be withheld from full public disclosure until no later than October 26, 2021.

Any agency that seeks further postponement beyond this certification shall take note of the findings of the Act, which state, among other things, that “only in the rarest cases is there any legitimate need for continued protection of such records.” The need for continued protection can only grow weaker with the passage of time from this congressional finding. Any agency that seeks further postponement beyond October 26, 2021, shall, no later than April 26, 2021, identify to the Archivist the specific basis for concluding that records (or portions of records) satisfy the standard for continued postponement under section 5(g)(2)(D) of the Act. Thereafter, the Archivist shall



recommend to the President, no later than September 26, 2021, whether continued withholding from public disclosure of the identified records is warranted after October 26, 2021.

The Archivist is hereby authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,  
*Washington, April 26, 2018*

# Rules and Regulations

Federal Register

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Wednesday, May 2, 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.

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## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1026

[Docket No. CFPB-2017-0018]

RIN 3170-AA71

### Federal Mortgage Disclosure Requirements Under the Truth in Lending Act (Regulation Z)

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Final rule; official interpretation.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is amending Federal mortgage disclosure requirements under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) that are implemented in Regulation Z. The amendments relate to when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith.

**DATES:** The final rule is effective June 1, 2018.

**FOR FURTHER INFORMATION CONTACT:** Shaakira Gold-Ramirez, Paralegal Specialist, Pedro De Oliveira, David Friend, and Priscilla Walton-Fein, Senior Counsels, Office of Regulations, Bureau of Consumer Financial Protection, at 202-435-7700 or <https://reginquiries.consumerfinance.gov/>. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Summary of the Final Rule

The TILA-RESPA Rule<sup>1</sup> requires creditors to provide consumers with

good faith estimates of the loan terms and closing costs required to be disclosed on a Loan Estimate. Under the rule, an estimated closing cost is disclosed in good faith if the charge paid by or imposed on the consumer does not exceed the amount originally disclosed, subject to certain exceptions.<sup>2</sup> In some circumstances, creditors may use revised estimates, instead of the estimate originally disclosed to the consumer, to compare to the charges actually paid by or imposed on the consumer for purposes of determining whether an estimated closing cost was disclosed in good faith. If the conditions for using such revised estimates are met, the creditor generally may provide revised estimates on a revised Loan Estimate or, in certain circumstances, on a Closing Disclosure. However, under the current rule, circumstances may arise in which a cost increases but the creditor is unable to use an otherwise permissible revised estimate on either a Loan Estimate or a Closing Disclosure for purposes of determining whether an estimated closing cost was disclosed in good faith. This situation, which may arise when the creditor has already provided a Closing Disclosure to the consumer when it learns about the cost increase, occurs because of the intersection of timing rules regarding the provision of revised estimates. This has been referred to in industry as a “gap” or “black hole” in the TILA-RESPA Rule.

The Bureau understands that these circumstances have led to uncertainty in the market and created implementation challenges that may have consequences for both consumers and creditors. If creditors cannot pass increased costs to consumers in the specific transactions

Bureau issued the Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (2013 TILA-RESPA Final Rule), combining certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan into two new forms: The Loan Estimate and Closing Disclosure. 78 FR 79730 (Dec. 31, 2013). The Bureau has since finalized amendments to the 2013 TILA-RESPA Final Rule, including in January and July of 2015 and in July of 2017. See 80 FR 8767 (Feb. 19, 2015) (January 2015 Amendments); 80 FR 43911 (July 24, 2015) (July 2015 Amendments); 82 FR 37656 (Aug. 11, 2017) (July 2017 Amendments). The 2013 TILA-RESPA Final Rule and subsequent amendments to that rule are referred to collectively herein as the TILA-RESPA Rule.

<sup>2</sup> 12 CFR 1026.19(e)(3)(i). Those exceptions are listed in § 1026.19(e)(3)(ii) through (iv).

where the costs arise, creditors may spread the costs across all consumers by pricing their loan products with added margins. The Bureau also understands that some creditors may be denying applications, even after providing the Closing Disclosure, in some circumstances where the creditor cannot pass otherwise permissible cost increases directly to affected consumers, which can have negative effects for those consumers. For these reasons, in July 2017, the Bureau proposed to address the issue by specifically providing that creditors may use Closing Disclosures to reflect changes in costs for purposes of determining if an estimated closing cost was disclosed in good faith, regardless of when the Closing Disclosure is provided relative to consummation (2017 Proposal or “the proposal”).<sup>3</sup> The Bureau is finalizing those amendments as proposed, with minor clarifying changes.

#### II. Background

In Dodd-Frank Act sections 1032(f), 1098, and 1100A, Congress directed the Bureau to integrate certain mortgage loan disclosures under TILA and RESPA.<sup>4</sup> The Bureau issued proposed integrated disclosure forms and rules for comment on July 9, 2012 (2012 TILA-RESPA Proposal)<sup>5</sup> and issued the 2013 TILA-RESPA Final Rule on November 20, 2013. The rule included model forms, samples illustrating the use of those forms for different types of loans, and Official Interpretations, which provided authoritative guidance explaining the new disclosures. The 2013 TILA-RESPA Final Rule took effect on October 3, 2015.<sup>6</sup>

The Bureau has provided resources to support implementation of the TILA-RESPA Rule.<sup>7</sup> The Bureau has also stated its commitment to be sensitive to the good faith efforts made by institutions to come into compliance. In addition, since the promulgation of the 2013 TILA-RESPA Final Rule, the

<sup>3</sup> 82 FR 37794 (Aug. 11, 2017).

<sup>4</sup> Public Law 111-203, 124 Stat. 1376, 2007, 2103-04, 2107-09 (2010).

<sup>5</sup> 77 FR 51116 (Aug. 23, 2012).

<sup>6</sup> The rule had an initial effective date of August 1, 2015. 78 FR 79730, 80071 (Dec. 31, 2013). However, the Bureau ultimately extended that effective date another two months, to October 3, 2015, in a subsequent rulemaking. 80 FR 43911 (July 24, 2015).

<sup>7</sup> The Bureau's implementation resources can be found on the Bureau's website at [www.consumerfinance.gov/regulatory-implementation/tila-respa](http://www.consumerfinance.gov/regulatory-implementation/tila-respa).

<sup>1</sup> In November 2013, pursuant to sections 1098 and 1100A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the

Bureau has made various amendments to facilitate compliance. Most recently, the Bureau finalized the July 2017 Amendments, which memorialized the Bureau's informal guidance on various issues, made clarifying and technical amendments, and also made a limited number of substantive changes where the Bureau identified discrete solutions to specific implementation challenges. Concurrently with the July 2017 Amendments, the Bureau issued the 2017 Proposal to address an additional implementation issue regarding when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure to determine if an estimated closing cost was disclosed in good faith.

### III. Comments

The Bureau issued the 2017 Proposal on July 6, 2017, and it was published in the **Federal Register** on August 11, 2017. In response to the 2017 Proposal, the Bureau received 43 unique comments from industry commenters (including trade associations, creditors, and industry representatives), a consumer advocate group, and others. As discussed below, the Bureau has considered the comments in adopting this final rule.

### IV. Legal Authority

The Bureau is issuing this final rule pursuant to its authority under TILA, RESPA, and the Dodd-Frank Act, including the authorities discussed below. In general, the provisions of Regulation Z that this final rule amends were previously adopted by the Bureau in the TILA-RESPA Rule. In doing so, the Bureau relied on one or more of the authorities discussed below, as well as other authority. The Bureau is issuing this final rule in reliance on the same authority and for the same reasons relied on in adopting the relevant provisions of the TILA-RESPA Rule, which are described in detail in the Legal Authority and Section-by-Section Analysis parts of the 2013 TILA-RESPA Final Rule and January 2015 Amendments, respectively.<sup>8</sup>

#### A. The Integrated Disclosure Mandate

Section 1032(f) of the Dodd-Frank Act required the Bureau to propose, for public comment, rules and model disclosures combining the disclosures required under TILA and sections 4 and 5 of RESPA into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Bureau determined that any

proposal issued by the Board of Governors of the Federal Reserve System (Board) and the Department of Housing and Urban Development (HUD) carried out the same purpose.<sup>9</sup> In addition, the Dodd-Frank Act amended section 105(b) of TILA and section 4(a) of RESPA to require the integration of the TILA disclosures and the disclosures required by sections 4 and 5 of RESPA.<sup>10</sup> The purpose of the integrated disclosure is to facilitate compliance with the disclosure requirements of TILA and RESPA and to improve borrower understanding of the transaction. The Bureau provided additional discussion of this integrated disclosure mandate in the 2013 TILA-RESPA Final Rule.<sup>11</sup>

#### B. Truth in Lending Act

*TILA section 105(a).* As amended by the Dodd-Frank Act, TILA section 105(a)<sup>12</sup> directs the Bureau to prescribe regulations to carry out the purposes of TILA and provides that such regulations may contain additional requirements, classifications, differentiations, or other provisions and may further provide for such adjustments and exceptions for all or any class of transactions that the Bureau judges are necessary or proper to effectuate the purposes of TILA, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. A purpose of TILA is to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various available credit terms and avoid the uninformed use of credit.<sup>13</sup> In enacting TILA, Congress found that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit.<sup>14</sup> Strengthened competition among financial institutions is a goal of TILA, achieved through the meaningful disclosure of credit terms.<sup>15</sup> For the

reasons discussed below and in the TILA-RESPA Rule, the Bureau finalizes these amendments pursuant to its authority under TILA section 105(a). The Bureau believes the finalized amendments effectuate the purpose of TILA under TILA section 102(a) of meaningful disclosure of credit terms to consumers and facilitate compliance with the statute by clarifying when particular disclosures may be provided. The Bureau also believes that the final rule furthers TILA's goals by ensuring more reliable estimates, which foster competition among financial institutions. In addition, the Bureau believes the final rule will prevent circumvention or evasion of TILA.

*TILA section 129B(e).* Dodd-Frank Act section 1405(a) amended TILA to add new section 129B(e).<sup>16</sup> That section authorizes the Bureau to prohibit or condition terms, acts, or practices relating to residential mortgage loans that the Bureau finds to be abusive, unfair, deceptive, predatory, necessary, or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of sections 129B and 129C of TILA, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections, or are not in the interest of the borrower. In developing rules under TILA section 129B(e), the Bureau has considered whether the rules are in the interest of the borrower, as required by the statute. For the reasons discussed below and in the TILA-RESPA Rule, the Bureau finalizes these amendments pursuant to its authority under TILA section 129B(e). The Bureau believes this final rule is consistent with TILA section 129B(e).

#### C. Real Estate Settlement Procedures Act Section 19(a)

Section 19(a) of RESPA authorizes the Bureau to prescribe such rules and regulations and to make such interpretations and grant such reasonable exemptions for classes of transactions as may be necessary to achieve the purposes of RESPA.<sup>17</sup> One purpose of RESPA is to effect certain changes in the settlement process for residential real estate that will result in more effective advance disclosure to home buyers and sellers of settlement costs.<sup>18</sup> In addition, in enacting RESPA, Congress found that consumers are entitled to greater and more timely

TILA section 129 that apply uniquely to such high-cost mortgages. 78 FR 79730, 79754 (Dec. 31, 2013).

<sup>16</sup> Public Law 111-203, 124 Stat. 1376, 2141 (2010) (codified at 15 U.S.C. 1639B(e)).

<sup>17</sup> 12 U.S.C. 2617(a).

<sup>18</sup> 12 U.S.C. 2601(b).

<sup>9</sup> Public Law 111-203, 124 Stat. 1376, 2007 (2010) (codified at 12 U.S.C. 5532(f)).

<sup>10</sup> Public Law 111-203, 124 Stat. 1376, 2108 (2010) (codified at 15 U.S.C. 1604(b)); Public Law 111-203, 124 Stat. 1376, 2103 (2010) (codified at 12 U.S.C. 2603(a)).

<sup>11</sup> 78 FR 79730, 79753-54 (Dec. 31, 2013).

<sup>12</sup> 15 U.S.C. 1604(a).

<sup>13</sup> 15 U.S.C. 1601(a).

<sup>14</sup> *Id.*

<sup>15</sup> The Bureau provided additional discussion of the history of TILA section 105(a) and its interaction with the provisions of TILA section 129 that apply to high-cost mortgages in the 2013 TILA-RESPA Final Rule. As the Bureau explained, the Bureau's authority under TILA section 105(a) to make adjustments and exceptions applies to all transactions subject to TILA, including high-cost mortgages, except with respect to the provisions of

<sup>8</sup> 78 FR 79730, 79753-56, 79834-37 (Dec. 31, 2013); 80 FR 8767, 8768-70 (Feb. 19, 2015).

information on the nature and costs of the settlement process and to be protected from unnecessarily high settlement charges caused by certain abusive practices in some areas of the country.<sup>19</sup> In developing rules under RESPA section 19(a), the Bureau has considered the purposes of RESPA, including to effect certain changes in the settlement process that will result in more effective advance disclosure of settlement costs. The Bureau finalizes these amendments pursuant to its authority under RESPA section 19(a). For the reasons discussed below and in the TILA-RESPA Rule, the Bureau believes the final rule is consistent with the purposes of RESPA by fostering more effective advance disclosure to home buyers and sellers of settlement costs.

#### D. Dodd-Frank Act

*Dodd-Frank Act section 1032.* Section 1032(a) of the Dodd-Frank Act provides that the Bureau may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.<sup>20</sup> The authority granted to the Bureau in section 1032(a) is broad and empowers the Bureau to prescribe rules regarding the disclosure of the features of consumer financial products and services generally. Accordingly, the Bureau may prescribe rules containing disclosure requirements even if other Federal consumer financial laws do not specifically require disclosure of such features. Dodd-Frank Act section 1032(c) provides that, in prescribing rules pursuant to section 1032, the Bureau shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.<sup>21</sup> Accordingly, in developing the TILA-RESPA Rule under Dodd-Frank Act section 1032(a), the Bureau considered available studies, reports, and other evidence about consumer awareness, understanding of, and responses to disclosures or

communications about the risks, costs, and benefits of consumer financial products or services. Moreover, the Bureau considered the evidence developed through its consumer testing of the integrated disclosures as well as prior testing done by the Board and HUD regarding TILA and RESPA disclosures. See part III of the 2013 TILA-RESPA Final Rule for a discussion of the Bureau's consumer testing.<sup>22</sup>

The Bureau finalizes these amendments pursuant to its authority under Dodd-Frank Act section 1032(a). For the reasons discussed below and in the TILA-RESPA Rule, the Bureau believes that the final rule is consistent with Dodd-Frank Act section 1032(a) because it promotes full, accurate, and effective disclosure of the features of consumer credit transactions secured by real property in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.

*Dodd-Frank Act section 1405(b).* Section 1405(b) of the Dodd-Frank Act provides that, notwithstanding any other provision of title XIV of the Dodd-Frank Act, in order to improve consumer awareness and understanding of transactions involving residential mortgage loans through the use of disclosures, the Bureau may exempt from or modify disclosure requirements, in whole or in part, for any class of residential mortgage loans if the Bureau determines that such exemption or modification is in the interest of consumers and in the public interest.<sup>23</sup> Section 1401 of the Dodd-Frank Act, which amends TILA section 103(cc)(5), generally defines a residential mortgage loan as any consumer credit transaction that is secured by a mortgage on a dwelling or on residential real property that includes a dwelling, other than an open-end credit plan or an extension of credit secured by a consumer's interest in a timeshare plan.<sup>24</sup> Notably, the authority granted by section 1405(b) applies to disclosure requirements generally and is not limited to a specific statute or statutes. Accordingly, Dodd-Frank Act section 1405(b) is a broad source of authority to exempt from or modify the disclosure requirements of TILA and RESPA. In developing rules for residential mortgage loans under Dodd-Frank Act section 1405(b), the Bureau has considered the purposes of

improving consumer awareness and understanding of transactions involving residential mortgage loans through the use of disclosures and the interests of consumers and the public. The Bureau finalizes these amendments pursuant to its authority under Dodd-Frank Act section 1405(b). For the reasons discussed below and in the TILA-RESPA Rule, the Bureau believes the final rule is in the interest of consumers and in the public interest, consistent with Dodd-Frank Act section 1405(b).

#### V. Section-by-Section Analysis

##### *Section 1026.19 Certain Mortgage and Variable-Rate Transactions*

##### *19(e) Mortgage Loans—Early Disclosures*

##### *19(e)(4) Provision and Receipt of Revised Disclosures*

The 2013 TILA-RESPA Final Rule combined certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan into two new, integrated forms. The first new form, the Loan Estimate, replaced the RESPA Good Faith Estimate and the early Truth in Lending disclosure. The rule requires creditors to deliver or place in the mail the Loan Estimate no later than three business days after the consumer submits a loan application.<sup>25</sup> The second form, the Closing Disclosure, replaced the HUD-1 Settlement Statement and the final Truth in Lending disclosure. The rule requires creditors to ensure that consumers receive the Closing Disclosure at least three business days before consummation.<sup>26</sup>

Section 1026.19(e)(1)(i) of the 2013 TILA-RESPA Final Rule requires creditors to provide consumers with good faith estimates of the disclosures required in § 1026.37, which describes the loan terms and closing costs required to be disclosed on the Loan Estimate. Under § 1026.19(e)(3)(i), an estimated closing cost is disclosed in good faith if the charge paid by or imposed on the consumer does not exceed the amount originally disclosed, except as otherwise provided in § 1026.19(e)(3)(ii) through (iv). Section 1026.19(e)(3)(ii) provides that estimates for certain third-party services and recording fees are in good faith if the sum of all such charges paid by or imposed on the consumer does not exceed the sum of all such charges disclosed on the Loan Estimate by more

<sup>19</sup> *Id.* at 2601(a). In the past, RESPA section 19(a) has served as a broad source of authority to prescribe disclosures and substantive requirements to carry out the purposes of RESPA.

<sup>20</sup> Public Law 111–203, 124 Stat. 1376, 2006–07 (2010) (codified at 12 U.S.C. 5532(a)).

<sup>21</sup> Public Law 111–203, 124 Stat. 1376, 2007 (2010) (codified at 12 U.S.C. 5532(c)).

<sup>22</sup> 78 FR 79730, 79743–50 (Dec. 31, 2013).

<sup>23</sup> Public Law 111–203, 124 Stat. 1376, 2142 (2010) (codified at 15 U.S.C. 1601 note).

<sup>24</sup> Public Law 111–203, 124 Stat. 1376, 2138 (2010) (codified at 15 U.S.C. 1602(cc)(5)).

<sup>25</sup> 12 CFR 1026.19(e)(1)(iii).

<sup>26</sup> *Id.* at § 1026.19(f)(1)(ii).

than 10 percent.<sup>27</sup> Section 1026.19(e)(3)(iii) further provides that certain other estimates are disclosed in good faith so long as they are consistent with the best information reasonably available to the creditor at the time they are disclosed, regardless of whether and by how much the amount paid by the consumer exceeds the disclosed estimate.<sup>28</sup> The allowed variances between estimated closing costs and the actual amounts paid by or imposed on the consumer are referred to as tolerances.

Section 1026.19(e)(3)(iv) permits creditors, in certain limited circumstances, to use revised estimates of charges, instead of the estimate of charges originally disclosed to the consumer, to compare to the charges actually paid by or imposed on the consumer for purposes of determining whether an estimated closing cost was disclosed in good faith pursuant to § 1026.19(e)(3)(i) and (ii) (*i.e.*, determining whether the actual charge exceeds the allowed tolerance).<sup>29</sup> The provision of such revised estimates is referred to herein as resetting tolerances. The circumstances under which creditors may reset tolerances are: (1) A defined set of changed circumstances that cause estimated charges to increase or, in the case of certain estimated charges, cause the aggregate amount of such charges to increase by more than 10 percent;<sup>30</sup> (2) the consumer is

ineligible for an estimated charge previously disclosed because of a changed circumstance that affects the consumer's creditworthiness or the value of the property securing the transaction; (3) the consumer requests revisions to the credit terms or the settlement that cause an estimated charge to increase; (4) points or lender credits change because the interest rate was not locked when the Loan Estimate was provided; (5) the consumer indicates an intent to proceed with the transaction more than 10 business days, or more than any additional number of days specified by the creditor before the offer expires, after the Loan Estimate was provided to the consumer; and (6) the loan is a construction loan that is not expected to close until more than 60 days after the Loan Estimate has been provided to the consumer and the creditor clearly and conspicuously states that a revised disclosure may be issued.

Section 1026.19(e)(4) contains rules for the provision and receipt of revised estimates used to reset tolerances. Section 1026.19(e)(4)(i) provides the general rule that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate to determine good faith (*i.e.*, to reset tolerances), the creditor shall provide a Loan Estimate reflecting the revised estimate within three business days of receiving information sufficient to establish that a permissible reason for revision applies. Section 1026.19(e)(4)(ii) imposes timing restrictions on the provision of revised Loan Estimates. Specifically, § 1026.19(e)(4)(ii) states that the creditor shall not provide a revised Loan Estimate on or after the date on which the creditor provides the Closing Disclosure. Section 1026.19(e)(4)(ii) also provides that the consumer must receive any revised Loan Estimate not later than four business days prior to consummation.

Regulation Z therefore limits creditors' ability to provide revised Loan Estimates relative to the provision of the Closing Disclosure and to consummation. In issuing the 2013 TILA-RESPA Final Rule, the Bureau explained that it was aware of cases where creditors provided revised RESPA Good Faith Estimates at the real estate closing, along with the HUD-1 settlement statement.<sup>31</sup> The Bureau was concerned that the practice of providing both good faith estimates of closing costs and an actual statement of closing

costs at the same time could be confusing for consumers and could diminish their awareness and understanding of the transaction. The Bureau was also concerned about consumers receiving seemingly duplicative disclosures that could contribute to information overload. For this reason, the Bureau adopted the provision of § 1026.19(e)(4)(ii) that prohibits creditors from providing revised Loan Estimates on or after the date the creditor provides the Closing Disclosure. The Bureau adopted the provision of § 1026.19(e)(4)(ii) that requires that consumers receive the revised Loan Estimate not later than four business days prior to consummation to ensure that consumers do not receive a revised Loan Estimate on the same date as the Closing Disclosure in cases where the revised Loan Estimate is not provided to the consumer in person.

Comment 19(e)(4)(ii)-1 clarifies when creditors may reset tolerances with a Closing Disclosure instead of with a revised Loan Estimate. Specifically, the comment explains that if there are fewer than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) (*i.e.*, within three business days of receiving information sufficient to establish a reason for revision) and consummation, creditors can reflect revised disclosures to reset tolerances on the Closing Disclosure. This is referred to herein as the "four-business day limit."

Although the Bureau originally proposed commentary in 2012 that would have stated that creditors may reflect the revised disclosures on the Closing Disclosure, without regard to the timing of consummation, the 2013 TILA-RESPA Final Rule contained the four-business day limit.<sup>32</sup> As stated in the 2017 Proposal, the Bureau now understands that there is significant confusion in the market and that the four-business day limit has caused situations where creditors cannot provide either a revised Loan Estimate or Closing Disclosure to reset tolerances even if a reason for revision under § 1026.19(e)(3)(iv) would otherwise permit the creditor to reset tolerances. In particular, the Bureau understands that this situation may occur if the creditor has already provided the Closing Disclosure and an event occurs or a consumer requests a change that causes an increase in closing costs that

<sup>27</sup> This section also requires that, for the 10 percent tolerance to apply, the charge for the third-party service must not be paid to the creditor or an affiliate of the creditor and the creditor must permit the consumer to shop for the third-party service, consistent with § 1026.19(e)(1)(vi). See 12 CFR 1026.19(e)(3)(ii)(B)-(C).

<sup>28</sup> Section 1026.19(e)(3)(iii) provides that an estimate of the following charges is in good faith if it is consistent with the best information reasonably available to the creditor at the time it is disclosed, regardless of whether the amount paid by the consumer exceeds the amount originally disclosed: (1) Prepaid interest; (2) property insurance premiums; (3) amounts placed into an escrow, impound, reserve, or similar account; (4) charges paid to third-party service providers selected by the consumer consistent with § 1026.19(e)(1)(vi)(A) that are not on the list provided pursuant to § 1026.19(e)(1)(vi)(C); and (5) property taxes and other charges paid for third-party services not required by the creditor.

<sup>29</sup> The creditor is required to retain evidence that it performed the required actions as well as made the required disclosures under Regulation Z, which includes evidence that the creditor properly documented the reasons for the use of revised estimates of charges. See § 1026.25(c)(1) and comment 25(c)(1)-1.

<sup>30</sup> Changed circumstance means: (1) An extraordinary event beyond the control of any interested party or other unexpected event specific to the consumer or transaction; (2) information specific to the consumer or transaction that the creditor relied upon when providing the Loan Estimate and that was inaccurate or changed after the disclosures were provided; or (3) new information specific to the consumer or transaction

that the creditor did not rely on when providing the original Loan Estimate. 12 CFR 1026.19(e)(3)(iv)(A).

<sup>31</sup> 78 FR 79730, 79836 (Dec. 31, 2013).

<sup>32</sup> See proposed comment 19(e)(4)-2 at 77 FR 51116, 51426 (Aug. 23, 2012) ("Creditors comply with the requirements of § 1026.19(e)(4) if the revised disclosures are reflected in the disclosures required by § 1026.19(f)(1)(i).").

would be a reason for revision under § 1026.19(e)(3)(iv), but there are four or more days between the time the revised disclosures would be required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. This situation may occur if there was also a delay in the scheduled consummation date after the initial Closing Disclosure is provided to the consumer.

This situation can arise because of the intersection of various timing rules regarding the provision of revised estimates to reset tolerances. As noted, § 1026.19(e)(4)(ii) prohibits creditors from providing Loan Estimates on or after the date on which the creditor provides the Closing Disclosure. In many cases, this limitation would not create issues for creditors because current comment 19(e)(4)(ii)–1 explains that creditors may reflect revised estimates on a Closing Disclosure to reset tolerances if there are less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. But there is no similar provision that explicitly provides that creditors may use a Closing Disclosure to reflect the revised estimates if there are four or more business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation.

#### *The 2016 Proposal*

On July 28, 2016, the Bureau proposed clarifications and technical amendments to the TILA–RESPA Rule, along with several proposed substantive changes (2016 Proposal).<sup>33</sup> In the 2016 Proposal, the Bureau proposed comment 19(e)(4)(ii)–2 to clarify that creditors may use corrected Closing Disclosures provided under § 1026.19(f)(2)(i) or (ii) (in addition to the initial Closing Disclosure) to reflect changes in costs that will be used to reset tolerances.<sup>34</sup> As discussed above, existing comment 19(e)(4)(ii)–1 clarifies that creditors may reflect revised estimates on the Closing Disclosure to reset tolerances if there are less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. Although comment 19(e)(4)(ii)–1 expressly references only the Closing Disclosure required by § 1026.19(f)(1)(i), the Bureau had stated in informal guidance that the provision also applies to corrected Closing Disclosures provided pursuant to § 1026.19(f)(2)(i) or (ii). The Bureau

proposed comment 19(e)(4)(ii)–2 in the 2016 Proposal to clarify this point.

However, some commenters to the 2016 Proposal interpreted proposed comment 19(e)(4)(ii)–2 as allowing creditors to use corrected Closing Disclosures to reset tolerances regardless of when consummation is expected to occur, as long as the creditor provides the corrected Closing Disclosure within three business days of receiving information sufficient to establish a reason for revision applies pursuant to § 1029.19(e)(4)(i). Under this interpretation, the four-business day limit would still apply to resetting tolerances with the initial Closing Disclosure, but would not apply to resetting tolerances with a corrected Closing Disclosure. Commenters were not uniform in their interpretation of proposed comment 19(e)(4)(ii)–2. Commenters who interpreted proposed comment 19(e)(4)(ii)–2 as removing the four-business day limit as it applies to corrected Closing Disclosures were generally supportive, citing uncertainty about the proper interpretation of current rules and stating that the timing rules regarding resetting tolerances with a Closing Disclosure are unworkable. Many commenters perceived that proposed comment 19(e)(4)(ii)–2 would resolve these issues because they interpreted it as allowing creditors to use corrected Closing Disclosures to reset tolerances even if there are four or more business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. Some commenters who interpreted the proposed comment in this way supported it, but also cautioned about unintended consequences. For example, some commenters stated that eliminating the four-business day limit for corrected Closing Disclosures might remove a disincentive that currently exists under the rule from providing the initial Closing Disclosure extremely early in the mortgage origination process, which these commenters stated would not be consistent with the Bureau's intent that the Closing Disclosure be a statement of actual costs.

#### *The 2017 Proposal*

The Bureau did not finalize proposed comment 19(e)(4)(ii)–2 as part of the July 2017 Amendments. Instead, the Bureau issued the 2017 Proposal to amend § 1026.19(e)(4) and associated commentary to expressly remove the four-business day limit for providing Closing Disclosures for purposes of resetting tolerances and determining if an estimated closing cost was disclosed

in good faith. The Bureau issued the 2017 Proposal in light of comments received in response to the 2016 Proposal and prior outreach indicating that timing rules regarding resetting tolerances with Closing Disclosures have led to uncertainty in the market and created implementation challenges that could have unintended consequences for both consumers and creditors, as explained above.

Consistent with current comment 19(e)(4)(ii)–1, the proposal would have allowed creditors to reset tolerances by providing a Closing Disclosure (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) within three business days of receiving information sufficient to establish that a reason for revision applies. Unlike current comment 19(e)(4)(ii)–1, however, the proposal would not have restricted the creditor's ability to reset tolerances with a Closing Disclosure to the period of less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation.

In the proposal, the Bureau explained that it believes that, in most cases in which a creditor learns about cost increases that are a permissible reason to reset tolerances, the creditor will not yet have provided a Closing Disclosure to the consumer. The proposal explained that, to the extent there is a cost increase of a type that would allow tolerances to be reset, the Bureau expects that creditors will typically provide a revised Loan Estimate (and not a Closing Disclosure) for the purpose of resetting tolerances and that these revised Loan Estimates will be used in determining good faith under § 1026.19(e)(3)(i) and (ii). However, there are circumstances in which creditors will instead reset tolerances with a Closing Disclosure. For example, the proposal noted that events that can affect closing costs may occur close to the time of consummation, even after the initial Closing Disclosure has been provided to the consumer. The proposal also noted that events may result in consummation being delayed past the time that was expected when the creditor provided the Closing Disclosure to the consumer. Some events can both affect closing costs and lead to a delay in consummation. These events may be outside the control of the creditor and, in some cases, requested by the consumer. The proposal cited as examples weather-related events that delay closing and lead to additional appraisal or inspection costs or illness by a buyer or seller that could delay closing and lead to the imposition of

<sup>33</sup> 81 FR 54317 (Aug. 15, 2016).

<sup>34</sup> *Id.* at 54334.

additional costs, such as a rate lock extension fee. In these circumstances, creditors may wish to reset tolerances with a Closing Disclosure even outside the time permitted by the four-business day limit. If creditors cannot pass these increased costs to consumers in the specific transactions where they arise, creditors may spread the costs across all consumers by pricing their loan products with added margins. The proposal also noted that some creditors may be seeking other ways to avoid absorbing these unexpected costs, such as denying applications from consumers, even after providing the consumer a Closing Disclosure.

For these reasons, the Bureau proposed to allow creditors to reset tolerances using a Closing Disclosure without regard to the four-business day limit. Under the proposal, as under the current rule, to reset tolerances with a Closing Disclosure, creditors would have been required to provide the Closing Disclosure to the consumer within three business days of receiving information sufficient to establish that a reason for revision applies. Further, as under the current rule, creditors would have been allowed to reset tolerances only under the limited circumstances described in § 1026.19(e)(3)(iv).

The proposal would have removed the four-business day limit for resetting tolerances with both initial and corrected Closing Disclosures. The proposal cited two reasons for this approach. First, the proposal noted a concern that applying the four-business day limit to initial Closing Disclosures but not corrected Closing Disclosures could incentivize creditors to provide consumers with initial Closing Disclosures very early in the lending process, which in some circumstances might be inconsistent with the description of the Closing Disclosure as a “statement of the final loan terms and closing costs,”<sup>35</sup> and the requirement under § 1026.19(f)(1)(i) that the disclosures on the Closing Disclosure are to be a statement of “the actual terms of the transaction.” Second, the proposal noted that applying the four-business day limit to initial Closing Disclosures but not corrected Closing Disclosures could create operational challenges and burden for creditors.

Accordingly, the Bureau proposed to amend § 1026.19(e)(4)(i) to provide that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor

shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision applies.

The Bureau also proposed to amend comment 19(e)(4)(ii)–1 to remove the reference to the four-business day limit, for consistency with the proposed amendments to § 1026.19(e)(4)(i). In addition, the proposal would have amended the comment to provide two additional examples that further clarify how creditors may provide revised estimates on Closing Disclosures in lieu of Loan Estimates for purposes of determining good faith. The Bureau also proposed conforming amendments to the heading of § 1026.19(e)(4)(ii) and to comments 19(e)(1)(ii)–1 and 19(e)(4)(i)–1 in light of these proposed amendments.

Finally, the proposal would have made several changes to § 1026.19(e)(4) and its commentary to reflect amendments to the rule made by the January 2015 Amendments regarding interest rate dependent charges. Section 1026.19(e)(3)(iv)(D), as adopted by the 2013 TILA–RESPA Final Rule, previously required creditors to provide the consumer with a revised disclosure with the revised interest rate, the points disclosed pursuant to § 1026.37(f)(1), lender credits, and any other interest rate dependent charges and terms on the date the interest rate is locked. The January 2015 Amendments changed § 1026.19(e)(3)(iv)(D) to provide creditors with more time (three business days) to provide the revised disclosures. This amendment harmonized the timing requirement in § 1026.19(e)(3)(iv)(D) with other timing requirements for providing a revised Loan Estimate adopted in the 2013 TILA–RESPA Final Rule and addressed operational challenges associated with the prior requirement that gave creditors less time to provide revised disclosures regarding interest rate dependent charges. To implement this change, the Bureau revised § 1026.19(e)(3)(iv)(D) to state that, no later than three business days after the date the interest rate is locked, the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) to the consumer with the revised interest rate, the points disclosed pursuant to § 1026.37(f)(1), lender credits, and any other interest rate dependent charges and terms. In the January 2015 Amendments, the Bureau also adopted modified versions of

proposed comments 19(e)(3)(iv)(D)–1 and 19(e)(4)(i)–2 to reflect that change. To further reflect the changes made by the January 2015 Amendments to § 1026.19(e)(3)(iv)(D), the Bureau proposed to amend § 1026.19(e)(4)(i) and comment 19(e)(4)(i)–1. The Bureau also proposed to remove existing comment 19(e)(4)(i)–2, regarding the relationship to § 1026.19(e)(3)(iv)(D), which the proposal stated may no longer be necessary.

The Bureau solicited comment on several specific issues related to the proposal, including on the extent to which the four-business day limit has caused situations where creditors cannot provide either a revised Loan Estimate or Closing Disclosure to reset tolerances even if a reason for revision under § 1026.19(e)(3)(iv) would otherwise permit the creditor to reset tolerances. The Bureau requested information on the frequency and the cause of such occurrences and on the average costs and the nature of such costs associated with such occurrences.

The Bureau also requested information that would assist in evaluating potential consequences of the proposal. In particular, some commenters in response to the 2016 Proposal expressed concern that removal of the four-business day limit could result in some creditors providing Closing Disclosures very early in the lending process and that doing so could have negative effects on some consumers. The proposal noted the Bureau’s understanding that some creditors currently provide the Closing Disclosure to consumers so early in the process that the terms and costs are nearly certain to be revised. Commenters stated in response to the 2016 Proposal that eliminating the four-business day limit for resetting tolerances with a Closing Disclosure could remove a disincentive to providing Closing Disclosures before final terms and costs are reliably available (*i.e.*, under the current rule, waiting to provide the Closing Disclosure until close to the time of consummation decreases, to some extent, the likelihood of a timing issue arising with respect to resetting tolerances with corrected Closing Disclosures). Accordingly, the Bureau requested comment on the extent to which creditors are providing Closing Disclosures to consumers so that they are received substantially before the required three business days prior to consummation with terms and costs that are nearly certain to be revised. The Bureau requested comment on the number of business days before consummation consumers are receiving

<sup>35</sup> 12 CFR 1026.38(a)(2).

the Closing Disclosure and whether creditors are issuing corrected Closing Disclosures pursuant to § 1026.19(f)(2). In addition, the Bureau requested comment on the extent to which creditors might change their practices regarding provision of the Closing Disclosure if the proposal to remove the four-business day limit is adopted. The Bureau also requested comment on potential harms to consumers where creditors provide Closing Disclosures to consumers so that they are received more than the required three business days prior to consummation with terms and costs that are nearly certain to be revised. The Bureau additionally requested comment on whether it should consider adopting measures to prevent such harms in a future rulemaking.

The Bureau also requested comment on other potential consequences that might result from removing the four-business day limit that applies to resetting tolerances with a Closing Disclosure. For example, compared to current rules, the proposed changes could allow creditors to pass more costs on to consumers. The Bureau solicited comment on whether the circumstances for resetting tolerances in § 1026.19(e)(3)(iv) provide sufficient protection against potential consumer harm or whether additional limitations are appropriate for resetting tolerances after the issuance of a Closing Disclosure. For example, the Bureau requested comment on whether it would be appropriate to allow creditors to reset tolerances with a corrected Closing Disclosure in circumstances that are more limited than those described in § 1026.19(e)(3)(iv) (for example, only when the increased costs result from a consumer request or unforeseeable event, such as a natural disaster). The Bureau also requested comment on whether the rule should be more restrictive with respect to resetting tolerances with a corrected Closing Disclosure for certain third-party costs (such as appraisal fees) and creditor fees (such as interest rate lock extension fees) and the types of costs and fees that might be subject to any more restrictive rules. The Bureau also requested comment on whether removing the four-business day limit might result in confusion or information overload to the consumer as a result of receiving more corrected Closing Disclosures. The Bureau requested comment on additional consumer protections that might be appropriate to promote the purposes of the disclosures or prevent circumvention or evasion and

additional potential consumer harms the Bureau had not identified.

#### *Comments*

The Bureau received 43 unique comments from industry commenters (including trade associations, creditors, and industry representatives), a consumer advocate group, and others. Most industry commenters supported the proposal to remove the four-business day limit. These commenters generally stated that the four-business day limit arbitrarily leads to situations where creditors must absorb costs that could otherwise be passed to consumers through resetting tolerances, and that those costs are passed to all consumers in the form of an increased cost of credit. Industry commenters also noted legal and compliance risks associated with the uncertainty around current rules, and stated that this uncertainty has had an adverse impact on the cost of credit. These commenters supported the proposal because it would address these issues by expressly permitting creditors to use either initial or corrected Closing Disclosures to reflect changes in costs for purposes of determining if an estimated closing cost was disclosed in good faith, regardless of when the Closing Disclosure is provided relative to consummation. Other industry commenters, while generally supportive of the proposal, expressed concerns about unintended consequences and some suggested additional parameters or guidance around the timing or accuracy rules that apply to Closing Disclosures. These comments are discussed more fully below.

Only one consumer advocate group commented on the proposal. That commenter urged the Bureau not to adopt the proposal, primarily citing concerns about consumer confusion and information overload. That commenter suggested that the proposal would lead to consumers receiving an increased number of disclosures, which the commenter believes would undermine the purpose of the Closing Disclosure and overwhelm consumers. The consumer advocate group commenter also stated that the proposal would remove the disincentive from providing Closing Disclosures to consumers very early, which the commenter believes would undermine the distinction between the Loan Estimate and the Closing Disclosure. Instead of finalizing the proposal, that commenter urged the Bureau to amend the rule to provide that a Closing Disclosure can only be given three business days before consummation, with redisclosure permitted thereafter only under the

circumstances in § 1026.19(f)(2)(i) and (ii).

One individual commenter expressed opposition to the proposal and urged the Bureau to increase the four-business day limit to a seven-business day limit, rather than eliminating it altogether, so as to retain a deterrent against early Closing Disclosures. An industry commenter opposed such an approach, stating that simply extending the four-business day limit to a larger number of days would not fully address current issues.

Numerous commenters responded to the Bureau's specific requests for comment on issues related to the four-business day limit and the potential effects of the proposal. These comments are discussed below.

#### *The Effect of the Four-Business Day Limit*

As noted above, the proposal requested information on the extent to which the four-business day limit has created situations where creditors cannot provide either a revised Loan Estimate or a corrected Closing Disclosure to reset tolerances. The proposal requested information on the frequency and the cause of such occurrences and on the average costs and the nature of such costs associated with such occurrences.

Industry commenters generally stated that the four-business day limit has created compliance problems and imposed costs on creditors. One industry trade association commenter noted that a large creditor had reported tolerance cures of \$60,000 in one month attributable to issues with the four-business day limit. That same commenter noted that a mid-sized creditor had reported that between 13 and 37 percent of its tolerance cures each month during a five-month period were attributable to the four-business day limit. The commenter also noted that absorbing such costs is more difficult for small creditors. Another commenter estimated costs incurred by creditors for some common events associated with the four-business day limit: \$825 per affected loan for lock extension fees and a minimum of \$150 per affected loan for property inspections due to weather events.

Other commenters provided specific examples of problems created by the four-business day limit. For example, one industry commenter described a delay in the final construction of a home and a corresponding rate lock extension fee being incurred after the initial Closing Disclosure had been sent to the consumer six days before the originally scheduled consummation date. That



commenter noted another example of additional survey costs incurred due to a newly filed property lien during the six days before consummation. In both instances, the creditor absorbed the increased costs because of the four-business day limit. Another industry commenter provided other examples, including another instance of fees that were incurred due to issues discovered during a title search close to the consummation date.

An industry trade association commenter noted that its member banks did not report the frequent need to reset tolerances in close proximity to consummation, but said that its members reported isolated situations of absorbing costs from valid changed circumstances, denying requests for changes to loan terms, or starting the loan process over rather than accommodating the change. Another industry commenter stated that it typically works with the same title companies and other service providers and does not price its loans to absorb costs associated with the four-business day limit. That commenter has not denied applications because of the inability to reset tolerances, but stated that it has heard reports of such occurrences at other creditors from potential customers, including that some consumers have lost home purchase contracts where applications are denied late in the process. Another industry commenter stated that it believes most lenders absorb the additional costs associated with the four-business day limit, rather than denying applications, due to concerns about customer service and the risk of delay.

While not citing specific instances of problems with the four-business day limit, numerous other industry commenters stated that costs will frequently change after a Closing Disclosure has been provided to the consumer for reasons outside of the creditor's control, or due to consumer requests, even if the initial Closing Disclosure is provided close to the anticipated time of consummation. Rate lock extension fees were the fee type most frequently cited as being associated with such cost changes. Several industry commenters also noted that consumers may request changes to interest rates and lender credits or points after the initial Closing Disclosure has been provided to the consumer. Another commenter noted that the four-business day limit is especially problematic in new construction transactions when consumers submit change order requests to their builder that increase the loan

amount. Commenters also noted that delays in anticipated closing dates frequently occur. These commenters cited numerous reasons that closings might be delayed, even close to the time of the initially scheduled closing, including home inspection issues that require correction, storm damage, title issues, late appraisals, and consumer requests for closing delays. The consumer advocate group that commented on the proposal did not comment on this aspect of it.

#### Closing Disclosure Timing Practices

The proposal also requested comment on the extent to which creditors are providing Closing Disclosures to consumers so that they are received substantially before the required three business days prior to consummation with terms and costs that are nearly certain to be revised (and, if so, the number of days before consummation). In addition, the proposal requested comment on the extent to which creditors might change their practices regarding provision of the Closing Disclosure if the proposal is finalized.

Numerous industry commenters responded to the Bureau's requests for comment related to Closing Disclosure timing. Several commenters noted that there are inconsistent approaches to Closing Disclosure timing across the industry, with some issuing the Closing Disclosure at an early point in the process and others waiting until closer to the time of consummation when final amounts are more likely to be known. Some commenters who noted this difference in approach also noted that providing Closing Disclosures very early does not seem consistent with the Bureau's intent that the Closing Disclosure act as a statement of final loan terms and closing costs. One industry commenter stated that it would be possible for a creditor to set up a process that would allow it to issue a Closing Disclosure earlier, while still containing accurate loan terms. That commenter suggested holding creditors responsible for having adequate policies and procedures to ensure that the disclosure is representative of the loan terms and actual costs known at the time of delivery.

Some commenters, including both industry commenters and the consumer advocate group commenter, expressed concern that the proposal could incentivize creditors to provide Closing Disclosures earlier in the process. One industry commenter stated that creditors who do provide Closing Disclosures very early may be at a competitive advantage to those that do not. Another industry commenter stated

a concern that some creditors might issue Closing Disclosures very early to appear more efficient than their competitors. Another industry commenter indicated that some creditors issue Closing Disclosures very early to provide more flexibility with scheduling closing, and noted that the four-business day limit provides a disincentive against the practice. As discussed below, some commenters who stated that the proposal could incentivize creditors to provide Closing Disclosures earlier also expressed concern that such a practice could have a detrimental effect on consumer understanding of the transaction.

One industry commenter stated that it currently provides the Closing Disclosure three business days before consummation, but noted that it would likely provide the first Closing Disclosure a week earlier if the proposal is finalized. This commenter asserted that such a practice would give consumers additional time to review the Closing Disclosure and ask questions. Some commenters noted that they provide Closing Disclosures close to the time of consummation and did not express that their practices would change. Other industry commenters generally stated that concerns that removing the four-business day limit would incentivize creditors to provide Closing Disclosures early are unfounded because early provision of the Closing Disclosure would be difficult to accomplish while meeting the requirements to act in good faith and exercise due diligence, and would create additional work for creditors and cause confusion for consumers. One industry trade association commenter noted that some of its member banks had expressed that providing Closing Disclosures early does not provide any advantage, because there is a high likelihood that the disclosure will undergo revisions.

#### Closing Disclosure Timing and Consumer Understanding

The Bureau requested comment on potential harms to consumers when creditors provide Closing Disclosures so that they are received more than the required three business days prior to consummation with terms and costs that are nearly certain to be revised, including potential confusion or information overload to the consumer as a result of receiving more corrected Closing Disclosures. The Bureau also requested comment on whether it should consider adopting measures to prevent such harms in a future rulemaking.

Some commenters stated that the proposal could result in consumer confusion because it would remove the current disincentive to providing Closing Disclosures well before the required three business days prior to consummation, which they assert would result in earlier, and therefore more frequent, Closing Disclosures. For example, the consumer advocate group commenter expressed concern that the proposal would encourage creditors to provide Closing Disclosures very early in the lending process, which would result in more Closing Disclosures and be confusing for consumers. That commenter explained that creditors are permitted to issue multiple Loan Estimates, including Loan Estimates that do not reset tolerances. The commenter expressed concern that the proposal could increase consumer confusion by encouraging multiple Closing Disclosures, and that consumers will not know which versions of the disclosures to compare. The consumer advocate group commenter also stated that consumers may become desensitized to the need to read disclosures carefully if they receive frequent Closing Disclosures. The commenter stated that increases in costs may eventually exceed what the consumer is willing to pay, which would cause them to shop with other lenders. However, if consumers are desensitized to changes, the commenter argued that consumers will be less likely to withdraw from the transaction. The consumer advocate group commenter further stated that the proposal would encourage creditors to provide Closing Disclosures that are not intended to reset tolerances, which the commenter asserted will be confusing for consumers.

Several industry commenters also stated that the proposal could potentially increase consumer confusion by incentivizing earlier, and therefore more frequent, Closing Disclosures. Several commenters, including an industry trade association commenter, similarly stated that too many disclosure updates could work against consumer understanding, because consumers might ignore the disclosures and would not know which ones to use for comparison purposes.

An industry commenter stated that consumers would be confused when receiving a Closing Disclosure very early and that consumers could be confused by a Closing Disclosure that purports to be a statement of final loan terms and closing costs, but is only an estimate of costs. That commenter noted that not all changes to the loan will require creditors to reset tolerances and that

consumers who receive Closing Disclosures very early may not receive corrected Closing Disclosures until consummation if there are no changes that occur that would cause the creditor to reset tolerances (or one of the triggering events in § 1026.19(f)(2)(ii) occurs, which would require a new disclosure and three-day waiting period). The commenter stated that this would be contrary to the purpose of the requirement to receive the Closing Disclosure three business days before consummation.

Other commenters stated that the proposal would not create consumer confusion. Some industry commenters stated that the proposal would not diminish consumer understanding because creditors would remain able to reset tolerances only as permitted under § 1026.19(e)(3)(iv) and that there would not be a large increase in the number of Closing Disclosures. One industry commenter stated that consumers should not experience confusion or information overload, as it would be no different from consumers receiving revised Loan Estimates. That commenter also stated that it expects lenders to communicate with consumers to address any confusion. Another industry commenter similarly suggested that consumers might benefit from earlier Closing Disclosures and the creditor's flexibility to issue corrected Closing Disclosures because it would facilitate a more transparent process. Some industry commenters asserted that consumers could benefit from receiving Closing Disclosures earlier in the process because they would have additional time to review the information that does not appear on the Loan Estimate.

With respect to additional protections to avoid potential consumer harms associated with removing the four-business day limit, several commenters who supported the proposal also suggested that the Bureau address Closing Disclosure timing or accuracy rules, because of concerns about potential effects of the proposed rule or to address uncertainty about current rules. With respect to timing, an industry commenter requested clarification as to whether creditors can reset tolerances using a Closing Disclosure after issuing an initial Loan Estimate but without ever issuing any revised Loan Estimate. To maintain the disincentive against providing Closing Disclosures very early, an individual commenter suggested that the Bureau expand the window of time prior to consummation during which a creditor can reset tolerances with a Closing Disclosure from four business days to

seven business days. Another commenter noted that merely expanding that time window by a limited number of days would only partially address the problems discussed in the proposal, and did not favor that approach. The consumer advocate group commenter suggested that the rule should provide that the Closing Disclosure can only be given no more than three business days before consummation. An anonymous commenter advised that, in addition to removing the four-business day limit for resetting tolerances with a Closing Disclosure, the Bureau should also adopt a new prohibition on providing Closing Disclosures unless the creditor reasonably anticipates that the transaction will close within ten business days. An industry commenter stated that the Bureau's supervision process could emphasize scrutiny of potentially unnecessary iterations of corrected Closing Disclosures. The commenter suggested that, as an alternative, the Bureau create a new timing requirement for resetting tolerances with a corrected Closing Disclosure, whereby any and all changes to the Closing Disclosure for resetting tolerances would be made at only one specific point in time during a transaction. Meanwhile, several commenters supported removing the timing restriction on resetting tolerances with a Closing Disclosure and stated that the Bureau should not place new timing limitations on providing Closing Disclosures. One commenter noted that the rule's current accuracy standard is already a deterrent against providing very early Closing Disclosures because it requires that the creditor, acting in good faith, exercise due diligence in obtaining the information.

With respect to Closing Disclosure accuracy, one industry commenter stated that, in addition to removing the time limit for resetting tolerances with a Closing Disclosure, the Bureau should either apply a stricter accuracy standard to the Closing Disclosure or clarify the current accuracy standard to avoid very early Closing Disclosures. That commenter expressed concern that some creditors are providing initial Closing Disclosures to consumers using price quotes automatically generated by software vendors rather than requesting more accurate information from the settlement agent involved in the transaction. Another industry commenter similarly expressed concern about the adequacy of current accuracy standards and advised that the Bureau provide some specific expectation regarding Closing Disclosure timing in order to discern whether a creditor has

provided disclosures on the Closing Disclosure in good faith. Another industry commenter recommended that the Bureau provide a complete summary of good faith under all of the operative provisions of the rule. Another industry commenter suggested that concerns about early Closing Disclosure issuance can be addressed through a warning that the practice violates the spirit of the disclosure rule.

#### Permissible Reasons To Reset Tolerances

The Bureau requested comment on whether the rule should allow creditors to reset tolerances with a Closing Disclosure in circumstances that are more limited than those that apply under the current rule (§ 1026.19(e)(3)(iv)) or whether the rule should be more restrictive with respect to resetting tolerances with a corrected Closing Disclosure for certain third-party costs and creditor fees. Most commenters who addressed this aspect of the proposal did not support applying a more restrictive set of circumstances or fees resetting tolerances with a Closing Disclosure. Specifically, one individual commenter and several industry commenters requested that the rule not restrict resetting tolerances with a Closing Disclosure in circumstances more limited than for a revised Loan Estimate. However, one individual commenter stated that interest rate lock fees should not be allowed for resetting tolerances with either revised Loan Estimates or Closing Disclosures unless the fee is clearly attributable to a consumer delay or exceptional event, such as a weather event. One industry commenter stated that two provisions under the current rule are inapplicable to resetting tolerances with a Closing Disclosure. Specifically, that commenter stated that the provisions that allow creditors to reset tolerances where a Loan Estimate expires (§ 1026.19(e)(3)(iv)(E)) and in a transaction involving a construction loan where closings are delayed (§ 1026.19(e)(3)(iv)(F)) are inapplicable to resetting tolerances with a Closing Disclosure.

#### The Final Rule

For the reasons discussed below, the Bureau is finalizing the amendments to § 1026.19(e)(4)(i) and (ii) as proposed. The Bureau is also finalizing the proposed changes to comment 19(e)(1)(ii)–1, including a minor technical revision for clarity, and to comments 19(e)(4)(i)–1 and –2. The Bureau is republishing comment 19(e)(1)(ii)–2 with no changes. In addition, the Bureau is finalizing the

changes to comment 19(e)(4)(ii)–1 substantially as proposed, including minor technical and conforming revisions, and providing an additional example in response to commenter requests for further clarification.

The final rule removes the four-business day limit and permits creditors to reset tolerances with either an initial or corrected Closing Disclosure regardless of when the Closing Disclosure is provided relative to consummation. The Bureau finds that this change will benefit both consumers and creditors and facilitate compliance with the TILA-RESPA Rule and that it is appropriate under the legal authorities described in part IV above.

As noted above, once the creditor provides the initial Closing Disclosure to the consumer, the TILA-RESPA Rule distinguishes between cost increases that can be passed on to consumers and those that cannot be passed on based on when the creditor learns about the cost increase relative to consummation. As noted by numerous commenters, this aspect of the TILA-RESPA Rule imposes on the creditor the cost of unanticipated changes to the loan that could otherwise be passed to the specific consumer incurring the increased fee through resetting tolerances. However, the four-business day limit can also have negative effects on consumers. Costs that cannot be passed to the specific consumers who incur them are generally passed on to all consumers over time through an overall increase in the cost of credit. Further, some creditors may choose to deny applications to avoid absorbing the increased costs, which can have negative effects for the consumer even if the consumer immediately reapplies for credit (e.g., could result in additional fees to extend a rate lock, further delay closing, or result in the loss of a home sales contract). The Bureau also agrees with some commenters who stated that confusion over the current rules has the potential to create legal and compliance risks for creditors, which could have a negative impact on the cost and availability of credit.

As finalized, § 1026.19(e)(4)(i) provides that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate within

three business days of receiving information sufficient to establish that one of the reasons for revision applies.<sup>36</sup>

The Bureau considered concerns discussed in the proposal and expressed by some commenters about the potential effects of the proposal on the Closing Disclosure timing. As noted above, the timing restriction on resetting tolerances creates a disincentive to providing consumers with Closing Disclosures very early in the lending process. Once a creditor has provided a Closing Disclosure, it can reset tolerances only if there are less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) (i.e., within three business days of the time the creditor received information sufficient to establish the reason for revision) and consummation. The Bureau agrees with commenters who stated that the practice of providing very early Closing Disclosures with terms that are nearly certain to be revised would be contrary to the underlying purpose of the Closing Disclosure. While the Bureau acknowledges that eliminating the timing restriction on resetting tolerances with a Closing Disclosure could potentially affect the Closing Disclosure timing for some creditors, the Bureau does not believe that retaining the four-business day limit is an effective way to address potential issues associated with early Closing Disclosures.

In particular, the four-business day limit is problematic where a scheduled closing date is delayed and additional costs are incurred after an initial Closing Disclosure has been provided to the consumer. As noted by numerous commenters, this situation can arise even when the initial Closing Disclosure is provided to the consumer very close to the time of the initially-scheduled consummation date, as closing dates can move at the last minute for a variety of reasons. The Bureau believes that the TILA-RESPA Rule should accommodate changes that occur as a result of delayed closings. Retaining the restriction on resetting tolerances with a Closing Disclosure would not accomplish that goal. In addition, while the Bureau agrees that the very early provision of

<sup>36</sup> The final rule does not change the current Regulation Z requirement that, if the Closing Disclosure becomes inaccurate before consummation, the creditor must provide a corrected Closing Disclosure reflecting any changed terms to the consumer so that the consumer receives the corrected Closing Disclosure at or before consummation. § 1026.19(f)(2)(i), or, in some circumstances, must ensure that the consumer receives the corrected Closing Disclosure no later than three business days before consummation, § 1026.19(f)(2)(ii).

Closing Disclosures is contrary to the underlying purpose of those disclosures, the Bureau does not believe that finalizing the proposal will have an overall negative effect on consumer understanding. The Bureau does not expect that removal of the four-business day limit will result in a significant increase in the number of disclosures provided to consumers because the final rule does not expand the circumstances in which creditors are allowed to reset tolerances. And, as further discussed below, the Bureau believes that current rules should prevent creditors from sending Closing Disclosures very early in the process before engaging in due diligence to ensure that any costs that are not finalized are estimated in good faith.

The Bureau also considered comments that suggested additional protections might be necessary to avoid consumer harm from removing the restriction on resetting tolerances with a Closing Disclosure. However, the Bureau is not adopting any additional substantive changes to the TILA-RESPA Rule's existing Closing Disclosure timing or accuracy provisions at this time. The Bureau concludes that the rule's existing provisions should prevent creditors from sending Closing Disclosures very early in the process before engaging in due diligence.

With respect to the accuracy standard that applies to the Closing Disclosure, the Bureau concludes that substantive changes to the TILA-RESPA Rule's existing provisions are not necessary to prevent creditors from sending Closing Disclosures very early in the process before engaging in due diligence. The Bureau believes the existing Closing Disclosure accuracy standard already accomplishes that objective. Existing § 1026.19(f)(1)(i) and comment 19(f)(1)(i)-1 require creditors to disclose on the Closing Disclosure the actual terms of the credit transaction. Existing comment 19(f)(1)(i)-2 also permits creditors to estimate disclosures on the Closing Disclosure using the best information reasonably available when the actual term is not reasonably available to the creditor at the time the disclosures are made. Comment 19(f)(1)(i)-2 provides that the "reasonably available" standard requires that the creditor, acting in good faith, exercise due diligence in obtaining the information. Further, comment 19(f)(1)(i)-2.i.A provides an example illustrating the "reasonably available" standard for purposes of § 1026.19(f)(1)(i). Specifically, comment 19(f)(1)(i)-2.i.A assumes that a creditor provides the Closing Disclosure for a transaction in which the title insurance

company that is providing the title insurance policy is acting as the settlement agent in connection with the transaction, but the creditor does not request the actual cost of the lender's title insurance policy that the consumer is purchasing from the title insurance company and instead discloses an estimate based on information from a different transaction. Comment 19(f)(1)(i)-2.i.A provides that the creditor in the example has not exercised due diligence in obtaining the information about the cost of the lender's title insurance policy required under the "reasonably available" standard in connection with the estimate disclosed for the lender's title insurance policy. Regarding a commenter's request for clarification as to whether creditors can reset tolerances using a Closing Disclosure after issuing an initial Loan Estimate but without ever issuing any revised Loan Estimate, the rule does not prohibit creditors from doing so but creditors must otherwise comply with the rule, including its Closing Disclosure accuracy standard. The Bureau will continue to monitor the market for practices that do not comply with the rule's Closing Disclosure accuracy standard.

With respect to the timing of the Closing Disclosure, the Bureau is not adopting any substantive changes to the TILA-RESPA Rule's existing Closing Disclosure timing provisions, other than removing the four-business day limit as discussed above. For example, the Bureau considered a commenter's suggestion that the Bureau expand the window of time prior to consummation during which a creditor can reset tolerances with a Closing Disclosure (from four business days to seven business days). The commenter's suggested approach would mean that a creditor could reset tolerances with a Closing Disclosure when consummation is reasonably expected to occur no more than ten business days after the creditor learns about the valid justification (*i.e.*, three business days from the time the creditor knows about the valid justification plus seven business days from the time the revised disclosure is required to be provided until consummation). The Bureau declines to adopt such approach. The Bureau agrees with another commenter who noted that merely expanding that time window by a limited number of days would only partially address the issue created by the four-business day limit under the current rule. In the example above, a creditor could not reset tolerances with a Closing Disclosure when consummation is reasonably expected to

occur eleven business days or more after the creditor learns about the valid justification. As noted above, the Bureau concludes that the issues created by the four-business day limit have negative effects on both creditors and consumers and that the four-business day limit should be eliminated, not merely expanded by a limited number of days.

Similarly, the Bureau declines to set a new, specific timing requirement for Closing Disclosures. For example, the Bureau declines to place new limitations on providing Closing Disclosures such that an initial Closing Disclosure could only be given no more than three business days before consummation, as a consumer advocate group commenter advised. Such a new limitation would exacerbate rather than alleviate problems associated with the current rule. The Bureau also declines to follow the suggestion to adopt a new prohibition on providing Closing Disclosures unless the creditor reasonably anticipates that the transaction will close within 10 business days. The Bureau does not believe that there is an appropriate basis at this time for creating such a prohibition, including setting any such cutoff at 10 business days or any other particular number of days.

The Bureau also considered the commenter suggestion that the Bureau create a new timing requirement for resetting tolerances with a corrected Closing Disclosure, whereby any and all changes to the Closing Disclosure for resetting tolerances would be made at only one specific point in time during a transaction. The Bureau declines to adopt such a timing requirement because doing so would be inconsistent with the purpose articulated by the Bureau when it adopted the § 1026.19(e)(4)(i) timing requirements for resetting tolerances. Specifically, current § 1026.19(e)(4)(i) generally provides that, to reset tolerances, the creditor must provide revised disclosures within three business days of receiving information sufficient to establish a valid justification. In the 2013 TILA-RESPA Final Rule, the Bureau stated its view "that intermittent redisclosure of the integrated Loan Estimate is necessary under RESPA because settlement service provider costs typically fluctuate during the mortgage loan origination process" and "intermittent redisclosure is consistent with the purposes of TILA because it promotes the informed use of credit by keeping the consumer apprised of changes in costs."<sup>37</sup> The Bureau

<sup>37</sup> 78 FR 79730, 79834 (Dec. 31, 2013).

similarly holds that view regarding intermittent redisclosure with the Closing Disclosure. For all these reasons, the Bureau is finalizing the proposal to remove the four-business day limit without adopting any further substantive changes to the rule's existing Closing Disclosure timing or accuracy provisions.

The Bureau also declines to adopt changes to the rule that would restrict creditors' ability to reset tolerances with a Closing Disclosure to circumstances that are more limited than those that apply under § 1026.19(e)(3)(iv) or that would be more restrictive with respect to resetting tolerances with a Closing Disclosure for certain third-party costs and creditor fees. As noted above, most commenters who addressed this aspect of the proposal did not support applying a more restrictive set of circumstances or fees when resetting tolerances with a Closing Disclosure. The Bureau believes that the circumstances identified under § 1026.19(e)(3)(iv) are adequate to balance flexibility for creditors to reset tolerances due to unforeseen circumstances while also providing constraints to avoid arbitrary increases in costs to consumers in relation to revised Loan Estimates, and that those circumstances are also adequate with respect to resetting tolerances with a Closing Disclosure.

One individual commenter stated that interest rate lock extension fees should not be allowed for resetting tolerances with either revised Loan Estimates or Closing Disclosures unless the fee is clearly attributable to a consumer delay or exceptional event, such as a weather event. The Bureau does not believe that different treatment of interest rate lock extension fees with respect to resetting tolerances is warranted. Currently, when the consumer enters into a rate lock agreement for a previously floating interest rate, the creditor is required to provide a revised Loan Estimate that updates the interest-rate related charges, credits, and terms pursuant to § 1026.19(e)(3)(iv)(D).<sup>38</sup> This disclosure sets the applicable baseline for the

tolerance of those interest-rate related charges, credits, and terms subject to a good-faith tolerance. Subsequent changes to interest rate charges and terms would reset tolerances if the changes are the result of a changed circumstance that causes the applicable charge to exceed the applicable tolerance, or if the consumer requests a change that causes the interest-rate related charges, credits, and terms to increase.<sup>39</sup> The same timing concerns related to the four-business day limit apply when either the initial rate lock occurs or an extension of the rate lock period is sought (*i.e.*, once the Closing Disclosure has been issued, the creditor can reset tolerances only if there are less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation). As noted by commenters, the most common charge that is incurred due to a changed circumstance or consumer request after the Closing Disclosure has been provided is a fee to extend the relevant time period of a rate lock.

The Bureau does not believe it is appropriate to treat rate lock extension fees differently than other fees under the rule with respect to resetting tolerances. The Bureau does not believe that rate lock extension fees are fundamentally different from other creditor costs. Extending rate locks for consumers can create opportunity costs to creditors based on secondary market conditions for the delivery of the loans, or direct costs by requiring the renegotiation or acquisition of interest-rate swaps used to offset interest-rate risk. Further, the Bureau is concerned that treating rate lock extension fees differently in this regard would make it less likely that creditors would offer rate lock extensions, which could have unintended effects that could distort interest rate pricing and the mortgage market generally. The Bureau will monitor industry practices related to interest rate lock extensions to determine if additional rulemaking in this area is warranted in the future.

The Bureau also considered the comment that noted that the provisions that allow creditors to reset tolerances when a Loan Estimate expires and in transactions involving construction loans where closings are delayed are inapplicable to resetting tolerances with a Closing Disclosure. Although the Bureau agrees that those provisions are generally inapplicable to resetting tolerances with a Closing Disclosure, the Bureau does not believe it is necessary

to amend the rule further to address the issue expressly.

The Bureau is also finalizing changes to the commentary to § 1026.19(e)(4). Consistent with the revisions to § 1026.19(e)(4)(i), the Bureau is finalizing the proposed changes to comment 19(e)(4)(ii)–1, which removes the reference to the four-business day limit, including a minor technical revision for clarity. As amended, comment 19(e)(4)(ii)–1 expressly states that, if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), § 1026.19(e)(4)(i) permits the creditor to provide the revised estimate in the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)). In addition, and as explained below, the Bureau is: Making conforming revisions to existing comments 19(e)(4)(ii)–1.i and .ii; adopting proposed comment 19(e)(4)(ii)–1.iii with conforming and clarifying revisions; and adopting proposed comment 19(e)(4)(ii)–1.iv with conforming revisions and renumbering it as comment 19(e)(4)(ii)–1.v. The conforming revisions to final comments 19(e)(4)(ii)–1.i, .ii, .iii, and .v reflect the illustrative June dates used elsewhere in existing comments 19(e)(1)(iii)–2, 19(e)(1)(v)–2, 19(f)(1)(i)–1, and 19(f)(2)(ii)–1. Final comment 19(e)(4)(ii)–1.iii also includes a clarifying reference to existing § 1026.19(f)(2)(i) and its requirement that the creditor provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The Bureau is also adding new comment 19(e)(4)(ii)–1.iv to provide an additional illustrative example in response to commenters' requests for additional clarification.

Specifically, some industry commenters requested that the Bureau provide examples that illustrate the use of mail and electronic delivery of disclosures. One industry commenter requested that the Bureau provide an example of a situation where creditors may use a Closing Disclosure to reset tolerances when the consumer requests a rate lock extension. Several industry commenters recommended that the Bureau provide an example in which a Closing Disclosure is provided to the consumer and then a reason for revision under § 1026.19(e)(3)(iv) occurs more than four business days before consummation—and thus highlight the requirement in § 1026.19(e)(4)(i) that the creditor provide revised disclosures within three business days of receiving

<sup>38</sup> Some commenters requested further clarification on the use of Closing Disclosures to reset tolerances when the interest rate is locked pursuant to § 1026.19(e)(3)(iv)(D). Guidance provided in the section-by-section analysis of the July 2017 Amendments explains that § 1026.19(e)(3)(iv)(D) is used in relation to providing revised Loan Estimates, not Closing Disclosures, and once a revised Loan Estimate is provided when a rate has been locked, § 1026.19(e)(3)(iv)(D) is not a basis to provide another revised Loan Estimate. If the interest rate has not been locked until after a Closing Disclosure has been provided, a corrected Closing Disclosure must be provided if the disclosures become inaccurate under § 1026.19(f)(2). 82 FR 37656, 37682 (Aug. 11, 2017).

<sup>39</sup> See § 1026.19(e)(3)(iv)(A), (B), and (C).

information sufficient to establish that a reason for revision under § 1026.19(e)(3)(iv) has occurred.

The new example in final comment 19(e)(4)(ii)–1.iv addresses these requests for clarification. Specifically, the new example in final comment 19(e)(4)(ii)–1.iv assumes consummation is originally scheduled for Wednesday, June 10. The example provides that the creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Friday, June 5. On Monday, June 8, the consumer reschedules consummation for Wednesday, June 17. Also on Monday, June 8, the consumer requests a rate lock extension that would result in a revised disclosure pursuant to § 1026.19(e)(3)(iv)(C) but would not require a new waiting period pursuant to § 1026.19(f)(2)(ii). The example clarifies that the creditor complies with the requirements of § 1026.19(e)(4) by delivering or placing in the mail the disclosures required by § 1026.19(f)(2)(i) reflecting the consumer-requested changes on Thursday, June 11. The example references existing § 1026.19(f)(2)(i) and its requirement that the creditor provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The example clarifies that the creditor complies with § 1026.19(f)(2)(i) by hand delivering the disclosures on Thursday, June 11. The example further clarifies that, alternatively, the creditor complies with § 1026.19(f)(2)(i) by providing the disclosures to the consumer by mail, including by electronic mail, on Thursday, June 11, because the consumer is considered to have received the corrected disclosures on Monday, June 15 (unless the creditor relies on evidence that the consumer received the corrected disclosures earlier). The example refers to § 1026.19(f)(1)(iii) and comments 19(f)(1)(iii)–1 and –2 regarding receipt of disclosures that are not provided to the consumer in person. The example also refers to § 1026.38(t)(3) and comment 19(f)(1)(iii)–2 regarding providing disclosures in electronic form.

An industry commenter requested clarification regarding the § 1026.19(e)(4)(i) timing requirement where a reason for revision under § 1026.19(e)(3)(iv) occurs within three business days of consummation. Another industry commenter requested clarification that providing a Closing Disclosure to reset tolerances under § 1026.19(e)(4) does not necessarily require a new waiting period pursuant to § 1026.19(f)(2)(ii). The example in final comment 19(e)(4)(ii)–1.iii

addresses these requests for clarification. Specifically, the example in final comment 19(e)(4)(ii)–1.iii assumes consummation is scheduled for Thursday, June 4. The example provides that the creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Monday, June 1, and, on Tuesday, June 2, the consumer requests a change to the loan that would result in a revised disclosure pursuant to § 1026.19(e)(3)(iv)(C) but would not require a new waiting period pursuant to § 1026.19(f)(2)(ii). The example references existing § 1026.19(f)(2)(i) and its requirement that the creditor provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The example clarifies that the creditor complies with the requirements of § 1026.19(e)(4) by hand delivering the disclosures required by § 1026.19(f)(2)(i) reflecting the consumer-requested changes on Thursday, June 4.

The Bureau is finalizing proposed comment 19(e)(4)(ii)–1.iv with conforming revisions and renumbering it as comment 19(e)(4)(ii)–1.v. As finalized comment 19(e)(4)(ii)–1.v assumes that consummation is originally scheduled for Wednesday, June 10. The comment provides that the creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Friday, June 5, and the APR becomes inaccurate on Monday, June 8, such that the creditor is required to delay consummation and provide corrected disclosures, including any other changed terms, so that the consumer receives them at least three business days before consummation under § 1026.19(f)(2)(ii). Consummation is rescheduled for Friday, June 12. The comment clarifies that the creditor complies with the requirements of § 1026.19(e)(4) by hand delivering the disclosures required by § 1026.19(f)(2)(ii) reflecting the revised APR and any other changed terms to the consumer on Tuesday, June 9. The comment references § 1026.19(f)(2)(ii) and associated commentary regarding changes before consummation requiring a new waiting period. The comment also references comment 19(e)(4)(i)–1 for further guidance on when sufficient information has been received to establish an event has occurred.

The Bureau notes that some commenters requested that the final rule incorporate other clarifications and examples. For example, an industry commenter requested clarification as to whether § 1026.19(e)(4)(ii) requires consumers to receive a Closing Disclosure not later than four business

days prior to consummation. The commenter also requested that the Bureau permit creditors to reset tolerances after consummation when settlement occurs after consummation. Another industry commenter broadly requested clarification regarding how to reset tolerances with a Closing Disclosure under various scenarios, including when different communication channels are used for providing Loan Estimates and Closing Disclosures, there is a non-borrowing spouse, or there are multiple changed circumstances. The Bureau declines to make specific changes to the rule in response to these comments, because the existing regulation and commentary address these issues as outlined below.

Regarding a commenter's request for clarification as to whether § 1026.19(e)(4)(ii) requires consumers to receive a Closing Disclosure not later than four business days prior to consummation, the Bureau notes that § 1026.19(e)(4)(ii) provides that the consumer must receive any revised version of the disclosures required under § 1026.19(e)(1)(i) (*i.e.*, the Loan Estimate) not later than four business days prior to consummation, but that timing requirement does not reference the Closing Disclosure.

Regarding a commenter's request to allow creditors to reset tolerances after consummation when settlement occurs after consummation, the Bureau declines to adopt this change because existing § 1026.2(a)(13) provides that, once consummation occurs, the consumer is already contractually obligated on the credit transaction. The Bureau also declines to further amend the rule in response to a commenter's broad request for clarification regarding how to reset tolerances with a Closing Disclosure under various scenarios, including when different communication channels are used for providing Loan Estimates and Closing Disclosures, there is a non-borrowing spouse, or there are multiple changed circumstances. The Bureau believes that the TILA-RESPA Rule already provides sufficient guidance on the topics identified by the commenter. Specifically, guidance for resetting tolerances with a Closing Disclosure can be found in § 1026.19(e)(4) and its associated commentary, as amended by this final rule. Guidance as to providing disclosures via different communication channels can be found in § 1026.19(e)(1)(iv) and § 1026.19(f)(1)(iii) and the associated commentary. Guidance as to providing disclosures for a non-borrowing spouse can be found in § 1026.17(d) and associated commentary. Guidance as to

providing revised disclosures where there are multiple changed circumstances can be found in § 1026.19(e)(3)(iv) and § 1026.19(e)(4) and the associated commentary.

Finally, the Bureau notes that it is adopting as proposed the changes to § 1026.19(e)(4) and its commentary to reflect amendments to the TILA-RESPA Rule made by the January 2015 Amendments regarding interest rate dependent charges, for the reasons noted above in the discussion of the 2017 Proposal. Specifically, the Bureau is finalizing the amendments to § 1026.19(e)(4)(i) and comment 19(e)(4)(i)-1, and removing existing comment 19(e)(4)(i)-2, regarding the relationship to § 1026.19(e)(3)(iv)(D).

## VI. Effective Date

The Bureau proposed an effective date of 30 days after publication in the **Federal Register** of any final rule based on the proposal. The Bureau also requested comment on when the changes proposed should be effective. In the proposal, the Bureau stated that it believed that the proposed changes should enable industry to implement the provisions set forth in the TILA-RESPA Rule more cost-effectively and that industry should be able to implement these changes relatively quickly. At the same time, the Bureau stated that it recognized that some of the proposed changes might require changes to systems or procedures.

The Bureau received several comments addressing the proposed effective date. One industry commenter agreed with the Bureau's proposed effective date of 30 days after publication. That commenter, as well as another industry commenter, noted that the proposed provisions would not impose new burdens on creditors. One commenter noted that a creditor would not be out of compliance if it continued to follow the current rule after the proposed changes take effect. Another industry commenter requested that the final rule become effective no sooner than 90 days after publication in the **Federal Register** to allow adequate time to implement the timing changes. The commenter also requested that the final rule apply to applications received on or after the effective date, or some specific date. Another industry commenter suggested that the Bureau adopt an optional early compliance approach, with an effective date 60 days after publication and a mandatory compliance date one year thereafter. An industry commenter requested that this final rule be effective for any transaction covered by the 2013 TILA-RESPA Final Rule. Another industry commenter

encouraged the Bureau to heed recommendations from loan origination system vendors; however, the Bureau did not receive any such recommendations.

The amendments in the final rule will become effective 30 days after publication in the **Federal Register**. The Bureau believes the changes should enable industry to implement the provisions set forth in the TILA-RESPA Rule more cost-effectively and that industry should be able to implement these changes relatively quickly. Regarding some commenters' requests for a later effective date, an optional early compliance period, or an effective date that distinguishes among transactions based on when a loan application was received, the Bureau declines to adopt such approaches because the final rule does not impose any new burdens on creditors. Once the final rule becomes effective, the ability to reset tolerances prior to consummation for a given transaction will not be limited by when the application was received. The Bureau declines to make this final rule retroactive, as retroactive rulemaking is disfavored by the courts and the commenter has not established why it would be appropriate here.

## VII. Dodd-Frank Act Section 1022(b)(2) Analysis

### A. Overview

In developing this final rule, the Bureau has considered the potential benefits, costs, and impacts.<sup>40</sup> The Bureau has consulted, or offered to consult with, the prudential regulators, the Securities and Exchange Commission, the Department of Housing and Urban Development, the Federal Housing Finance Agency, the Federal Trade Commission, the Department of Veterans Affairs, the Department of Agriculture, and the Department of the Treasury, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies.

This final rule makes a substantive change to the current TILA-RESPA Rule, by allowing creditors to reset tolerances with a Closing Disclosure (both initial and corrected), irrespective of the date of consummation. This new

provision is restricted to circumstances where the TILA-RESPA Rule currently allows creditors to reset tolerances, such as changes in costs resulting from changed circumstances; new information regarding eligibility of the borrower; and borrower-requested change (for instance, rate lock extension). The potential benefits and costs of the provisions contained in the final rule are evaluated relative to the baseline where the current provisions of the TILA-RESPA Rule remain in place. Under the TILA-RESPA Rule, there is no specific provision that allows creditors to use a Closing Disclosure to reset tolerances if there are four or more days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. Consequently, a creditor may not be allowed to reset tolerances if it has already provided the Closing Disclosure to the consumer when it learns about the increase in cost. In such cases, some creditors, faced with the prospect of absorbing cost increases, may choose to deny the application.

The proposal solicited data that could inform the analysis of benefits, costs, and impacts of the proposal, but the Bureau did not receive any such data in response. In particular, the Bureau requested information on the extent to which the current rule has caused situations in which creditors cannot reset tolerances despite a valid changed circumstance. While some commenters reported such occurrences, none provided data to quantitatively assess the frequency of such occurrences or the associated costs and benefits. Since operational data at a level of detail to capture the date of the Closing Disclosure and the consummation date, or the application denial date, is not available for purchase or gathered in routine regulatory collections, the Bureau does not have, and is not aware of, data currently available that would allow it to quantify the frequency of instances of creditors being unable to issue Closing Disclosures to reset tolerances. As a result, this discussion of the potential benefits, costs, and impacts on consumers and covered persons, which takes the existing statutory and regulatory framework as the baseline, is largely qualitative.

### B. Potential Benefits and Costs to Consumers and Covered Persons

The Bureau believes the final rule will benefit creditors by providing them with an option of resetting tolerances in situations where they currently do not have that option. The Bureau does not believe there would be any increased

<sup>40</sup> Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with \$10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.



costs to creditors from this final rule compared to the baseline where the current provisions of the TILA-RESPA Rule remain in place, as the provisions of this final rule are less restrictive for creditors than the current provisions.

The Bureau believes consumers will generally benefit from this final rule. It is helpful to consider benefits and costs to consumers separately in the following scenarios.

First, there may be cases where an initial Closing Disclosure has been provided to the consumer well in advance of consummation where the creditor subsequently learns about a change in cost that would be a cause to reset tolerances. The creditor may be unable to reset tolerances currently due to the four-business day limit and may choose to absorb extra costs rather than deny the application. In these cases, this final rule will create costs for consumers because now any changes in costs due to unexpected events would in these cases likely be passed on to consumers. However, in some situations, such as cost increases due to a borrower-requested change, these extra costs might be avoidable. In addition, to the extent that creditors are currently pricing in the risk of having to absorb unexpected cost increases, this final rule will remove this extra layer of risk adjustment and create a benefit to consumers in the form of lower cost of credit.

Second, there may be cases where an initial Closing Disclosure already has been provided to the consumer well in advance of consummation and the creditor subsequently learns about a change in cost that would be a cause to reset tolerances. The creditor may be unable to reset tolerances currently due to the four-business day limit and may choose to deny the application for this reason. In such cases, this final rule will benefit borrowers by giving them an option of paying extra costs instead of having their applications denied; the Bureau believes that some borrowers may prefer to pay extra costs rather than have their applications denied.

Third, there are hypothetically situations where a creditor would prefer to provide the initial Closing Disclosure earlier, but is deterred from doing so by the risk of not being able to reset tolerances in case an unexpected change occurs. In such cases, the proposed change may result in more situations where the initial Closing Disclosure is provided well in advance of consummation; this may affect the accuracy of the disclosure if unexpected cost changes occur between the issuance and the consummation. The Bureau believes creditors themselves may

generally prefer to provide the initial Closing Disclosure closer to the consummation date because it is a good customer service.

#### *C. Impact on Covered Persons With No More Than \$10 Billion in Assets*

As discussed previously, the Bureau believes this final rule will not create costs for creditors, including those with no more than \$10 billion in assets.

#### *D. Impact on Access to Credit*

The Bureau does not believe this final rule will have a negative effect on access to credit. On the contrary, the Bureau believes it may have a beneficial effect on access to credit. This may occur to the extent that the current restrictions on resetting tolerances using a Closing Disclosure are reflected in credit pricing, and to the extent that removing such restrictions would result in creditors reducing prices accordingly. Furthermore, this final rule will provide an option to consumers in situations where the creditor is unwilling to absorb the cost increase, and would have denied the application in the absence of this final rule.

#### *E. Impact on Rural Areas*

The Bureau does not believe this final rule will have an adverse impact on consumers in rural areas.

### **VIII. Regulatory Flexibility Act Analysis**

The Regulatory Flexibility Act (the RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small nonprofit organizations. The RFA defines a “small business” as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.

The Bureau believes this final rule will not create a significant economic impact on a substantial number of small

entities. As described above, this final rule would reduce burden in a specific set of circumstances that an individual small entity would not frequently encounter. Therefore, a FRFA is not required.

Accordingly, the undersigned certifies that this final rule would not have a significant economic impact on a substantial number of small entities.

### **IX. Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are generally required to seek the Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. The collections of information related to Regulations Z and X have been previously reviewed and approved by OMB in accordance with the PRA and assigned OMB Control Number 3170-0015 (Regulation Z) and 3170-0016 (Regulation X). Under the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB.

The Bureau has determined that this final rule does not contain any information collection requirements as defined by the PRA.

### **X. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau 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 the rule's published effective date. The Office of Information and Regulatory Affairs has designated this rule as not a “major rule” as defined by 5 U.S.C. 804(2).

#### **List of Subjects in 12 CFR Part 1026**

Advertising, Appraisal, Appraiser, Banking, Banks, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

#### **Authority and Issuance**

For the reasons set forth above, the Bureau amends Regulation Z, 12 CFR part 1026, as set forth below:

### **PART 1026—TRUTH IN LENDING (REGULATION Z)**

■ 1. The authority citation for part 1026 continues to read as follows:



**Authority:** 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

### Subpart C—Closed-End Credit

■ 2. Section 1026.19 is amended by revising paragraphs (e)(4)(i) and (ii) to read as follows:

#### § 1026.19 Certain mortgage and variable-rate transactions.

\* \* \* \* \*

(e) \* \* \*

(4) \* \* \*

(i) *General rule.* Subject to the requirements of paragraph (e)(4)(ii) of this section, if a creditor uses a revised estimate pursuant to paragraph (e)(3)(iv) of this section for the purpose of determining good faith under paragraphs (e)(3)(i) and (ii) of this section, the creditor shall provide a revised version of the disclosures required under paragraph (e)(1)(i) of this section or the disclosures required under paragraph (f)(1)(i) of this section (including any corrected disclosures provided under paragraph (f)(2)(i) or (ii) of this section) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision provided under paragraphs (e)(3)(iv)(A) through (F) of this section applies.

(ii) *Relationship between revised Loan Estimates and Closing Disclosures.* The creditor shall not provide a revised version of the disclosures required under paragraph (e)(1)(i) of this section on or after the date on which the creditor provides the disclosures required under paragraph (f)(1)(i) of this section. The consumer must receive any revised version of the disclosures required under paragraph (e)(1)(i) of this section not later than four business days prior to consummation. If the revised version of the disclosures required under paragraph (e)(1)(i) of this section is not provided to the consumer in person, the consumer is considered to have received such version three business days after the creditor delivers or places such version in the mail.

\* \* \* \* \*

■ 3. In Supplement I to Part 1026, under *Section 1026.19—Certain Mortgage and Variable-Rate Transactions*:

■ A. 19(e)(1)(ii) *Mortgage broker* is revised.

■ B. 19(e)(4)(i) *General rule* is revised.

■ C. 19(e)(4)(ii) *Relationship to disclosures required under § 1026.19(f)(1)(i)* is revised.

The revisions read as follows:

### Supplement I to Part 1026—Official Interpretations

\* \* \* \* \*

#### Section 1026.19—Certain Mortgage and Variable-Rate Transactions

\* \* \* \* \*

##### 19(e)(1)(ii) *Mortgage broker.*

1. *Mortgage broker responsibilities.* Section 1026.19(e)(1)(ii)(A) provides that if a mortgage broker receives a consumer's application, either the creditor or the mortgage broker must provide the consumer with the disclosures required under § 1026.19(e)(1)(i) in accordance with § 1026.19(e)(1)(iii). Section 1026.19(e)(1)(ii)(A) also provides that if the mortgage broker provides the required disclosures, it must comply with all relevant requirements of § 1026.19(e). This means that “mortgage broker” should be read in the place of “creditor” for all provisions of § 1026.19(e), except to the extent that such a reading would create responsibility for mortgage brokers under § 1026.19(f). To illustrate, § 1026.19(e)(4)(i) states that if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate. “Mortgage broker” could not be read in place of “creditor” in reference to the disclosures required under § 1026.19(f)(1)(i), (f)(2)(i), or (f)(2)(ii) because mortgage brokers are not responsible for the disclosures required under § 1026.19(f)(1)(i), (f)(2)(i), or (f)(2)(ii). In addition, § 1026.19(e)(1)(ii)(A) provides that the creditor must ensure that disclosures provided by mortgage brokers comply with all requirements of § 1026.19(e), and that disclosures provided by mortgage brokers that do comply with all such requirements satisfy the creditor's obligation under § 1026.19(e). The term “mortgage broker,” as used in § 1026.19(e)(1)(ii), has the same meaning as in § 1026.36(a)(2). See also comment 36(a)–2. Section 1026.19(e)(1)(ii)(B) provides that if a mortgage broker provides any disclosure required under § 1026.19(e), the mortgage broker must also comply with the requirements of § 1026.25(c). For example, if a mortgage broker provides the disclosures required under

§ 1026.19(e)(1)(i), it must maintain records for three years, in compliance with § 1026.25(c)(1)(i).

2. *Creditor responsibilities.* If a mortgage broker issues any disclosure required under § 1026.19(e) in the creditor's place, the creditor remains responsible under § 1026.19(e) for ensuring that the requirements of § 1026.19(e) have been satisfied. For example, if a mortgage broker receives a consumer's application and provides the consumer with the disclosures required under § 1026.19(e)(1)(i), the creditor does not satisfy the requirements of § 1026.19(e)(1)(i) if it provides duplicative disclosures to the consumer. In the same example, even if the broker provides an erroneous disclosure, the creditor is responsible and may not issue a revised disclosure correcting the error. The creditor is expected to maintain communication with the broker to ensure that the broker is acting in place of the creditor.

\* \* \* \* \*

##### 19(e)(4)(i) *General Rule*

1. *Three-business-day requirement.* Section 1026.19(e)(4)(i) provides that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision provided under § 1026.19(e)(3)(iv)(A) through (F) has occurred. The following examples illustrate these requirements:

i. Assume a creditor requires a pest inspection. The unaffiliated pest inspection company informs the creditor on Monday that the subject property contains evidence of termite damage, requiring a further inspection, the cost of which will cause an increase in estimated settlement charges subject to § 1026.19(e)(3)(ii) by more than 10 percent. The creditor must provide revised disclosures by Thursday to comply with § 1026.19(e)(4)(i).

ii. Assume a creditor receives information on Monday that, because of a changed circumstance under § 1026.19(e)(3)(iv)(A), the title fees will increase by an amount totaling six percent of the originally estimated settlement charges subject to § 1026.19(e)(3)(ii). The creditor had

received information three weeks before that, because of a changed circumstance under § 1026.19(e)(3)(iv)(A), the pest inspection fees increased by an amount totaling five percent of the originally estimated settlement charges subject to § 1026.19(e)(3)(ii). Thus, on Monday, the creditor has received sufficient information to establish a valid reason for revision and must provide revised disclosures reflecting the 11 percent increase by Thursday to comply with § 1026.19(e)(4)(i).

iii. Assume a creditor requires an appraisal. The creditor receives the appraisal report, which indicates that the value of the home is significantly lower than expected. However, the creditor has reason to doubt the validity of the appraisal report. A reason for revision has not been established because the creditor reasonably believes that the appraisal report is incorrect. The creditor then chooses to send a different appraiser for a second opinion, but the second appraiser returns a similar report. At this point, the creditor has received information sufficient to establish that a reason for revision has, in fact, occurred, and must provide corrected disclosures within three business days of receiving the second appraisal report. In this example, in order to comply with §§ 1026.19(e)(3)(iv) and 1026.25, the creditor must maintain records documenting the creditor's doubts regarding the validity of the appraisal to demonstrate that the reason for revision did not occur upon receipt of the first appraisal report.

*19(e)(4)(ii) Relationship Between Revised Loan Estimates and Closing Disclosures*

1. *Revised Loan Estimate may not be delivered at the same time as the Closing Disclosure.* Section 1026.19(e)(4)(ii) prohibits a creditor from providing a revised version of the disclosures required under § 1026.19(e)(1)(i) on or after the date on which the creditor provides the disclosures required under § 1026.19(f)(1)(i). Section 1026.19(e)(4)(ii) also requires that the consumer must receive any revised version of the disclosures required under § 1026.19(e)(1)(i) no later than four business days prior to consummation, and provides that if the revised version of the disclosures are not provided to the consumer in person, the consumer is considered to have received the revised version of the disclosures three business days after the creditor delivers or places in the mail the revised version of the disclosures. See also comments 19(e)(1)(iv)–1 and

–2. However, if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), § 1026.19(e)(4)(i) permits the creditor to provide the revised estimate in the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)). See below for illustrative examples:

i. If the creditor is scheduled to meet with the consumer and provide the disclosures required by § 1026.19(f)(1)(i) on Wednesday, June 3, and the APR becomes inaccurate on Tuesday, June 2, the creditor complies with the requirements of § 1026.19(e)(4) by providing the disclosures required under § 1026.19(f)(1)(i) reflecting the revised APR on Wednesday, June 3. However, the creditor does not comply with the requirements of § 1026.19(e)(4) if it provides both a revised version of the disclosures required under § 1026.19(e)(1)(i) reflecting the revised APR on Wednesday, June 3, and also provides the disclosures required under § 1026.19(f)(1)(i) on Wednesday, June 3.

ii. If the creditor is scheduled to email the disclosures required under § 1026.19(f)(1)(i) to the consumer on Wednesday, June 3, and the consumer requests a change to the loan that would result in revised disclosures pursuant to § 1026.19(e)(3)(iv)(C) on Tuesday, June 2, the creditor complies with the requirements of § 1026.19(e)(4) by providing the disclosures required under § 1026.19(f)(1)(i) reflecting the consumer-requested changes on Wednesday, June 3. However, the creditor does not comply with the requirements of § 1026.19(e)(4) if it provides disclosures reflecting the consumer-requested changes using both the revised version of the disclosures required under § 1026.19(e)(1)(i) on Wednesday, June 3, and also the disclosures required under § 1026.19(f)(1)(i) on Wednesday, June 3.

iii. Consummation is scheduled for Thursday, June 4. The creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Monday, June 1, and, on Tuesday, June 2, the consumer requests a change to the loan that would result in revised disclosures pursuant to § 1026.19(e)(3)(iv)(C) but would not require a new waiting period pursuant to § 1026.19(f)(2)(ii). Under § 1026.19(f)(2)(i), the creditor is required to provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The creditor complies with the requirements of § 1026.19(e)(4) by hand delivering the disclosures

required by § 1026.19(f)(2)(i) reflecting the consumer-requested changes on Thursday, June 4.

iv. Consummation is originally scheduled for Wednesday, June 10. The creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Friday, June 5. On Monday, June 8, the consumer reschedules consummation for Wednesday, June 17. Also on Monday, June 8, the consumer requests a rate lock extension that would result in revised disclosures pursuant to § 1026.19(e)(3)(iv)(C) but would not require a new waiting period pursuant to § 1026.19(f)(2)(ii). The creditor complies with the requirements of § 1026.19(e)(4) by delivering or placing in the mail the disclosures required by § 1026.19(f)(2)(i) reflecting the consumer-requested changes on Thursday, June 11. Under § 1026.19(f)(2)(i), the creditor is required to provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The creditor complies with § 1026.19(f)(2)(i) by hand delivering the disclosures on Thursday, June 11. Alternatively, the creditor complies with § 1026.19(f)(2)(i) by providing the disclosures to the consumer by mail, including by electronic mail, on Thursday, June 11, because the consumer is considered to have received the corrected disclosures on Monday, June 15 (unless the creditor relies on evidence that the consumer received the corrected disclosures earlier). See § 1026.19(f)(1)(iii) and comments 19(f)(1)(iii)–1 and –2. See also § 1026.38(t)(3) and comment 19(f)(1)(iii)–2 regarding providing the disclosures required by § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) in electronic form.

v. Consummation is originally scheduled for Wednesday, June 10. The creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Friday, June 5, and the APR becomes inaccurate on Monday, June 8, such that the creditor is required to delay consummation and provide corrected disclosures, including any other changed terms, so that the consumer receives them at least three business days before consummation under § 1026.19(f)(2)(ii). Consummation is rescheduled for Friday, June 12. The creditor complies with the requirements of § 1026.19(e)(4) by hand delivering the disclosures required by § 1026.19(f)(2)(ii) reflecting the revised APR and any other changed terms to the consumer on Tuesday, June 9. See § 1026.19(f)(2)(ii) and associated

commentary regarding changes before consummation requiring a new waiting period. See comment 19(e)(4)(i)–1 for further guidance on when sufficient information has been received to establish an event has occurred.

\* \* \* \* \*

Dated: April 26, 2018.

**Mick Mulvaney,**

*Acting Director, Bureau of Consumer Financial Protection.*

[FR Doc. 2018–09243 Filed 5–1–18; 8:45 am]

**BILLING CODE 4810–AM–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. FAA–2017–0190; Special Conditions No. 25–654–SC]

#### **Special Conditions: VT DRB Aviation Consultants, Boeing Model 777–200 Airplanes; Installation of an Airbag System in Shoulder Belts**

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

**ACTION:** Final special conditions; correction.

**SUMMARY:** This document corrects an error that appeared in docket no. FAA–2017–0126, Special Conditions No. 25–654–SC, which was published in the **Federal Register** on April 7, 2017. The error occurs in the docket number of the final special conditions document.

**DATES:** *Effective Date:* The effective date of this correction is May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** John Shelden, FAA, Airframe and Cabin Safety Section, AIR–675, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, 2200 South 216th St., Des Moines, Washington 98198; telephone 206–231–3214; facsimile 206–231–3398.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On April 7, 2017, the **Federal Register** published a document designated as docket no. FAA–2017–0126, Final Special Conditions No. 25–654–SC (82 FR 16893). The document, issued special conditions pertaining to the installation of an airbag system in shoulder belts. As published, the document contained an error, located in two places, in the Federal Docket assigned docket number.

#### **Correction**

In the final special conditions document FR Doc. 2017–06930, published on April 7, 2017 (82 FR 16893), make the following correction:

On **Federal Register** page no. 16893, second column, in two locations where it appears, change the document's docket no. from FAA–2017–0126 to FAA–2017–0190.

Issued in Renton, Washington, on April 24, 2018.

**Victor Wicklund,**

*Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.*

[FR Doc. 2018–09269 Filed 5–1–18; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2018–0380; Product Identifier 2018–NE–14–AD; Amendment 39–19267; AD 2018–09–10]

**RIN 2120–AA64**

#### **Airworthiness Directives; CFM International S.A. Turbofan Engines**

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

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

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all CFM International S.A. (CFM) Model CFM56–7B engines. This AD requires initial and repetitive inspections of the concave and convex sides of the fan blade dovetail to detect cracking and replacement of any blades found cracked. This AD was prompted by a recent engine failure due to a fractured fan blade, that resulted in the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective May 14, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 14, 2018.

We must receive comments on this AD by June 18, 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:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: 877–432–3272; fax: 877–432–3329; email: [aviation.fleetsupport@ge.com](mailto:aviation.fleetsupport@ge.com). You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2018–0380.

#### **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–2018–0380; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Christopher McGuire, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; email: [chris.mcguire@faa.gov](mailto:chris.mcguire@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Discussion**

A recent event involving an engine failure due to a fractured fan blade resulted in the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent. One passenger fatality occurred as a result. In response to this event, the FAA issued Emergency

AD 2018–09–51 (“AD 2018–09–51”), to address certain high-time CFM56–7B engines, specifically including those with 30,000 or more total accumulated flight cycles since new. AD 2018–09–51 requires a one-time ultrasonic inspection (USI) of the concave and convex sides of the fan blade dovetail.

Since the issuance of AD 2018–09–51, the FAA has been working closely with CFM to develop an additional compliance plan to address the risk of fan blade failure for the entire CFM56–7B fleet. This AD addresses the unsafe condition affecting CFM56–7B engines by requiring initial and repetitive inspections of fan blades based on accumulated fan blade cycles. This condition, if not addressed, could result in fan blade failure due to cracking, which could lead to in an engine in-flight shutdown (IFSD), uncontained release of debris, damage to the airplane, and possible airplane decompression. We are issuing this AD to address the unsafe condition on these products.

#### Related Service Information Under 1 CFR part 51

We reviewed CFM Service Bulletin (SB) CFM56–7B S/B 72–1033, dated April 20, 2018, and Subtask 72–21–01–220–091, of Task 72–21–01–200–001, from the CFM56–7B Engine Shop Manual (ESM), Revision 57, dated January 15, 2018. CFM SB CFM56–7B S/B 72–1033 describes procedures for performing a USI of the affected fan blades. Subtask 72–21–01–220–091, of Task 72–21–01–200–001, from the CFM56–7B ESM, describes procedures for performing an eddy current inspection (ECI) of the affected fan blades. 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.

#### Other Related Service Information

We also reviewed CFM SB CFM56–7B S/B 72–1019, dated March 24, 2017, and Revision 1, dated June 13, 2017; CFM SB CFM56–7B S/B 72–1024, dated July 26, 2017; and General Electric Field Support Technology (FST) procedure 2370, dated December 9, 2016. These SBs and the FST procedure provide information on performing the USI inspection.

#### Other Related Rulemaking

The FAA previously issued a Notice of Proposed Rulemaking (see Docket No. FAA–2017–0313 at <http://www.regulations.gov>), to address an unsafe condition based on a similar event that occurred in 2016. We will be withdrawing that proposal because this new action represents a more comprehensive corrective action plan than previously proposed.

#### FAA’s Determination

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

#### AD Requirements

This AD requires initial and repetitive USIs or ECIs of certain fan blades and, if they fail the inspection, their replacement with parts eligible for installation.

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because certain fan blades must be inspected, and, if needed, replaced

before further flight. Failure to inspect and replace these parts within the required compliance times could lead to failure of the fan blades, engine IFSD, uncontained release of debris, damage to the airplane, and possible airplane decompression. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, we find that good cause exists for making this amendment effective in less than 30 days.

#### Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the ADDRESSES section. Include the docket number FAA–2018–0380 and Product Identifier 2018–NE–14–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. We will consider all comments received by the closing date and may amend this final rule because of those comments.

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

#### Costs of Compliance

We estimate that this AD affects 3,716 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

#### ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect engine fan blade .....	2 work-hours × \$85 per hour = \$170 .....	\$0	\$170	\$631,720

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

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

determining the number of aircraft that might need these replacements:

#### ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace fan blade .....	1 work-hour × \$85 per hour = \$85 .....	\$8,500	\$8,585

### 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 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 engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

### Regulatory Findings

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

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**2018–09–10 CFM International S.A.:**  
Amendment 39–19267; Docket No.  
FAA–2018–0380; Product Identifier  
2018–NE–14–AD.

#### (a) Effective Date

This AD is effective May 14, 2018.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to CFM International S.A. (CFM) CFM56–7B20, CFM56–7B22, CFM56–7B22/B1, CFM56–7B24, CFM56–7B24/B1, CFM56–7B26, CFM56–7B26/B2, CFM56–7B27, CFM56–7B27A, CFM56–7B26/B1, CFM56–7B27/B1, CFM56–7B27/B3, CFM56–7B20/2, CFM56–7B22/2, CFM56–7B24/2, CFM56–7B26/2, CFM56–7B27/2, CFM56–7B20/3, CFM56–7B22/3, CFM56–7B22/3B1, CFM56–7B24/3, CFM56–7B24/3B1, CFM56–7B26/3, CFM56–7B26/3B1, CFM56–7B26/3B2, CFM56–7B27/3, CFM56–7B27/3B1, CFM56–7B27/3B3, CFM56–7B27A/3, CFM56–7B26/3F, CFM56–7B26/3B2F, CFM56–7B27/3F, CFM56–7B27/3B1F, CFM56–7B20E, CFM56–7B22E, CFM56–7B22E/B1, CFM56–7B24E, CFM56–7B24E/B1, CFM56–7B26E, CFM56–7B26E/B1, CFM56–7B26E/B2, CFM56–7B27AE, CFM56–7B27E, CFM56–7B27E/B1, CFM56–7B27E/B3, CFM56–7B26E/F, CFM56–7B26E/B2F, CFM56–7B27E/F, and CFM56–7B27E/B1F engine models.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

#### (e) Unsafe Condition

This AD was prompted by a recent engine failure due to a fan blade fracture that resulted in the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent. We are issuing this AD to prevent failure of the fan blade. The unsafe condition, if not addressed, could result in failure of the fan blade, the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent.

### (f) Compliance

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

### (g) Required Actions

(1) Perform an ultrasonic inspection (USI) or eddy current inspection (ECI) of the concave and convex sides of the fan blade dovetail as follows:

(i) Perform an initial inspection on each fan blade before the fan blade accumulates 20,000 cycles since new, or within 113 days from the effective date of this AD, whichever occurs later.

(ii) If cycles since new on a fan blade is unknown, perform an initial inspection within 113 days from the effective date of this AD.

(iii) Thereafter, repeat this inspection no later than 3,000 cycles since the last inspection.

(iv) Use the Accomplishment Instructions, paragraphs 3.A.(3)(a) through (i), of CFM Service Bulletin (SB) CFM56–7B S/B 72–1033, dated April 20, 2018, to perform a USI or use the instructions in subtask 72–21–01–220–091, of task 72–21–01–200–001, from CFM CFM56–7B Engine Shop Manual, Revision 57, dated January 15, 2018, to perform an ECI.

(2) If any unserviceable indication, as specified in the applicable service information in paragraph (g)(1)(iv) of this AD, is found during the inspections required by paragraph (g) of this AD, replace the fan blade before further flight with a part eligible for installation.

### (h) Installation Prohibition

Do not install any replacement fan blade unless it meets one of the following criteria:

- (1) The replacement fan blade has fewer than 20,000 cycles since new, or;
- (2) The replacement fan blade has been inspected within the last 300 cycles in accordance with paragraph (g) of this AD.

### (i) Definition

For the purpose of this AD, a "replacement fan blade" is a fan blade that is being installed into an engine from which it was not previously removed. Removing and reinstalling a fan blade for the purpose of relubrication is not subject to the Installation Prohibition of this AD.

### (j) Credit for Previous Actions

(1) You may take credit for the USI required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using CFM SB CFM56–7B S/B 72–1019, dated March 24, 2017; or Revision 1, dated June 13, 2017; or CFM SB CFM56–7B S/B 72–1024, dated July 26, 2017; or General Electric Field Support Technology procedure 2370, dated December 9, 2016.

(2) You may take credit for the ECI required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the instructions in subtask 72–21–01–220–091, of task 72–21–01–200–001, from CFM56–7B Engine Shop Manual, earlier than Revision 57, dated January 15, 2018.

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

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov*.

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

**(l) Related Information**

For more information about this AD, contact Christopher McGuire, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7120; fax: 781-238-7199; email: *chris.mcguire@faa.gov*.

**(m) Material Incorporated by Reference**

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

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

(i) CFM International, S.A. (CFM) Service Bulletin CFM56-7B S/B 72-1033, dated April 20, 2018.

(ii) Subtask 72-21-01-220-091, of Task 72-21-01-200-001, from the CFM CFM56-7B Engine Shop Manual, Revision 57, dated January 15, 2018.

(3) For CFM service information identified in this AD, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: 877-432-3272; fax: 877-432-3329; email: *aviation.fleetsupport@ge.com*.

(4) You may view this service information at the FAA, Engine and Propeller Standards Branch, Policy and Innovation Division, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781-238-7759.

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

Issued in Burlington, Massachusetts, on April 27, 2018.

**Robert J. Ganley,**

*Manager, Engine & Propeller Standards Branch, Aircraft Certification Service.*

[FR Doc. 2018-09338 Filed 5-1-18; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 291**

[Docket ID: DOD-2017-OS-0021]

RIN 0790-AJ62

**Defense Nuclear Agency (DNA) Freedom of Information Act Program**

**AGENCY:** Defense Nuclear Agency, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes DoD's regulation concerning the Defense Threat Reduction Agency (DTRA), formerly the Defense Nuclear Agency (DNA) Freedom of Information Act program. On February 6, 2018, the DoD published a revised FOIA program rule as a result of the FOIA Improvement Act of 2016. When the DoD FOIA program rule was revised, it included DoD component information and removed the requirement for component supplementary rules. The DoD now has one DoD-level rule for the FOIA program at 32 CFR part 286 that contains all the codified information required for the Department. Therefore, this part can be removed from the CFR.

**DATES:** This rule is effective on May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Pam Andrews at 703-767-6325.

**SUPPLEMENTARY INFORMATION:** It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publically available on the Department's website.

DTRA internal guidance concerning the implementation of the FOIA within DTRA will continue to be published in DTRA Instruction 5400.7 (available at <http://www.dtra.mil/Home/Freedom-of-Information-Act-and-Privacy-Act/Electronic-Reading-Room/>).

This rule is one of 14 separate DoD FOIA rules. With the finalization of the DoD-level FOIA rule at 32 CFR part 286, the Department is eliminating the need for this separate FOIA rule and reducing costs to the public as explained in the preamble of the DoD-level FOIA rule published at 83 FR 5196-5197.

This rule is not significant under Executive Order (E.O.) 12866, "Regulatory Planning and Review," therefore, E.O. 13771, "Reducing Regulation and Controlling Regulatory Costs" does not apply.

**List of Subjects in 32 CFR Part 291**

Freedom of information.

**PART 291—[REMOVED]**

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 291 is removed.

Dated: April 27, 2018.

**Aaron T. Siegel,**

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

[FR Doc. 2018-09295 Filed 5-1-18; 8:45 am]

**BILLING CODE 5001-06-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket No. USCG-2018-0369]

**Special Local Regulation; Atlantic City International Triathlon, Atlantic City, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation; change of enforcement date.

**SUMMARY:** The Coast Guard will enforce the special local regulation on the waters of the New Jersey Intracoastal Waterway (ICW), near Atlantic City, New Jersey, from 6 a.m. to 8 p.m. on August 11, 2018. This action is necessary to ensure safety of life on the navigable waters of the United States during a triathlon event. The purpose of this notice is to announce a change in the date in which the event is being held.

**DATES:** The regulations in 33 CFR 100.501 will be enforced from 6 a.m. to 8 p.m. on August 11, 2018, for the special local regulation listed as (a).12 in the Table to § 100.501.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, you may call or email Petty Officer Edmund Ofalt, Waterways Management Branch, U.S. Coast Guard Sector Delaware Bay; telephone (215) 271-4814, email *Edmund.J.Ofalt@uscg.mil*.

**SUPPLEMENTARY INFORMATION:** From 6 a.m. to 8 p.m. on August 11, 2018, the Coast Guard will enforce the special local regulation at 33 CFR 100.501, table to § 100.501(a).12 for the regulated area located in the New Jersey ICW in Atlantic City, NJ. The published enforcement periods for this event include "Aug—2nd or 3rd Sunday." We are announcing a change of enforcement date for this year's event with this

notice of enforcement because August 11, 2018 is the second Saturday in August.

Coast Guard regulations for recurring marine events and regattas within Captain of the Port Delaware Bay Zone, appear in § 100.501, Coast Guard Sector Delaware Bay, COTP Zone which specifies the location of the regulated area for this regulated area as all waters of the New Jersey ICW bounded by a line connecting the following points: Latitude 39°21'20" N, longitude 074°27'18" W, thence northeast to latitude 39°21'27.47" N, longitude 074°27'10.31" W, thence northeast to latitude 39°21'33" N, longitude 074°26'57" W, thence northwest to latitude 39°21'37" N, longitude 074°27'03" W, thence southwest to latitude 39°21'29.88" N, longitude 074°27'14.31" W, thence south to latitude 39°21'19" N, longitude 074°27'22" W, thence east to latitude 39°21'18.14" N, longitude 074°27'19.25" W, thence north to point of origin, near Atlantic City, NJ.

The Captain of the Port, Delaware Bay will be enforcing the Special Local Regulation as specified in § 100.501(c).

This notice of enforcement is issued under authority of 33 CFR 100.501 and 33 U.S.C. 1233. The Coast Guard will provide the maritime community with advanced notice of enforcement of regulation by Broadcast Notice to Mariners (BNM), Local Notice to Mariners and on-scene notice by designated representative.

Dated: April 26, 2018.

**Scott E. Anderson,**

*Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.*

[FR Doc. 2018-09327 Filed 5-1-18; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 326

RIN 0710-AA77

#### Civil Monetary Penalty Inflation Adjustment Rule

**AGENCY:** U.S. Army Corps of Engineers, Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is issuing this final rule to adjust its civil monetary penalties under the Clean Water Act (CWA) and the National Fishing Enhancement Act to account for inflation. This action is mandated by the

Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act), which requires agencies to adjust the levels of civil monetary penalties with an initial “catch-up” adjustment followed by annual adjustments for inflation. The Inflation Adjustment Act prescribes a formula for adjusting statutory civil penalties to reflect inflation, maintain the deterrent effect of statutory civil penalties, and promote compliance with the law. Using the adjustment criteria provided in the December 15, 2017, Office of Management and Budget Memorandum regarding the “Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015”, the 2018 annual adjustment for inflation will increase the Class I civil penalty under Section 309 of the Clean Water Act to \$21,394 per violation, and the maximum civil penalty increases to \$53,484. The judicial civil penalty under Section 404(s) of the Clean Water Act increases to \$53,484 per day for each violation. Under the National Fishing Enhancement Act, the Class I civil penalty increases to \$23,426 per violation.

**DATES:** This final rule is effective on May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stacey M. Jensen at 202-761-5856 or by email at [stacey.m.jensen@usace.army.mil](mailto:stacey.m.jensen@usace.army.mil) or access the U.S. Army Corps of Engineers Regulatory Home Page at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx>.

#### SUPPLEMENTARY INFORMATION:

##### Executive Summary

The Corps is publishing this final rule to adjust its civil monetary penalties for inflation pursuant to the Inflation Adjustment Act. This law requires the Corps to publish annual adjustments for inflation. The purpose of the Inflation Adjustment Act is to maintain the deterrent effect of civil penalties by translating originally enacted statutory civil penalty amounts to today's dollars and rounding statutory civil penalties to the nearest dollar. The Inflation Adjustment Act required agencies to publish annual adjustments beginning no later than January 15 of each calendar year. Accordingly, the Corps is providing the second annual adjustment effective May 2, 2018, in this final rule. The rule will apply prospectively, to penalty assessments beginning on its effective date. Subsequently, the Corps

intends to continue to publish annual adjustments as required by the Inflation Adjustment Act, no later than January 15 of each calendar year.

The Inflation Adjustment Act does not require agencies to implement the required adjustments through a notice and comment process unless proposing an adjustment of less than the amount otherwise required, and the Corps is not exercising any discretion it may have to make a lesser adjustment. For the annual adjustments, the Inflation Adjustment Act provides a clear formula for adjustment of the civil penalties, and the Corps has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. The Inflation Adjustment Act further provides that the increased penalty levels apply to penalties assessed after the effective date of the increase. For these reasons, the Corps finds that notice and comment would be impracticable and unnecessary in this situation and contrary to the language of the Inflation Adjustment Act.

Section 4 of the Inflation Adjustment Act directs federal agencies to publish annual penalty inflation adjustments. In accordance with Section 553 of the Administrative Procedures Act (APA), most rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. Section 4(b)(2) of the Inflation Adjustment Act further provides that each agency shall make the annual inflation adjustments “notwithstanding section 553” of the APA. According to the December 2017 OMB guidance issued to Federal agencies on the implementation of the 2018 annual adjustment, the phrase “notwithstanding section 553” means that “the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.” Consistent with the language of the Inflation Adjustment Act and OMB's implementation guidance, this rule is not subject to notice and opportunity for public comment.

#### Background

On August 3, 2011, the Deputy Secretary of Defense delegated to the Secretary of the Army the authority and responsibility to adjust penalties administered by the U.S. Army Corps of Engineers. On August 29, 2011, the Secretary of the Army delegated that authority and responsibility to the Assistant Secretary of the Army for Civil Works.



On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, 701 (Inflation Adjustment Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 as previously amended by the 1996 Debt Collection Improvement Act (DCIA; collectively, “prior inflation adjustment Acts”), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The Inflation Adjustment Act requires agencies to do the following: (1) Adjust the level of civil monetary penalties with an initial “catch-up” adjustment, through a final rule to be published by July 1, 2016; and (2) beginning no later than January 15, 2017, make subsequent annual adjustments for inflation. The Inflation Adjustment Act does not alter an agency’s statutory authority, to the extent it exists, to assess penalties below the maximum level. The final rule implementing the initial “catch-up” adjustment mandated by the Inflation Adjustment Act as well as the 2017 annual inflation adjustment mandated by the Act was effective on December 12, 2017. This final rule fulfills the requirement for the 2018 annual inflation adjustment and is effective on May 2, 2018.

The Inflation Adjustment Act amends prior inflation adjustment Acts by substantially revising the method of calculating inflation adjustments. Prior inflation adjustment Acts required adjustments to civil penalties to be rounded significantly. For example, a

penalty increase that was greater than \$1,000, but less than or equal to \$10,000, would be rounded to the nearest multiple of \$1,000. While this allowed penalties to be kept at round numbers, it meant that agencies often would not increase penalties at all if the inflation factor was not large enough. Furthermore, increases to penalties were capped at 10 percent, which meant that longer periods without an inflation adjustment could cause a penalty to rapidly lose value in real terms. Over time, this formula caused agency civil penalties to lose value relative to total inflation, thereby undermining Congress’ original purpose in enacting statutory civil monetary penalties to be a deterrent and to promote compliance with the law. The Inflation Adjustment Act has removed these rounding rules. Penalties now are simply rounded to the nearest dollar. This rounding ensures that penalties will be increased each year to more effectively keep up with inflation.

The Inflation Adjustment Act required a “catch-up” adjustment that reset the inflation calculations by excluding prior inflationary adjustments under prior inflation adjustment Acts, and subsequent, annual adjustments to all civil penalties under the laws implemented by that agency. With this rule, the new statutory maximum penalty levels listed in Table 1 will apply to all statutory civil penalties assessed on or after the effective date of this rule.

Table 1 shows the calculation of the 2018 annual inflation adjustment based

on the guidance provided by OMB (see December 15, 2017, Memorandum for the Heads of Executive Departments and Agencies, from Mick Mulvaney, Director, OMB, Subject: Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). The OMB provided to agencies the cost-of-living adjustment multiplier for 2018, based on the CPI–U for the month of October 2017, not seasonally adjusted, which is 1.02041. Agencies are to adjust “the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment.” For 2018, agencies multiply each applicable penalty by the multiplier, 1.02041, and round to the nearest dollar. The multiplier should be applied to the most recent penalty amount, *i.e.*, the one that includes the initial catch-up adjustment mandated by the Inflation Adjustment Act as well as the 2017 annual inflation adjustment. Column (1) contains the United States Code citations for the penalty statute. Column (2) contains the dollar amount most recently established by law (other than prior inflation adjustment Acts) for each civil monetary penalty. Column (3) in Table 1 sets out the penalty levels which were in effect prior to this rulemaking. Column (4) in Table 1 sets out the 2018 Inflation Adjustment Multiplier while Column (5) sets out the new penalty levels which take effect upon publication of this final rule in the **Federal Register**.

TABLE 1

Citation	Current civil monetary penalty (CMP) amount established by law	Current CMP amount in effect prior to this rulemaking	2018 inflation adjustment multiplier	CMP amount as of May 2, 2018
CWA, 33 U.S.C. 1319(g)(2)(A) ..	\$10,000 per violation, with a maximum of \$25,000.	\$20,966 per violation, with a maximum of \$52,414.	1.02041	\$21,394 per violation, with a maximum of \$53,484.
CWA, 33 U.S.C. 1344(s)(4) .....	Maximum of \$25,000 per day for each violation.	Maximum of \$52,414 per day for each violation.	1.02041	Maximum of \$53,484 per day for each violation.
National Fishing Enhancement Act, 33 U.S.C. 2104(e).	Maximum of \$10,000 per violation.	Maximum of \$22,957 per violation.	1.02041	Maximum of \$23,426 per violation.

In summary, under this final rule the minimum Class I civil penalty for violations under CWA Section 309(g)(2)(A), 33 U.S.C. 1319(g)(2)(A), will increase from \$20,966 per violation to \$21,394, and the maximum penalty will increase from \$52,414 per violation to \$53,484. Judicially-imposed civil penalties under CWA Section 404(s)(4), 33 U.S.C. 1344(s)(4), will increase from a maximum of \$52,414 per day for each violation to \$53,484. Finally, the Class I civil penalty for violations of Section

205(e) of the National Fishing Enhancement Act, 33 U.S.C. 2104(e), will increase from a maximum of \$22,957 per violation to \$23,426.

This rule will not result in any additional costs to implement the Corps Regulatory Program because the Class I civil penalties and judicial civil penalties have been in effect since 1990 when the Corps first promulgated regulations regarding such penalties (Class I civil penalties were first established by statute in 1987). This rule

merely adjusts the value of current statutory civil penalties to reflect and keep pace with the levels originally set by Congress when the statutes were enacted, as required by the Inflation Adjustment Act. This rule will result in additional costs to members of the regulated public who do not comply with the terms and conditions of issued Department of the Army permits and either receive a final Class I civil administrative penalty order from a District Engineer or are subject to a



judicial civil penalty. The rule increases the minimum and maximum penalty amounts to \$21,394 and \$53,484 for Class I civil administrative penalties under the Clean Water Act, to a maximum of \$53,484 for judicially-imposed civil penalties under the Clean Water Act, and to a maximum of \$23,426 for Class I civil administrative penalties under the National Fishing Enhancement Act. The benefit of this rule will be to improve the effectiveness of Corps civil monetary penalties by maintaining their deterrent effect and promoting compliance with the law.

#### Administrative Requirements

##### *Plain Language*

In compliance with the principles in the President's Memorandum of June 1, 1998, regarding plain language, this preamble is written using plain language. The use of "we" in this notice refers to the Corps and the use of "you" refers to the reader. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

#### Paperwork Reduction Act

This final rule will not impose any new information collection burden under the provisions of the Paperwork Production Act (44 U.S.C. 3501 *et seq.*). This action merely increases the level of statutory civil penalties that could be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of Corps-administered statutes and their implementing regulations.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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. For the Corps regulatory program under Section 10 of the Rivers and Harbors Act of 1899,

Section 404 of the Clean Water Act, and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, the current OMB approval number for information requirements is maintained by the Corps of Engineers (OMB approval number 0710-0003). However, there are no new approval or application processes required as a result of this rulemaking that necessitate a new Information Collection Request (ICR). The regulation would not impose reporting or recordkeeping requirements. Therefore, this action is not subject to the Paperwork Reduction Act.

##### *Executive Order 12866 and Executive Order 13563, "Improving Regulation and Regulatory Review"*

The OMB has not designated this final rule a "significant regulatory action" under Executive Order 12866. Accordingly, OMB has not reviewed this rule. Moreover, this final rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the Inflation Adjustment Act and OMB guidance. The Corps, therefore, did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

##### *Executive Order 13132*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the Corps to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." The phrase "policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This rule does not have Federalism implications. This nondiscretionary action is required by the Inflation Adjustment Act and will have no 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. Therefore,

Executive Order 13132 does not apply to this rule.

##### *Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

The Regulatory Flexibility Act applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act, 5 U.S.C. 553, or any other statute. See 5 U.S.C. 601-612. The Regulatory Flexibility Act does not apply to this final rule because a notice-and-comment rulemaking process is not required for the reasons stated above.

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under Section 202 of the UMRA, the agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires the agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the Corps to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. Before the Corps establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, they must have developed under Section 203 of the UMRA a small

government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this final rule does not impose new substantive requirements and therefore does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Therefore, this rule is not subject to the requirements of Sections 202 and 205 of the UMRA. For the same reasons, we have determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, this final rule is not subject to the requirements of Section 203 of UMRA. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards. Therefore, we did not consider the use of any voluntary consensus standards.

#### *Executive Order 13045*

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If

the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the rule on children, and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives.

This rule is not subject to this Executive Order because it is not economically significant as defined in Executive Order 12866. In addition, it does not concern an environmental or safety risk that we have reason to believe may have a disproportionate effect on children.

#### *Executive Order 13175*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires agencies to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” The phrase “policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This rule does not have tribal implications. The rule imposes no new substantive obligations on tribal governments but instead merely adjusts the value of current statutory civil monetary penalties to reflect and keep pace with the levels originally set by Congress when the statutes were enacted. The calculation of the increases is formula-driven and prescribed by statute and OMB guidance, and the Corps has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Therefore, Executive Order 13175 does not apply to this rule.

#### *Environmental Documentation*

The Corps prepares appropriate environmental documentation, including Environmental Impact Statements when required, for all permit decisions. Therefore, environmental documentation under the National Environmental Policy Act is not required for this rule. This final rule does not constitute a major Federal action significantly affecting the quality of the human environment because it merely increases the value of statutory civil monetary penalties to reflect and keep pace with the levels originally set by Congress when the statutes were

enacted. The calculation of the increases is formula-driven and prescribed by statute and OMB guidance, and the Corps has no discretion to vary the amount of the adjustment.

Appropriate environmental documentation has been, or will be, prepared for each permit action that is subject to the civil penalty process. Therefore, environmental documentation under the National Environmental Policy Act (NEPA) is not required for this final rule.

#### *Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended 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. We 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. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

#### *Executive Order 12898*

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin. This rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities. This rule relates solely to the adjustments to civil penalties to account for inflation.

#### *Executive Order 13211*

This rule is not a “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule relates only to the adjustments to civil penalties to account for inflation. This rule is consistent with current agency practice, does not impose new substantive requirements, and therefore will not have a significant adverse effect on the supply, distribution, or use of energy.

#### List of Subjects in 33 CFR Part 326

Administrative practice and procedure, Intergovernmental relations, Investigations, Law enforcement, Navigation (water), Water pollution control, Waterways.

Dated: April 19, 2018.

**R.D. James,**

*Assistant Secretary of the Army (Civil Works).*

For the reasons set forth in the preamble, the Corps amends 33 CFR part 326 as follows:

#### PART 326—ENFORCEMENT

- 1. The authority citation for part 326 continues to read as follows:

**Authority:** 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413; 33 U.S.C. 2104; 33 U.S.C. 1319; 28 U.S.C. 2461 note.

- 2. Amend § 326.6 by revising paragraph (a)(1) to read as follows:

#### § 326.6 Class I administrative penalties.

(a) *Introduction.* (1) This section sets forth procedures for initiation and

administration of Class I administrative penalty orders under Section 309(g) of the Clean Water Act, judicially-imposed civil penalties under Section 404(s) of the Clean Water Act, and Section 205 of the National Fishing Enhancement Act. Under Section 309(g)(2)(A) of the Clean Water Act, Class I civil penalties may not exceed \$21,394 per violation, except that the maximum amount of any Class I civil penalty shall not exceed \$53,484. Under Section 404(s)(4) of the Clean Water Act, judicially-imposed civil penalties may not exceed \$53,484 per day for each violation. Under Section 205(e) of the National Fishing Enhancement Act, penalties for violations of permits issued in accordance with that Act shall not exceed \$23,426 for each violation.

Environmental statute and U.S. Code citation	Statutory civil monetary penalty amount for violations that occurred after November 2, 2015, and are assessed on or after May 2, 2018
Clean Water Act (CWA), Section 309(g)(2)(A), 33 U.S.C. 1319(g)(2)(A)	\$21,394 per violation, with a maximum of \$53,484.
CWA, Section 404(s)(4), 33 U.S.C. 1344(s)(4) .....	Maximum of \$53,484 per day for each violation.
National Fishing Enhancement Act, Section 205(e), 33 U.S.C. 2104(e)	Maximum of \$23,426 per violation.

\* \* \* \* \*

[FR Doc. 2018–09316 Filed 5–1–18; 8:45 am]

BILLING CODE 3720–58–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R04–OAR–2018–0119; FRL–9977–22–Region 4]

#### Delegation of Authority to North Carolina and the Western North Carolina Regional Air Quality Agency of Federal Plan for Existing Sewage Sludge Incineration Units

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is providing notice of and is codifying its prior approval of requests submitted by the North Carolina Department of Environmental Quality (NCDEQ), through its Division of Air Quality, and the Western North Carolina Regional Air Quality Agency (WNCRAQA) for delegation of authority to implement and enforce the Federal plan for existing affected Sewage Sludge Incineration (SSI) units. The Federal plan establishes emission limits and monitoring, operating, and recordkeeping requirements for SSI units constructed on or before October 14, 2010. NCDEQ and WNCRAQA representatives have signed separate but similar Memoranda of Agreement

(MOAs), each of which constitutes the mechanism for the transfer of authority from the EPA to each respective air pollution control agency. The MOAs and the corresponding delegations of authority were effective upon signature by the Regional Administrator on April 2, 2018. The MOAs delineate policies, responsibilities, and procedures by which the Federal plan will be administered and enforced by the NCDEQ and WNCRAQA, respectively, as well as the authorities retained by the EPA.

**DATES:** This rule is effective on June 1, 2018.

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2018–0119. The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 4, 61 Forsyth St. SW, Atlanta, Georgia. 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.*, confidential business information).

**FOR FURTHER INFORMATION CONTACT:** Mark Bloeth, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street SW, Atlanta, Georgia, 30303–8960. Mr. Bloeth can be reached via telephone at (404) 562–9013

and via electronic mail at [bloeth.mark@epa.gov](mailto:bloeth.mark@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 129 of the Clean Air Act (the “CAA” or “Act”), titled “Solid Waste Combustion,” requires the EPA to develop and adopt standards for solid waste incineration units pursuant to sections 111(d) and 129 of the Act. On March 21, 2011, the EPA promulgated new source performance standards (NSPS) and emissions guidelines (EG) for SSI units located at wastewater treatment facilities designed to treat domestic sewage sludge. *See* 76 FR 15372. Codified at 40 CFR part 60, subparts LLLL and MMMM, these final rules set limits for nine pollutants under section 129 of the CAA: Cadmium (Cd), carbon monoxide (CO), hydrogen chloride (HCl), lead (Pb), mercury (Hg), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans (PCDDs/PCFDs), and sulfur dioxide (SO<sub>2</sub>). The EG apply to existing SSI units, which are those units that commenced construction on or before October 14, 2010. *See* 40 CFR 60.5060.

CAA section 129 also requires each state in which SSI units are operating to submit a plan to implement and enforce the EG with respect to such units. State plan requirements must be “at least as protective” as the EG and become federally enforceable upon approval by

the EPA. The procedures for adoption and submittal of state plans are codified in 40 CFR part 60, subpart B. The SSI EG include a model rule that states may use to develop their own plans.

On April 29, 2016, the EPA finalized a Federal plan that implements the EG in states that do not have an approved state plan. 81 FR 26040. EPA implementation and enforcement of the Federal plan is viewed as an interim measure until states assume their role as the preferred implementers of the EG requirements stipulated in the Federal plan. Accordingly, the EPA encourages states to either develop their own plan (the EG model rule or the Federal plan can be used as a template to reduce the effort needed to develop a plan), or to request delegation of the Federal plan, as the NCDEQ and WNCRAQA have done. State plans and requests for delegations of authority that have been approved by EPA are reflected in the Code of Federal Regulations at 40 CFR part 62, subparts B through DDD.

## II. Submittal and EPA Approval of Requests for Delegation of the Federal Plan

On December 9, 2016, and February 7, 2017, the NCDEQ and WNCRAQA, respectively, requested delegation of authority from EPA to implement and enforce the Federal plan for existing SSI units, codified at 40 CFR part 62 subpart LLL. The scope of the request from the NCDEQ included all affected facilities within the State of North Carolina, except Buncombe County and the City of Asheville. The WNCRAQA submitted a separate delegation request which included all affected facilities within Buncombe County and the City of Asheville. The delegation of authority does not apply to sources located in Indian Country.

The EPA evaluates requests for delegation of the SSI Federal plan pursuant to the provisions of the SSI Federal plan and the EPA's Delegations Manual. Pursuant to the SSI Federal plan, a state may meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the Federal plan that includes the following elements: (1) A demonstration of adequate resources and legal authority to administer and enforce the Federal plan; (2) an inventory of affected SSI units, an inventory of emissions from affected SSI units, and provisions for state progress reports (see items under 40 CFR 60.5015(a)(1), (2) and (7) from the SSI EG); (3) certification that the hearing on the state delegation request, similar to the hearing for a state plan submittal, was held, a list of witnesses and their

organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; and (4) a commitment to enter into a MOA with the Regional Administrator that sets forth the terms, conditions, and effective date of the delegation and that serves as the mechanism for the transfer of authority. 40 CFR 62.15865; *see also* 81 FR 26060–61. The NCDEQ and the WNCRAQA met delegation requirements (1) through (3) described above, as well as requirement (4), which is addressed below.

Pursuant to the EPA's Delegations Manual, item 7–139, *Implementation and Enforcement of 111(d)(2) and 111(d)(2)/129(b)(3) Federal Plans*, a copy of which is included in the Supporting Documents for this action, the Regional Administrator is authorized to delegate authority to implement and enforce section 111(d)/129 Federal plans to states. Whereas a state plan implementing the EG must be submitted by the state, a local agency may directly request delegation of authority to implement the SSI Federal plan with respect to sources within its jurisdiction, provided it has authority under state law to do so and has met the delegation requirements identified above. *See* 81 FR 26054–55. The requirements and limitations of a delegation agreement are set forth in item 7–139. Consistent with those requirements, the EPA prepared MOAs between the EPA and the NCDEQ and between the EPA and the WNCRAQA, each of which defines policies, responsibilities, and procedures pursuant to the SSI Federal plan by which the Federal plan will be administered by each agency. Subsequently, on January 30, 2018, Michael S. Regan, Secretary of the NCDEQ, and on January 12, 2018, David A. Brigman, Director of the WNCRAQA, signed the respective MOAs, thus agreeing to the terms and conditions of the MOAs and accepting responsibility for implementation and enforcement of the policies and procedures of the Federal plan, except for certain authorities (e.g., approval of major alternatives to test methods or monitoring) retained by the EPA. The EPA continues to retain enforcement authority along with the NCDEQ and the WNCRAQA. The MOAs, and resulting delegation of authority, became effective upon signature by the Regional Administrator on April 2, 2018.

## III. EPA Action

In this action, EPA is notifying the public of and is codifying its delegation of authority to implement and enforce

the Federal plan to the NCDEQ and WNCRAQA. The Code of Federal Regulations is being amended as indicated below.

## IV. Good Cause Finding

Section 553(b) of the Administrative Procedure Act (APA) requires publication of notice of proposed rulemaking and specifies what the notice shall include. *See* 5 U.S.C. 553(b). However, the APA provides an exception from this requirement “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B).

The EPA has found good cause for making today's action final without prior proposal and opportunity for comment because this ministerial action merely codifies EPA's delegation of authority to implement and enforce the SSI Federal plan to the NCDEQ and the WNCRAQA. This action does not alter the universe of sources regulated under the Federal plan, nor does it change the regulatory requirements applicable to those sources. In these circumstances, notice and comment procedures are unnecessary.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to delegate the authority to implement a Federal 111(d)/129 plan that complies with the provisions of the CAA and applicable Federal regulations. *See* 40 CFR 60.27. In reviewing 111(d)/129 Federal plan delegation requests, EPA's role is to approve state choices, provided that they meet the criteria of the CAA and of EPA's implementing regulations. Accordingly, this action merely codifies in the Code of Federal Regulations EPA's delegation of authority to implement the Federal plan and does not impose additional requirements beyond those imposed by the already-applicable Federal plan. 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);
- 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); and

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001).

In addition, this rule 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. It also 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).

This action does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. As such, it does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Manufacturing, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

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

Dated: April 2, 2018.

**Onis “Trey” Glenn, III,**  
*Regional Administrator, Region 4.*

40 CFR part 62 is amended as follows:

#### **PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS**

■ 1. The authority citation for part 62 continues to read as follows:

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

#### **Subpart II—North Carolina**

■ 2. Add an undesignated center heading and §§ 62.8362 and 62.8363 to subpart II to read as follows:

##### **Air Emissions From Existing Sewage Sludge Incinerators (SSI)—Section 111(d)/129 Plan**

##### **§ 62.8362 Identification of plan—North Carolina Department of Environmental Quality.**

(a) *Delegation of authority.* On April 2, 2018, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the “Federal plan”) by which the Federal plan will be administered by the North Carolina Department of Environmental Quality (NCDEQ).

(b) *Identification of sources.* The MOA and related Federal plan apply to all affected SSI units for which construction commenced on or before October 14, 2010.

(c) *Effective date of delegation.* The delegation became fully effective on April 2, 2018, the effective date of the MOA between the EPA and the NCDEQ.

##### **§ 62.8363 Identification of plan—Western North Carolina Regional Air Quality Agency.**

(a) *Delegation of authority.* On April 2, 2018, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the “Federal plan”) by which the Federal plan will be administered by the Western North Carolina Regional Air Quality Agency (WNCRAQA).

(b) *Identification of sources.* The MOA and related Federal plan apply to all affected SSI units for which construction commenced on or before October 14, 2010.

(c) *Effective date of delegation.* The delegation became fully effective on April 2, 2018, the effective date of the MOA between the EPA and the WNCRAQA.

[FR Doc. 2018–09202 Filed 5–1–18; 8:45 am]

**BILLING CODE 6560–50–P**

#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Parts 1 and 73**

[MB Docket No. 17–106; DA 18–326]

#### **Elimination of Main Studio Rule; Petition for Partial Reconsideration**

**AGENCY:** Federal Communications Commission.

**ACTION:** Dismissal and denial of petition for partial reconsideration.

**SUMMARY:** This document dismisses and otherwise denies the Petition for Reconsideration filed by De La Hunt Broadcasting Corp. The Commission’s rules provide that a petition for reconsideration which relies on facts or arguments not previously presented to the Commission will only be granted if one of three circumstances is present, and the Media Bureau concludes that none of the specified circumstances is present here. Because this is a fact-specific inquiry, and not an issue of general applicability, a waiver request is the proper means for considering this issue, and De La Hunt states that it has already requested such a waiver from the Media Bureau.

**DATES:** May 2, 2018.

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

**FOR FURTHER INFORMATION CONTACT:** Diana Sokolow, [Diana.Sokolow@fcc.gov](mailto:Diana.Sokolow@fcc.gov), of the Policy Division, Media Bureau, (202) 418–2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order, MB Docket No. 17–106, adopted and released on April 2, 2018. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554. This document will also be available via ECFS at <http://fjallfoss.fcc.gov/ecfs/>. Documents will be available electronically in ASCII,

Microsoft Word, and/or Adobe Acrobat. Copies of the materials can be obtained from the FCC's Reference Information Center at (202) 418–0270. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document is not subject to the Congressional Review Act. The Commission is, therefore, not required

to submit a copy of this Memorandum Opinion and Order to the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the Petition for Reconsideration was dismissed and otherwise denied.

Federal Communications Commission.

**Thomas Horan,**

*Chief of Staff, Media Bureau.*

[FR Doc. 2018–09294 Filed 5–1–18; 8:45 am]

**BILLING CODE 6712–01–P**

# Proposed Rules

Federal Register

Vol. 83, No. 85

Wednesday, May 2, 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.

## FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Parts 1290 and 1291

RIN 2590-AA83

### Affordable Housing Program Amendments; Correction, Extension of Comment Period, and Further Request for Comment

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Proposed rule; correction, extension of comment period, and further request for comment.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is correcting an inadvertent error in the calculation of a proposed regulatory outcome requirement in the proposed rule published in the **Federal Register** on March 14, 2018, regarding the Federal Home Loan Banks' (Banks) Affordable Housing Program (AHP or Program). FHFA is requesting comment on the corrected calculation and is extending the comment period on all aspects of the proposed rule by an additional 30 days.

**DATES:** The comment period for the proposed rule, published at 83 FR 11344 (March 14, 2018), is extended to June 12, 2018. Written comments must be received on or before this date.

**ADDRESSES:** You may submit your comments, identified by Regulatory Information Number (RIN) 2590-AA83, by any one of the following methods:

- *Agency Website:* [www.fhfa.gov/open-for-comment-or-input](http://www.fhfa.gov/open-for-comment-or-input).
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov) to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590-AA83.

- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard,

General Counsel, Attention: Comments/RIN 2590-AA83, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA83, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For time-sensitive correspondence, please plan accordingly.

**FOR FURTHER INFORMATION CONTACT:** Ted Wartell, Manager, Office of Housing and Community Investment, 202-649-3157, [ted.wartell@fhfa.gov](mailto:ted.wartell@fhfa.gov); Marcea Barringer, Senior Policy Analyst, Office of Housing and Community Investment, 202-649-3275, [marcea.barringer@fhfa.gov](mailto:marcea.barringer@fhfa.gov); Marshall Adam Pecsek, Senior Counsel, Office of General Counsel, 202-649-3380, [marshall.pecsek@fhfa.gov](mailto:marshall.pecsek@fhfa.gov); or Sharon Like, Managing Associate General Counsel, Office of General Counsel, 202-649-3057, [sharon.like@fhfa.gov](mailto:sharon.like@fhfa.gov). These are not toll-free numbers. The mailing address is: Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877-8339.

### SUPPLEMENTARY INFORMATION:

#### Comments

FHFA invites comments on all aspects of the March 2018 proposed rule, including any new or supplemental comments on the corrected calculation of the proposed regulatory outcome requirement, and will take all comments into consideration before issuing a final rule including those filed prior to this notice. Copies of all comments will be posted without change, including any personal information you provide such as your name, address, email address, and telephone number, on the FHFA website at <http://www.fhfa.gov>. In addition, copies of all comments received will be available for examination by the public through the

electronic rulemaking docket for this proposed rule also located on the FHFA website.

### Background

On March 14, 2018, FHFA published in the **Federal Register** a proposed rule to amend its regulation governing the Banks' AHP, located at 12 CFR part 1291. See 83 FR 11344. The proposed rule, among other things, would provide the Banks authority to design and implement their own project selection scoring criteria and award AHP funds, subject to meeting certain FHFA-prescribed outcome requirements. The proposed rule contains an inadvertent error in the calculation of the regulatory outcome requirement in proposed § 1291.48(d), related rule text, and preamble discussions. The proposed rule states that: "Each year, each Bank shall ensure that at least 55 percent of the Bank's required annual AHP contribution is awarded *under the Bank's General Fund and any Bank Targeted Funds to projects* that, in the aggregate, meet at least two of the three regulatory priorities in this paragraph . . . ." See 83 FR 11361, 11386 (emphasis added).

Under proposed § 1291.48(d), as drafted in the proposed rule, any AHP funds awarded to a household participating in a Homeownership Set-Aside Program would not count towards fulfillment of the outcome requirement. Therefore, were a Bank to allocate the maximum amount permitted under the proposed rule to its Homeownership Set-Aside Program(s)—40 percent of its required annual AHP contribution—it would be required to ensure that nearly 92 percent of its remaining annual contribution be awarded to projects that satisfy, in the aggregate, two of the three identified regulatory priorities.

While not all subsidies awarded under a Homeownership Set-Aside Program will meet one of the prioritized housing needs identified under the regulatory priorities in proposed § 1291.48(d), some will, and FHFA believes that this should be reflected in the applicable outcome requirement.

### Correction

Proposed § 1291.48(d), related rule text, and preamble discussions, therefore, should have included awards to households under a Bank's Homeownership Set-Aside Programs, if any, along with awards under the

Bank's General Fund and any Bank Targeted Funds, in the calculation of whether the Bank achieved the regulatory outcome requirement. That is, the Bank's awards under its General Fund and any Targeted Funds and Homeownership Set-Aside Programs would be included in the numerator, and the Bank's required annual AHP contribution amount would be included in the denominator of the calculation.

Accordingly, in the proposed rule FR Doc. 2018–04745, on page 11386, in the issue of March 14, 2018, in the left column, in paragraph (d) of § 1291.48, the correction should correctly read: “Each year, each Bank shall ensure that at least 55 percent of the Bank's required annual AHP contribution is awarded under the Bank's General Fund and any Bank Targeted Funds and Homeownership Set-Aside Programs to projects or households, as applicable, that, in the aggregate, meet at least two of the three regulatory priorities in this paragraph . . . .” (emphasis added) If the corrected language is adopted in a final rule, FHFA will also make any other conforming revisions to the rule text as necessitated by the correction.

FHFA specifically requests comments on whether the calculation, as corrected, would provide the Banks sufficient flexibility to provide AHP funds to the housing needs in their districts. FHFA further requests comments on whether other changes to the outcome calculation would be appropriate, such as decreasing the percentage of the Bank's annual AHP contribution required to meet the regulatory priorities to less than 55 percent, provided that at least a majority of the Bank's annual AHP contribution is awarded to certain regulatory priorities established by FHFA.<sup>1</sup> FHFA also requests comments on whether adding a regulatory priority that is specifically focused on homeownership would increase opportunities for the Banks to include awards made in their Homeownership Set-Aside Programs towards meeting the regulatory priorities.

#### Extension of Comment Period

The comment period for the proposed rule was originally set to expire on May 14, 2018. FHFA has received a number of requests from commenters for an extension of the comment period of varying lengths, with commenters citing the complexity and length of the proposed rule, the important issues addressed, and the high level of interest.

<sup>1</sup> The Federal Home Loan Bank Act requires FHFA to establish priorities for the use of the AHP funds. 12 U.S.C. 1430(j)(9)(B).

In light of these requests, and FHFA's additional request for comment on the correction to the proposed outcome requirement calculation, FHFA is extending the comment period by an additional 30 days. This will result in a total comment period on the proposed rule of 90 days, expiring June 12, 2018.

Dated: April 26, 2018.

**Melvin L. Watt,**

*Director, Federal Housing Finance Agency.*

[FR Doc. 2018–09326 Filed 5–1–18; 8:45 am]

**BILLING CODE 8070–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2018–0286]

RIN 1625–AA00

#### Safety Zone; Fireworks, Delaware River, Philadelphia, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone for multiple fireworks events launched in the vicinity of Penn's Landing, Philadelphia, Pennsylvania, for waters of the Delaware River, Philadelphia, PA. Establishment of this safety zone is necessary to enhance safety of life on navigable waters immediately prior to, during, and immediately after these fireworks events. During the enforcement periods, no vessel may enter in or transit this regulated area without approval from the Captain of the Port Delaware Bay or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 9, 2018.

**ADDRESSES:** You may submit comments identified by docket number USCG–2018–0286 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Petty Officer Edmund Ofalt, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, Coast Guard; telephone (215)

271–4814, email [Edmund.J.Ofalt@uscg.mil](mailto:Edmund.J.Ofalt@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

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

##### II. Background, Purpose, and Legal Basis

On March 1, 2018, the Coast Guard was notified of fireworks events planned for May 24, 25, 26, and 27, 2018. Hazards from fireworks displays include accidental discharge, dangerous projectiles and falling hot embers or other debris. The COTP Delaware Bay has determined that a temporary safety zone is necessary to provide safety on the navigable waters of the Delaware River during these fireworks events, and to enhance safety of the public, spectators, and vessels.

The purpose of this rulemaking is to ensure the safety of vessels and navigable waters immediately prior to, during, and immediately after these fireworks events. The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231.

##### III. Discussion of Proposed Rule

The COTP Delaware Bay proposes to establish a safety zone on the Delaware River adjacent to Penns Landing in Philadelphia, PA, May 24, 2018, through May 27, 2018. The safety zone will be enforced from approximately 8 p.m. to 11 p.m. on nights on which fireworks are being displayed from a barge in the Delaware River. These fireworks displays may be held on May 24th, 25th, 26th, and 27th, or on only some of these dates. Notification of enforcement dates and times will be published in the Coast Guard District 5 Local Notice to Mariners and broadcast via Broadcast Notice to Mariners. The safety zone will include all navigable waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline connecting at latitude 39°56′31.2″ N, longitude 075°08′28.1″ W; thence westward to latitude 39°56′29″.1 N, longitude 075°07′56.5″ W, and bounded on the north by the southern edge of the Benjamin Franklin Bridge where it crosses the Delaware River.

Access to this safety zone will be restricted during the specified



enforcement dates and time periods. Vessels may not take on bunkers or conduct lightering operations inside the zone during times of enforcement. Only vessels or persons specifically authorized by the COTP Delaware Bay or designated representative may enter or remain in the regulated area. Requests to enter or remain in the zone will be required to be submitted to the COTP Delaware Bay, or his designated representative via VHF–FM channel 16 or 217–271–4807. Vessels engaged in law enforcement, servicing of aids to navigation, and emergency response will be exempt from these requirements.

The regulatory text we are proposing can be found at the end of this document.

#### IV. Regulatory Analyses

We developed this proposed 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 NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM 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 of the safety zone. The proposed safety zone will impact waters affected by this rule on May 24, 25, 26, and 27, 2018 from 8 p.m. to 11 p.m. During this time of day commercial and recreational traffic is normally low. Notifications of enforcement dates and times will be made to the maritime community via Broadcast Notice to Mariners and Local Notice to Mariners so that plans may be adjusted accordingly. Notifications will be updated as necessary, to keep the maritime community informed of the status of the safety zone.

##### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider

the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

##### C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive

Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

##### F. Environment

We have analyzed this proposed 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 made a preliminary determination 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 proposed rule involves a safety zone that will only be enforced for a short duration and excludes vessels from entry into or remaining within a specified area on the Delaware River. Normally such actions are 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 preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

##### G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. 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.

#### V. 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 NPRM as being available in the 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.

#### List of Subjects in 33 CFR Part 165

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

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

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

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

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

- 2. Add § 165.T05–0286 to read as follows:

#### § 165.T05–0286 Safety Zone; Safety Zone; Fireworks, Delaware River, Philadelphia PA.

(a) *Location.* The following area is a safety zone: All navigable waters of Delaware River, adjacent to Penn's Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline commencing at latitude 39°56'31.2" N, longitude 075°08'28.1" W; thence westward to latitude 39°56'29.1" N, longitude 075°07'56.5" W, and bounded on the north by the Benjamin Franklin Bridge where it crosses the Delaware River. These coordinates are based on the 1984 World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer on board a Coast Guard vessel or on board a federal, state, or local law enforcement vessel assisting the Captain of the Port, Delaware Bay in the enforcement of the safety zone.

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

(2) To seek permission to enter or remain in the zone, contact the COTP or the COTP's representative via VHF-FM channel 16 or 215–271–4807. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) No vessel may take on bunkers or conduct lightering operations within the safety zone during its enforcement period(s).

(4) This section applies to all vessels except those engaged in law enforcement, aids to navigation servicing, and emergency response operations.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This zone will be enforced from approximately 8 p.m. to 11 p.m. on nights on which fireworks are being displayed from a barge beginning May 24 through May 27, 2018. Starting and ending times for the enforcement of the safety zone will be broadcast via Broadcast Notice to Mariners and published in the weekly Local Notice to Mariners.

Dated: April 26, 2018.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2018–09233 Filed 5–1–18; 8:45 am]

BILLING CODE 9110–04–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R10–OAR–2017–0745; FRL–9977–43—Region 10]

#### Air Plan Approval; Alaska; Interstate Transport Requirements for the 2012 PM<sub>2.5</sub> NAAQS

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

**ACTION:** Proposed rule.

**SUMMARY:** The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting emissions that will have certain adverse air quality effects in other states. On March 10, 2016, the State of Alaska made a submission to the Environmental Protection Agency (EPA) to address these requirements. The EPA is proposing to approve the submission as meeting the requirement that each SIP contain adequate provisions to prohibit emissions that will contribute significantly to nonattainment or interfere with maintenance of the 2012 annual fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS).

**DATES:** Comments must be received on or before June 1, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R10–OAR–2017–0745 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 the disclosure of which 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:** Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW-150), Environmental Protection Agency, Region 10, 1200 Sixth Ave, Suite 900, Seattle, WA 98101; telephone number: (206) 553-0256; email address: [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA. This supplementary information section is arranged as follows:

#### **Table of Contents**

- I. What is the background of this SIP submission?
- II. What guidance is the EPA using to evaluate this SIP submission?
- III. EPA’s review
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews

#### **I. What is the background of this SIP submission?**

This rulemaking addresses a submission from the Alaska Department of Environmental Conservation (ADEC), describing its infrastructure SIP for the 2012 annual PM<sub>2.5</sub> NAAQS, submitted March 10, 2016. Specifically, this rulemaking addresses the portion of the submission dealing with interstate pollution transport under CAA section 110(a)(2)(D)(i)(I), otherwise known as the “good neighbor” provision. The requirement for states to make a SIP submission of this type arises from section 110(a)(1) of the CAA. Pursuant to section 110(a)(1), states must submit “within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),” a plan that provides for the “implementation, maintenance, and enforcement” of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon the EPA taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that “[e]ach such plan” submission must address. The EPA commonly refers to such state plans as “infrastructure SIPs.”

#### **II. What guidance is the EPA using to evaluate this SIP submission?**

The EPA highlighted the statutory requirement to submit infrastructure SIPs within 3 years of promulgation of a new NAAQS in an October 2, 2007, guidance document entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards” (2007 guidance). The most recent relevant document was a memorandum published on March 17, 2016, titled “Information on the Interstate Transport ‘Good Neighbor’ Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)” (memorandum). The memorandum describes the EPA’s past approach to addressing interstate transport, and provides the EPA’s general review of relevant modeling data and air quality projections as they relate to the 2012 annual PM<sub>2.5</sub> NAAQS. The memorandum provides information relevant to the EPA Regional office review of the CAA section 110(a)(2)(D)(i)(I) “good neighbor” provision in infrastructure SIPs with respect to the 2012 annual PM<sub>2.5</sub> NAAQS. This rulemaking considers information provided in that memorandum.

The memorandum also provides states and the EPA Regional offices with future year annual PM<sub>2.5</sub> design values for monitors in the United States based on quality assured and certified ambient monitoring data and air quality modeling. The memorandum further describes how these projected potential design values can be used to help determine which monitors should be further evaluated to potentially address whether emissions from other states significantly contribute to nonattainment or interfere with maintenance of the 2012 annual PM<sub>2.5</sub> NAAQS at those sites. The memorandum explains that the pertinent year for evaluating air quality for purposes of addressing interstate transport for the 2012 PM<sub>2.5</sub> NAAQS is 2021, the attainment deadline for 2012 PM<sub>2.5</sub> NAAQS nonattainment areas classified as Moderate.

Based on this approach, the potential receptors are outlined in the memorandum. Most of the potential receptors are in California, located in the San Joaquin Valley or South Coast nonattainment areas. However, there is also one potential receptor in Shoshone County, Idaho, and one potential receptor in Allegheny County, Pennsylvania. The memorandum also

indicates that for certain states with incomplete ambient monitoring data, additional information including the latest available data, should be analyzed to determine whether there are potential downwind air quality problems that may be impacted by transported emissions.

This rulemaking considers analysis in Alaska’s submission, as well as additional analysis conducted by the EPA during review of its submission. For more information on how we conducted our analysis, please see the technical support document (TSD) included in the docket for this action.

#### **III. EPA’s Review**

This rulemaking proposes action on the portion of Alaska’s March 10, 2016, SIP submission addressing the good neighbor provision requirements of CAA section 110(a)(2)(D)(i)(I). State plans must address specific requirements of the good neighbor provisions (commonly referred to as “prongs”), including:

- Prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong one); and
- Prohibiting any source or other type of emissions activity in one state from interfering with maintenance of the NAAQS in another state (prong two).

The EPA has developed a consistent framework for addressing the prong one and two interstate transport requirements with respect to the PM<sub>2.5</sub> NAAQS in several previous federal rulemakings. The four basic steps of that framework include: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining the relevant NAAQS; (2) identifying which upwind states contribute to these identified problems in amounts sufficient to warrant further review and analysis; (3) for states identified as contributing to downwind air quality problems, identifying upwind emissions reductions necessary to prevent an upwind state from significantly contributing to nonattainment or interfering with maintenance of the relevant NAAQS downwind; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the relevant NAAQS downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures. This framework was most recently applied with respect to PM<sub>2.5</sub> in the Cross-State Air Pollution Rule (CSAPR),

designed to address both the 1997 and 2006 PM<sub>2.5</sub> standards, as well as the 1997 ozone standard.<sup>1</sup>

ADEC's submission focused mainly on emissions inventories, geographic factors, and prevailing meteorological conditions to demonstrate that sources in Alaska are unlikely to significantly contribute to nonattainment or interfere with maintenance of the NAAQS in other states. ADEC evaluated emissions inventories by source category for direct PM<sub>2.5</sub>, as well as the precursors nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>). ADEC noted that emissions of NO<sub>x</sub> in Alaska are small in comparison to national levels. Data from the 2011 National Emissions Inventory (NEI) presented in the submission show that total NO<sub>x</sub> emissions in Alaska are approximately 0.9 percent of national emissions. Similarly, data from the 2011 NEI show that total SO<sub>2</sub> emissions in Alaska are approximately 0.4 percent of national emissions. With respect to direct PM<sub>2.5</sub>, ADEC noted that anthropogenic sources account for only 9 percent of Alaskan emissions, with the majority of PM<sub>2.5</sub> emissions occurring due to natural wildfires. ADEC also highlighted the fact that approximately 600 miles of mountainous terrain in Canada's Province of British Columbia separate the southeastern border of Alaska from the nearest state, Washington. The highest emissions of regulated air pollutants occur even further away from the contiguous 48 states in the Municipality of Anchorage (1,435 miles from Seattle, WA) and the Fairbanks North Star Borough (2,244 miles from Seattle, WA). Lastly, ADEC stated that weather patterns make long range transport of air pollutants from Alaska to the 48 contiguous states, and Hawaii, unlikely. Wind patterns emanate from the western Gulf of Alaska and travel inland towards the east into Northern Canada. For these reasons, ADEC concluded that Alaska does not contribute to nonattainment or interfere with maintenance of the 2012 PM<sub>2.5</sub> NAAQS in any other state.

Alaska developed and submitted its technical analysis before March 17, 2016, when, as discussed earlier, the EPA released a memorandum with updated modeling projections for 2017 and 2025 annual PM<sub>2.5</sub> design values meant to assist states in development of 2012 PM<sub>2.5</sub> NAAQS interstate transport SIPs. As discussed in the TSD for this action, we used the information in the

2016 memorandum and supplemental information, as discussed below, and came to the same conclusion as the state. It is reasonable to conclude that emissions from Alaska do not significantly contribute to nonattainment or interfere with maintenance of the 2012 PM<sub>2.5</sub> NAAQS in any other state.

In our evaluation, potential downwind nonattainment and maintenance receptors were identified in other states. EPA evaluated these potential receptors to determine first if, based on review of relevant data and other information, there would be downwind nonattainment or maintenance problems, and if so, whether Alaska is likely to contribute to such problems in these areas. After reviewing air quality reports, modeling results, designation letters, designation technical support documents, attainment plans and other information for these areas, we are proposing to approve the Alaska SIP as meeting CAA section 110(a)(2)(i)(I) interstate transport requirements for the 2012 PM<sub>2.5</sub> NAAQS.

#### IV. What action is EPA taking?

The EPA is proposing to approve a portion of Alaska's March 10, 2016, submission certifying that the current Alaska SIP is sufficient to meet the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I), specifically prongs one and two, as set forth above. The EPA is requesting comments on the proposed approval.

#### 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).

#### List of Subjects in 40 CFR Part 52

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

Dated: April 23, 2018.

**Chris Hladick,**

*Regional Administrator, Region 10.*

[FR Doc. 2018-09319 Filed 5-1-18; 8:45 am]

**BILLING CODE 6560-50-P**

<sup>1</sup> Alaska was not part of the CSAPR rulemaking. The EPA approved the Alaska SIP as meeting the CAA section 110(a)(2)(D)(i)(I) requirements for the 1997 ozone and 1997 PM<sub>2.5</sub> NAAQS on October 15, 2008 (73 FR 60955) and the 2006 PM<sub>2.5</sub> NAAQS on August 4, 2014 (79 FR 45103).

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2017-0535; FRL-9977-52 Region 5]

### Air Plan Approval; Indiana; Air Quality Standards Update for the 2015 Ozone Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a September 7, 2017, request by the Indiana Department of Environmental Management (IDEM) to revise the Indiana state implementation plan (SIP) for ozone. IDEM revised its ozone standard in order to be consistent with EPA's 2015 revisions to the 8-hour national ambient air quality standards (NAAQS). IDEM also revised the references to the monitoring test methods in its rules to the current EPA test methods. EPA is also proposing to approve administrative revisions to regulations addressing other ambient air quality standards.

**DATES:** Comments must be received on or before June 1, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2017-0535 at <http://www.regulations.gov> or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, [rau.matthew@epa.gov](mailto:rau.matthew@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. What is EPA's analysis?
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

#### I. Background

On October 26, 2015 (80 FR 65291), EPA revised the primary and secondary ozone NAAQS from 0.075 to 0.070 parts per million (ppm), daily maximum 8-hour concentration, codified at 40 CFR 50.19. The ozone NAAQS continues to use an 8-hour averaging time, calculated as the fourth-highest daily maximum averaged across three consecutive years. IDEM revised its ambient air quality primary and secondary standards for ozone to be consistent with EPA's 2015 revision, and codified that revision at 326 Indiana Administrative Code (IAC) 1-3-4, Ambient Air Quality Standards.

On October 26, 2015 (80 FR 65291), EPA also revised the monitoring test methods for ozone, which are codified at 40 CFR part 50 appendices D and U, and at 40 CFR part 53. IDEM revised 326 IAC 1-3-4(4)(B) to update its references to those Federal monitoring test methods.

Indiana also made administrative revisions throughout 326 IAC 1-3-4 for ambient air quality standards other than ozone. This includes changing “shall represent” to “represents” and “shall” to “must.”

IDEM posted notice by March 3, 2017, for the Environmental Rules Board meeting on April 12, 2017, at which public comment was taken on the ambient air quality standard revisions. There were no public comments. On September 7, 2017, IDEM requested approval of 326 IAC 1-3-4 into the Indiana SIP.

#### II. What is EPA's analysis?

IDEM's revisions to 326 IAC 1-3-4(4) make its ambient air quality standards consistent with the federal 2015 8-hour ozone NAAQS. Aligning the ambient air quality standards ensures consistency between EPA's and IDEM's ozone standards. IDEM's updates to the monitoring test methods for ozone keep the state's test methods consistent with the federal test methods. EPA also finds that the administrative revisions made

in 326 IAC 1-3-4 are minor and do not alter the state's ambient air quality standards, which remain consistent with the NAAQS.

#### III. What action is EPA taking?

EPA is proposing to approve revisions to Indiana's ambient air quality standards in 326 IAC 1-3-4 into the Indiana SIP. The revisions to 326 IAC 1-3-4 include aligning both IDEM's ozone standard with the 2015 8-hour ozone NAAQS as codified at 40 CFR part 50 and the monitoring test methods for ozone as codified at 40 CFR part 50 and 40 CFR part 53. Further, administrative revisions were made to IDEM's other ambient air quality standards in 326 IAC 1-3-4. This SIP revision request was submitted on September 7, 2017.

#### IV. Incorporation by Reference

In this rule, 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, EPA is proposing to incorporate by reference 326 IAC 1-3-4, effective August 11, 2017. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov), and at the EPA Region 5 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 Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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).

#### 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.

Dated: April 25, 2018.

Edward H. Chu,

Acting Regional Administrator, Region 5.

[FR Doc. 2018–09318 Filed 5–1–18; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R02–OAR–2017–0712; FRL–9977–55—Region 2]

### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; United States Virgin Islands; Commercial and Industrial Solid Waste Incineration Units

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve the Clean Air Act (CAA) section 111(d)/129 negative declaration for the United States Virgin Islands, for Commercial and Industrial Solid Waste Incineration (CISWI) units. This negative declaration certifies that CISWI units subject to sections 111(d) and 129 of the CAA do not exist within the jurisdiction of the United States Virgin Islands. The EPA is accepting the negative declaration in accordance with the requirements of the CAA.

**DATES:** Comments must be received on or before June 1, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R02–OAR–2017–0712, at <http://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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Edward J. Linky, Environmental Protection Agency, Air Programs

Branch, 290 Broadway, New York, New York 10007–1866 at 212–637–3764 or by email at [linky.edward@epa.gov](mailto:linky.edward@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” or “our” refer to the EPA. This section provides additional information by addressing the following:

I. Background

II. Analysis of State Submittal

III. Statutory and Executive Order Reviews

#### I. Background

The Clean Air Act (CAA) requires that state<sup>1</sup> regulatory agencies implement the emission guidelines and compliance times using a state plan developed under sections 111(d) and 129 of the CAA.

The general provisions for the submittal and approval of state plans are codified in 40 CFR part 60, subpart B and 40 CFR part 62, subpart A. Section 111(d) establishes general requirements and procedures on state plan submittals for the control of designated pollutants. Section 129 requires emission guidelines to be promulgated for all categories of solid waste incineration units, including commercial and industrial solid waste incineration (CISWI) units. A CISWI unit is defined, in general, as “any distinct operating unit of any commercial or industrial facility that combusts, or has combusted in the preceding 6 months, any solid waste as that term is defined at 40 CFR 241.” See 40 CFR 60.2875. Section 129 mandates that all plan requirements be at least as protective as the promulgated emission guidelines. This includes fixed final compliance dates, fixed compliance schedules, and Title V permitting requirements for all affected sources. Section 129 also requires that state plans be submitted to EPA within one year after EPA’s promulgation of the emission guidelines and compliance times.

States have options other than submitting a state plan in order to fulfill their obligations under CAA sections 111(d) and 129. If a state does not have any existing CISWI units for the relevant emission guidelines, a letter can be submitted certifying that no such units exist within the state (*i.e.*, negative declaration) in lieu of a state plan. The negative declaration exempts the state from the requirements of subpart B that would otherwise require the submittal of a CAA section 111(d)/129 plan.

On March 21, 2011 (76 FR 15704), the EPA established emission guidelines and compliance times for existing

<sup>1</sup> Section 302(d) of the CAA includes the United States Virgin Islands in the definition of the term “State.”

CISWI units (New Source Performance Standards (NSPS) and Emission Guidelines (EG)). The emission guidelines and compliance times are codified at 40 CFR 60, Subpart DDDD. Following promulgation of the 2011 CISWI rule, EPA received petitions for reconsideration requesting to reconsider numerous provisions in the 2011 CISWI rule. EPA granted reconsiderations on specific issues and promulgated a CISWI reconsideration rule on February 7, 2013. 78 FR 9112. EPA again received petitions to further reconsider certain provisions of the 2013 NSPS and EG for CISWI units. On January 21, 2015 EPA granted reconsideration of four specific issues and finalized reconsideration of the CISWI NSPS and EG on June 23, 2016 (81 FR 40956).

In order to fulfill obligations under CAA sections 111(d) and 129, the Department of Planning and Natural Resources of the Government of the United States Virgin Islands submitted a negative declaration letter to the EPA on August 17, 2016. The submittal of this declaration exempts the United States Virgin Islands from the requirement to submit a state plan for existing CISWI units.

## II. Analysis of State Submittal

In this proposed rule the EPA proposes to amend 40 CFR part 62 to reflect receipt of the negative declaration letter from the United States Virgin Islands, certifying that there are no existing CISWI units subject to 40 CFR part 60, subpart DDDD, in accordance with section 111(d) of the CAA.

## III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a 111(d)/129 plan submission that complies with the provisions of the Act and applicable Federal regulations. 40 CFR 62.04. Thus, in reviewing 111(d)/129 plan submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA.

Accordingly, this action, if finalized, would merely approve state law as meeting Federal requirements and would not impose additional requirements beyond those imposed by state law.

For that reason, this action, if finalized:

- 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 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 EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed approval does not have tribal implications as specified by Executive Order 13175 because the United States Virgin Islands' section 111(d)/129 submittal is not approved to apply in Indian country located in the United States Virgin Islands and, if finalized, would not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this proposed approval.

### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Commercial and industrial solid waste incineration units, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 19, 2018.

**Peter D. Lopez,**

*Regional Administrator, Region 2.*

[FR Doc. 2018-09323 Filed 5-1-18; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 18-89; FCC 18-42]

### Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) proposes and seeks comment on a targeted rule to ensure that Universal Service Fund (USF) funding is not spent on equipment or services from suppliers that pose a national security threat to the integrity of communications networks or the communications supply chain.

**DATES:** Comments are due on or before June 1, 2018, and reply comments are due on or before July 2, 2018.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 18-89, by any of the following methods:

- *Federal Communications Commission's Website:* <https://www.fcc.gov/ecfs/>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 888-835-5322.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** John Visclosky, Competition Policy Division, Wireline Competition Bureau, at (202) 418-0825, [john.visclosky@fcc.gov](mailto:john.visclosky@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking in WC Docket No. 18-89; FCC 18-42, adopted on April 17, 2018 and released on April 18, 2018. The full text of this document is available at [https://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2018/db0418/FCC-18-42A1.pdf](https://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0418/FCC-18-42A1.pdf). The full text is also available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY-A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (e.g., braille, large print, electronic files, audio format, etc.) or to request reasonable



accommodations (e.g., accessible format documents, sign language interpreters, CART, etc.), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. 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), <http://www.fcc.gov/Bureaus/OGC/Orders/1998/fcc98056.pdf>.

- **Electronic Filers:** Comments may be filed electronically using the internet by accessing the 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. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. 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 St. 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.

- **People with Disabilities:** To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

## Synopsis

### I. Introduction

1. A critical element of our national security is the security of America's communications networks. Therefore, threats to the security of our nation's communications networks posed by certain communications equipment providers have long been a matter of concern in the Executive Branch and Congress. And as the supply chain for our nation's communications networks increasingly reaches far beyond U.S. borders, the need to address these threats has become more pressing.

2. The Federal Communications Commission has a specific, but an important, supporting role to play in these efforts. In keeping with our obligation to be responsible stewards of the public funds used in the Universal Service Fund (USF or the Fund) programs, we propose and seek comment on a rule to prohibit, going forward, the use of USF funds to purchase equipment or services from any communications equipment or service providers identified as posing a national security risk to communications networks or the communications supply chain. Our action today is intended to ensure that universal service funds are not used in a way that undermines or poses a threat to our national security.

### II. Background

3. *Executive Action to Safeguard and Secure Telecommunications Networks.* Over the last decade, the Executive Branch has repeatedly stressed the importance of identifying and eliminating potential security vulnerabilities in communications networks and their supply chains. Most recently, in May 2017, the White House released an Executive Order emphasizing the importance of the security of federal networks and critical communications infrastructure. This Executive Order built on the efforts of previous administrations to assess and alleviate weaknesses in the country's telecommunications networks. For example, in February 2013, the White House issued Presidential Policy Directive 21 (PPD 21), which directed federal agencies to exercise their authority and expertise to partner with other agencies to identify vulnerabilities in communications infrastructure and to work “to increase the security and resilience of critical infrastructure within the communications sector.” That same year, the U.S. Government Accountability Office (GAO) released a report assessing the potential security risks of foreign-manufactured

equipment in commercial communications networks and detailing the efforts of the federal government to address the risks posed by such equipment.

4. *Congressional Concern About the Security of Telecommunications Networks.* Congress has also repeatedly expressed concerns about the potential for supply chain vulnerability, including possible risks associated with certain foreign communications equipment providers, to undermine national security. In October 2012, the House Permanent Select Committee on Intelligence (HPSCI) released a bipartisan report assessing the counterintelligence and security threat posed by Chinese telecommunications companies operating in or providing equipment to customers in the United States. The report “focused on Huawei [Technologies Company (Huawei)] and ZTE [Corporation (ZTE)], the top two Chinese telecommunications equipment manufacturers.” The report noted that both companies have “histories that include connections to the Chinese government.” In addition to recommending that U.S. government agencies and federal contractors “should exclude ZTE or Huawei equipment in their systems,” the report “strongly encouraged” private-sector entities “to consider the long-term security risks associated with doing business with either Huawei or ZTE for equipment or services [and] . . . strongly encouraged [private entities] . . . to seek out other vendors for their projects.”

5. On December 20, 2017, a group of 18 Senators and Representatives reiterated these concerns in a letter to Chairman Pai, which highlighted the 2012 HPSCI report's finding that “Huawei . . . cannot be trusted to be free of foreign state influence and thus poses a security threat to the United States and to our systems.” They also echoed the report's recommendation that “the United States . . . view with suspicion the continued penetration of the U.S. telecommunications market by Chinese telecommunications companies,” and that U.S. government systems and contractors “should not include Huawei or ZTE equipment.”

6. In response to continuing concerns over the purchase and use of communications equipment from certain foreign entities, Congress passed the National Defense Authorization Act for Fiscal Year 2018 (NDAA), which, among other things, bars the Department of Defense from using “[t]elecommunications equipment [or] services produced . . . [or] provided by Huawei Technologies Company or ZTE



Corporation” for certain critical programs, including ballistic missile defense and nuclear command, control, and communications. The NDAA also bars all federal agencies, including the Commission, from using any products or services made “in whole or in part . . . by Kaspersky Lab,” a company with alleged ties to the Russian government. Reflecting its continued concern about this issue, Congress is also considering pending legislation that would, if adopted, build upon these targeted prohibitions and block all federal agencies, including the Commission, from contracting with any entity that uses “telecommunications equipment or services . . . produced by Huawei Technologies Company or ZTE Corporation” as “a substantial or essential component . . . or as critical technology as part of any system.”

7. *Targeted Commission Actions to Protect the Nation’s Telecommunications Infrastructure.* For more than 80 years, the Commission has been charged by Congress with promoting a “Nation-wide, and world-wide wire and radio communications service” for the purposes of the “national defense” and preserving the “safety of life and property.” Consistent with this mission, we have relied on our specific statutory authorities to take a number of targeted steps to protect the nation’s telecommunications infrastructure from potential security threats. For example, pursuant to the Spectrum Act of 2012, the Commission adopted rules prohibiting persons and entities who have been, for reasons of national security, barred by any federal agency from bidding on a contract, participating in an auction, or receiving a grant, from participating in auctions under the Spectrum Act. The Commission also adopted rules prohibiting persons and entities who have been, for reasons of national security, barred by any federal agency from bidding on a contract, participating in an auction, or receiving a grant, from participating in incentive auctions conducted under 47 U.S.C. 309(j)(8)(G)(i).

8. The Commission also considers “national security, law enforcement, [and] foreign policy” concerns in the course of reviewing applications under Section 214, under the Submarine Cable Landing License Act, and under Section 310(b) when an applicant has reportable foreign ownership. Recognizing that certain Executive Branch agencies have specific expertise in these areas, the Commission seeks input on these applications from Executive Branch agencies that have established an interest in their review. The agencies

include the Department of Homeland Security, the Department of Justice (including the Federal Bureau of Investigations), the Department of Defense, the Department of State, the Department of Commerce and the National Telecommunications and Information Administration (NTIA), the United States Trade Representative, and the Office of Science and Technology Policy. After the agencies review the application, they may file comments requesting that the Commission condition grant of the application on compliance with a mitigation agreement or deny the application. The mitigation agreements often include a requirement that applicants submit a list of principal equipment they plan to use to the agencies for approval.

9. Further, the Commission has established the Communications Security, Reliability and Interoperability Council (CSRIC), which is charged with providing recommendations to ensure the security and reliability of the nation’s communications systems, including telecommunications, media, and public safety networks. The Commission chartered CSRIC VI on March 19, 2017. This latest iteration of the CSRIC includes a working group whose mission is to recommend mechanisms to reduce risks to network reliability and security, including mechanisms to best design and deploy 5G networks to mitigate risks to network reliability and security posed by, among other things, vulnerable supply chains.

10. *Oversight of Universal Service Fund.* One of the Commission’s central missions is to make “available . . . to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.” Since its inception, the USF has operated as a mechanism for achieving that mission. Today, the Commission provides universal service support through four separate programs: (1) The High-Cost Support Program, which provides support to eligible carriers that provide service to high-cost areas, thereby making voice and broadband service affordable for residents living in such regions; (2) the Low Income Support Program (Lifeline), which assists eligible low income customers by helping to pay for monthly telephone and broadband charges; (3) the Rural Health Care Support Program, which helps subsidize rates for telecommunications and broadband services to health care facilities in rural areas; and (4) the Schools and Libraries Support Program, also known as E-Rate, which provides support for telecommunications

services, internet access, and internal connections to eligible schools and libraries. The Commission has on multiple occasions stated that the Lifeline program supports services, not end-user equipment, with the exception of temporary support for handsets in the months following Hurricane Katrina.

11. The Commission has designated the Universal Service Administrative Company (USAC) as the entity responsible for administering the universal service support programs under the Commission’s oversight. The Commission oversees the Fund consistent with the “[u]niversal service principles” set forth in Section 254(b), as well as “other principles” that we “determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with” the Communications Act of 1934, as amended.

### III. Discussion

12. Given the Commission’s oversight role with respect to the Fund and increasing concerns about ensuring communications supply chain integrity, we propose to take targeted action to ensure that USF funds are not used in a way that undermines or poses a threat to our national security. We seek comment on how best to implement such a rule, including the costs and benefits of doing so, as well as on alternative approaches and any other steps we should consider taking.

#### A. Prohibition on Use of USF Funds

13. We propose to adopt a rule that, going forward, no USF support may be used to purchase or obtain any equipment or services produced or provided by a company posing a national security threat to the integrity of communications networks or the communications supply chain. We believe we have a responsibility to ensure that the public funds used in the USF are not spent on equipment or services from companies that present a risk to the supply chain. We believe that this targeted action is therefore necessary. We seek comment on this view, on our proposal generally, and on any potential alternatives.

14. We also seek comment on whether other federal agencies have rules that we should follow as a model for limiting USF recipients’ purchase of equipment or services from companies that trigger national security concerns. Do other civilian agencies that regulate or provide grants, loans or other financial assistance for key components of the nation’s infrastructure, such as the Federal Energy Regulatory Commission,

the Nuclear Regulatory Commission, the Federal Housing Administration, the Department of Transportation, the Department of Agriculture's Rural Utilities Service, the National Telecommunications and Information Administration, the National Science Foundation, or financial regulatory bodies, have rules similar to the ones we have proposed? Would such existing rules serve as a model or be helpful in modifying our proposal? If so, which rules or regulations should we look to, and how should they inform our proposal? Are there any key differences that we should take into account in considering such rules in the context of telecommunications infrastructure? If so, please explain.

15. *Types of Equipment and Services.* We seek comment on the types of equipment and services covered by our proposed rule. One bright-line approach would be to prohibit use of USF funds on any purchases whatsoever from companies that have been identified as raising national security risks. Would such a rule be most appropriate here? Another approach would be to limit the scope of the proposed rule to equipment and services that relate to the management of a network, data about the management of a network, or any system the compromise or failure of which could disrupt the confidentiality, availability, or integrity of a network. We seek comment on this approach. Alternatively, which components or services are most prone to supply chain vulnerabilities? Are there any reasons to exempt certain categories or types of equipment or services from the scope of the rule? For example, should the rule cover all software or only software that manages the communications network or devices used on the network? Are there any categories of services that would not pose a potential risk to communications networks or the communications supply chain, and for this or any other reasons, should not be covered by the scope of the rule? Additionally, are there existing processes or methods, such as supply chain risk management processes, through which equipment can be certified not to present a supply chain risk, thereby allowing that equipment to be exempted from coverage under our proposed rule? Does the Department of Homeland Security or another Federal entity test communications equipment for supply chain risk? Should the Commission convene an advisory group or voluntary industry panel that would be able to provide such certification? Further, we expect that the proposed rule would extend to upgrades of

existing equipment or services, and we seek comment on this view. We also seek comment on any other issues commenters believe are relevant to identifying the types of equipment and services that should be covered by our proposal.

16. *Use of Funds.* We expect that our proposed rule would limit use of USF funds both directly by the recipient of that funding as well as indirectly by any contractor or subcontractor of the recipient. We seek comment on this view. For example, should there be a limit on how many levels of subcontractors are subject to the proposed rule? Are there different practical or policy questions that necessitate crafting rules on a program-specific basis across the four separate USF programs? Or would an overarching rule for all USF programs better meet the goals of safeguarding USF-funded infrastructure and providing effective USF support? We seek comment on these issues and any related issues of application. Additionally, given the fact that projects supported through the Fund involve both USF funds and non-USF funds, and given that money is fungible, should our proposed rule prohibit the use of any USF funds on any project where equipment or services produced or provided by a company posing a national security threat to the integrity of communications networks or the communications supply chain is being purchased or obtained?

17. *Effective Date.* We make clear that our proposed rule or any alternative to restricting the use of USF funds that we adopt in this proceeding would apply only prospectively and seek comment on when the proposed rule should become effective. How long would USF recipients need to begin compliance with the rule? Should we consider phasing in the proposed rule for certain USF programs before others? Are there special considerations for schools, libraries, and rural health care facilities, which may not be as well-positioned as a carrier receiving USF support to know whether the services and/or equipment they purchase with USF support are being provided by an entity that pose a supply chain integrity risk? Should we consider a later effective date for smaller USF recipients? Should we consider a phase-in period for certain programs, USF recipients, or equipment or services? If so, please describe. We seek comment on these and other issues we should consider in setting the effective date for our proposal.

18. *Multiyear Contracts.* How should the proposed rule affect multiyear contracts or contracts with voluntary

extensions between USF recipients and companies identified as posing a supply chain integrity risk, if any such contracts exist? Should we consider grandfathering contracts that are currently in place for legal, cost, or other reasons? Should the proposed rule apply if a USF recipient has entered into a contract to purchase equipment or services from a company identified as posing a supply chain integrity risk, but the USF recipient has not received installation of equipment at the time that the proposed rule would go into effect? Should these contracts be grandfathered? If we do grandfather contracts, should we only grandfather unexpired annual or multiyear contracts, or also grandfather one-year contracts with voluntary extensions? Do relevant contracts include change-of-law or similar provisions that would cover the new rule we are proposing? Would our adoption of the proposed rule trigger any such change-of-law provisions? While the proposed rule would not apply to equipment already in place, as discussed above, we anticipate that rule would extend to upgrades of existing equipment or services. We seek comment on this approach and whether, as a practical matter, USF recipients will be able to purchase equipment and services from non-covered companies that can interoperate with any existing, installed equipment from covered companies.

#### *B. Identifying Companies That Pose a National Security Threat to the Integrity of Communications Networks or the Communications Supply Chain*

19. We seek comment on how to identify companies that pose a national security threat to the integrity of communications networks or the communications supply chain for purposes of our proposed rule. How should we define the universe of companies covered by our proposed rule (*i.e.*, a covered company)? We seek comment broadly on possible approaches to defining the universe of companies covered by our proposed rule.

20. One approach is for the Commission to establish the criteria for identifying a covered company. How should the Commission determine such criteria? One possible option would be to draw from the Spectrum Act of 2012, the NDAA, and pending legislation, and define a company covered by our proposed rule as (1) any company that has been prohibited from bidding on a contract, participating in an auction, or receiving a grant by any agency of the Federal Government, for reasons of national security, or (2) any company

from which any agency of the Federal Government has been prohibited by Congress from procuring or obtaining any equipment, system, or service that uses telecommunications equipment or services provided by that company as a substantial or essential component of any system, or as critical technology as part of any system. We seek comment on this potential approach and any alternatives. If we adopt this approach, how would USF recipients learn which companies are covered? Should the Commission or another federal agency maintain a list of companies that meet these criteria? Regardless of which agency maintains such a list, how can we ensure that other federal agencies inform the Commission when a company satisfies the criteria to be a covered company? Would other federal agencies inform the Commission when they prohibit a company from bidding on a contract, participating in an auction, or receiving a grant for national security reasons, or when they remove such a prohibition? Should we assume that such concerns sunset after some period of time (e.g., three years) unless prohibitions are renewed by a federal agency or by Congress? Or should we assume that such concerns remain indefinitely until the relevant agency or Congress has affirmatively reversed course?

21. Another possible approach is for the Commission to rely on existing statutes listing companies barred from providing certain equipment or services to federal agencies for national security reasons. Under such an approach, for example, we could define covered companies as those specifically barred by the National Defense Authorization Act from providing a substantial or essential component, or critical technology, of any system, to any federal agency or component thereof. We note that the 2018 Act includes such a prohibition for certain entities. Or we could define covered companies as those that the National Defense Authorization Act specifically bars from developing or providing equipment or services, of any kind listed in the NDAA, to be used, obtained, or procured by any federal agency or component thereof. What are the advantages and disadvantages of relying on the terms of an existing statute rather than using an approach that necessitates a list of covered companies that may change over time? Does one approach entail lower compliance costs for recipients of USF funds, either in terms of effort or actual dollars spent? Which approach is best suited to ensuring that USF funds are not spent on equipment

or services supplied by entities that pose a threat to the integrity of communications networks or the communications supply chain? Which approach best balances that goal with our mission to ensure that all Americans have access to communications services and our desire to minimize compliance costs for recipients of USF support?

22. Another potential approach to identifying the universe of companies covered by our proposed rule is for a federal agency other than the Commission to maintain a list of communications equipment or service providers that raise national security concerns regarding the integrity of communications networks or the communications supply chain. We seek comment on whether a list specifying the companies that should be covered under our proposed rule is already available to the public. If not, we seek comment on which agency or agencies should develop and maintain a publicly available list of such suppliers. For example, should a federal agency within the Executive Branch that regularly deals with national security risks create and maintain such a list? As an alternative, should the Commission or USAC, under the direction of the Commission, do so? What are the benefits and drawbacks of the Commission or another federal agency creating and maintaining such a list?

23. We note that it is not uncommon for federal agencies to maintain a list of prohibited providers. For example, the General Services Administration maintains a public System for Award Management (SAM) database, although it does not include some of the foreign telecommunications equipment providers that Congress has identified as potential threats to national security, and also includes companies barred from federal contracting for reasons other than national security. And while other agencies, including the State Department, the Commerce Department, and the Treasury Department, maintain publicly-accessible databases which may be more focused than the SAM on companies identified as threats to national security, the databases are generally designed for export controls, rather than for domestic considerations. Therefore, are there other sources that would be instructive here?

24. *Compliance Matters.* Regardless of which approach we adopt, we seek comment on how to ensure that USF recipients (especially smaller USF recipients, including schools, libraries, and rural health care facilities) can learn which companies fall within the scope of our proposed rule. Are there other

compliance issues we should consider, particularly for smaller USF recipients?

25. *Application of Proposed Rule to Subsidiaries, Parents, and/or Affiliates.* Should a covered company's subsidiaries, parents, and/or affiliates be treated as covered, too? If so, how should we define parents, subsidiaries, and affiliates? What are the arguments for and against treating a covered company's subsidiaries, parents, and/or affiliates as covered by our proposed rule? How should we treat instances of "white labeling," where a covered company may provide equipment or services to a third-party entity for sale under that third party's brand?

### C. Enforcement

26. We seek comment on how to enforce our proposed rule. We expect that USF recipients would comply with the rule and that USAC, through periodic audits, would be able to confirm such compliance. We also note that all USF recipients are required to maintain records demonstrating that they use the support in the manner in which it is intended to be used. If a recipient of USF support is found to have violated our proposed rule, what steps should we take in response? Are there any mitigating factors we should consider when taking such responsive steps?

27. We seek comment on how USAC should recover funds disbursed in violation of the proposed rule. While under the High-Cost, Lifeline, and Rural Health Care programs funds are always disbursed to service providers, support disbursed under the E-Rate program may be distributed to either a service provider or to an eligible school or library. When USAC determines that E-Rate funding has been improperly disbursed and should be recovered, USAC must consider which party was in a better position to prevent a violation of E-Rate program rules, and which party committed the act or omission that forms the basis for the violation. For some rule violations, the beneficiary and service provider may share responsibility. We seek comment on which party, in the E-Rate context, is in the best position to anticipate and prevent violations of our proposed rule, and thus, which party should be held liable for the recovery of disbursed funds should such a violation occur. Should providers be held liable for the recovery of disbursed funds in *all* instances when a violation of our proposed rule has occurred? How can non-provider recipients of USF support, such as school districts or libraries, determine whether their service

provider has purchased prohibited services or equipment?

28. Upon finding a violation, are there additional penalties we should impose beyond loss of funding and potential forfeitures under Section 503 of the Act? What form would such penalties take? For instance, should parties who are found to have violated our proposed rule be suspended or permanently barred from receiving USF support? What other considerations should we take into account in the context of enforcing our proposed rule?

29. Notwithstanding these safeguards, we seek comment on any other steps we should take to ensure compliance with our proposed rule. For example, should we make changes to any of the relevant forms submitted by USF applicants or recipients (e.g., by adding a certification)? Or should we require a separate certification? Who should make the certification and how often should it be filed? In instances where an applicant for USF support is not a service provider—such as when eligible schools and libraries receive discounts under the E-Rate program, or when health care providers receive support via the Rural Health Care program—should the applicant be required to make such a certification, or should the certification be made by the service provider that has knowledge of and control over its network? Does it matter whether the applicant is seeking to purchase and install equipment itself or whether it is purchasing services from another entity?

30. We also seek comment on how potential bidders complied with the national security certification required by the Spectrum Act and the Commission's implementing regulations. While those provisions do not apply here, the experience of potential bidders may nevertheless be instructive. Are there practical lessons to be learned from that process? How did the certification requirement affect smaller and first-time bidders? Should we require a certification by USF recipients that they are not using USF support to pay for services or equipment from covered sources, analogous to the Commission's certification requirements for bidders in the broadcast incentive auction?

#### *D. Other National Security Steps*

31. We also seek comment on other steps we should consider taking to the extent we identify companies that pose a national security threat to the integrity of communications networks or the communications supply chain. Should we consider actions targeted not only at the USF-funded equipment or services

of those companies, but also non USF-funded equipment or services produced or provided by those companies that might pose the same or similar national security threats to the nation's communications networks? Should we consider actions in addition or as an alternative to restricting the use of USF support? For instance, do commenters believe that there are testing regimes, showings, or steps concerning the removal or prospective deployment of equipment that we should consider? If so, we seek comment on the scope and extent of our legal authority to take any such actions to address national security threats to the integrity of communications networks and the communications supply chain.

#### *E. Waiver*

32. We seek comment on whether and how applicants for USF support may seek a waiver of our proposed rule. In general, the Commission's rules may be waived for "good cause." Should we establish a separate process from our general waiver provision for waivers of our proposed rule? If we provide such a waiver process, how should it function? Should we require a higher standard than good cause for granting waivers, such as "extraordinary circumstances?" The Commission has required a higher standard for waiver in certain circumstances. For example, the E-Rate program invoicing rules may only be waived "in extraordinary circumstances." Who should have the authority to grant a waiver, and under what circumstances?

#### *F. Costs and Benefits*

33. We seek comment on the costs and benefits of our proposed rule. Does our proposed rule promote our goals of ensuring that USF funds are used consistently with our national security interests while simultaneously continuing our universal service mission of making communications services available to all Americans? Does this proposed rule improve our ability to safeguard the country's telecommunications networks from potential security risks? How can we quantify any such benefit to national security? Are there alternative approaches that would better protect the security of the nation's communications networks at a lower cost?

34. What are the potential costs associated with our proposed rule to USF recipients, the Fund, end users, consumers, the public safety and law enforcement community, the Commission, or other federal agencies? Does this proposed rule affect our continuing goal of ensuring that all

Americans have access to communications services? If so, how? How do covered companies' equipment and services perform relative to equipment and services of companies unaffected by the proposed rule? What is the cost difference to USF recipients between equipment and services that may be covered by the proposed rule and those that are not? How many USF recipients purchase equipment or services from companies that pose a threat to our national security? Do the potential benefits of our proposal to national security outweigh any possible costs? How can we achieve our goal of addressing national security threats to communications networks and the communications supply chain while minimizing the impact on carriers seeking to deploy broadband to unserved or underserved areas? Specifically, we seek comment on the impact of our proposed rule on small businesses, as well as any modifications or alternatives that might ease the burden of this proposed rule on small businesses. We seek comment on the impact of our proposed rule on small and rural carriers in particular. Commenters should discuss the effectiveness of the proposed rule or any alternative and provide any quantitative or qualitative data to demonstrate the potential impact of the proposed rule or any alternative on network deployment and services offered by small and rural carriers and on their subscribers. Additionally, one important element of our cost-benefit analysis is understanding how widely the equipment and services that may be covered by our proposed rule are deployed. Therefore, we seek comment on this issue. For example, to what extent have small and rural carriers relied on equipment or services from companies that may be covered by our proposed rule? If so, we seek comment on specific instances and details on the use of equipment or services from such companies.

#### *G. Legal Authority*

35. We believe that Sections 201(b) and 254 of the Act provide ample legal authority for the rule we propose today. Section 201(b) gives the Commission the authority to promulgate "such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act." And Section 254 requires that USF recipients "shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." In the *USF/ICC Transformation Order*, the Commission interpreted this language as providing it

with the authority to designate the services for which USF support will be provided and to “encourage the deployment of the types of facilities that will best achieve the principles set forth in section 254(b).” The Tenth Circuit affirmed this interpretation in *In re FCC 11-161*, 753 F.3d 1015, 1046–47 (10th Cir. 2014). Among these principles are “[q]uality services . . . available at just, reasonable, and affordable rates,” “[a]ccess to advanced telecommunications and information services . . . in all regions of the Nation,” and “other principles” that are “necessary and appropriate for the protection of the public interest, convenience, and necessity. . . .” Moreover, the Commission has the discretion to define the services supported by USF, and to “consider the extent to which such telecommunications services . . . are consistent with the public interest, convenience, and necessity.” As the Tenth Circuit has explained, “nothing in the statute limits the FCC’s authority to place conditions . . . on the use of USF funds.” As such, we believe the condition on the use of USF funds that we propose here is within our authority. We seek comment on this view.

36. We believe that the promotion of national security is consistent with the public interest, and that USF funds should be used to deploy infrastructure and provide services that do not undermine our national security. Indeed, Congress similarly determined that promoting the national defense is an important public interest in Section 1 of the Act, which describes the development of a “Nation-wide . . . wire and radio communication service, for the purpose of the national defense” as one of the reasons for establishing the Commission. Would adopting our proposed rule be equivalent to establishing a new definition of the “evolving level of telecommunications services” that are supported by USF mechanisms under Section 254(c)(1)? Are there other statutory provisions that affect USF recipients’ obligations with respect to the security of their networks, or other sources of legal authority on which we should rely?

#### IV. Initial Regulatory Flexibility Analysis

37. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Notice of Proposed Rulemaking

(NPRM). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided in the **DATES** section of the item. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

##### A. Need for, and Objectives of, the Proposed Rules

38. Consistent with our obligation to be responsible stewards of the public funds used in the Universal Service Fund (USF) programs and increasing concern about ensuring communications supply chain integrity, the NPRM proposes and seeks comment on a rule designed to ensure that USF support is not spent on equipment or services from companies that pose a national security threat to communications networks or the communications supply chain.

##### B. Legal Basis

39. The proposed action is authorized under Sections 1–4, 201(b), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201(b), and 254.

##### C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

40. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 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. A small business concern is one that: (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).

41. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a

small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

42. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of Aug. 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

43. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of “small governmental jurisdictions.”

44. Small entities potentially affected by the proposals herein include eligible schools and libraries, eligible rural non-profit and public health care providers, and the eligible service providers offering them services, including telecommunications service providers, internet Service Providers (ISPs), and vendors of the services and equipment used for telecommunications and broadband networks.

##### 1. Schools and Libraries

45. As noted, “small entity” includes non-profit and small government entities. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally “a non-profit institutional day or residential school, that provides elementary education, as determined under state

law.” A secondary school is generally defined as “a non-profit institutional day or residential school, that provides secondary education, as determined under state law,” and not offering education beyond grade 12. A library includes “(1) a public library, (2) a public elementary school or secondary school library, (3) an academic library, (4) a research library . . . , and (5) a private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.” For-profit schools and libraries, and schools and libraries with endowments in excess of \$50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined for-profit, elementary and secondary schools and libraries having \$6 million or less in annual receipts as small entities. In funding year 2007, approximately 105,500 schools and 10,950 libraries received funding under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these entities that would qualify as small entities under SBA’s size standard, we estimate that fewer than 105,500 schools and 10,950 libraries might be affected annually by our action, under current operation of the program.

## 2. Healthcare Providers

46. *Offices of Physicians (except Mental Health Specialists)*. This U.S. industry comprises establishments of health practitioners having the degree of M.D. (Doctor of Medicine) or D.O. (Doctor of Osteopathy) primarily engaged in the independent practice of general or specialized medicine (except psychiatry or psychoanalysis) or surgery. These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has created a size standard for this industry, which is annual receipts of \$11 million or less. According to 2012 U.S. Economic Census, 152,468 firms operated throughout the entire year in this industry. Of that number, 147,718 had annual receipts of less than \$10 million, while 3,108 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that a majority of firms operating in this industry are small under the applicable size standard.

47. *Offices of Physicians, Mental Health Specialists*. This U.S. industry

comprises establishments of health practitioners having the degree of M.D. (Doctor of Medicine) or D.O. (Doctor of Osteopathy) primarily engaged in the independent practice of psychiatry or psychoanalysis. These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for businesses in this industry, which is annual receipts of \$11 million dollars or less. The U.S. Economic Census indicates that 8,809 firms operated throughout the entire year in this industry. Of that number 8,791 had annual receipts of less than \$10 million, while 13 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that a majority of firms in this industry are small under the applicable standard.

48. *Offices of Dentists*. This U.S. industry comprises establishments of health practitioners having the degree of D.M.D. (Doctor of Dental Medicine), D.D.S. (Doctor of Dental Surgery), or D.D.Sc. (Doctor of Dental Science) primarily engaged in the independent practice of general or specialized dentistry or dental surgery. These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. They can provide either comprehensive preventive, cosmetic, or emergency care, or specialize in a single field of dentistry. The SBA has established a size standard for that industry of annual receipts of \$7.5 million or less. The 2012 U.S. Economic Census indicates that 115,268 firms operated in the dental industry throughout the entire year. Of that number 114,417 had annual receipts of less than \$5 million, while 651 firms had annual receipts between \$5 million and \$9,999,999. Based on this data, we conclude that a majority of businesses in the dental industry are small under the applicable standard.

49. *Offices of Chiropractors*. This U.S. industry comprises establishments of health practitioners having the degree of DC (Doctor of Chiropractic) primarily engaged in the independent practice of chiropractic. These practitioners provide diagnostic and therapeutic treatment of neuromusculoskeletal and related disorders through the manipulation and adjustment of the spinal column and extremities, and operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for

this industry, which is annual receipts of \$7.5 million or less. The 2012 U.S. Economic Census statistics show that 33,940 firms operated throughout the entire year. Of that number 33,910 operated with annual receipts of less than \$5 million per year, while 26 firms had annual receipts between \$5 million and \$9,999,999. Based on that data, we conclude that a majority of chiropractors are small.

50. *Offices of Optometrists*. This U.S. industry comprises establishments of health practitioners having the degree of OD (Doctor of Optometry) primarily engaged in the independent practice of optometry. These practitioners examine, diagnose, treat, and manage diseases and disorders of the visual system, the eye and associated structures as well as diagnose related systemic conditions. Offices of optometrists prescribe and/or provide eyeglasses, contact lenses, low vision aids, and vision therapy. They operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers, and may also provide the same services as opticians, such as selling and fitting prescription eyeglasses and contact lenses. The SBA has established a size standard for businesses operating in this industry, which is annual receipts of \$7.5 million or less. The 2012 Economic Census indicates that 18,050 firms operated the entire year. Of that number, 17,951 had annual receipts of less than \$5 million, while 70 firms had annual receipts between \$5 million and \$9,999,999. Based on this data, we conclude that a majority of optometrists in this industry are small.

51. *Offices of Mental Health Practitioners (except Physicians)*. This U.S. industry comprises establishments of independent mental health practitioners (except physicians) primarily engaged in (1) the diagnosis and treatment of mental, emotional, and behavioral disorders and/or (2) the diagnosis and treatment of individual or group social dysfunction brought about by such causes as mental illness, alcohol and substance abuse, physical and emotional trauma, or stress. These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has created a size standard for this industry, which is annual receipts of \$7.5 million or less. The 2012 U.S. Economic Census indicates that 16,058 firms operated throughout the entire year. Of that number, 15,894 firms received annual receipts of less than \$5 million, while 111 firms had annual receipts between

\$5 million and \$9,999,999. Based on this data, we conclude that a majority of mental health practitioners who do not employ physicians are small.

52. *Offices of Physical, Occupational and Speech Therapists and Audiologists.* This U.S. industry comprises establishments of independent health practitioners primarily engaged in one of the following: (1) Providing physical therapy services to patients who have impairments, functional limitations, disabilities, or changes in physical functions and health status resulting from injury, disease or other causes, or who require prevention, wellness or fitness services; (2) planning and administering educational, recreational, and social activities designed to help patients or individuals with disabilities, regain physical or mental functioning or to adapt to their disabilities; and (3) diagnosing and treating speech, language, or hearing problems. These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for this industry, which is annual receipts of \$7.5 million or less. The 2012 U.S. Economic Census indicates that 20,567 firms in this industry operated throughout the entire year. Of that number, 20,047 had annual receipts of less than \$5 million, while 270 firms had annual receipts between \$5 million and \$9,999,999. Based on this data, we conclude that a majority of businesses in this industry are small.

53. *Offices of Podiatrists.* This U.S. industry comprises establishments of health practitioners having the degree of D.P.M. (Doctor of Podiatric Medicine) primarily engaged in the independent practice of podiatry. These practitioners diagnose and treat diseases and deformities of the foot and operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for businesses in this industry, which is annual receipts of \$7.5 million or less. The 2012 U.S. Economic Census indicates that 7,569 podiatry firms operated throughout the entire year. Of that number, 7,545 firms had annual receipts of less than \$5 million, while 22 firms had annual receipts between \$5 million and \$9,999,999. Based on this data, we conclude that a majority of firms in this industry are small.

54. *Offices of All Other Miscellaneous Health Practitioners.* This U.S. industry comprises establishments of

independent health practitioners (except physicians; dentists; chiropractors; optometrists; mental health specialists; physical, occupational, and speech therapists; audiologists; and podiatrists). These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for this industry, which is annual receipts of \$7.5 million or less. The 2012 U.S. Economic Census indicates that 11,460 firms operated throughout the entire year. Of that number, 11,374 firms had annual receipts of less than \$5 million, while 48 firms had annual receipts between \$5 million and \$9,999,999. Based on this data, we conclude the majority of firms in this industry are small.

55. *Family Planning Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing a range of family planning services on an outpatient basis, such as contraceptive services, genetic and prenatal counseling, voluntary sterilization, and therapeutic and medically induced termination of pregnancy. The SBA has established a size standard for this industry, which is annual receipts of \$11 million or less. The 2012 Economic Census indicates that 1,286 firms in this industry operated throughout the entire year. Of that number 1,237 had annual receipts of less than \$10 million, while 36 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that the majority of firms in this industry are small.

56. *Outpatient Mental Health and Substance Abuse Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing outpatient services related to the diagnosis and treatment of mental health disorders and alcohol and other substance abuse. These establishments generally treat patients who do not require inpatient treatment. They may provide a counseling staff and information regarding a wide range of mental health and substance abuse issues and/or refer patients to more extensive treatment programs, if necessary. The SBA has established a size standard for this industry, which is \$15 million or less in annual receipts. The 2012 U.S. Economic Census indicates that 4,446 firms operated throughout the entire year. Of that number, 4,069 had annual receipts of less than \$10 million while 286 firms had annual receipts between \$10 million and \$24,999,999. Based on this

data, we conclude that a majority of firms in this industry are small.

57. *HMO Medical Centers.* This U.S. industry comprises establishments with physicians and other medical staff primarily engaged in providing a range of outpatient medical services to the health maintenance organization (HMO) subscribers with a focus generally on primary health care. These establishments are owned by the HMO. Included in this industry are HMO establishments that both provide health care services and underwrite health and medical insurance policies. The SBA has established a size standard for this industry, which is \$32.5 million or less in annual receipts. The 2012 U.S. Economic Census indicates that 14 firms in this industry operated throughout the entire year. Of that number, 5 firms had annual receipts of less than \$25 million, while 1 firm had annual receipts between \$25 million and \$99,999,999. Based on this data, we conclude that approximately one-third of the firms in this industry are small.

58. *Freestanding Ambulatory Surgical and Emergency Centers.* This U.S. industry comprises establishments with physicians and other medical staff primarily engaged in (1) providing surgical services (e.g., orthoscopic and cataract surgery) on an outpatient basis or (2) providing emergency care services (e.g., setting broken bones, treating lacerations, or tending to patients suffering injuries as a result of accidents, trauma, or medical conditions necessitating immediate medical care) on an outpatient basis. Outpatient surgical establishments have specialized facilities, such as operating and recovery rooms, and specialized equipment, such as anesthetic or X-ray equipment. The SBA has established a size standard for this industry, which is annual receipts of \$15 million or less. The 2012 U.S. Economic Census indicates that 3,595 firms in this industry operated throughout the entire year. Of that number, 3,222 firms had annual receipts of less than \$10 million, while 289 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that a majority of firms in this industry are small.

59. *All Other Outpatient Care Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing general or specialized outpatient care (except family planning centers, outpatient mental health and substance abuse centers, HMO medical centers, kidney dialysis centers, and freestanding ambulatory surgical and emergency centers). Centers or clinics of health



practitioners with different degrees from more than one industry practicing within the same establishment (*i.e.*, Doctor of Medicine and Doctor of Dental Medicine) are included in this industry. The SBA has established a size standard for this industry, which is annual receipts of \$20.5 million or less. The 2012 U.S. Economic Census indicates that 4,903 firms operated in this industry throughout the entire year. Of this number, 4,269 firms had annual receipts of less than \$10 million, while 389 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that a majority of firms in this industry are small.

60. *Blood and Organ Banks.* This U.S. industry comprises establishments primarily engaged in collecting, storing, and distributing blood and blood products and storing and distributing body organs. The SBA has established a size standard for this industry, which is annual receipts of \$32.5 million or less. The 2012 U.S. Economic Census indicates that 314 firms operated in this industry throughout the entire year. Of that number, 235 operated with annual receipts of less than \$25 million, while 41 firms had annual receipts between \$25 million and \$49,999,999. Based on this data, we conclude that approximately three-quarters of firms that operate in this industry are small.

61. *All Other Miscellaneous Ambulatory Health Care Services.* This U.S. industry comprises establishments primarily engaged in providing ambulatory health care services (except offices of physicians, dentists, and other health practitioners; outpatient care centers; medical and diagnostic laboratories; home health care providers; ambulances; and blood and organ banks). The SBA has established a size standard for this industry, which is annual receipts of \$15 million or less. The 2012 U.S. Economic Census indicates that 2,429 firms operated in this industry throughout the entire year. Of that number, 2,318 had annual receipts of less than \$10 million, while 56 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that a majority of the firms in this industry are small.

62. *Medical Laboratories.* This U.S. industry comprises establishments known as medical laboratories primarily engaged in providing analytic or diagnostic services, including body fluid analysis, generally to the medical profession or to the patient on referral from a health practitioner. The SBA has established a size standard for this industry, which is annual receipts of \$32.5 million or less. The 2012 U.S. Economic Census indicates that 2,599

firms operated in this industry throughout the entire year. Of this number, 2,465 had annual receipts of less than \$25 million, while 60 firms had annual receipts between \$25 million and \$49,999,999. Based on this data, we conclude that a majority of firms that operate in this industry are small.

63. *Diagnostic Imaging Centers.* This U.S. industry comprises establishments known as diagnostic imaging centers primarily engaged in producing images of the patient generally on referral from a health practitioner. The SBA has established size standard for this industry, which is annual receipts of \$15 million or less. The 2012 U.S. Economic Census indicates that 4,209 firms operated in this industry throughout the entire year. Of that number, 3,876 firms had annual receipts of less than \$10 million, while 228 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that a majority of firms that operate in this industry are small.

64. *Home Health Care Services.* This U.S. industry comprises establishments primarily engaged in providing skilled nursing services in the home, along with a range of the following: Personal care services; homemaker and companion services; physical therapy; medical social services; medications; medical equipment and supplies; counseling; 24-hour home care; occupation and vocational therapy; dietary and nutritional services; speech therapy; audiology; and high-tech care, such as intravenous therapy. The SBA has established a size standard for this industry, which is annual receipts of \$15 million or less. The 2012 U.S. Economic Census indicates that 17,770 firms operated in this industry throughout the entire year. Of that number, 16,822 had annual receipts of less than \$10 million, while 590 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that a majority of firms that operate in this industry are small.

65. *Ambulance Services.* This U.S. industry comprises establishments primarily engaged in providing transportation of patients by ground or air, along with medical care. These services are often provided during a medical emergency but are not restricted to emergencies. The vehicles are equipped with lifesaving equipment operated by medically trained personnel. The SBA has established a size standard for this industry, which is annual receipts of \$15 million or less. The 2012 U.S. Economic Census

indicates that 2,984 firms operated in this industry throughout the entire year. Of that number, 2,926 had annual receipts of less than \$15 million, while 133 firms had annual receipts between \$10 million and \$24,999,999. Based on this data, we conclude that a majority of firms in this industry are small.

66. *Kidney Dialysis Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing outpatient kidney or renal dialysis services. The SBA has established a size standard for this industry, which is annual receipts of \$38.5 million or less. The 2012 U.S. Economic Census indicates that 396 firms operated in this industry throughout the entire year. Of that number, 379 had annual receipts of less than \$25 million, while 7 firms had annual receipts between \$25 million and \$49,999,999. Based on this data, we conclude that a majority of firms in this industry are small.

67. *General Medical and Surgical Hospitals.* This U.S. industry comprises establishments known and licensed as general medical and surgical hospitals primarily engaged in providing diagnostic and medical treatment (both surgical and nonsurgical) to inpatients with any of a wide variety of medical conditions. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. These hospitals have an organized staff of physicians and other medical staff to provide patient care services. These establishments usually provide other services, such as outpatient services, anatomical pathology services, diagnostic X-ray services, clinical laboratory services, operating room services for a variety of procedures, and pharmacy services. The SBA has established a size standard for this industry, which is annual receipts of \$38.5 million or less. The 2012 U.S. Economic Census indicates that 2,800 firms operated in this industry throughout the entire year. Of that number, 877 had annual receipts of less than \$25 million, while 400 firms had annual receipts between \$25 million and \$49,999,999. Based on this data, we conclude that approximately one-quarter of firms in this industry are small.

68. *Psychiatric and Substance Abuse Hospitals.* This U.S. industry comprises establishments known and licensed as psychiatric and substance abuse hospitals primarily engaged in providing diagnostic, medical treatment, and monitoring services for inpatients who suffer from mental illness or substance abuse disorders. The



treatment often requires an extended stay in the hospital. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. They have an organized staff of physicians and other medical staff to provide patient care services. Psychiatric, psychological, and social work services are available at the facility. These hospitals usually provide other services, such as outpatient services, clinical laboratory services, diagnostic X-ray services, and electroencephalograph services. The SBA has established a size standard for this industry, which is annual receipts of \$38.5 million or less. The 2012 U.S. Economic Census indicates that 404 firms operated in this industry throughout the entire year. Of that number, 185 had annual receipts of less than \$25 million, while 107 firms had annual receipts between \$25 million and \$49,999,999. Based on this data, we conclude that more than one-half of the firms in this industry are small.

69. *Specialty (Except Psychiatric and Substance Abuse) Hospitals.* This U.S. industry consists of establishments known and licensed as specialty hospitals primarily engaged in providing diagnostic, and medical treatment to inpatients with a specific type of disease or medical condition (except psychiatric or substance abuse). Hospitals providing long-term care for the chronically ill and hospitals providing rehabilitation, restorative, and adjustable services to physically challenged or disabled people are included in this industry. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. They have an organized staff of physicians and other medical staff to provide patient care services. These hospitals may provide other services, such as outpatient services, diagnostic X-ray services, clinical laboratory services, operating room services, physical therapy services, educational and vocational services, and psychological and social work services. The SBA has established a size standard for this industry, which is annual receipts of \$38.5 million or less. The 2012 U.S. Economic Census indicates that 346 firms operated in this industry throughout the entire year. Of that number, 146 firms had annual receipts of less than \$25 million, while 79 firms had annual receipts between \$25 million and \$49,999,999. Based on this data, we conclude that more than one-half of the firms in this industry are small.

70. *Emergency and Other Relief Services.* This industry comprises establishments primarily engaged in providing food, shelter, clothing, medical relief, resettlement, and counseling to victims of domestic or international disasters or conflicts (e.g., wars). The SBA has established a size standard for this industry which is annual receipts of \$32.5 million or less. The 2012 U.S. Economic Census indicates that 541 firms operated in this industry throughout the entire year. Of that number, 509 had annual receipts of less than \$25 million, while 7 firms had annual receipts between \$25 million and \$49,999,999. Based on this data, we conclude that a majority of firms in this industry are small.

### 3. Providers of Telecommunications and Other Services

#### a. Telecommunications Service Providers

71. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers and under the SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicates that 3,117 firms operated during that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus using the SBA's size standard the majority of Incumbent LECs can be considered small entities.

72. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest NAICS Code category is Wired Telecommunications Carriers and the applicable size standard under SBA rules consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary

telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers that may be affected are small entities.

73. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is Wired Telecommunications Carriers and under the size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most competitive access providers are small businesses that may be affected by our actions. According to Commission data the 2010 *Trends in Telephone Report*, 1,442 CAPs and competitive local exchange carriers (competitive LECs) reported that they were engaged in the provision of competitive local exchange services. Of these 1,442 CAPs and competitive LECs, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive exchange services are small businesses.

74. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate category for Operator Service Providers is the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by the rules proposed.

75. *Local Resellers.* The SBA has not developed a small business size standard specifically for Local Resellers.

The SBA category of Telecommunications Resellers is the closest NAICS code category for local resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees. 2012 Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the rules adopted.

76. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 2012 Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small

entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

77. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as "establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry." The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

78. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

79. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

80. *Common Carrier Paging.* As noted, since 2007 the Census Bureau has placed paging providers within the broad economic census category of Wireless Telecommunications Carriers (except Satellite).

81. In addition, in the *Paging Second Report and Order*, the Commission adopted a size standard for "small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. The SBA has approved this definition. An initial auction of Metropolitan Economic Area ("MEA") licenses was conducted in the year 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. A subsequent auction of MEA and Economic Area ("EA") licenses was held in the year 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs, was held in 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses.

82. Currently, there are approximately 74,000 Common Carrier Paging licenses. According to the most recent Trends in Telephone Service, 291 carriers reported that they were engaged in the provision of "paging and messaging" services. Of these, an estimated 289 have 1,500 or fewer employees and two have more than 1,500 employees. We estimate that the majority of common carrier paging

providers would qualify as small entities under the SBA definition.

83. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) and the appropriate size standard for this category under the SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees and 12 firms had 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that a majority of these entities can be considered small. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, more than half of these entities can be considered small.

84. *Satellite Telecommunications.* This category comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of \$32.5 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than \$25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

85. *All Other Telecommunications.* The “All Other Telecommunications” category is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite

systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million and 42 firms had gross annual receipts of \$25 million to \$49,999,999. Thus, the Commission estimates that a majority of “All Other Telecommunications” firms potentially affected by our action can be considered small.

#### b. Internet Service Providers

86. *Internet Service Providers (Broadband).* Broadband internet service providers include wired (e.g., cable, DSL) and VoIP service providers using their own operated wired telecommunications infrastructure fall in the category of Wired Telecommunication Carriers. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, under this size standard the majority of firms in this industry can be considered small.

87. *Internet Service Providers (Non-Broadband).* Internet access service providers such as Dial-up internet service providers, VoIP service providers using client-supplied telecommunications connections and internet service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) fall in the category of All Other Telecommunications. The SBA has developed a small business size standard for All Other Telecommunications which consists of all such firms with gross annual receipts of \$32.5 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms

that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million. Consequently, under this size standard a majority of firms in this industry can be considered small.

#### c. Vendors and Equipment Manufacturers

88. *Vendors of Infrastructure Development or “Network Buildout.”* The Commission has not developed a small business size standard specifically directed toward manufacturers of network facilities. There are two applicable SBA categories in which manufacturers of network facilities could fall and each have different size standards under the SBA rules. The SBA categories are “Radio and Television Broadcasting and Wireless Communications Equipment” with a size standard of 1,250 employees or less and “Other Communications Equipment Manufacturing” with a size standard of 750 employees or less.” U.S. Census Bureau data for 2012 show that for Radio and Television Broadcasting and Wireless Communications Equipment firms 841 establishments operated for the entire year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. For Other Communications Equipment Manufacturing, U.S. Census Bureau data for 2012 show that 383 establishments operated for the year. Of that number 379 firms operated with fewer than 500 employees and 4 had 500 to 999 employees. Based on this data, we conclude that the majority of Vendors of Infrastructure Development or “Network Buildout” are small.

89. *Telephone Apparatus Manufacturing.* This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways.” The SBA size standard for Telephone Apparatus Manufacturing is all such firms having 1,250 or fewer employees. According to U.S. Census Bureau data for 2012, there were a total of 266 establishments in this category that operated for the entire year. Of this

total, 262 had employment of under 1,000, and an additional 4 had employment of 1,000 to 2,499. Thus, under this size standard, the majority of firms can be considered small.

90. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 show that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, we conclude that a majority of manufacturers in this industry are small.

91. *Other Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment). Examples of such manufacturing include fire detection and alarm systems manufacturing, Intercom systems and equipment manufacturing, and signals (e.g., highway, pedestrian, railway, traffic) manufacturing. The SBA has established a size for this industry as all such firms having 750 or fewer employees. U.S. Census Bureau data for 2012 show that 383 establishments operated in that year. Of that number 379 operated with fewer than 500 employees and 4 had 500 to 999 employees. Based on this data, we conclude that the majority of Other Communications Equipment Manufacturers are small.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

92. The NPRM proposes a rule that no universal service support may be used to purchase or obtain any equipment or services produced or provided by any company posing a national security threat to the integrity of

communications networks or the communications supply chain. We seek comment on this proposal, and its likely costs and benefits, as well as on alternative approaches and any other steps we should consider taking. The NPRM also seeks comment on how broadly this proposed rule should apply, and how it should be implemented. We seek comment on how to enforce the proposed rule, including who should be held liable for the recovery of disbursed funds, and whether and how applicants for USF support may seek a waiver to purchase or continue to use equipment or services provided by a covered entity. Lastly, we seek comment on whether Sections 201(b) and 254 provide legal authority for the proposed rule.

#### *E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

93. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

94. In this NPRM, we propose to adopt a rule that no universal service support may be used to purchase or obtain any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain.

95. The NPRM specifically seeks comment on the impact of such a rule on small entities, particularly small and rural carriers. The NPRM also seeks comment on whether there are any compliance issues we should consider, particularly for smaller USF recipients. The NPRM seeks comment on whether, as a practical matter, USF recipients will be able to purchase equipment and services from non-covered companies that can interoperate with any existing, installed equipment from covered companies.

96. As the Spectrum Act and its implementing regulations included similar provisions, the NPRM seeks comment on how small businesses

complied with those regulations in the context of spectrum auctions administered by the Commission.

97. The NPRM asks whether there are modifications to our proposed rules that would achieve similar national security objectives, while reducing burdens on small entities. For example, the NPRM asks whether there should be a later effective date for the rule as applied to smaller recipients of USF support. We seek comment on any potential modifications and alternatives that would ease the burden of our proposed rules on small entities.

98. We expect to take into account the economic impact on small entities, as identified in comments filed in response to the NPRM and this IRFA, in reaching our final conclusions and promulgating rules in this proceeding.

#### *F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

99. None.

### **V. Procedural Matters**

100. *Ex Parte Rules.*—This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex*

*parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

101. *Initial Regulatory Flexibility Analysis.*—Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and actions considered in this NPRM. The text of the IRFA is set forth above. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

102. *Paperwork Reduction Act.*—This document contains proposed new information collection requirements. The Commission, as part of its

continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

## VI. Ordering Clauses

104. Accordingly, *it is ordered* that, pursuant to the authority contained in Sections 1–4, 201(b), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–54, 201(b), and 254, this Notice of Proposed Rulemaking is *adopted*.

105. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

## List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

## Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 as follows:

## 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. Add § 54.9 to read as follows:

### § 54.9 Prohibition on use of funds.

No universal service support may be used to purchase or obtain any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain.

[FR Doc. 2018–09090 Filed 5–1–18; 8:45 am]

**BILLING CODE 6712–01–P**

# Notices

Federal Register

Vol. 83, No. 85

Wednesday, May 2, 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

### National Institute of Food and Agriculture

[Docket No. NIFA-2018-002]

#### Notice of Intent To Revise a Currently Approved Information Collection

**AGENCY:** National Institute of Food and Agriculture, USDA.

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, this notice announces the National Institute of Food and Agriculture's (NIFA's) intention to request approval for an extension of the currently approved information collection for the NIFA proposal review process.

**DATES:** Written comments on this notice must be received by July 2, 2018 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Written comments concerning this notice and requests for copies of the information collection may be submitted by any of the following methods: Email: [rmartin.usda.gov](mailto:rmartin.usda.gov); Fax: 202-720-0857; Mail: Office of Information Technology (OIT), NIFA, USDA, STOP 2216, 1400 Independence Avenue SW, Washington, DC 20250-2216.

**FOR FURTHER INFORMATION CONTACT:** Robert Martin, eGovernment Program Leader; Email: [rmartin@nifa.usda.gov](mailto:rmartin@nifa.usda.gov).

#### SUPPLEMENTARY INFORMATION:

*Title of Collection:* NIFA Proposal Review Process.

*OMB Control Number:* 0524-0041.

*Expiration Date of Current Approval:* November 30, 2018.

*Type of Request:* Revision of a currently approved information collection for three years.

**Abstract:** The National Institute of Food and Agriculture (NIFA) is responsible for performing a review of proposals submitted to NIFA competitive award programs in accordance with section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998, 7 U.S.C. 7613(a). Reviews are undertaken to ensure that projects supported by NIFA are of high quality, and are consistent with the goals and requirements of the funding program. Proposals submitted to NIFA undergo a programmatic evaluation to determine worthiness of Federal support. The evaluations consist of a peer panel review and may also entail an assessment by Federal employees and electronically submitted (ad-hoc) reviews in the Peer Review System.

**Need and Use of the Information:** As part of our panel process NIFA is required to "maintain a balanced composition of reviewers with regard to minority and female representation and an equitable age distribution", 7 CFR 3430.33. In addition, the information collected from the form is necessary to show compliance with nondiscrimination laws such as 7 CFR 15. Currently, we do not have a vehicle to collect this information for panelists, as the approved Research & Related Personal Data form, OMB number 4040-0001, is specific to applicants. Thus, we are seeking a revision of the currently approved Research & Related Personal Data form, OMB Number 4040-0001, tailoring it for panelists.

Once collected, the information would be stored in a secure data base and referenced when recruiting panelists to ensure panels meet diversity requirements as stated in 7 CFR 3430.33. The information would also be aggregated for use in an annual report on the demographics of NIFA's applicants and panelists to ensure compliance and referenced as needed in cases of a discrimination complaint. The data would remain strictly confidential and would only be available to NIFA staff.

**Estimate of Burden:** NIFA estimates that between one minute to ten minutes may be required to fill out the form. It is estimated that approximately five minutes are required to fill out the form on average. NIFA estimates it has 2,000 panelists each year. The total annual burden on panelists is 167 hours.

**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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Done at Washington, DC, this 25th day of April, 2018.

**Sonny Ramaswamy,**

*Director, National Institute of Food and Agriculture.*

[FR Doc. 2018-09296 Filed 5-1-18; 8:45 am]

**BILLING CODE 3410-22-P**

## DEPARTMENT OF COMMERCE

### Bureau of the Census

#### National Advisory Committee

**AGENCY:** Bureau of the Census, Department of Commerce.

**ACTION:** Notice of Advisory Committee charter renewal.

**SUMMARY:** The Bureau of the Census (U.S. Census Bureau) hereby gives notice that the Secretary of the U.S. Department of Commerce has determined that the charter renewal of the National Advisory Committee on Racial, Ethnic, and Other Populations (NAC) is necessary and in the public interest. The renewed charter can be found on the Census Advisory Committee website at the following URL link: <https://www2.census.gov/cac/nac/nac-charter.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Tara Dunlop Jackson, Chief, Advisory Committee Branch, U.S. Census Bureau, 4600 Silver Hill Road, Room 8H177, Washington, DC 20233, 301-763-5222, [tara.dunlop.jackson@census.gov](mailto:tara.dunlop.jackson@census.gov).

**SUPPLEMENTARY INFORMATION:** The NAC advises the Census Bureau's Director on the full range of Census Bureau programs and activities. The NAC provides expertise from the following disciplines: Economic, housing, demographic, socioeconomic, linguistic, technological, methodological, geographic, and behavioral and operational variables affecting the cost, accuracy, and implementation of Census Bureau programs and surveys, including the decennial census.

The NAC will function solely as an advisory body and in compliance with provisions of the Federal Advisory Committee Act. Pursuant to subsection 9(c) of the Federal Advisory Committee Act, 5 U.S.C., App., as amended, copies of this charter were furnished to the Library of Congress and to the following committees of Congress:

- Senate Committee on Appropriations;
- Senate Committee on Commerce, Science and Transportation;
- Senate Committee on Finance;
- Senate Committee on Homeland Security and Governmental Affairs;
- House Committee on Appropriations; and,
- House Committee on Oversight and Government Reform.

Dated: April 26, 2018.

**Ron S. Jarmin,**

*Associate Director for Economic Programs, Performing the Non-Exclusive Functions and Duties of the Director, Bureau of the Census.*

[FR Doc. 2018-09281 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

*Agency:* U.S. Census Bureau.

*Title:* Quarterly Survey of Plant Capacity Utilization.

*OMB Control Number:* 0607-0175.

*Form Number(s):* MQ-C2.

*Type of Request:* Extension of a currently approved collection.

*Number of Respondents:* 7,500.

*Average Hours Per Response:* 2 hours and 5 minutes.

*Burden Hours:* 62,500.

*Needs and Uses:* The U.S. Census Bureau, on behalf of the Federal Reserve Board (FRB) and the Defense Logistics Agency (DLA), within the Department of Defense (DOD), requests an extension of

approval for the Quarterly Survey of Plant Capacity Utilization (QPC). The survey provides information on use of industrial capacity in manufacturing and publishing plants as defined by the North American Industry Classification System (NAICS). The survey is the only governmental source of capacity utilization rates at industry levels. Changes in capacity utilization are considered important indicators of investment demand and inflationary pressure. For these reasons, the estimates of capacity utilization are closely monitored by government policy makers and private sector decision makers.

The survey collects the value of quarterly production, the value of production that could be achieved if operating under "full production" capability, and the value of production that could be achieved if operating under "emergency production" capability. The ratio of the actual to the full is the basis of the estimates for full capacity utilization rates and similarly, the actual to the emergency for the emergency capacity utilization rates. The survey also collects information by shift, on work patterns at the actual production level.

The FRB is the primary user of the current QPC data and expressed the need for these quarterly data. FRB publishes measures of industrial production (IP), capacity, and capacity utilization in its G.17 statistical release, which has been designated by the federal government as a Principal Federal Economic Indicator. Utilization rates from the QPC survey are a principle source for the measures of capacity and capacity utilization. The indexes of IP are either estimated from physical product data or estimated from monthly data on inputs to the production process, specifically production worker hours and an indicator of capital input. For many years, data on electric power use was used as the indicator of industry capital input. The deregulation of electricity markets led to the deterioration in the coverage and quality of the electricity data. As a result, in November 2005, the FRB discontinued its use of the industrial electric power data in the current estimates of IP. In order to maintain the quality of the IP index, the collection of these quarterly data, including the utilization rate data and the workweek of capital, is critical to the indicators of capital input use and industry output.

The FRB uses these data in several ways. First, the QPC data are the primary source of information for the capacity indexes and utilization rates

published by the FRB. Second, the QPC utilization rate data are used as indicators of output for some industries in the estimation of monthly IP. Third, the QPC utilization rate data and the workweek data are used to improve the projections of labor productivity that are used to align IP with comprehensive benchmark information from the Economic Census covering the Manufacturing sector and the Annual Survey of Manufactures. Finally, utilization rate data will assist in the assessment of recent changes in IP, as most of the high-frequency movement in utilization rates reflect production changes rather than capacity changes.

The DLA uses the data to assess industrial base readiness and ramp-up time to meet demand for goods under selected national emergency scenarios.

In addition to the FRB and DLA uses, these data are published on the Census Bureau's website, <https://www.census.gov/programs-surveys/qpc.html>.

*Affected Public:* Business or other for-profit.

*Frequency:* Quarterly.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13, United States Code, Section 8(b) (Census authority); 50 U.S.C., Section 98, *et seq.* (FRB authority); and 12 U.S.C., Section 244 (DOD authority).

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to (202)395-5806.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer.*

[FR Doc. 2018-09275 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Bureau of the Census

#### Census Scientific Advisory Committee Charter Renewal

**AGENCY:** Bureau of the Census, Department of Commerce.

**ACTION:** Notice of Advisory Committee charter renewal.

**SUMMARY:** The Bureau of the Census (U.S. Census Bureau) hereby gives notice that the Secretary of the U.S. Department of Commerce has



determined that the charter renewal of the Census Scientific Advisory Committee (CSAC) is necessary and in the public interest. The renewed charter can be found on the Census Advisory Committee website at the following URL link: <https://www2.census.gov/cac/sac/sac-charter.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Tara Dunlop Jackson, Chief, Advisory Committee Branch, U.S. Census Bureau, 4600 Silver Hill Road, Room 8H177, Washington, DC 20233, 301-763-5222, [tara.dunlop.jackson@census.gov](mailto:tara.dunlop.jackson@census.gov).

**SUPPLEMENTARY INFORMATION:** The CSAC advises the Census Bureau's Director on the full range of Census Bureau programs and activities. The CSAC provides scientific and technical expertise from the following disciplines: Demography, economics, geography, psychology, statistics, survey methodology, social and behavioral sciences, information technology and computing, marketing, and other fields of expertise, as appropriate, to address Census Bureau program needs and objectives.

The CSAC will function solely as an advisory body and in compliance with provisions of the Federal Advisory Committee Act. Pursuant to subsection 9(c) of the Federal Advisory Committee Act, 5 U.S.C., App., as amended, copies of this charter were furnished to the Library of Congress and to the following committees of Congress:

- Senate Committee on Appropriations;
- Senate Committee on Commerce, Science and Transportation;
- Senate Committee on Finance;
- Senate Committee on Homeland Security and Governmental Affairs;
- House Committee on Appropriations; and,
- House Committee on Oversight and Government Reform.

Dated: April 26, 2018.

**Ron S. Jarmin,**

*Associate Director for Economic Programs, Performing the Non-Exclusive Functions and Duties of the Director, Bureau of the Census.*

[FR Doc. 2018-09282 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**Agency:** Minority Business Development Agency.

**Title:** National Minority Business Awards Program.

**OMB Control Number:** 0640-0025.

**Form Number:** None.

**Type of Request:** Regular Submission.

**Number of Respondents:** 100.

**Average Hours per Response:** 2 hours.

**Burden Hours:** The estimate is an annual average of 200 hours.

**Needs and Uses:** The collection of information is necessary MBDA is soliciting public comments to permit the agency to receive nominations from the public for the following awards to minority businesses: Minority Construction Firm of the Year, Minority Export Firm of the Year, Minority Manufacturing Firm of the Year, Minority Health Products and Services Firm of the Year, Minority Innovative Technology Firm of the Year, Minority Marketing and Communications Firm of the Year, Minority Professional Services Firm of the Year, Minority Veteran-Owned Firm of the Year, Minority "Under 30" Firm of the Year and MBDA Minority Business Enterprise of the Year award. In addition, MBDA may recognize trailblazers and champions through the Access to Capital Award, Advocate of the Year Award, Distinguished Supplier Diversity Award, Ronald H. Brown Leadership Award, and Abe Venable Legacy Award for Lifetime Achievement.

MBDA must collect two kinds of information to make award nominations: (a) Information identifying the nominee and nominator; and (b) information explaining why the nominee should be given the award. The information will be used to determine those applicants that best meet the preannounced selection criteria. Participation in the MED Week

Awards program is voluntary and the awards are strictly honorary.

**Affected Public:** Individuals, businesses and other for-profit organizations, not-for-profit organizations, and federal, state, local, or tribal governments.

**Frequency:** Annually.

**Respondent's Obligation:** Voluntary.

**This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov).** Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to (202)395-5806.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer.*

[FR Doc. 2018-09274 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-21-P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

#### Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, U.S. Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

**SUMMARY:** The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

**SUPPLEMENTARY INFORMATION:**

#### LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE [04/04/2018 through 04/15/2018]

Firm name	Firm address	Date accepted for investigation	Product(s)
Horizontal Machining and Manufacturing, Inc.	640 Arizona Avenue NW, Huron, SD 57350.	4/4/2018	The firm manufactures large-scale weldments, including mountings for industrial machinery.



LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY—Continued  
FOR TRADE ADJUSTMENT ASSISTANCE  
[04/04/2018 through 04/15/2018]

Firm name	Firm address	Date accepted for investigation	Product(s)
Ballco Manufacturing Company, Inc.	2375 East Liberty Street, Aurora, IL 60502.	4/13/2018	The firm manufactures precision metal parts for valves, including balls, bodies, stems, and pipes.
Tepuy Apparel Designs, Inc ....	502 West Forsyth Street, Americus, GA 31709.	4/13/2018	The firm manufactures women's apparel, including sportswear, active wear, leggings, capris, sport bras and tank tops.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Irette Patterson,**  
*Program Analyst.*

[FR Doc. 2018-09081 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-WH-P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[S-45-2018]

#### Approval of Subzone Status; International Converter, Inc.; Caldwell, Ohio

On March 7, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Columbus Regional Airport Authority, grantee of FTZ 138, requesting subzone status subject to the existing activation limit of FTZ 138, on behalf of International Converter, Inc., in Caldwell, Ohio.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 10839, March 13, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ

Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 138H was approved on April 26, 2018, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 138's 2,000-acre activation limit.

Dated: April 26, 2018.

**Andrew McGilvray,**  
*Executive Secretary.*

[FR Doc. 2018-09284 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-001]

#### Potassium Permanganate From People's Republic of China: Rescission of 2017 Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on potassium permanganate from the People's Republic of China (China) for the period of review (POR) January 1, 2017, through December 31, 2017.

**DATES:** Applicable May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Trenton Duncan or Annathea Cook, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3539 or (202) 482-0250, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 2, 2018, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on potassium permanganate from China

for the period January 1, 2017, through December 31, 2017.<sup>1</sup> On January 26, 2018, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Carus Corporation (the petitioner), requested a review of the AD order with respect to the following two companies: (1) Chongqing Changyuan Group Limited; and (2) Pacific Accelerator Ltd.<sup>2</sup> On March 16, 2018, in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of the AD order on potassium permanganate from China with respect to these companies.<sup>3</sup> On March 28, 2018, the petitioner timely withdrew its request for an administrative review of both companies, Chongqing Changyuan Group Limited and Pacific Accelerator Ltd, named in the petitioner's Review Request.<sup>4</sup> No other party requested a review.

#### Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication date of the notice of initiation of the requested review. The petitioner withdrew its request for review within the 90-day deadline. Because Commerce received no other requests for review of the above-referenced companies, and no other requests were made for a review

<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 98 (January 2, 2018).

<sup>2</sup> See the petitioner's request for administrative review, "Potassium Permanganate from the People's Republic of China: Request for Antidumping Duty Administrative Review," dated January 26, 2018 (Review Request).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 11685 (March 16, 2018).

<sup>4</sup> See the petitioner's withdrawal of administrative review request, "Potassium Permanganate from the People's Republic of China: Withdrawal of Request for Antidumping Duty Administrative Review," dated March 28, 2018.

of the AD order on potassium permanganate from China with respect to other companies, we are rescinding the administrative review covering the period January 1, 2017, through December 31, 2018, in full, in accordance with 19 CFR 351.213(d)(1).

#### Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of potassium permanganate from China during the POR at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

#### Notification to Importers

This notice serves as the only reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: April 26, 2018.

**James Maeder,**

*Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2018-09308 Filed 5-1-18; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

**SUMMARY:** The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with March anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

**DATES:** Applicable May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:**

Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482-4735.

**SUPPLEMENTARY INFORMATION:**

#### Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with March anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

#### Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at <http://access.trade.gov> in accordance with 19 CFR 351.303.<sup>1</sup> Such

submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

#### Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce has found that determinations concerning whether particular companies should be "collapsed" (e.g., treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (e.g., investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a

<sup>1</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

#### **Revised Respondent Selection—Multilayered Wood Flooring From the People's Republic of China**

The respondent selection procedures outlined in the February 23, 2018 notice initiating the sixth administrative review of the antidumping duty order on multilayered wood flooring (MLWF) from the People's Republic of China (China) covering the period 12/01/2016–11/30/2017,<sup>2</sup> are revised as follows. With respect to the sixth administrative review of MLWF from China, the February 23, 2018 notice indicated that, in the event Commerce limits the number of respondents for individual examination, Commerce intended to select respondents based on CBP data for U.S. imports of MLWF from China during the period of review. Subsequently, Commerce placed the CBP data on the record of the sixth administrative review of MLWF from China, and solicited and received comments. However, as noted below, the China-wide entity, which is under review,<sup>3</sup> was inadvertently excluded from the February 23, 2018 notice. Therefore, upon further consideration, to ensure parties are not disadvantaged by this inadvertent omission at this stage of the review, and in the event Commerce limits the number of respondents for individual examination, Commerce finds it appropriate to select respondents based on volume data contained in responses to quantity and value questionnaires. Further, Commerce intends to limit the number of Q&V questionnaires issued in the review based on the CBP data for U.S. imports already on the record. Parties

will be given an additional period of time to comment on the CBP data used by Commerce to limit the number of Q&V questionnaires issued. Commerce invites comments regarding the CBP data and our intended respondent selection procedures within five days of the publication of this notice in the **Federal Register**. Commerce intends to issue the Q&V questionnaire to the top ten companies listed in the CBP data by volume, and additionally intends to issue a Q&V questionnaire to the China-wide entity, care of the Embassy of China in the United States. Parties subject to the review to which Commerce does not issue a Q&V questionnaire may file a response to the Q&V questionnaire if they desire to be included in the pool of companies from which Commerce will select mandatory respondents. The Q&V questionnaire will also be available on Commerce's website at <http://trade.gov/enforcement/news.asp> on the date of publication of this notice in the **Federal Register**. All responses to the Q&V questionnaire must be submitted by the applicable deadline noted therein.

#### **Deadline for Withdrawal of Request for Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when Commerce will exercise its discretion to extend this 90-day deadline, interested parties are advised that Commerce does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

#### **Separate Rates**

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the "Instructions for Filing the Certification" in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding<sup>4</sup> should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to

<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 8058 (February 23, 2018).

<sup>3</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

<sup>4</sup> Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (e.g., an ongoing administrative review, new shipper review, etc.) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

their official company name,<sup>5</sup> should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on Commerce's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to

Commerce no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no

longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

#### Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than March 31, 2019.

	Period to be Reviewed
<b>Antidumping Duty Proceedings</b>	
Brazil: Certain Uncoated Paper, A-351-842 ..... Suzano Papel e Celulose S.A.	3/1/17-2/28/18
India: Certain New Pneumatic Off-the-Road Tires, A-533-869 ..... ATC Tires Private Limited	2/2/17-2/28/18
Indonesia: Certain Uncoated Paper, A-560-828 ..... PT Anugerah Kertas Utama (AKU), PT Riau Andalan Kertas (RAK) and APRIL Fine Paper Macao Offshore Limited (AFPM), (collectively, APRIL)	3/1/17-2/28/18
Portugal: Certain Uncoated Paper, A-471-807 ..... The Navigator Company, S.A.	3/1/17-2/28/18
Spain: Stainless Steel Bar, A-469-805 ..... Sidenor Aceros Especiales S.L.	3/1/17-2/28/18
Thailand: Circular Welded Carbon Steel Pipes and Tubes, A-549-502 ..... Apex International Logistics Aquatec Maxcon Asia Asian Unity Part Co., Ltd. CSE Technologies Co., Ltd. Expeditors Ltd. K Line Logistics Pacific Pipe Public Company Limited (also known as Pacific Pipe Company) Pacific Pipe and Pump Panalpina World Transport Ltd. Polypipe Engineering Co., Ltd. Saha Thai Steel Pipe (Public) Company, Ltd. Siam Fittings Co., Ltd. Siam Steel Pipe Co., Ltd. Thai Malleable Iron and Steel Thai Oil Group Thai Premium Pipe Co., Ltd. Vatana Phaisal Engineering Company	3/1/17-2/28/18
The People's Republic of China: Glycine, A-570-836 ..... Avid Organics Pvt. Ltd. Baoding Mantong Fine Chemistry Co., Ltd. Kumar Industries Rudraa International Salvi Chemical Industries	3/1/17-2/28/18
The People's Republic of China: Multilayered Wood Flooring, A-570-970 ..... The China-Wide Entity <sup>6</sup>	12/1/16-11/30/17
<b>Countervailing Duty Proceedings</b>	
India: Certain New Pneumatic Off-the-Road Tires, C-533-870 ..... ATC Tires Private Limited Balkrishna Industries Limited	6/20/16-12/31/17
Indonesia: Certain Uncoated Paper, C-560-829 ..... PT Anugerah Kertas Utama (AKU), PT Riau Andalan Kertas (RAK) and APRIL Fine Paper Macao Offshore Limited (AFPM), (collectively, APRIL)	1/1/17-12/31/17
Turkey: Circular Welded Carbon Steel Pipes and Tubes, C-489-502 ..... Borusan Mannesmann Boru Sanayi ve Ticaret A.S. Borusan Birlesik Boru Fabrikalair San ve Tic. Borusan Istikbal Ticaret T.A.S. Borusan Gemlik Boru Tesisleri A.S. Borusan Ihacat Ithalat ve Dagitim A.S.	1/1/17-12/31/17

<sup>5</sup> Only changes to the official company name, rather than trade names, need to be addressed via

a Separate Rate Application. Information regarding

new trade names may be submitted via a Separate Rate Certification.

	Period to be Reviewed
Borusan Ithicat ve Dagitim A.S. Tubeco Pipe and Steel Corporation, Borusan Holding Borusan Holding Borusan Mannesmann Yatirim Holding Cagil Makina Sanayi ve Ticaret A.S. Cayirova Boru Sanayi ve Ticaret A.S. Cimtast Boru Imalatları ve Ticaret Sirketi Eksen Makina Erbosan Erciyas Boru Sanayi ve Ticaret A.S. Guner Eksport Guven Steel Pipe (also known as Guven Celik Born San. Ve Tic. Ltd.) MTS Lojistik ve Tasimacilik Hizmetleri TIC A.S. Istanbul Net Boru Sanayi ve Dis Ticaret Koll. Sti. Toscelik Metal Ticaret A.S. Toscelik Profil ve Sac Endustrisi A.S. Toscelik Metal Ticaret A.S. Tosityali Dis Ticaret A.S. Umran Celik Born Sanayii A.S., also known as Umran Steel Pipe Inc. Yucel Boru ve Profil Endustrisi A.S. Yucelboru Ihracat Ithalat ve Pazarlama A.S.	
<b>Suspension Agreements</b>	
Mexico: Fresh Tomatoes, A-201-820 .....	3/1/17-2/28/18

### Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

### Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures “gap” period, of the order, if such a gap period is applicable to the POR.

### Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under

administrative protective orders in accordance with the procedures outlined in Commerce’s regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (e.g., the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

### Factual Information Requirements

Commerce’s regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted.

Please review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.<sup>7</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>8</sup> Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

### Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. See 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an

<sup>7</sup> See section 782(b) of the Act.

<sup>8</sup> See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also the frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>6</sup> Commerce inadvertently omitted the China-Wide Entity from the Initiation Notice which published on February 23, 2018 (83 FR 8058).

extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: April 26, 2018.

**James Maeder,**

*Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2018-09311 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-017]

#### Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Amended Final Results of Countervailing Duty Administrative Review; 2014–2015

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

**SUMMARY:** The Department of Commerce (Commerce) is amending the final results of the countervailing duty administrative review of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (China) to correct ministerial errors. The period of review (POR) is December 1, 2014, through December 31, 2015.

**DATES:** Applicable May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-4261.

#### Background

In accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(b)(5), on March 16, 2018, Commerce published its final results of the countervailing duty administrative review of passenger tires from China.<sup>1</sup> On March 15, 2018, Shandong Shuangwang Rubber Co., Ltd. (Shandong Shuangwang) submitted a request to correct a clerical error in the *Final Results*.<sup>2</sup> On March 28, 2018, GITI Tire Global Trading Pte. Ltd./GITI Tire (USA) Ltd./GITI Radial Tire (Anhui) Company Ltd. (GITI Anhui Radial)/GITI Tire (Fujian) Company Ltd (GITI Fujian)/GITI Tire (Hualin) Company Ltd. (GITI Hualin) (collectively, GITI) timely alleged that Commerce made four ministerial errors in the *Final Results*.<sup>3</sup>

<sup>1</sup> See *Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2014–2015*, 83 FR 11694 (March 16, 2018) (*Final Results*).

<sup>2</sup> See Shandong Shuangwang's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Request to Correct Clerical Error in Final Results of Countervailing Duty Administrative Review," dated March 15, 2018 (Shandong Shuangwang Ministerial Comments).

<sup>3</sup> See GITI's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Ministerial Error Comments—Giti Tire Global

No other parties submitted ministerial error allegations or comments on Shandong Shuangwang's or GITI's allegations.

#### Scope of the Order

The products covered by the order are certain passenger vehicle and light truck tires from China. A full description of the scope of the order is contained in the Ministerial Errors Memorandum.<sup>4</sup>

#### Ministerial Errors

Section 751(h) of the Act and 19 CFR 351.224(f) define a "ministerial error" as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial. As discussed in Commerce's Ministerial Error Memorandum, Commerce finds that the error alleged by Shandong Shuangwang and certain errors alleged by GITI constitute ministerial errors within the meaning of 19 CFR 351.224(f).<sup>5</sup>

With regard to Shandong Shuangwang, in the *Final Results*, the company's name, as listed in Appendix II, the list of Non-Selected Companies Under Review, contained a misspelling of "Shandong" as "Shangong." The correct full name of the company without the misspelling is "Shandong Shuangwang Rubber Co., Ltd." This notice serves to correct the incorrect exporter company name listed as a non-selected company in the *Final Results*.

With regard to GITI, we made ministerial errors with regard to calculating the sales denominator for GITI Tire (China) Investment Co., Ltd., calculating government grants, and applying the Adverse Facts Available Rate to the Export Buyer's Credits program.<sup>6</sup>

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* to correct the ministerial errors. Specifically, we are amending the net subsidy rates for GITI, Cooper (Kunshan) Tire Co., Ltd. (Cooper), Zhongce Rubber Group Company Limited, and for the non-

Trading Pte. Ltd." dated March 28, 2018 (GITI Ministerial Comments).

<sup>4</sup> See Memorandum "Administrative Review of the Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Decision Memorandum for Amended Final Results," dated concurrently and hereby adopted by this notice (Decision Memorandum) for a full description of the scope of the order.

<sup>5</sup> See Decision Memorandum.

<sup>6</sup> *Id.* for a full discussion of these alleged errors.

selected companies.<sup>7</sup> The revised net subsidies rates are provided below.

#### Amended Final Results

As result of correcting the ministerial errors, we determine that that the

countervailable subsidy rates for the producers/exporters under review to be as follows:

Company	Subsidy rate (percent <i>ad valorem</i> )
GITI Tire Global Trading Pte. Ltd./GITI Tire (USA) Ltd./GITI Radial Tire (Anhui) Company Ltd. (GITI Anhui Radial)/ GITI Tire (Fujian) Company Ltd (GITI Fujian)/GITI Tire (Hualin) Company Ltd. (GITI Hualin) (collectively, GITI) .....	15.75
Cooper (Kunshan) Tire Co., Ltd. (Cooper) .....	15.10
Zhongce Rubber Group Company Limited .....	114.48
Non-Selected Companies Under Review .....	15.53

#### Assessment Rates

Commerce intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these amended final results of review, to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption, on or after December 1, 2014, through December 31, 2015, at the *ad valorem* rates listed above.

Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for the companies listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after March 16, 2018, the date of publication of the *Final Results*. For all non-reviewed firms, we will instruct CBP to collect cash deposits at the most-recent company specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

#### Disclosure

We intend to disclose the calculations performed for these amended final results to interested parties within five business days of the date of the publication of this notice in accordance with 19 CFR 351.224(b).

We are issuing and publishing these results in accordance with sections 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: April 25, 2018.

**Christian Marsh,**

*Deputy Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2018-09285 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-570-981, A-552-814]

#### Utility Scale Wind Towers From the People's Republic of China and the Socialist Republic of Vietnam: Final Results of Expedited First Sunset Reviews of Antidumping Duty Orders

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

**SUMMARY:** As a result of these sunset reviews, the Department of Commerce (Commerce) finds that revocation of the antidumping duty orders on utility scale wind towers (wind towers) from the People's Republic of China (China) and the Socialist Republic of Vietnam (Vietnam) would be likely to lead to continuation or recurrence of dumping at the level identified in the "Final

Results of Review" section of this notice.

**DATES:** Applicable May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ariela Garvett, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3609.

**SUPPLEMENTARY INFORMATION:** On February 15, 2013, Commerce published the antidumping duty orders on wind towers from China and Vietnam.<sup>1</sup> On January 2, 2018, Commerce published the initiation of the first sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> On January 17, 2018, Commerce received timely notices of intent to participate in these reviews from the Wind Tower Trade Coalition (WTTTC), a domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>3</sup> WTTTC claimed interested party status under section 771(9)(C) and (F) of the Act as a coalition of manufacturers in the United States of a domestic like product. On February 5, 2018, Commerce received complete and adequate substantive responses from WTTTC within 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>4</sup> Commerce received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *AD Orders*. Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20

<sup>7</sup> *Id.* at 8. Because we relied on GITI's and Cooper's subsidy rates to calculate the rate for non-selected companies under review, we are revising the rate for non-selected companies under review in these amended final results.

<sup>1</sup> See *Utility Scale Wind Towers from the People's Republic of China: Antidumping Duty Order*, 78 FR 11146 (February 15, 2013); and *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less*

*Than Fair Value and Antidumping Duty Order*, 78 FR 11150 (February 15, 2013) (*Orders*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 83 FR 142 (January 2, 2018).

<sup>3</sup> See WTTTC's Letter, "Utility Scale Wind Towers from the People's Republic of China: Notice of Intent to Participate in Sunset Review" (January 17, 2018). See also Letter from WTTTC to Commerce, "Utility Scale Wind Towers from the Socialist

Republic of Vietnam: Notice of Intent to Participate in Sunset Review," (January 17, 2018).

<sup>4</sup> See WTTTC's Letter, "Utility Scale Wind Towers from the People's Republic of China: Substantive Response to Notice of Initiation of Sunset Review" (February 5, 2018). See also WTTTC's Letter, "Utility Scale Wind Towers from the Socialist Republic of Vietnam: Substantive Response to Notice of Initiation of Sunset Review" (February 5, 2018).

through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results is now May 7, 2018.<sup>5</sup>

### Scope of the Orders

The merchandise covered by these orders is certain wind towers, whether or not tapered, and sections thereof. Certain wind towers are designed to support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

Merchandise covered by the orders is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings

7308.20.0020<sup>6</sup> or 8502.31.0000.<sup>7</sup> Prior to 2011, merchandise covered by this review was classified in the HTSUS under subheading 7308.20.0000 and may continue to be to some degree. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

### Analysis of Comments Received

A complete discussion of all issues raised in these reviews, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Orders* and the magnitude of the margins likely to prevail if the *Orders* were revoked, is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice.<sup>8</sup> A list of the topics discussed in the Issues and Decision Memorandum is attached to this notice as Appendix. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

### Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 60.02 percent for China and up to 58.54 percent for Vietnam.

<sup>5</sup> See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. In addition, because the deadline falls on a non-business day (*i.e.*, the weekend), pursuant to Commerce's practice, the deadline will become the next business day. The revised deadline is May 7, 2018.

<sup>6</sup> Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

<sup>7</sup> Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades).

<sup>8</sup> See Memorandum, "Issues and Decision Memorandum for the Expedited First Sunset Reviews of the Antidumping Duty Orders on Utility Scale Wind Towers from the People's Republic of China and the Socialist Republic of Vietnam," dated concurrently with this notice (Issues and Decision Memorandum).

### Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, 19 CFR 351.218, and 19 CFR 351.221(c)(5)(ii).

Dated: April 26, 2018.

**Christian Marsh,**

*Deputy Assistant Secretary for Enforcement and Compliance.*

### Appendix

#### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. History of the Orders
- V. Legal Framework
- VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of the Dumping Margins Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2018–09312 Filed 5–1–18; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Review: Notice of Request for Panel Review

**AGENCY:** United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

**ACTION:** Notice of NAFTA Request for Panel Review in the matter of Large Residential Washers from Mexico: Final results of antidumping duty administrative review (Secretariat File Number: USA–MEX–2018–1904–04).

**SUMMARY:** A Request for Panel Review was filed on behalf of Electrolux Home Products, Inc., Electrolux Home Products Corp. N.V., and Electrolux Home Products de Mexico, S.A. de C.V. (collectively "Electrolux") with the



United States Section of the NAFTA Secretariat on April 18, 2018, pursuant to NAFTA Article 1904. Panel Review was requested of the Department of Commerce's final antidumping duty determination regarding Large Residential Washers from Mexico. The final determination was published in the **Federal Register** on March 19, 2018 (83 FR 11,963). The NAFTA Secretariat has assigned case number USA-MEX-2018-1904-04 to this request.

**FOR FURTHER INFORMATION CONTACT:** Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade remedy determination being challenged and issue a binding Panel Decision. There are established NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews, which were adopted by the three governments for panels requested pursuant to Article 1904(2) of NAFTA which requires Requests for Panel Review to be published in accordance with Rule 35. For the complete Rules, please see <https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904>.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is May 18, 2018);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is June 4, 2018); and

(c) The panel review shall be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

Dated: April 26, 2018.

**Paul E. Morris,**

*U.S. Secretary, NAFTA Secretariat.*

[FR Doc. 2018-09266 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-GT-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-580-869]

#### Large Residential Washers From the Republic of Korea: Final Results of Expedited First Sunset Review of the Countervailing Duty Order

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

**SUMMARY:** The Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on large residential washers (washing machines) from the Republic of Korea (Korea) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the "Final Results of Sunset Review" section of this notice.

**DATES:** Applicable May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Kaitlin Wojnar at (202) 482-3857, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

Commerce published the CVD order on washing machines from Korea on February 15, 2013.<sup>1</sup> On January 2, 2018, Commerce initiated this review, the first five-year (sunset) review of the *Order*, in accordance with section 751(c)(2) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> Whirlpool Corporation, a domestic producer of washing machines and the petitioner in the underlying CVD investigation, subsequently filed a timely notice of intent to participate.<sup>3</sup>

Commerce received an adequate and timely substantive response from the

petitioner on February 5, 2018.<sup>4</sup> Neither the Government of Korea (GOK) nor any other respondent interested party to this proceeding submitted a substantive response. Therefore, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2), Commerce conducted an expedited sunset review of the *Order*. As a result of the tolling of deadlines for the closure of the Federal Government from January 20 through January 22, 2018, the deadline for this expedited sunset review was extended to May 7, 2018.<sup>5</sup>

##### Scope of the Order

The product covered by the *Order* is washing machines from Korea. For a complete description of the scope of the *Order*, see the Appendix to this notice.

##### Analysis of Comments Received

All issues raised in this review are addressed in the accompanying Issues and Decision Memorandum.<sup>6</sup> These issues include the likelihood of continuation or recurrence of countervailable subsidies, the net countervailable subsidy rate likely to prevail upon revocation of the *Order*, and the nature of the subsidies. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all parties in the Central Records Unit in Room B8024 of the main Commerce building. In addition, a complete electronic version of the Issues and Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

##### Final Results of Sunset Review

Pursuant to sections 752(b)(1) and (3) of the Act, we determine that revocation of the *Order* would be likely to lead to continuation or recurrence of net

<sup>1</sup> See *Large Residential Washers from the Republic of Korea: Countervailing Duty Order*, 78 FR 11154 (February 15, 2013) (*Order*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 83 FR 100 (January 2, 2018).

<sup>3</sup> See Letter from the petitioner, "Five-Year ('Sunset') Review of Antidumping and Countervailing Duty Orders on Large Residential Washers from Mexico and the Republic of Korea: Notice of Intent to Participate," January 17, 2018. As a domestic producer of washing machines, the petitioner is an interested party to this proceeding pursuant to section 771(9)(C) of the Act.

<sup>4</sup> See Letter from the petitioner, "Five-Year ('Sunset') Review of the Countervailing Duty Order on Large Residential Washers from Korea: Substantive Response of Whirlpool Corporation to the Notice of Initiation of First Sunset Review," February 5, 2018. The petitioner's response was filed in accordance with 19 CFR 351.218(d).

<sup>5</sup> See Commerce Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," January 23, 2018.

<sup>6</sup> See Commerce Memorandum, "Countervailing Duty Order on Large Residential Washers from the Republic of Korea: Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review," dated concurrently with, and hereby adopted by, this **Federal Register** notice (Issues and Decision Memorandum).

countervailable subsidies at the rates listed below:

Exporter/producer	Net countervailable subsidy rate (percent)
Daewoo Electronics Corporation .....	80.25
Samsung Electronics Co., Ltd. ....	20.75
All-Others .....	15.28

### Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Commerce is issuing and publishing these final results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: April 26, 2018.

**Christian Marsh,**

*Deputy Assistant Secretary for Enforcement and Compliance.*

### Appendix

#### Scope of the Order

The products covered by this order are all large residential washers and certain subassemblies thereof from Korea.

For purposes of this order, the term “large residential washers” denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, except as noted below, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm).

Also covered are certain subassemblies used in large residential washers, namely: (1) All assembled cabinets designed for use in large residential washers which incorporate, at a minimum: (a) At least three of the six cabinet surfaces; and (b) a bracket; (2) all assembled tubs<sup>1</sup> designed for use in large residential washers which incorporate, at a minimum: (a) A tub; and (b) a seal; (3) all assembled baskets<sup>2</sup> designed for use in large residential washers which incorporate, at a minimum: (a) A side wrapper;<sup>3</sup> (b) a base;

<sup>1</sup> A “tub” is the part of the washer designed to hold water.

<sup>2</sup> A “basket” (sometimes referred to as a “drum”) is the part of the washer designed to hold clothing or other fabrics.

<sup>3</sup> A “side wrapper” is the cylindrical part of the basket that actually holds the clothing or other fabrics.

and (c) a drive hub;<sup>4</sup> and (4) any combination of the foregoing subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term “stacked washer-dryers” denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term “commercial washer” denotes an automatic clothes washing machine designed for the “pay per use” market meeting either of the following two definitions:

(1) (a) It contains payment system electronics;<sup>5</sup> (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;<sup>6</sup> or

(2) (a) it contains payment system electronics; (b) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,<sup>7</sup> the unit cannot begin a wash cycle without first receiving a signal from a *bona fide* payment acceptance device such as an electronic credit card reader; (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

Also excluded from the scope are automatic clothes washing machines with a vertical rotational axis and a rated capacity of less than 3.70 cubic feet, as certified to the U.S. Department of Energy pursuant to 10 CFR 429.12 and 10 CFR 429.20, and in accordance with the test procedures established in 10 CFR part 430.

The products subject to this order are currently classifiable under subheading 8450.20.0090 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this order may also enter

<sup>4</sup> A “drive hub” is the hub at the center of the base that bears the load from the motor.

<sup>5</sup> “Payment system electronics” denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

<sup>6</sup> A “security fastener” is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a “center pin reject” feature to prevent standard Allen wrenches or Torx drivers from working.

<sup>7</sup> “Normal operation” refers to the operating mode(s) available to end users (*i.e.*, not a mode designed for testing or repair by a technician).

under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

[FR Doc. 2018–09310 Filed 5–1–18; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–201–830]

### Carbon and Certain Alloy Steel Wire Rod From Mexico: Notice of Correction to Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016

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

**FOR FURTHER INFORMATION CONTACT:** Keith Haynes, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5139.

**SUPPLEMENTARY INFORMATION:** On April 17, 2018, the Department of Commerce (Commerce) published the final results of the 2015–2016 antidumping duty administrative review of carbon and certain alloy steel wire rod from Mexico.<sup>1</sup> In that notice, Commerce inadvertently listed an incorrect weighted-average dumping margin of 12.57 percent for Deacero S.A.P.I. de C.V. (Deacero), a producer and exporter of wire rod.<sup>2</sup> The correct weighted-average dumping margin for Deacero is 12.56 percent.

This correction to the *Final Results* is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: April 26, 2018.

**Christian Marsh,**

*Deputy Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2018–09309 Filed 5–1–18; 8:45 am]

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<sup>1</sup> See *Carbon and Certain Alloy Steel Wire Rod From Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016*, 83 FR 16832 (April 17, 2018) (*Final Results*).

<sup>2</sup> *Id.*, 83 FR at 16833.

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

RIN 0648–XF957

**Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Cook Inlet Pipeline Cross Inlet Extension Project**

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

**ACTION:** Notice; issuance of incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Harvest Alaska, LLC (Harvest), to incidentally take, by Level B harassment, eight species of marine mammals incidental to oil and gas pipeline installation activities associated with the Cook Inlet Pipeline Cross Inlet Extension Project (CIPL), Cook Inlet, Alaska.

**DATES:** The IHA is valid from April 25, 2018, through April 24, 2019.

**FOR FURTHER INFORMATION CONTACT:** Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:****Availability**

An electronic copy of the IHA 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/node/23111>. In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

**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.

NMFS has defined “unmitigable adverse impact” in 50 CFR 216.103 as an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

**National Environmental Policy Act**

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

Accordingly, NMFS prepared an Environmental Assessment (EA) to consider the environmental impacts associated with the issuance of the proposed IHA and, on April 25, 2018, issued an associated Finding of No

Significant Impact. NMFS’ EA and FONSI are available at <https://www.fisheries.noaa.gov/node/23111>.

**Description of Proposed Activity**

The proposed CIPL project includes the installation of two new steel subsea pipelines in the waters of Cook Inlet. Work includes moving subsea obstacles out of the pipeline corridor, pulling two pipelines (one oil, one gas) into place on the seafloor, securing pipelines with sandbags, and connecting the pipelines to the existing Tyonek platform. The positioning and installation of the offshore pipeline would be accomplished using a variety of pipe pulling, positioning, and securing methods supported by dive boats, tug boats, and/or barges and winches. Work would be limited to the pipeline corridor from Ladd Landing to the Tyonek Platform and could occur for up to 108 days. The installation of the subsea pipelines, specifically presence of and noise generated from work vessels, has the potential to take marine mammals by harassment. NMFS has authorized Harvest to take small numbers of eight species of marine mammals incidental to the project.

**Dates and Duration**

The CIPL project will take place for approximately 108 days if able to work without interruption (*e.g.*, weather delays). Work will be staged with repositioning of obstacles (*e.g.*, boulders) lasting approximately 15 days, pipe pulling lasting approximately 11 days (weather permitting) and the remainder of the project, including equipment mobilization, pipeline securing, pipeline connection to the Tyonek platform, and demobilization constituting the remainder of the 108 day project.

**Specific Geographic Region**

Cook Inlet is a complex Gulf of Alaska estuary (as described in BOEM 2016) that covers roughly 7,700 square miles (mi<sup>2</sup>; 20,000 square kilometers (km<sup>2</sup>)), with approximately 840 miles (mi) (1,350 linear kilometer (km)) of coastline (Rugh *et al.*, 2000). Cook Inlet is generally divided into upper and lower regions by the East and West Forelands (see Figure 1–1 in Harvest’s application). Northern Cook Inlet bifurcates into Knik Arm to the north and Turnagain Arm to the east. Overall, Cook Inlet is shallow, with an area-weighted mean depth of 148 feet (ft) (44.7 meters (m)). The physical oceanography of Cook Inlet is characterized by complex circulation with variability at tidal, seasonal, annual, and inter-annual timescales

(Musgrave and Statscewich, 2006). This region has the fourth largest tidal range in the world and as a result, extensive tidal mudflats that are exposed at low tides occur throughout Cook Inlet, especially in the upper reaches. These tides are also the driving force of surface circulation. Strong tidal currents drive the circulation in the greater Cook Inlet area with average velocities ranging from 1.5 to 3 m per second (3 to 6 knots).

The project area is located a few km north of the village of Tyonek between Ladd Landing and the Tyonek Platform (see Figure 1–2 of Harvest's application). On April 11, 2011, NMFS designated beluga whale (*Delphinapterus leucas*) critical habitat in the action area. Critical habitat includes known fall and winter Cook

Inlet beluga whale foraging and transiting areas (see Figure 4–1 in Harvest's application).

#### Detailed Description of Specific Activity

A complete description of the specified activity may be found in our notice of the proposed IHA (83 FR 8437; February 27, 2018) and a summary is provided below. No changes to the proposed project have occurred since publication of that notice.

The project includes the installation of two new steel subsea pipelines in the waters of Cook Inlet: A 10-inch (in) nominal diameter gas pipeline (Tyonek W 10) between the Tyonek Platform and the Beluga Pipeline (BPL) Junction, and the 8-in nominal diameter oil pipeline (Tyonek W 8) between the existing Tyonek Platform and Ladd Landing. Pipelines installation activities would

be conducted in phases and include moving subsea obstacles out of the pipeline corridor, pulling two pipelines (one oil, one gas) into place on the seafloor, securing pipelines with sandbags, and connecting the pipelines to the existing Tyonek platform. The positioning and installation of the offshore pipeline would be accomplished using a variety of pipe pulling, positioning, and securing methods supported by dive boats, tug boats, and/or barges and winches. The barge would be relocated approximately two to three times per day. Work would be limited to the pipeline corridor from Ladd Landing to the Tyonek Platform and could occur for up to 108 days. Table 1 contains construction scenarios during the phased project and associated use duration.

TABLE 1—CONSTRUCTION SCENARIOS, ASSOCIATED EQUIPMENT AND ESTIMATED SOURCE LEVELS DURING THE 108-DAY CIPL PROJECT

Project component/scenario	Noise source	Approximate duration (days)	Approximate hours per day
Obstruction Removal and Pipeline pulling (subtidal) ...	Tug (120 ft) × 2 .....	68	10–12
	Dive boat <sup>1</sup> .....	28	9
	Sonar boat <sup>2</sup> .....	9	12
	Work boat (120 ft) <sup>1</sup> .....	68	9
	Crew boat (48 ft) <sup>1</sup> .....	68	9
	Barge anchoring <sup>3</sup> .....	.....	.....
Pipeline pulling (intertidal) .....	Tug × 2 .....	16	10–12
	Barge anchoring Crew boat .....	16	.....
Trenching (transition zone) .....	Tug × 2 .....	10	12
	Backhoe/bucket dredge <sup>4</sup> (beach-based) .....	10	12
Mid-line Pipeline Tie-In Work .....	Tug × 2 .....	7	10–12
	Dive boat .....	4	9
	Work boat .....	7	12
	Barge anchoring .....	7	6
	Tug × 2 .....	7	10–12
Connections of Tyonek Platform .....	Work boat .....	7	8
	Dive boat .....	7	9
	Underwater tools (hydraulic wrench, pneumatic grinder, and pressure washer).	7	30 minutes
	Tug × 2 .....	108	.....
	Dive boat .....	39	.....
Total Duration <sup>5</sup> .....	Sonar boat .....	9	.....
	Work/crew boat .....	108	.....

<sup>1</sup> The dive boat, crew boat, and work boat durations are shorter than tugs because they would be tied to the barge most of the time. Main engines would not be running while tied up, but a generator and compressors would be running to support diving operations.

<sup>2</sup> Sonar boat engine noise only. Sonar equipment would operate at frequencies over 200 kHz.

<sup>3</sup> Barge is equipped with four anchors.

<sup>4</sup> Backhoe and tug will be used approximately 2–4 hours per low/slack tide to complete transition zone installation.

<sup>5</sup> Total time does not include allowance of 6 weather days because vessels would not operating during those days.

#### Comments and Responses

A notice of proposed IHA was published in the **Federal Register** on February 27, 2018 (83 FR 8437) for public comment. During the 30-day public comment period, NMFS received comment letters from the Marine Mammal Commission (Commission) and a group of students from the University of Arizona (Students). The public comment letters received on the

notice of proposed IHA are available on the internet at: <https://www.fisheries.noaa.gov/node/23111>. Following is a summary of the public comments and NMFS' responses.

*Comment 1:* The Commission acknowledged that the activities will likely have lesser impacts than other sound-producing activities but indicated that NMFS should explain why the activities, in combination with

ongoing and other planned activities in Cook Inlet, would affect only a small number of Cook Inlet beluga whales and have no more than a negligible impact on the population.

*NMFS Response:* In accordance with the MMPA and our implementing regulations at 50 CFR 216.104(c), and as described in this notice, we use the best available scientific evidence to determine whether the taking of marine

mammals by the specified activity within the specified geographic region will have a negligible impact on the affected species or stock. The MMPA requires these findings be made with respect to the specified activity contained within an applicant's request for authorization. However, our negligible impact finding considers the potential impact of the specified activity in consideration of the status of the stock and existing threats. That is, the impacts from other past and ongoing anthropogenic activities are incorporated into the negligible impact analysis via their impacts on the environmental baseline (e.g., density/distribution and status of the species, population size and growth rate, and ambient noise). Here, as acknowledged by the Commission, the potential impact of the specified activity is low. Moreover, the IHA contains a number of mitigation and monitoring measures designed to minimize, reducing both frequency of take and intensity of take (which is already low). Further, as described here, we have compared the number of take to the stock abundance and determined that we are authorizing take of a small number of marine mammals per stock.

NMFS has made the necessary findings to issue the IHA to Harvest for take of marine mammals incidental to their pipeline installation activities. Nonetheless, NMFS agrees that caution is appropriate in the management of impacts on this small resident beluga population with declining abundance and constricted range. Accordingly, NMFS is requiring that Harvest submit weekly and monthly reports on their daily marine mammal monitoring efforts. Consistent with our implementing regulations, if NMFS determines that the level of taking is having or may have a more than negligible impact on a species or stock, NMFS may suspend or modify an LOA, as appropriate, following notice and comment.

*Comment 2:* The Commission recommends that NMFS include take authorization for California sea lions, increase the number of authorized takes of harbor porpoises from 10 to at least 72, and require Harvest to notify NMFS immediately if the numbers of takes approach the authorized limits for any species.

*NMFS Response:* NMFS has reviewed a suite of industry monitoring reports, NMFS marine mammal survey data, and NMFS anecdotal sighting database in consideration of the Commission's comments with respect to all species proposed for authorization and determined that an adjustment of take

numbers for almost all species was warranted to ensure the numbers of authorized takes for the project was sufficient given the nature of the project (i.e., some activities cannot be stopped once begun). We refer the reader to the "Estimated Take" section below for details on how the new take numbers were calculated. Specific to the Commission's comment on harbor porpoise, NMFS authorized the take of 100 individuals in the IHA based on 2012 industry survey reports (which NMFS notes indicate an unusually large number of sightings compared to multiple and more recent survey years). NMFS has also added takes and associated analysis of California sea lions and gray whales included the recommended notification measure should Harvest approach take limits for any marine mammal species.

*Comment 3:* The Commission recommended, after reviewing proposed changes to the monitoring plan (see *Monitoring and Reporting* section), that NMFS require Harvest to deploy an additional protected species observer (PSO) on an alternate vessel located on the opposite side of the Level B harassment zone from the proposed land- or platform-based observer.

*NMFS Response:* The Commission's comment reflect a concern for marine mammal detectability during the time activities are occurring in the middle of the project corridor between land and the Tyonek Platform. NMFS agrees detection at these distances is problematic; however, we disagree that placing another vessel on the water (which introduces additional underwater noise) is the appropriate response to addressing this issue. Instead, NMFS is requiring Harvest to place an observer at Ladd Landing and the Tyonek platform (concurrently) when pipelines installation activities occur 2 to 6.5 km from shore. Further, the PSO(s) would be in constant contact with vessel captains and crew and NMFS has included an additional monitoring measure requiring vessel-based crew to report any marine mammal sighting to the PSO.

*Comment 4:* The Commission requested clarification of certain issues associated with NMFS's notice that one-year renewals could be issued in certain limited circumstances and expressed concern that the process would bypass the public notice and comment requirements. The Commission also suggested that NMFS should discuss the possibility of renewals through a more general route, such as a rulemaking, instead of notice in a specific authorization. The Commission further recommended that if NMFS did not

pursue a more general route, that the agency provide the Commission and the public with a legal analysis supporting our conclusion that this process is consistent with the requirements of 101(a)(5)(D) of the MMPA.

*NMFS Response:* The process of issuing a renewal IHA does not bypass the public notice and comment requirements of the MMPA. The notice of the proposed IHA expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Importantly, such renewals would be limited to where the activities are identical or nearly identical to those analyzed in the proposed IHA, monitoring does not indicate impacts that were not previously analyzed and authorized, and the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency would consider only one renewal for a project at this time (the latter accomplished by using the word "second"). In addition, notice of issuance or denial of a renewal IHA would be published in the **Federal Register**, as are all IHAs. Lastly, NMFS will publish on our website a description of the renewal process before any renewal is issued utilizing the new process.

*Comment 5:* The Students were concerned marine mammals access may be blocked by the project provided pipe segments, which are 2.5 mi long, and requested more information on mitigation measures designed to ensure animals have access to important foraging areas in the northern inlet.

*NMFS Response:* The project would not create physical barriers to accessing locations north and south of the project area. The pipelines would be pulled along the sea floor and the presence of the limited number of vessels involved in the project would not block access. Acoustically, we anticipate the highest noise levels to occur at the vessel and barge locations, not within an entire 2.5 mi stretch in any particular moment in time. As described in our **Federal Register** notice, we believe animals will detour around the project site but more specifically, around the work vessels generating the most amount of noise.

Furthermore, the noise levels are not particularly high, and belugas are accustomed to industrial noises such as at the Port of Anchorage. There is ample evidence that construction noise at the Port of Anchorage, including impact pile driving, does not deter belugas from accessing critical foraging area higher in Knik Arm. Through the IHA, Harvest is also required to implement a number of mitigation measures designed to minimize both the frequency and degree of impact. These include lowering source levels of vessels at all times when full engine engagement is not required (e.g., idle, tie up to barge and shut-down) and to delay the onset of activities if animals are observed within or entering the Level B harassment zone. Lastly, Harvest is required to submit weekly monitoring reports to NMFS for the duration of the project. Should monitoring by Harvest indicate marine mammals are experiencing anything more than the expected impacts, NMFS would employ an adaptive management approach to ensure impacts are not beyond those anticipated.

*Comment 6:* The Students expressed concern that information in the EA is not adequate to estimate amount of take and, specifically, harbor porpoise sightings have increased in recent years and should be considered.

*NMFS Response:* NMFS refers the reader to our response to the Commission's comment regarding amount of take (Comment 2) and the "Estimated Take" section.

*Comment 7:* The Students indicated coordination with other agencies, local organizations, Inuit communities, US Fish and Wildlife Service, or other interest groups during development of the draft Environmental Assessment NMFS prepared for the project could result in a more effective project plan that could lessen the level B harassment on the marine mammals and allow for improved completion of the project.

*NMFS Response:* NMFS provided both the proposed IHA and draft EA for public comment. The agencies, communities, and interest groups referenced had opportunity to comment during this time and, as indicated in the **Federal Register** notice for the proposed

IHA, NMFS considered all comments prior to issuing the IHA and finalizing the EA. Moreover, the MMPA requires NMFS to prescribe mitigation measures that effect the least practicable impact on marine mammal species and stocks, which we believe has been achieved.

#### Description of Marine Mammals in the Area of Specified Activities

In the **Federal Register** notice announcing our proposed IHA (83 FR 8437; February 27, 2018), we summarized available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of six of the potentially affected species. We have determined two additional species, the gray whale and California sea lion, have the potential, albeit unlikely, to enter into the project area. Due to the nature of the activities and the inability to stop some of the operational activities once they commence (e.g., pipe pulling or pushing the barge), we are including, in an abundance of caution, these species in the final IHA. Table 2 provides a summary of the status of these species.

TABLE 2—SPECIES WITH POTENTIAL OCCURRENCE WITHIN THE ACTION AREA

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR <sup>3</sup>	Annual M/SI <sup>4</sup>
<b>Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)</b>						
Family Eschrichtiidae: Gray whale .....	<i>Eschrichtius robustus</i> .....	Eastern North Pacific .....	-	20,990 (0.05, 20125, 2011).	624	132
Family Balaenopteridae (rorquals): Humpback whale .....	<i>Megaptera novaeangliae</i>	Central North Pacific .....	E;Y	10,103 (0.3, 7890, 2006).	83	24
<b>Superfamily Odontoceti (toothed whales, dolphins, and porpoises)</b>						
Family Delphinidae: Beluga whale .....	<i>Delphinapterus leucas</i> .....	Cook Inlet .....	E;Y	312 (0.1, 287, 2014)	UND	0
Killer whale .....	<i>Orcinus orca</i> .....	Alaska Resident .....	-	2,347 (unk, 2,347, 2012).	24	1
Killer whale .....	<i>Orcinus orca</i> .....	Gulf of Alaska, Aleutian, Bering Sea Transient.	-	587 (unk, 587, 2012)	5.9	1
Family Phocoenidae (por- poises): Harbor porpoise .....	<i>Phocoena phocoena</i> .....	Gulf of Alaska .....	N;Y	31,046 (0.214, N/A, 1998).	UND	72
<b>Order Carnivora—Superfamily Pinnipedia</b>						
Family Otariidae (eared seals and sea lions): Steller sea lion .....	<i>Eumetopias jubatus</i> .....	Western U.S. ....	E;Y	50,983 (unk, 50,983, 2015).	306	236
California sea lion .....	<i>Zalophus californianus</i> .....	U.S. ....	-	296,750 (n/a, 153,337, 2014).	9,200	389
Family Phocidae (earless seals):						

TABLE 2—SPECIES WITH POTENTIAL OCCURRENCE WITHIN THE ACTION AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR <sup>3</sup>	Annual M/SI <sup>4</sup>
Harbor seal .....	<i>Phoca vitulina</i> .....	Cook Inlet/Shelikof Strait	-	27,386 (unk, 25,651, 2011).	770	234

<sup>1</sup> Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: [www.nmfs.noaa.gov/pr/sars/](http://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.

<sup>3</sup> UND is an undetermined Potential Biological Removal (PBR)

<sup>4</sup> 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.

In summary, eight marine mammal species, including five cetaceans and three pinnipeds, may be found within Cook Inlet during the project (Table 2). These are the Cook Inlet beluga whale, humpback whale, gray whale, killer whale, harbor porpoise, harbor seal, Steller sea lion and California sea lion. We refer the reader to the **Federal Register** notice for information regarding species previously considered. We provide a summary of the relevant information for the additional species (gray whale and California sea lion) below. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/)) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS's website (<https://www.fisheries.noaa.gov/about/office-protected-resources>).

#### Gray whales

Each spring, the Eastern North Pacific stock of gray whale migrates 8,000 km (5,000 mi) northward from breeding lagoons in Baja California to feeding grounds in the Bering and Chukchi seas, reversing their travel again in the fall (Rice and Wolman, 1971). Their migration route is for the most part coastal until they reach the feeding grounds. A small portion of whales do not annually complete the full circuit, as small numbers can be found in the summer feeding along the Oregon, Washington, British Columbia, and Alaskan coasts (Rice *et al.*, 1984, Moore *et al.*, 2007).

Most gray whales migrate past the mouth of Cook Inlet to and from northern feeding grounds. However, small numbers of summering gray whales have been observed within Cook Inlet, mostly in the lower inlet (e.g., Owl

Ridge, 2014). Gray whales have not been observed in the upper inlet; however, seismic surveys encompassing the middle and upper inlet (including the project area) have observed gray whales. On June 1, 2012, there were three gray whale sightings during marine mammal monitoring for a seismic survey; the survey area included the pipeline project area (SAE, 2012). It is not known if this was the same animal observed multiple times or multiple individuals. A lone gray whale was also observed near the middle inlet in 2014 and in May 2015, what was believed to be a gray whale based on blow shape was observed during marine mammal monitoring conducted for seismic surveys (SAE 2014, 2015).

Threats to this species include ship strike, entanglement in fishing gear, and increased human use of more northern latitudes as ice melts (Caretta *et al.*, 2015).

#### California Sea Lions

California sea lions (*Zalophus californianus*) are distributed along the North Pacific waters from central Mexico to southeast Alaska, with breeding areas restricted primarily to island areas off southern California (the Channel Islands), Baja California, and in the Gulf of California (Wright *et al.*, 2010). The population is comprised of five genetically distinct populations: The United States population that breeds on offshore islands in California; the western Baja California population that breeds offshore along the west coast of Baja California, Mexico; and three populations (southern, central and northern) that breed in the Gulf of California, Mexico. Males migrate long distances from the colonies during the winter whereas females and juveniles remain close the breeding areas. The approximate growth rate for this species

is 5.4 percent annually (Caretta *et al.*, 2004).

California sea lions are very rare in Cook Inlet and typically are not observed farther north than southeast Alaska. However, NMFS' anecdotal sighting database contains four California sea lion sightings in Seward and Kachemak Bay (pers. comm., Kate Savage, NMFS, March 27, 2018). In addition, an industry survey report contains a sighting of two California sea lions in lower Cook Inlet; however, it is unclear if these animals were indeed California sea lions or a mis-identified Steller sea lions (SAE, 2012). Regardless, in an abundance of caution, we have included take for California sea lions in the final IHA.

Threats to this species include incidental catch and entanglement in fishing gear, such as gillnets; biotoxins, as a result of harmful algal blooms; and gunshot wounds and other human-caused injuries, as California sea lions are sometimes viewed as a nuisance by commercial fishermen (NOAA 2016).

#### Potential Effects of Specified Activities on Marine Mammals and Their Habitat

In the "Potential Effects of the Specified Activity on Marine Mammals and Their Habitat" section of the notice of proposed IHA (83 FR 8437, February 27, 2018), NMFS included a qualitative discussion of the different ways that Harvest's pipelines installation activities may potentially affect marine mammals. The information contained in the notice has not changed. Please refer to that notice for the full discussion. Below we provide a summary.

The CIPL project has the potential to harass marine mammals from exposure to noise from working vessels (e.g., tugs pushing barges) and construction activities such as removing obstacles from the pipeline path, pulling pipelines, anchoring the barge, divers

working underwater with noise-generating equipment, trenching, etc. In this case, NMFS considers potential harassment from the collective use of vessels working in a concentrated area for an extended period of time and noise created when moving obstacles, pulling pipelines, trenching in the intertidal transition zone, and moving the barge two to three times per day using two tugs. Essentially, the project area will become be a concentrated work area in an otherwise non-industrial, serene setting. In addition, the presence of the staging area on land and associated work close to shore may harass hauled-out seals and sea lions.

We anticipate effects of the project to be limited to masking and behavioral disturbance (e.g., avoidance, cessation of vocalizations, increased swim speeds, etc.). We do not anticipate auditory threshold shift, permanent (PTS) or temporary (TTS), to occur due to low source levels and the fact marine mammals species are unlikely to be exposed for periods of time needed to incur the potential for PTS or TTS from the sources involved with pipeline installation. We also do not anticipate marine mammals transiting to an intended destination to abandon the effort; we expect the length of any detour around working vessels to be minimal.

#### Estimated Take

This section provides the number of incidental takes authorized through the IHA, which informed 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 individual marine mammals resulting from exposure to multiple working vessels and construction activities in a concentrated area. For reasons described in the **Federal Register** notice for the proposed IHA, Level A harassment is not anticipated or authorized. No mortality is anticipated or authorized for this activity. Below we describe how the take was quantified.

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 authorized take estimate.

#### Acoustic Thresholds

Using the best available science, NMFS uses 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 decibels (dB) re 1 micro pascal ( $\mu$ Pa) (root means square (rms)) for continuous (e.g. vibratory pile-driving, drilling) and above 160 dB re 1  $\mu$ Pa (rms) for non-explosive impulsive (e.g., seismic airguns) or intermittent (e.g., scientific sonar) sources.

Harvest's activity includes the use of multiple continuous sources and activities (e.g., vessels, pipe pulling) and therefore the 120 dB re 1  $\mu$ Pa (rms) threshold is applicable. As described above, in this case we believe it is not any one of these single sources alone that is likely to harass marine mammals, but a combination of sources and the physical presence of the equipment. We use this cumulative assessment approach below to identify ensonified areas and take estimates.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS, 2016b) 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). Harvest's activity includes the use of non-impulsive (e.g., tugs pushing a barge, pipe pulling) sources.

These thresholds are provided in the Table 3. 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>.

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**Table 3. Thresholds identifying the onset of Permanent Threshold Shift.**

Hearing Group	PTS Onset Acoustic Thresholds* (Received Level)	
	Impulsive	Non-impulsive
<b>Low-Frequency (LF) Cetaceans</b>	<i>Cell 1</i> $L_{pk,flat}$ : 219 dB $L_{E,LF,24h}$ : 183 dB	<i>Cell 2</i> $L_{E,LF,24h}$ : 199 dB
<b>Mid-Frequency (MF) Cetaceans</b>	<i>Cell 3</i> $L_{pk,flat}$ : 230 dB $L_{E,MF,24h}$ : 185 dB	<i>Cell 4</i> $L_{E,MF,24h}$ : 198 dB
<b>High-Frequency (HF) Cetaceans</b>	<i>Cell 5</i> $L_{pk,flat}$ : 202 dB $L_{E,HF,24h}$ : 155 dB	<i>Cell 6</i> $L_{E,HF,24h}$ : 173 dB
<b>Phocid Pinnipeds (PW) (Underwater)</b>	<i>Cell 7</i> $L_{pk,flat}$ : 218 dB $L_{E,PW,24h}$ : 185 dB	<i>Cell 8</i> $L_{E,PW,24h}$ : 201 dB
<b>Otariid Pinnipeds (OW) (Underwater)</b>	<i>Cell 9</i> $L_{pk,flat}$ : 232 dB $L_{E,OW,24h}$ : 203 dB	<i>Cell 10</i> $L_{E,OW,24h}$ : 219 dB
<p>* 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.</p> <p><u>Note:</u> Peak sound pressure (<math>L_{pk}</math>) has a reference value of 1 <math>\mu</math>Pa, and cumulative sound exposure level (<math>L_E</math>) has a reference value of 1 <math>\mu</math>Pa<sup>2</sup>s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript “flat” is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.</p>		

**BILLING CODE 3510-22-C****Ensonified Area**

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

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 will typically be overestimates of some degree, which will result in some degree of overestimate of Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available. NMFS will continue to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. Although vessels are mobile, we are considering them stationary for purposes of this project due to the confined area of work. For stationary sources, 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.

The sources and activities involved with the CIPL project are relatively low compared to other activities for which NMFS typically authorizes take (e.g., seismic surveys, impact pile driving). However, these sources will be operating for extended periods and NMFS' PTS thresholds now incorporate a time component. That time component is based on both the duration of the activity and the likely amount of time an animal would be exposed. To determine if there is

potential for PTS from the CIPL project, we considered operations may occur throughout the day and night, and despite tugs being on stand-by for much of the time, a full day (24 hours) was the most conservative approach for estimating potential for PTS. Therefore, we used a source level of 170 dB measured at 1 m (estimated tug noise), a practical spreading loss model (15logR), and the weighting factor adjustment (WFA) for vibratory pile driving as a proxy for vessels (2.5 kHz). The distances to PTS thresholds considering a 24 hour exposure duration is provided in Table 4. Based on these results, we do not anticipate the nature of the work has the potential to cause PTS in any marine mammal hearing group; therefore, we do not anticipate auditory injury (Level A harassment) will occur.

TABLE 4—DISTANCES TO NMFS PTS THRESHOLDS

Hearing group	Distance to PTS threshold (m)
Low-frequency cetaceans .....	22.6
Mid-frequency cetaceans .....	2.0
High-frequency cetaceans ....	33.4
Phocids .....	13.8
Otarids .....	1.0

Each construction phase involves multiple pieces of equipment that provide physical and acoustic sources of disturbance. For this project, we anticipate the ensonified area to shift as the project progresses along the pipeline corridor. That is, at the onset of the project, work will be concentrated in the intertidal zone close to shore and, as work continues, moving offshore towards the Tyonek platform. We also anticipate that the sound field generated by the combination of several sources will expand and contract as various construction related activities are occurring. For example, pushing the barge may require tugs to use increased thruster power, which would likely result in greater distances to the 120 dB re 1  $\mu$ Pa threshold in comparison to general movement around the area. Therefore, calculating an ensonified area for the entire pipeline corridor would be a gross overestimate and we offer an alternative here.

Because we consider the potential for take from the combination of multiple sources (and not any given single source), we estimate the ensonified area to be a rectangle centered along the pipeline corridor which encompasses all in-water equipment and a buffer around the outside of the cluster of

activities constituting the distance calculated to the 120 dB threshold from one tug (*i.e.*, 2,200 m). NMFS determined a tug source level (170 dB re: 1  $\mu$ Pa) for the duration of the project would be a reasonable step in identifying an ensonified zone since tugs would be consistently operating in some manner, and other sources of noise (*e.g.*, trenching, obstacle removal, underwater tools) are all expected to produce less noise. Anchor handling during barge relocation is also a source of noise during the project; however, we believe using the tug is most appropriate. NMFS is aware of anchor handling noise measurements made in the Arctic during a Shell Oil exploratory drilling program that produced a noise level of 143 dB re 1  $\mu$ Pa at 860 m (LGL *et al.*, 2014). However, that measurement was during deployment of 1 of 12 anchors in an anchor array system associated with a large drill rig and it would be overly conservative to adopt here.

Although vessels and equipment (*e.g.*, tugs, support vessels, barge) spacing would vary during the course of operations, a single layout must be assumed for modeling purposes. We assume the barge used for pipe pulling and supporting trenching and stabilization is placed in the middle of a group of vessels and directly in line with the pipeline corridor. The sonar and dive boats would also be concentrated along the pipeline corridor path. We conservatively assume tugs would be spaced approximately 0.5 km from the barge/pipeline corridor during stand-by mode and could be on opposite sides of the corridor. Also, vessels and equipment would shift from nearshore to offshore as the project progresses. For simplicity, we divided the pipeline corridor (8.9 km) in half for our ensonified area model because each pipe pulled would be approximately 4.45 km each. We then considered the estimated distance to the 120 dB threshold from the tug (2.2 km). We then doubled that distance and adjusted for a 0.5 km distance from the pipeline corridor to account for noise propagating on either side of a tug. We used those distances to calculate the area of the rectangle centered around the pipeline corridor (Area = length  $\times$  width or  $A = 4.45 \text{ km} \times ((2.2 \text{ km} + 0.5 \text{ km}) \times 2)$  for a Level B ensonified area of 24.03 km<sup>2</sup>. As the work continues, this area would gradually shift from nearshore to farther offshore, terminating at the Tyonek platform.

#### 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.

There are eight marine mammal species that have the potential to occur within the action area from April through October. The NMFS National Marine Mammal Laboratory (NMML) maintains a database of Cook Inlet marine mammal observations collected by NOAA and U.S. Coast Guard personnel, fisheries observers, fisheries personnel, ferry operators, tourists, or other private boat operators. NMFS also collects anecdotal accounts of marine mammal sightings and strandings in Alaska from fishing vessels, charter boat operators, aircraft pilots, NMFS enforcement officers, Federal and state scientists, environmental monitoring programs, and the general public. These data were used to inform take estimates.

Empirical estimates of beluga density in Cook Inlet are difficult to produce. One of the most robust is the Goetz *et al.* (2012) model based on beluga sighting data from NMFS aerial surveys from 1994 to 2008. The model incorporated several habitat quality covariates (*e.g.*, water depth, substrate, proximity to salmon streams, proximity to anthropogenic activity, etc.) and related the probability of a beluga sighting (presence/absence) and the group size to these covariates. The probability of beluga whale presence within the project area from April through September is 0.001 belugas per km<sup>2</sup>. Moving into October and the winter, density is likely to increase; however, Harvest anticipates all work will be completed no later than September.

Harvest provided density estimates for all other species with likely occurrence in the action area in their IHA application; however, data used to generate those densities do not incorporate survey efforts beyond 2011. Therefore, we developed new density estimates based on data collected during NMFS aerial surveys conducted from 2001 to 2016 (Rugh *et al.* 2005; Shelden *et al.* 2013, 2015, 2017). The numbers of animals observed over the 14 survey years were summed for each species. The percent area of survey effort for each year (range 25 to 40 percent) was used to calculate the area surveyed which was summed for all years (Rugh *et al.* 2005; Shelden *et al.* 2013, 2015, 2017). Density estimates were then derived by dividing the total number of each species sighted during the survey by the total area of survey coverage (Table 5).

TABLE 5—DENSITY ESTIMATES FOR MARINE MAMMALS POTENTIALLY PRESENT WITHIN THE ACTION AREA BASED ON COOK INLET-WIDE NMFS AERIAL SURVEYS 2001–2016

Species	Number of animals	Area (km <sup>2</sup> )	Estimated density (number animals/km <sup>2</sup> )
CI beluga whale .....	-	-	<sup>1</sup> 0.001
Humpback whale .....	204	87,123	0.0023
Killer whale .....	70	87,123	0.0008
Harbor porpoise .....	377	87,123	0.004
Harbor seal .....	23,912	87,123	0.2745
Steller sea lion .....	<sup>2</sup> 74.1	87,123	0.00085
Gray whale .....	10	87,123	0.00011
California sea lion <sup>3</sup> .....	0	87,123	0

<sup>1</sup> CI beluga whale density based on Goetz *et al.* (2012).

<sup>2</sup> Actual counts of Steller sea lions was 741; however, it is well documented this species almost exclusively inhabits the lower inlet south of the Forelands with rare sightings in the northern inlet. Therefore, we adjusted the number of animals observed during the NMFS surveys (which cover the entire inlet) by 1/10 to account for this skewed concentration.

<sup>3</sup> This species has not been documented in the project area during the referenced surveys; however, an occasional, rare sighting has been made during industry-supported surveys.

#### Take Calculation and Estimation

The method for calculating take was described in the **Federal Register** notice for the proposed IHA and is summarized here with a description of modifications. Take was first calculated using a density-based method (Take = density × ensonified area × project

days). As an example, for beluga whales, the estimated take is calculated as 24.03 km<sup>2</sup> × 0.001 × 108 days for a total of 2.59 belugas. However, for this and other species, we also consider additional sighting data (*e.g.*, industry surveys, anecdotal sightings), anticipated residency time, and group size. From that analysis, we derived an authorized

take level. In general, the amount of authorized take is an increase from the proposed numbers. In consideration of the nature of project activities (inability to shut down for some activities), we determined an increase in take numbers was warranted. Table 6 provides the results from our final take analysis.

TABLE 6—QUANTITATIVE ASSESSMENT OF AUTHORIZED TAKE, BY LEVEL B HARASSMENT

Species	Density	Calculated take <sup>1</sup>	Average group size	Authorized take (Level B)
CI beluga whale .....	0.001	2.59	8	<sup>2</sup> 40
Humpback whale .....	0.0023	5.07	1–2	5
Killer whale .....	0.0008	1.77	5	<sup>3</sup> 10
Harbor porpoise .....	0.004	8.83	<sup>4</sup> 1–3	<sup>4</sup> 100
Harbor seal .....	0.2745	605.67	<sup>5</sup> 1–10	<sup>6</sup> 972
Steller sea lion .....	0.00085	1.88	1–2	<sup>7</sup> 6
Gray whale .....	0.00011	0.285	1	<sup>8</sup> 5
California sea lion .....	0	0	1	<sup>9</sup> 5

<sup>1</sup> Calculated Take = density × ensonified area (24.03 km<sup>2</sup>) × # of project days (108).

<sup>2</sup> The proposed take amount was 29 beluga whales which reflected the potential for one group of eight belugas per month or two groups of four animals per month. We increased to 40 authorized takes to account for possibility animals may be more frequent than originally assessed and to account for potential for one to two large group (up to 20 whales) to come within ensonified area during activities.

<sup>3</sup> Adjusted take is based on two groups of five animals.

<sup>4</sup> Average group size from Sheldon *et al.* 2014. Authorized take adjusted to account for known increase in harbor porpoise occurrence in upper Cook Inlet in recent years and is approximately 50% of the number of harbor porpoise observed during industry marine mammal surveys (n=190) near the action area.

<sup>5</sup> Represents range of group sizes observed during a seismic survey in the middle Inlet from May 6 through September 30, 2012 (Lomac-MacNair *et al.*, 2012).

<sup>6</sup> The proposed IHA used density-based method for proposed take; however, we have adjusted based on the maximum of 9 harbor seals observed during aerial surveys in the project area based on NMFS aerial surveys from 1997–2011 (9 seals/day × 108 days = 972).

<sup>7</sup> As in the proposed IHA, we consider the potential for 1–2 Steller sea lions to remain in the area for multiple days.

<sup>8</sup> We have authorized five takes of gray whales in the rare chance they enter the ensonified area and operations cannot be shut down.

<sup>9</sup> We have authorized five takes of California sea lions in the rare chance they enter the ensonified area and operations cannot be shut down.

Cook Inlet beluga whales are expected to be transiting through the action area in group sizes ranging from 3 to 14 animals with an average of 8 animals/group. These group sizes are based on NMFS aerial surveys and anecdotal reports near Tyonek from April through October (pers comm. K Sheldon, January 25, 2018). Harvest requested

take for up to 29 beluga whales in anticipation that one group of 8 animals may pass through the action area once per month for the duration of the project (*i.e.*, 8 animals/group × 1 group/month × 3.6 months). However, during the public comment period, we considered, in more detail, the number of animals that could pass through the action area

during operations that could result in take. Specifically, a 2012 June monitoring report (SAE 2012) reported an unusually high number of sightings are marine mammals, including many at river mouths south of the project area. If we consider the potential for those groups to move north to the Beluga River/Susitna, Knik and Turnigan Arm

areas, there is a possibility animals could enter Harvest's ensonified zone. If operations (e.g., pile pulling, barge moving) has already begun, these activities are not able to cease due to operational and safety concerns. Therefore, in the IHA, we have authorized up to 40 beluga whales to be taken by Level B harassment.

We also considered group size for other cetaceans. Killer whales have the potential to travel through the project area in groups exceeding the take calculated based on density. Because sighting data indicates killer whales are not common in the Upper Inlet, we anticipated one group to pass through the project area in the proposed IHA but have increased this to two groups for a total authorized take of 10 killer whales. For harbor porpoise, we considered the density-based take calculation to be great enough to encompass their small group size ( $n=8$ ); however, harbor porpoise sightings in the mid- to upper inlet have increased in recent years. Despite them typically occurring in the lower inlet, we have increased the authorized amount of take to 100 individuals, which is approximately 50 percent of the individuals observed during the 2012 industry survey ( $n = 190$ ). We did not authorize the same amount of individuals observed considering the industry survey area was much larger than the harassment zone for the CIPL project and extended lower in the inlet where harbor porpoise are more common.

Harbor seals and Steller sea lions are expected to occur as solitary animals or in small groups and may linger in the action area moreso than transiting cetaceans. Harbor seal takes estimates based on density reflect a likely occurrence, so we did not adjust authorized take levels. However, Steller sea lion density calculations produce an estimated take of one animal during the entire project. While Steller sea lions are rare in the action area, this species may not be solitary and may also remain in the action area for multiple days. In 2009, a Steller sea lion was observed three times during Port of Anchorage construction (ICRC 2009). During seismic survey marine mammal monitoring, Steller sea lions were observed in groups of one to two animals during two of three years of monitoring (Lomac-MacNair 2013, 2015). Therefore, we increased the amount of take to six Steller sea lions to account for up to two animals to be observed over the course of three days (i.e., two animals exposed three times).

Harvest did not request, and we did not propose, take for any other species in our proposed IHA notice. However,

we have included take for gray whales and California sea lions in the final IHA. It is unlikely these species would come within the project area; however, in the *Description of Marine Mammals in the Area of Specified Activities* section, we describe sightings of these species during industry surveys and anecdotal sightings. Because some activities may not be able to cease once they begin, we have authorized take for these species (Table 6).

#### Effects of Specified Activities on Subsistence Uses of Marine Mammals

The availability of the affected marine mammal stocks or species for subsistence uses may be impacted by this activity. The subsistence uses that may be affected and the potential impacts of the activity on those uses are described below. Measures included in this IHA to reduce the impacts of the activity on subsistence uses are described in the Mitigation section. The information from this section and the Mitigation section is analyzed to determine whether the necessary findings may be made in the Unmitigable Adverse Impact Analysis and Determination section.

The villages of Tyonek, Ninilchik, Anchor Point, and Kenai use the upper Cook Inlet area for subsistence activities. These villages regularly harvest harbor seals (Wolfe *et al.*, 2009). Based on subsistence harvest data, Kenai hunters harvested an about 13 harbor seals on average per year, between 1992 and 2008, while Tyonek hunters only harvested about 1 seal per year (Wolfe *et al.*, 2009). Traditionally Tyonek hunters harvest seals at the Susitna River mouth (located approximately 20 mi from the project area) incidental to salmon netting, or during boat-based moose hunting trips (Fall *et al.*, 1984). Alaska Natives are permitted to harvest Steller sea lions; however, this species is rare in mid- and upper Cook Inlet, as is reflected in the subsistence harvest data. For example, between 1992 and 2008, Kenai hunters reported only two sea lions harvested and none were reported by Tyonek hunters (Wolfe *et al.*, 2008). Sea lions are more common in lower Cook Inlet and are regularly harvested by villages well south of the project area, such as Seldovia, Port Graham, and Nanwalek.

Cook Inlet beluga subsistence harvest has been placed under a series of moratoriums beginning 1999. Only five beluga whales have been harvested since 1999. Future subsistence harvests are not planned until after the 5-year population average has grown to at least 350 whales. Based on the most recent

population estimates, no beluga harvest will be authorized in 2018.

Harvest's proposed pipeline construction activities would not impact the availability of marine mammals for subsistence harvest in Cook Inlet due to the proximity of harvest locations to the project (for harbor seals) and the general lack of Steller sea lion harvest. Beluga subsistence harvest is currently under moratorium. Further, animals that are harassed from the project are expected to elicit behavioral changes that are short-term, mild, and localized.

#### Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully 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, as well as subsistence uses. 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.

NMFS anticipates the project will create an acoustic footprint above baseline of approximately 24 km<sup>2</sup> around the concentration of vessels and operational activities. There is a discountable potential for marine mammals to incur PTS from the project as source levels are relatively low, non-impulsive, and animals would have to remain at very close distances for multiple hours, to accumulate acoustic energy at levels which could damage hearing. Therefore, we do not believe there is potential for Level A harassment and there is no designated shut-down/exclusion zone established for this project. However, Harvest will implement a number of mitigation measures designed to reduce the potential for and severity of Level B harassment and minimize the acoustic footprint of the project.

Harvest will establish a 2,200 m safety zone from working vessels and along the pipeline corridor and employ NMFS-approved protected species observers (PSOs) to conduct marine mammal monitoring for the duration of the project. Prior to commencing activities for the day or if there is a 30-minute lapse in operational activities, the PSO will monitor the safety zone for marine mammals for 30 minutes. If no marine mammals are observed, operations may commence. If a marine mammal(s) is observed within the safety zone during the clearing, the PSO will continue to watch until either: (1) The animal(s) is outside of and on a path away from the safety zone; or (2) 15 minutes have elapsed. Once the PSO has determined one of those conditions are met, operations may commence.

Should a marine mammal be observed during pipe-pulling, the PSO will monitor and carefully record any reactions observed until the pipe is secure. No new operational activities would be started until the animal leaves the area. PSOs will also collect behavioral information on marine mammals beyond the safety zone.

Other measures to minimize the acoustic footprint of the project include: The dive boat, sonar boat, work boat, and crew boat will be tied to the barge or anchored with engines off when practicable; all vessel engines will be placed in idle when not working if they cannot be tied up to the barge or anchored with engines off; and all sonar equipment will operate at or above 200 kHz.

Finally, Harvest would abide by NMFS marine mammal viewing guidelines while operating vessels or land-based personnel (for hauled-out

pinnipeds); including not actively approaching marine mammals within 100 yards (in-water or on land) and slowing vessels to the minimum speed necessary. NMFS Alaska Marine Mammal Viewing Guidelines may be found at <https://alaskafisheries.noaa.gov/pr/mm-viewing-guide>.

The mitigation measures are designed to minimize Level B harassment by avoiding starting work while marine mammals are in the project area, lowering noise levels released into the environment through vessel operation protocol (e.g., tying vessels to barges, operating sonar equipment outside of marine mammal hearing ranges) and following NMFS marine mammal viewing guidelines. There are no known marine mammal feeding areas, rookeries, or mating grounds in the project area that would otherwise potentially warrant increased mitigation measures for marine mammals or their habitat. The proposed project area is within beluga whale critical habitat; however, use of the habitat is higher in fall and winter when the project would not occur nor would habitat be permanently impacted other than the presence of the pipelines on the seafloor. Thus mitigation to address beluga whale critical habitat is not warranted. Finally, the mitigation measures are practicable for the applicant to implement. NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

#### Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the 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.

Harvest will abide by all monitoring and reporting measures contained within their Marine Mammal Monitoring and Mitigation Plan, dated March 15, 2018, with the additional condition described below regarding number and location of observers. This plan was revised from the original that was available for public comment. During the public comment period, Harvest found that there was limited space on the vessels and safety issues prevented a PSO from being placed on the barge. In the revised plan, Harvest moved the PSO from vessel-based to land- or Tyonek Platform-based. Harvest proposed that during the beginning of the project when activities are occurring close to shore, a PSO will be positioned on a 100-foot high bluff at Ladd Landing, which provides a marine mammal sighting distance of approximately 3 mi. As work progresses toward the Tyonek Platform, the PSO shall be stationed on the Tyonek platform which also provides for an approximately 100-foot high observation point. The elevation of both these observation points provides advantages than working aboard a single vessel. However, NMFS determined that a single land-based observer was not sufficient and is therefore requiring monitoring based on where along the

pipeline corridor activities are occurring. That is, a PSO shall be stationed at Ladd Landing when activities are occurring 0–2 km from shore. A PSO shall be stationed at the Tyonek Platform when activities are occurring greater than 6.5 km from shore. When project activities are occurring from 2 to 6.5 km from shore, a PSO shall be stationed at both Ladd Landing and the Tyonek Platform. All other monitoring measures included in the proposed IHA and in Harvest's monitoring plan remain in effect. NMFS has also included a provision in the IHA that PSOs will report on detectability and estimated range of observer coverage during all marine mammal monitoring shifts. Please see the IHA, posted at <https://www.fisheries.noaa.gov/node/23111>, for the complete set of reporting requirements.

In recognition of the status of Cook Inlet beluga whales, Harvest is required to submit weekly reports to NMFS documenting marine mammal observations, behavior, and ability to detect marine mammals within the monitoring zone. If Harvest fails to abide by the mitigation, monitoring and/or reporting conditions contained within the IHA or NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, NMFS may modify the mitigation or monitoring measures if doing so creates a reasonable likelihood of more mitigation and monitoring leading to reduced impacts. Possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures include: results from Harvest's marine mammal monitoring report, information from beluga whale researchers, and information from subsistence users or local community residents.

#### **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 6, given that NMFS expects the anticipated effects of the pipeline installation activities 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.

Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. In addition to being temporary and short in overall duration, the acoustic footprint of the pipeline installation activities is small relative to the overall distribution of the animals in the area and their use of the area. Feeding behavior is not likely to be significantly impacted, as no areas of biological significance for marine mammal feeding are known to exist in the survey area. For beluga whales, there are no major river outfalls which provide prey within the action area.

The proposed project would create an acoustic footprint around the project area for an extended period time (3.6 months) from April through September. Noise levels within the footprint would reach or exceed 120 dB rms. We anticipate the 120 dB footprint to be limited to 20km<sup>2</sup> around the cluster of vessels and equipment used to install the pipelines. The habitat within the footprint is not heavily used by marine mammals during the project time frame (*e.g.*, Critical Habitat Area 2 is designated for beluga fall and winter use) and marine mammals are not known to engage in critical behaviors associated with this portion of Cook Inlet (*e.g.*, no known breeding grounds,

foraging habitat, etc.). Most animals will likely be transiting through the area; therefore, exposure would be brief. Animals may swim around the project area but we do not expect them to abandon any intended path. We also expect the number of animals exposed to be small relative to population sizes. Finally, Harvest will minimize potential exposure of marine mammals to elevated noise levels by not commencing operational activities if marine mammals are observed within the ensonified area.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- The project does not involve noise sources capable of inducing PTS and no injury is anticipated or authorized;
- Exposure would likely be brief given transiting behavior of marine mammals in the action area, resulting in, at most, temporary avoidance and modification to vocalization behavior, and diverting around the project area;
- The project area does not contain concentrated foraging, mating, or breeding habitat;
- Marine mammal densities are low in the project area and the number of marine mammals potentially taken is small compared to the population size; and
- Harvest would monitor for marine mammals daily and minimize exposure to operational activities as required in the IHA.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the 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, qualitative factors may be considered in the analysis, such as the

temporal or spatial scale of the activities.

Table 7 provides the quantitative analysis informing our small numbers determination. For most species, the

amount of take proposed is less than 3.5 percent of all stocks except beluga whales. For beluga whales, the amount of take proposed represents 12.8 percent of the population.

TABLE 7—PERCENT OF STOCK PROPOSED TO BE TAKEN BY LEVEL B HARASSMENT

Species	Stock	Abundance (Nbest)	Proposed take (Level B)	% of population
Beluga whale .....	Cook Inlet .....	312	<sup>2</sup> 40	12.8
Humpback whale .....	Central North Pacific .....	10,103	5	0.04
Killer whale .....	Alaska Resident .....	2,347		0.4
	Gulf of Alaska, Aleutian, Bering Sea Transient .....	587	<sup>3</sup> 10	1.7
Harbor porpoise .....	Gulf of Alaska .....	31,046	100	0.3
Harbor seal .....	Cook Inlet/Shelikof Strait .....	27,386	972	3.5
Steller sea lion .....	Western U.S. ....	50,983	6	0.01
Gray whale .....	Eastern North Pacific .....	20,990	5	0.02
California sea lion .....	U.S. ....	296,750	5	0.001

Based on the analysis contained herein of the proposed activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

#### Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an “unmitigable adverse impact” on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined “unmitigable adverse impact” in 50 CFR 216.103 as an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The village of Tyonek engages in subsistence harvests; however, these efforts are concentrated in areas such as the Susitna Delta where marine mammals are known to occur in greater abundance. Harbor seals are the only species taken by Alaska Natives that may also be harassed by the proposed project. However, any harassment to harbor seals is anticipated to be short-term, mild, and not result in any abandonment or behaviors that would make the animals unavailable to Alaska Natives.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the mitigation and monitoring measures, NMFS has determined there will not be an unmitigable adverse impact on subsistence uses from Harvest’s proposed activities.

#### Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

On April 25, 2018, NMFS Alaska Region issued a Biological Opinion to NMFS Office of Protected Resources which concluded Harvest’s CIPL project is not likely to jeopardize the continued existence of Cook Inlet beluga whales, the WDPS Steller sea lions, or Mexico and Western North Pacific humpback whales DPSs or destroy or adversely modify critical habitat.

#### Authorization

NMFS has issued an IHA to Harvest for the harassment of small numbers of eight marine mammal species incidental to pipeline installation activities in Cook Inlet, provided the previously

mentioned mitigation, monitoring and reporting requirements are incorporated.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

**RIN 0648–XF933**

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Seabird and Shorebird Research and Monitoring in Massachusetts

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

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the U.S. Fish and Wildlife Service (USFWS) to incidentally harass, by Level B harassment only, marine mammals during survey activities associated with the seabird and shorebird monitoring project at the Eastern Massachusetts National Wildlife Refuge Complex (Complex).

**DATES:** This authorization is effective from April 1, 2018 through March 31, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Amy Fowler, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the IHA 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-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 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 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 CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

**Summary of Request**

On December 5, 2017, NMFS received a request from the USFWS for an IHA to take marine mammals incidental to seabird and shorebird monitoring and research activities within the Complex. NMFS determined the application adequate and complete on December 18, 2017. The USFWS’s request was for take of gray seals and harbor seals by Level B harassment only. Neither the USFWS nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to the USFWS for similar work (82 FR 12342, March 2, 2017). The USFWS complied with all the requirements (*e.g.*, mitigation, monitoring, and reporting) of the previous IHA and information regarding their monitoring may be found in the Estimated Take section.

**Description of Activity**

The USFWS plans to conduct biological tasks for refuge purposes at Monomoy National Wildlife Refuge (NWR), Nantucket NWR, and Nomans Land Island NWR in Massachusetts. These three refuges are managed through the Complex as part of the NWR System of the USFWS. Complex staff census and monitor the presence and productivity of breeding and migrating shorebirds using the beaches of Monomoy, Nantucket, and Nomans Land Island NWRs from April 1–November 30, annually. Monitoring activities occur daily (on Monomoy and Nantucket) from April–August and are necessary to document the productivity (number of chicks fledged per pair) and population of protected shorebird and

seabird species. Monomoy NWR also participates in several less frequent, but equally important, high priority conservation tasks to monitor for threatened and endangered species, including censusing northeastern beach tiger beetles (*Cicindela dorsalis*) and participating in a red knot (*Calidris canutus*) migration study during southward migration. Additionally, both Monomoy and Nantucket NWRs serve as vital staging grounds for migrating roseate terns (*Sterna dougallii*), where USFWS staff resight and stage counts.

A detailed description of the planned monitoring and research project is provided in the **Federal Register** notice for the proposed IHA (83 FR 9463; March 6, 2018). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

**Comments and Responses**

A notice of NMFS’s proposal to issue an IHA to the USFWS was published in the **Federal Register** on March 6, 2018 (83 FR 9483). That notice described, in detail, the USFWS’s activities, the marine mammal species that may be affected, and the anticipated effects on marine mammals. During the 30-day public comment period, the Marine Mammal Commission (Commission) provided comments as described below and concurred with NMFS’s finding that recommended the issuance of an IHA, subject to the inclusion of the mitigation, monitoring, and reporting measures.

**Comment:** The Commission requested clarification of certain issues associated with NMFS’s notice that one-year renewals could be issued in certain limited circumstances and expressed concern that the process would bypass the public notice and comment requirements. The Commission also suggested that NMFS should discuss the possibility of renewals through a more general route, such as a rulemaking, instead of notice in a specific authorization. The Commission further recommended that if NMFS did not pursue a more general route, that the agency provide the Commission and the public with a legal analysis supporting our conclusion that this process is consistent with the requirements of 101(a)(5)(D) of the MMPA.

**Response:** The process of issuing a renewal IHA does not bypass the public notice and comment requirements of the MMPA. The notice of the proposed IHA expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an



additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Importantly, such renewals would be limited to where the activities are identical or nearly identical to those analyzed in the proposed IHA, monitoring does not indicate impacts that were not previously analyzed and authorized, and the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the

language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency would consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA would be published in the **Federal Register**, as are all IHAs. Last, NMFS will publish a description of the renewal process on our website before any renewal is issued utilizing the new process.

#### Description of Marine Mammals in the Area of Specified Activities

A detailed description of the species likely to be affected by the research and monitoring project, including brief

introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (83 FR 9463; March 6, 2018). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions as well as to NMFS' website (<https://www.fisheries.noaa.gov/topic/population-assessments/marine-mammals>) for generalized species accounts.

TABLE 1—GENERAL INFORMATION ON MARINE MAMMALS IN THE VICINITY OF EASTERN MASSACHUSETTS NATIONAL WILDLIFE REFUGE, MASSACHUSETTS

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
<b>Order Carnivora—Superfamily Pinnipedia</b>						
Family Phocidae (earless seals):						
Gray seal .....	<i>Halichoerus grypus atlantica</i> ....	Western North Atlantic .....	-, N	27,131 (N/A, 27,131, 2016).	1,554	5,207
Harbor seal .....	<i>Phoca vitulina concolor</i> .....	Western North Atlantic .....	-, N	75,834 (0.15, 66,884, 2012).	2,006	368

<sup>1</sup> Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/). CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance. In some cases, CV is not applicable.

<sup>3</sup> 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.

#### Sound Sources and Sound Characteristics

NMFS does not expect acoustic stimuli to result from human presence, and will therefore not have the potential to harass marine mammals, incidental to the conduct of the activities. One activity (cannon nets) may have an acoustic component, but we believe take from this activity can be avoided.

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this notice. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is the ratio of a measured sound pressure and a reference level. The commonly used reference pressure is 1 μPa for underwater, and the units for SPLs are dB re: 1 μPa. The commonly used reference pressure is 20 μPa for in air, and the units for SPLs are dB re: 20 μPa.

SPL (in decibels (dB)) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement expressed as the peak, the peak-peak, or the root mean square (rms). Root mean square is the square root of the arithmetic average of the squared instantaneous pressure values. All references to SPL in this document refer to the root mean square unless otherwise noted. SPL does not take into account the duration of a sound.

#### Research Activities Sound Characteristics

Activities that may have an acoustic component (e.g., cannon nets) are not expected to reach the thresholds for Level B harassment. Cannon nets could be an airborne source of noise, and have a measured SL of 128 dB at one meter (m) (estimated based on a measurement of 98.4 dB at 30 m; L. Niles, pers. comm., December 2016); however, the SPL is expected to be less than the thresholds for airborne pinniped disturbance (e.g., 90 dB for harbor seals, and 100 dB for all other pinnipeds) at

80 meters from the source. The USFWS proposes to stay at least 100 meters from all pinnipeds if cannon nets are to be used for research purposes.

#### Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of airborne noise and visual disturbance from monitoring and research activities for the USFWS's project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (83 FR 9463; March 6, 2018) included a discussion of the effects of anthropogenic noise and visual disturbance on marine mammals, therefore that information is not repeated here; please refer to that **Federal Register** notice for that information.

#### Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of

whether the number of takes is “small” and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption

of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes are by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to USFWS research and monitoring surveys. NMFS expects that the presence of the USFWS personnel could disturb animals hauled out on beaches near research activities and that the animals may alter their behavior or attempt to move away from the USFWS

personnel. Based on the nature of the activity, Level A harassment is neither anticipated nor authorized.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Behavior of seals is recorded on a three point scale (1 = alert reaction, not considered harassment; 2 = moving at least two body lengths, or change in direction >90 degrees; and 3 = flushing) (Table 2). Only levels 2 and 3 are considered take.

TABLE 2—DISTURBANCE SCALE OF PINNIPED RESPONSES TO IN-AIR SOURCES TO DETERMINE TAKE

Level	Type of response	Definition
1 .....	Alert .....	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2 .....	Movement .....	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3 .....	Flush .....	All retreats (flushes) to the water.

#### Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Take estimates are based on historical marine mammal observations at each site from previous USFWS survey activities.

*Gray Seal*—Little information is known about gray seal age and sex distribution at the Complex. Gray seals may use Complex sites for pupping but research and monitoring activities are not performed during the breeding season, so no newborn pups will be disturbed. Group composition of individuals present at activity sites are likely to be of mixed age and sex classes.

The greatest disturbance to gray seals is expected to occur during the beach nesting bird breeding season from April to August. During April and May, when seals are hauled out in very large numbers on the refuge, they may be present at beaches of varying widths, between 30 m and 300 m. In narrower areas, all of the seals may be disturbed; in mid-width areas, some of the younger and smaller seals may flush, but large males may remain on the beach; and in the widest area, USFWS activities may have no impact on the hauled out seals. USFWS staff conduct research and monitoring work outside of the season of highest gray seal numbers.

*Harbor Seal*—Peak pupping for harbor seals is in June and occurs elsewhere,

mainly on the coasts of Maine and maritime Canada. Prior to a 2001 study, it was thought that the majority of migrating harbor seals moving into New England waters were sub-adults and juveniles. The study revealed that adult seals also migrate to waters around Cape Cod (NOAA 2015b). However, data on harbor seal sex and age distribution is still insufficient to report. Harbor seals are only noted in gray seal haulouts if they are spotted by USFWS staff or researchers. USFWS staff estimate that gray seal haulouts are comprised of five percent or less harbor seals based on field observations, as harbor seals are not always seen mixed in with every gray seal haulout. Harbor seal numbers taper during the summer time when the highest level of seal disturbance occurs.

#### Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. As discussed earlier, NMFS assumes that pinnipeds that move greater than two body lengths or make longer retreats over the beach, or if already moving, make a change of direction of greater than 90 degrees or flush into the water in response to the presence of surveyors, are behaviorally harassed, and thus subject to Level B taking. Take estimation is based on the number of seals observed in past research years that have been flushed during research activities.

This estimate is based on the number of seals observed in past research years

that have been flushed during research activities. USFWS used their knowledge of the number of seals that use the haulouts near their research activities, and how many of these may be taken (Levels 2 and 3 on the disturbance scale). The majority of takes will occur on Monomoy NWR, which is one of the main haulouts for gray seals in the country. While the average number of gray seals present (in regards to Monomoy NWR) is less than observed counts (B. Josephson, NOAA, pers. comm.), not every hauled-out seal on the beach is impacted from each activity and not all seals are impacted from every activity event. This is especially true for Monomoy NWR because the seal haulout stretches across over four miles of beach. For example, the gray seal counts on Monomoy NWR are very high, but the beaches are very large, and most of the work takes place on the upper berm close to the dune (farther away from seals). During April and May when seals are hauled out in very large numbers on the refuge, they may be present at beaches of varying width, between 30 m and 300 m. In narrower areas, all of the seals may be flushed; in mid-width areas, some of the younger and smaller seals may flush, but large males may remain on the beach; and in the widest area, USFWS activities may have no impact at all on the hauled out seals. Also, the amount of disturbance to seals may vary based on staff activities (e.g., if project activities require staff to walk quickly through an area versus

spending more time in one area close to seals). Take numbers were estimated from the number of seals using the refuge and the times that the activity might overlap with seal use areas. For example, most of the staging counts are not done in areas where seals haul out so the number of disturbances is very low during this task. Group size also

played into the estimates. USFWS staff would impact a smaller number of seals during times of the year when group sizes are smaller (e.g., outside of April and May). USFWS staff who have conducted these activities for multiple years provided the best information available to us about the number of takes these activities may cause. In this

IHA, we have included monitoring requirements that should inform our take numbers in future years.

The take numbers for gray seals is thought to be conservative, and likely an overestimate. USFWS staff believe these estimates are realistic and do not expect to exceed the take numbers.

TABLE 3—ESTIMATED NUMBER OF GRAY SEAL TAKES PER ACTIVITY AT MONOMOY, NANTUCKET, AND NOMANS LAND ISLAND NWRs

Gray seal			
Age: all		Sex: male and female	
	Number takes/event	Number events/activity	Total takes
Shorebird and Seabird Monitoring and Research .....	1,000 (Monomoy) .....	34 (Monomoy) .....	34,430
	50 (Nantucket) .....	8 (Nantucket).	
	10 (Nomans) .....	3 (Nomans).	
Roseate Tern Staging Counts and Resighting .....	10 (Monomoy) .....	6 (Monomoy) .....	100
	10 (Nantucket) .....	4 (Nantucket).	
Red Knot Stopover Study .....	250 (Monomoy) .....	5 (Monomoy) .....	2,000
	150 (Cape Cod) .....	5 (Cape Cod).	
Northeastern Beach Tiger Beetle Census .....	750 (Monomoy) .....	3 (Monomoy) .....	2,250
Coastal Shoreline Change Survey .....	500 (Monomoy) .....	1 (Monomoy) .....	
Total .....	.....	.....	39,280

It is unclear exactly how many harbor seals occur at the Complex, therefore it is difficult to determine how many takes occur since harbor seals are mainly present during the off season when research and monitoring is limited. Harbor seals are not present at all gray seal haulouts but at haulouts where both species are present, USFWS staff estimate that gray seal haulouts during the summer are comprised of 5 percent or less harbor seals. Due to the lack of available data on presence, harbor seal takes are not broken down by activity or site. Rather, the number of harbor seal Level B takes requested was calculated by taking 5 percent of the total gray seal take estimate. USFWS is requesting 1,964 Level B takes of harbor seals incidental to research and monitoring activities.

#### Mitigation Measures

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

**Time and Frequency**—The USFWS plans to conduct research activities throughout the course of the year between April 1 and November 30, 2018, outside of the seasons of highest seal abundance and pupping at the Complex.

**Vessel Approach and Timing Techniques**—The USFWS shall ensure that its vessel approaches to beaches with pinniped haulouts would be conducted so as to not disturb marine mammals as most practicable. To the extent possible, the vessel shall approach the beaches in a slow and controlled approach, as far away as possibly from haulouts to prevent or minimize flushing. Staff shall also avoid or proceed cautiously when operating boats in the direct path of swimming seals that may be present in the area.

**Avoidance of Acoustic Impacts from Cannon Nets**—Cannon nets have a measured SL of 128 dB at one meter (m) (estimated based on a measurement of 98.4 dB at 30 m; L. Niles, pers. comm., December 2016); however, the SPL is expected to be less than the thresholds for airborne pinniped disturbance (e.g., 90 dB for harbor seals, and 100 dB for all other pinnipeds) at 80 yards from the source. The USFWS shall stay at least 100 meters from all pinnipeds if cannon nets are to be used for research purposes.

*Avoidance of Visual and Acoustic Contact with People*—The USFWS shall instruct its members and research staff to avoid making unnecessary noise and not expose themselves visually to pinnipeds whenever practicable. USFWS staff shall stay at least 50 yards from hauled out pinnipeds, unless it is absolutely necessary to approach seals closer, or potentially flush a seal, in order to continue conducting endangered species conservation work. When disturbance is unavoidable, staff shall work quickly and efficiently to minimize the length of disturbance. Researchers and staff will do so by proceeding in a slow and controlled manner, which allows for the seals to slowly flush into the water. Staff shall also maintain a quiet working atmosphere, avoiding loud noises, and using hushed voices in the presence of hauled out pinnipeds. Pathways of approach to the desired study or nesting site shall be chosen to minimize seal disturbance if an activity event may result in the disturbance of seals. USFWS staff shall scan the surrounding waters near the haulouts, and if predators (*i.e.*, sharks) are seen, seals shall not be flushed by USFWS staff.

Researchers, USFWS staff, and volunteers shall be properly informed about the MMPA take prohibitions, and shall educate the public on the importance of not disturbing marine mammals, when applicable. Staff at Nantucket NWR shall remain present on the beaches utilized by pinnipeds to prevent anthropogenic disturbance during times of high public use (late spring to early fall). Staff at Monomoy NWR shall also be present on beaches utilized by seals during the same time of year, and will inform the public to keep a distance from haulouts if an issue is noticed. Similar to the USFWS, the NPS also takes precautionary mitigation to help prevent seal take by the public. In August and on the weekends in September, staff and volunteers are present on the National Seashore beaches to share with the public the importance of preventing disturbance to seals by keeping people at a proper viewing distance of at least 50 yards.

The presence/proximity of seal haulouts and the loud sound created by the firing of cannon nets are taken into consideration when selecting trapping sites for the Red Knot Stopover Study. Trapping sites are decided based on the presence of red knots, the number of juveniles located within roosts, and the observation of birds with attached geolocators and flags. Sites are not trapped on if there is a strong possibility of disturbing seals (*i.e.*, closer than 100

meters). The Red Knot Stopover Study occurs during the time of year (July to September) when the least number of seals are present at the activity sites.

The mitigation measures are designed to minimize the potential for behavioral harassment of pinnipeds hauled out near the survey sites. The research and monitoring surveys occur outside of the period of highest seal abundance at the Complex. While the survey timing overlaps with harbor seal pupping season, pupping is not known to occur at the Complex. Gray seal pupping has been documented at the Complex but generally occurs between December and February, when USFWS staff will not be conducting surveys. We believe the previously stated mitigation measures are practicable for the applicant to implement.

Based on our evaluation of the applicant's planned measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

### Monitoring and Reporting

#### Monitoring

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.*, source characterization, propagation, ambient

noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and

- Mitigation and monitoring effectiveness.

The USFWS shall conduct marine mammal monitoring, in order to implement the mitigation measures that require real-time monitoring, and satisfy the monitoring requirements of the IHA. These include:

Monitoring seals as project activities are being conducted. Monitoring requirements in relation to the USFWS's activities include species counts, numbers of observed disturbances, and descriptions of the disturbance behaviors during the research activities, including location, date, and time of the event. In addition, the USFWS shall record observations regarding the number and species of any marine mammals either observed in the water or hauled out. Behavior of seals shall be recorded on a three point scale: (1) Alert reaction, not considered harassment; (2) moving at least two body lengths, or change in direction greater than 90 degrees; (3) flushing (Table 2). USFWS staff shall also record and report all observations of sick, injured, or entangled marine mammals to the Greater Atlantic Regional Stranding Coordinator. Tagged or marked marine mammals shall also be recorded and reported to the appropriate research organization or Federal agency, as well as any rare or unusual species of marine mammal. Photographs shall be taken when possible. This information shall be incorporated into a report for NMFS at the end of the season. The USFWS shall also coordinate with any university, state, or Federal researchers to attain additional data or observations that may be useful for monitoring marine mammal usage at the activity sites.

If at any time injury, serious injury, or mortality of the species for which take

is authorized should occur, or if take of any kind of other marine mammal occurs, and such action may be a result of the USFWS's activities, the USFWS shall suspend research activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

#### Reporting

The USFWS shall submit a draft report to NMFS Office of Protected Resources no later than 90 days after the conclusion of research and monitoring activities in the 2018 season. The report shall include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. The USFWS shall submit a final report to NMFS within 30 days after receiving comments from NMFS on the draft report. If the USFWS receives no comments from NMFS on the draft report, NMFS will consider the draft report to be the final report.

The report shall describe the operations conducted and sightings of marine mammals near the project. The report shall provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report shall provide:

1. A summary and table of the dates, times, and weather during all research activities;
2. Species, number, location, and behavior of any marine mammals observed throughout all monitoring activities;
3. An estimate of the number (by species) of marine mammals exposed to human presence associated with the USFWS's activities; and
4. A description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization, such as an injury (Level A harassment), serious injury, or mortality (e.g., stampede), USFWS personnel shall immediately cease the specified activities and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northeast Regional Stranding Coordinator. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;

- Description and location of the incident (including water depth, if applicable);
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

The USFWS shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. We will work with the USFWS to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The USFWS may not resume their activities until notified by us via letter, email, or telephone.

In the event that the USFWS discovers an injured or dead marine mammal, and the marine mammal observer determines that the cause of injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), the USFWS shall immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northeast Regional Stranding Coordinator. The report must include the same information identified in the paragraph above this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with the USFWS to determine whether modifications in the activities are appropriate.

In the event that the USFWS discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the USFWS shall report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northeast Regional Stranding Coordinator within 24 hours of the discovery. The USFWS personnel shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us. The USFWS can continue their survey activities while NMFS reviews the circumstances of the incident.

#### 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).

Although the USFWS's survey activities may disturb a small number of marine mammals hauled out on beaches in the Complex, NMFS expects those impacts to occur to a localized group of animals. Marine mammals would likely become alert or, at most, flush into the water in reaction to the presence of the USFWS personnel during the activities. Much of the disturbance will be limited to a short duration, allowing marine mammals to reoccupy haulouts within a short amount of time. Thus, the action is unlikely to result in long-term impacts such as permanent abandonment of the area because of the availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the research activities.

The USFWS's activities would occur during the least sensitive time (e.g., April through November, outside of the pupping season) for hauled out pinnipeds in the Complex. Thus, pups

or breeding adults would not be present during the activity days.

Moreover, the USFWS's mitigation measures regarding vessel approaches and procedures that attempt to minimize the potential to harass the seals would minimize the potential for flushing and large-scale movements. Thus, the potential for large-scale movements and flushing leading to injury, serious injury, or mortality is low.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No injury (Level A harassment) or serious injury is anticipated or authorized;
  - No mortality is anticipated or authorized;
  - Impacts will occur to a localized group of animals;
  - Disturbance will be limited to a short duration, allowing marine mammals to reoccupy haulouts within a short amount of time;
  - Activities will occur during the least sensitive time (e.g., April through November, outside of pupping season) for pinnipeds hauled out in the Complex, therefore no pups or breeding adults would be present during the activity days; and
  - The USFWS's mitigation measures regarding visual and acoustic disturbance to hauled out pinnipeds would minimize the potential for flushing and large-scale movements, therefore the potential for large-scale movements and flushing leading to injury, serious injury, or mortality is low;
- Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the 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.

These incidental harassment take numbers represent less than three percent of the affected stocks of harbor seals.

Under the 2017 draft SARs, the take number of gray seals exceeds the stock abundance estimate in U.S. waters. However, actual take may be slightly less if animals decide to haul out at a different location for the day or if animals are foraging at the time of the survey activities. The number of individual seals taken is also assumed to be less than the take estimate since these species show high philopatry (Waring *et al.*, 2016; Wood *et al.*, 2011). We expect the take numbers to represent the number of exposures, but assume that the same seals may be behaviorally harassed over multiple days, and the likely number of individual seals that may be harassed would be less. In addition, this project occurs in a small portion of the overall range of the Northwest Atlantic population of gray seals. While there is evidence of haulout site philopatry, resights of tagged and branded animals and satellite tracks of tagged animals show movement of individuals between the United States and Canada (Puryear *et al.*, 2016). The percentage of time that individuals are resident in U.S. waters is unknown (NMFS 2017). Genetic evidence provides a high degree of certainty that the Western North Atlantic stock of gray seals is a single stock (Boskovic *et al.*, 1996; Wood *et al.*, 2011). Thus, although the U.S. stock estimate is only 27,131, the overall stock abundance is 451,131. The gray seal take estimate for this project represents less than nine percent of the overall Western North Atlantic stock abundance in U.S. and Canadian waters (Table 4).

Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

#### Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable

adverse impact on the availability of such species or stocks for taking for subsistence purposes.

#### Endangered Species Act (ESA)

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

#### Authorization

As a result of these determinations, NMFS has issued an IHA to the USFWS for the harassment of small numbers of gray and harbor seals incidental to seabird and shorebird research activities at the Eastern Massachusetts National Wildlife Refuge Complex, Massachusetts, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 26, 2018.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XF882**

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Astoria Waterfront Bridge Replacement Project

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

**ACTION:** Notice; Issuance of an Incidental Harassment Authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the City of Astoria, Oregon, to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with a waterfront bridges replacement project in Astoria, Oregon.

**DATES:** This authorization is effective from October 1, 2018 through September 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Amy Fowler, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the IHA 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/node/23111>. 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 CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. 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 October 17, 2017, NMFS received a request from the City of Astoria (City), Oregon, for an IHA to take marine mammals incidental to replacement of bridges in downtown Astoria along the Columbia River. The application was considered adequate and complete on January 17, 2018. The City’s request was for take of California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus*), and harbor seals (*Phoca vitulina richardii*) by Level B harassment only. Neither the City nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

##### Description of the Specified Activity

The City of Astoria is planning to replace three bridges connecting city streets to waterfront piers in the Columbia River. The bridges are currently supported by deteriorated timber piles, which will be removed and replaced with steel piles. Bridge replacement is scheduled to begin with above-water work to remove the superstructures of the bridges in October 2018. In-water pile removal and installation will occur over 80 days between November 1, 2018 and February 28, 2019. Vibratory removal of 255 timber piles is expected to take 26 days while impact driving of 74 permanent steel piles and installation and subsequent removal of 10 temporary steel piles is expected to take 42 days. The remaining 12 days of in-water work will be used to remove concrete footings and a concrete retaining wall along the riverbank. Additional above-water construction to replace the bridge superstructures will occur in March and April 2019.

A detailed description of the planned bridge replacement project is provided in the **Federal Register** notice for the proposed IHA (83 FR 7680; February 22, 2018). Since that time, no changes have

been made to the planned construction activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

##### Comments and Responses

A notice of NMFS’ proposal to issue an IHA was published in the **Federal Register** on February 22, 2018 (83 FR 7680). During the 30-day public comment period, the Marine Mammal Commission (Commission) submitted a letter on March 21, 2018. The Commission provided comments as described below and concurred with NMFS’s finding that recommended the issuance of an IHA to the City, subject to the inclusion of the mitigation, monitoring, and reporting measures.

**Comment 1:** The Commission commented that NMFS’ method of estimating takes from this project was inappropriate. Rather than multiplying the average count of pinnipeds from the South Jetty by *months* of activity, NMFS should have multiplied by *days* of activity. As a result, the take numbers proposed in the **Federal Register** notice (83 FR 7680; February 22, 2018) were underestimated. The Commission recommended revising the take estimates to better reflect the likelihood of pinniped occurrence in the project area.

**Response 1:** NMFS concurs with the Commission recommendation and has modified the authorized take limits to account for newly available site-specific data. These changes are described further in the “Marine Mammal Occurrence” and “Take Calculation and Estimation” sections in this notice. As a result of this modification, NMFS authorized the take of 33,736 California sea lions, 5,360 Steller sea lions, and 4,560 harbor seals.

**Comment 2:** The Commission requested clarification of certain issues associated with NMFS’s notice that one-year renewals could be issued in certain limited circumstances and expressed concern that the process would bypass the public notice and comment requirements. The Commission also suggested that NMFS should discuss the possibility of renewals through a more general route, such as a rulemaking, instead of notice in a specific authorization. The Commission further recommended that if NMFS did not pursue a more general route, that the agency provide the Commission and the public with a legal analysis supporting our conclusion that this process is consistent with the requirements of 101(a)(5)(D) of the MMPA.

**Response 2:** The process of issuing a renewal IHA does not bypass the public

notice and comment requirements of the MMPA. The notice of the proposed IHA expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Importantly, such renewals would be limited to where the activities are identical or nearly identical to those analyzed in the proposed IHA, monitoring does not indicate impacts that were not previously analyzed and authorized, and the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and

effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency would consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA would be published in the **Federal Register**, as are all IHAs. Last, NMFS will publish on our website a description of the renewal process before any renewal is issued utilizing the new process.

#### Description of Marine Mammals in the Area of Specified Activities

A detailed description of the species likely to be affected by the City's

actions, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, are provided in the City's application and the **Federal Register** notice for the proposed IHA (83 FR 7680; February 22, 2018). We are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please refer to additional species information available in the NMFS stock assessment reports for the Pacific and Alaska at <http://www.nmfs.noaa.gov/pr/sars/region.htm>.

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF ASTORIA

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>	Relative occurrence near Astoria
<b>Order Carnivora—Superfamily Pinnipedia</b>							
Family Otariidae (eared seals and sea lions): California sea lion .....	<i>Zalophus californianus</i> .....	U.S. ....	-; N	296,750 (N/A, 153,337, 2011).	9,200	389	Likely.
Steller sea lion .....	<i>Eumetopias jubatus</i> .....	Eastern U.S. ....	-; N	41,638 (N/A, 41,638, 2015).	2,498	108	Likely.
Family Phocidae (earless seals): Pacific harbor seal .....	<i>Phoca vitulina richardii</i> .....	Oregon/Washington Coast	-; N	Unknown (0.12, 24,732, 1999).	undet.	10.6	Likely.

<sup>1</sup> Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/). CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV.

<sup>3</sup> 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.

#### Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from vibratory and impact pile driving and airborne noise from superstructure construction for the bridge replacement project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (83 FR 7680; February 22, 2018) included a discussion of the effects of the project and anthropogenic noise on marine mammals, therefore that information is not repeated here; please refer to the **Federal Register** notice (83 FR 7680; February 22, 2018) for that information. We provide a summary here.

The main impact associated with the bridge replacement project would be exposure to temporarily elevated sound levels and the associated direct effects

on marine mammals (e.g., temporary hearing impairment, behavioral disturbance, and stress). The new bridges will be installed within the footprint of the existing bridges, therefore no new permanent impacts to habitats used by marine mammals would result from the project. Some short-term impacts to prey availability (e.g., fish) and minor impacts to the immediate substrate may occur as a result of increased turbidity from pile installation and removal but the effects are expected to be minimal. No critical habitat for any marine mammal species occurs in the project area.

#### Estimated Take

This section provides an estimate of the number of incidental takes authorized by this IHA, which informs both NMFS' consideration of whether

the number of takes is "small" and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes are by Level B harassment only, for individual marine mammals resulting from exposure to pile driving and construction activities. Based on the nature of the activity and



the anticipated effectiveness of the mitigation measures (*i.e.*, shutdown—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). Thresholds have also been developed

identifying the received level of in-air sound above which exposed pinnipeds would likely be behaviorally harassed.

*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 by 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 decibels (dB) re 1 micro pascal ( $\mu$ Pa) root mean square (rms) for continuous (*e.g.*, vibratory pile-driving, drilling) and above 160 dB re 1  $\mu$ Pa (rms) for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources. For in-air sounds, NMFS predicts that pinnipeds exposed above received levels of 100 dB

re 20  $\mu$ Pa (rms) will be behaviorally harassed.

The City's activities include the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1  $\mu$ Pa (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). The City's activities include the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 2 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: <https://www.fisheries.noaa.gov/resource/document/underwater-acoustic-thresholds-onset-permanent-and-temporary-threshold-shifts>.

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

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.

\*Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

**Note:** Peak sound pressure ( $L_{pk}$ ) has a reference value of 1  $\mu$ Pa, and cumulative sound exposure level ( $L_E$ ) has a reference value of 1  $\mu$ Pa<sup>2</sup>s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

#### Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

#### Level B Harassment

*In-Air Disturbance during General Construction Activities*—Level B behavioral disturbance may occur incidental to the use of construction equipment during general construction that is proposed in the dry, above water, or inland within close proximity to the river banks. These construction

activities are associated with the removal and construction of the rail superstructures, and the removal of the existing concrete foundations and the 9th Street retaining wall. Possible equipment includes an excavator, crane, dump truck, and chain saw. It is estimated that the sound levels during these activities will range from 78 to 93

dB (rms) at 20 meters (m) from the sound source, with the loudest airborne noise produced by the use of a concrete saw (Hanan & Associates, 2014). These noise levels are based on acoustic data collected during the City of San Diego Lifeguard Station Demolition and Construction Monitoring project. Using the Spherical Spreading Loss Model (20logR), a maximum sound source level of 93 dB (rms) at 20 m, sound levels in-air would attenuate below the 90dB (rms) Level B harassment threshold for harbor seals at 28 m, and below the 100 dB (rms) threshold for all other pinnipeds at 9 m. Harbor seals are only present in the main river channel and are not expected to occur within 28 m of the activity and are therefore not expected to be harassed by in-air sound. Additionally, the city will implement a 10 m shutdown zone for all general construction work to prevent injury from physical interaction with equipment. The City would therefore shut down equipment before hauled out sea lions could be acoustically harassed by the sound produced. No Level B harassment is expected to occur due to increased sounds from railway and roadway construction. However, sea lions may be disturbed by the presence of construction equipment and increased human presence during above-water construction.

Although some piles may potentially be driven or removed in the dry due to tidal conditions, the City assumed all pile driving and removal will occur in water. The Level B harassment zone for in-water pile driving and removal is greater than the airborne Level B harassment zone so no airborne harassment is requested from pile driving or removal. All harassment due to pile driving and removal is assumed to be in-water.

*In-Water Disturbance during Vibratory Pile Removal*—Level B behavioral disturbance may occur

incidental to the use of a vibratory hammer due to propagation of underwater noise during the removal of the existing timber substructures. An estimated 255 timber piles will need to be removed to facilitate construction of the three new crossings. It is anticipated that the contractor will need to utilize a vibratory hammer during extraction. Removal via vibratory hammer will result in the greatest amount of underwater noise during construction and will be the farthest reaching extent of aquatic impacts during pile removal activities. We note that some pile removal will occur in the dry (depending on tidal stage); however, we conservatively assumed all work would occur in-water since it is not feasible to determine how many piles would be removed in the dry. When piles are removed at lower tidal stages, we do not anticipate sound to propagate as far or, in the case of no water, at all.

Washington State Department of Transportation (WSDOT) monitored underwater noise during the removal of three 12-in timber dolphin piles at Port Townsend (Laughlin 2011a). Most of the timber piles to be removed in this project are 12-in but some may be up to 14-in. Average noise levels during vibratory removal of the wood piles were measured at 150 dB (rms) at 16 m from the source. The Practical Spreading Loss Model (15logR) was used to calculate the in-water Level B harassment zone during vibratory pile removal. Using a measurement of 150dB at 16 m, a 1,600 m Level B harassment zone (120 dB rms threshold) is expected for vibratory pile removal activities. Based on the contours of the shoreline and 1,600 m Level B harassment zone, a total of 4.5 square kilometers (km<sup>2</sup>) is expected to be ensonified due to vibratory pile removal (see Figure 10 in application) (Table 7).

*In-Water Disturbance during Impact Pile Driving*—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 permanent and temporary steel piles. The City will install a total of 74 24-in and 10 16-in steel piles. The City used the sound source levels from 24-in piles only to estimate the Level B harassment zone due to pile driving as the sound source levels from 24-in piles are greater than those of 16-in piles. The City will use the Level B harassment zone created by installation of 24-in piles during the installation of 16-in piles to be conservative.

Based on the most recent WSDOT data, the unmitigated sound pressure level associated with impact pile driving 24-in steel piles is 194 dB RMS at 10 m (WSDOT 2016). The contractor will be required to use a bubble curtain device during impact pile driving in compliance with the Federal Aid Highway Program (FAHP) Programmatic Biological Opinion, which will be utilized for ESA coverage for listed salmonids. Use of a bubble curtain device was assumed to decrease initial sound levels by 10 dB (Reyff, 2007), resulting in an initial sound pressure level (SPL) of 184 dB RMS at 10 m from the source. Using the values from WSDOT in the Practical Spreading Loss Model (15logR), the distance to the 160 dB behavioral disturbance threshold is calculated to be 398 m from the pile when a noise attenuation device is used (Table 3) as opposed to 1,848 m when a device is not used. The use of a noise attenuation device would shrink the distance at which noise exceeds the thresholds by approximately 80 percent, resulting in a significantly smaller area of potential impact. With a 398 m Level B harassment zone, a total of 0.40 km<sup>2</sup> is expected to be ensonified by impact pile driving (Figure 11 in application).

TABLE 3—INPUTS AND RESULTING DISTANCES TO LEVEL B HARASSMENT ISOPLETHS

Activity	SL (distance measured)	Threshold level	Propagation loss coefficient	Level B isopleth (m)	Level B area (km <sup>2</sup> )
Vibratory pile driving/removal	150 dB (16 m) .....	120 dB re 1 $\mu$ Pa .....	15	1,600	4.5
Impact pile driving (24-in piles).	184 dB (10 m) <sup>a</sup> .....	160 dB re 1 $\mu$ Pa .....	15	398	0.4
General Construction (in-air)	93 dB (20 m) .....	100 dB re 20 $\mu$ Pa <sup>b</sup> .....	20	9 m	n/a

<sup>a</sup> Proxy SL with 10 dB reduction due to bubble curtain.

<sup>b</sup> 100 dB re 20  $\mu$ Pa airborne threshold applies only to sea lions. The distance to the 90 dB re 20 $\mu$ Pa applicable to harbor seals is 28 m but harbor seals are not expected to be harassed by airborne sound, as described above.

#### 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 permanent threshold shift (PTS). Inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

TABLE 4—PTS ISOPLETH DATA FOR VIBRATORY PILE REMOVAL

Source Level (RMS SPL) .....	150
Activity Duration (hours) within 24-hr period .....	8
Activity Duration (seconds) .....	28,800
10 Log (Duration) .....	44.59
Propagation (xLogR) .....	15
Distance of source level measurement (m) .....	16

TABLE 5—RESULTING PTS ISOPLETHS FOR VIBRATORY PILE DRIVING

	Phocid pinnipeds	Otariid pinnipeds
SEL <sub>cum</sub> Threshold .....	210	219
PTS Isopleth to Threshold (meters) .....	4.9	0.3

TABLE 6—PTS ISOPLETH DATA FOR IMPACT PILE DRIVING

Source Level (Single Strike/shot SEL) .....	168
(a) Number of strikes in 1 h OR (b) Number of strikes per pile .....	250
(a) Activity Duration (h) within 24-h period OR (b) Number of piles per day .....	4
Propagation (xLogR) .....	15
Distance of single strike SEL measurement (meters) .....	10

TABLE 7—RESULTING PTS ISOPLETHS FOR IMPACT PILE DRIVING

	Phocid pinnipeds	Otariid pinnipeds
SEL <sub>cum</sub> Threshold .....	185	203
PTS Isopleth to Threshold (m) .....	53.4	3.9

The resulting small PTS isopleths assume an animal would remain stationary at that distance for the duration of the activity. Given the extended durations and due to the relatively small distances to PTS onset from each activity, and the mitigation measures (See “Mitigation”) proposed by the City, Level A take is neither expected nor 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.

In the **Federal Register** notice of proposed IHA (83 FR 7680; February 22, 2018), takes of marine mammals were estimated using counts from 2000–2014 by WDFW at the South Jetty at the mouth of the Columbia River. At the time of publication, these counts were believed to be the best available data on pinniped occurrence in the lower

Columbia River. After publication of the **Federal Register** notice (83 FR 7680; February 22, 2018), NMFS learned of Oregon Department of Fish and Wildlife (ODFW) aerial surveys of pinnipeds at the East Mooring Basin (approximately one mile upstream from the project site) and Desdemona Sands (approximately one mile downstream from the project site). Estimated takes of California sea lions were recalculated using data generated by those surveys (ODFW; Bryan Wright, pers. comm., March 2018).

Aerial surveys of the East Mooring Basin in Astoria from 2011 to 2017 were used to calculate take of California sea lions. Maximum daily counts of California sea lions at the East Mooring Basin ranged from 3 in July 2016 to 3,834 in March 2016. In addition to ODFW aerial surveys, the City conducted opportunistic surveys of pinnipeds at the bridge sites in

December 2017. A maximum of four California sea lions were observed in the water surrounding the bridges and piers. Additional California sea lions were heard vocalizing from the riverbanks under the bridges but the number of sea lions could not be determined. A conservative estimate of 16 California sea lions per day may be hauled out on the riverbanks and subject to harassment from above-water construction work.

Counts of Steller sea lions at the East Mooring Basin typically numbered in the single digits (B. Wright, pers. comm., March 2018). However, there are typically dozens of Steller sea lions at the Bonneville Dam and a few individuals at Willamette Falls. While the sea lions observed at Bonneville and Willamette are often the same individuals seen daily, these animals must transit past Astoria at some point in their travels from the Pacific to the

upper Columbia River (B. Wright, pers. comm., March 2018).

Numbers of harbor seals hauled out at Desdemona Sands have been reported to reach into the thousands (Profita 2015) but specific counts were unavailable. Without counts of harbor seals closer to the project site, the maximum average count of harbor seals at the South Jetty (57 seals; WDFW 2014) is used to calculate take.

#### Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

In the **Federal Register** notice for the proposed IHA (83 FR 7680; February 22, 2018), take of each species was calculated using average counts of pinnipeds at the South Jetty (WDFW 2014). Average monthly counts were multiplied by months of activity to determine the total take estimation. During the public comment period, we received information that although the WDFW counts were presented as average number of pinnipeds per month, the numbers were actually daily counts and therefore should have been multiplied by days of activity. The take limits in the final authorization were calculated by multiplying maximum counts of pinnipeds by days of activity.

Although three species of pinniped occur in the vicinity of the project, they

do not occur in equal numbers. Harbor seals and Steller sea lions do not haul-out near the project area and would only be harassed if they are transiting through the in-water Level B harassment zone (1,600 m for vibratory pile removal, 398 m for impact pile driving) at the time of pile driving. Because harbor seals and Steller sea lions do not have the potential to be harassed when hauled-out (in-air), they would only be harassed during the in-water work period (November through February).

California sea lions are the most commonly observed marine mammal in the area, and are known to haul out on the riverbanks and structures near the bridges. California sea lions may be harassed by underwater sound resulting from vibratory pile removal and impact pile driving (at the distances listed above) as well as airborne sound resulting from roadway and railway demolition and construction. As such, California sea lions may be subject to both in-water and in-air sources of harassment (October through April).

Using the highest sound source (concrete saw, 93 dB<sub>rms</sub> re: 20 µPa at 20 m), the isopleth to Level B harassment from airborne noise (100 dB re: 20 µPa) is 9 m. The City is proposing a 10 m shutdown zone during all railway and roadway above-water construction to prevent injury from physical interaction with equipment (see "Mitigation"). The

City would therefore shut down equipment before sea lions would be acoustically harassed by the sound produced and no Level B acoustic harassment would occur. However, the City anticipates that California sea lions hauled out on the banks of the river in the vicinity of the construction work may be visually disturbed by the presence of construction equipment and may flush, resulting in Level B take. Therefore, we have authorized take of California sea lions during the above-water work period (October 2018 and March–April 2019).

While harbor seals and Steller sea lions would only be harassed during the in-water work period (November through February), California sea lions may be harassed over the entire duration of the project (October through April). To determine the estimated exposure and take of harbor seals, the maximum average daily count of harbor seals at the South Jetty (57 seals) was multiplied by planned days of in-water work (80 days). Similarly, the maximum number of Steller sea lions observed at the Bonneville Dam (63; USACE 2017) and Willamette Falls (4; ODFW 2017) were multiplied by 80 days of in-water work to account for the maximum number of Steller sea lions likely to be in the Columbia River transiting past Astoria each day (Table 8).

TABLE 8—TAKE CALCULATION OF HARBOR SEALS AND STELLER SEA LIONS

Species	Maximum daily count	Days of activity	Total take (Level B)
Harbor seal .....	<sup>1</sup> 57	80	4,560
Steller sea lion .....	<sup>2</sup> 67	80	5,360

<sup>1</sup> WDFW 2014.

<sup>2</sup> 63 sea lions at Bonneville Dam + 4 sea lions at Willamette Falls (USACE 2017; ODFW 2017).

Take of California sea lions was calculated by multiplying the average maximum daily count per month by the days of activity in each month (Table 9).

TABLE 9—TAKE CALCULATION OF CALIFORNIA SEA LIONS

Month	Daily average maximum <sup>1</sup>	Days of work in month <sup>2</sup>	Total takes per month (Level B)
October .....	16	22	352
November .....	141	20	2,817
December .....	135	20	2,690
January .....	408	21	8,577
February .....	980	19	18,612
March .....	16	21	336
April .....	16	22	352
Total Takes .....	.....	.....	33,736

<sup>1</sup> B. Wright, pers. comm.

<sup>2</sup> Days of work excludes weekends and holidays.

## 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**—All construction activities shall be performed in accordance with the current Oregon Department of Transportation (ODOT) Standard Specifications for Construction, the Contract Plans, and the Project Special Provisions. In addition, the following general construction measures shall be adhered to:

- All work below the highest measured tide shall be completed

during the ODFW prescribed in-water work period of November 1 through February 28;

- All work shall be performed according to the requirements and conditions of the regulatory permits issued by federal, state, and local governments. Seasonal restrictions, *i.e.*, work windows, shall be applied to the Project to avoid or minimize potential impacts to listed or proposed species based on agreement with, and the regulatory permits issued by Department of State Lands, and U.S. Army Corps of Engineers (USACE) in consultation with NMFS. The City shall comply with all stipulations from the FAHP Biological Opinion for salmonids (*i.e.*, using air bubble curtains);
- The City shall have an inspector onsite during construction. The role of the inspector is to ensure compliance with the construction contract and other permits and regulations. The onsite inspector shall also perform marine mammal monitoring duties when protected species observers (PSOs) are not onsite (See Proposed Monitoring section);
- To ensure no contaminants enter the water, mobile heavy equipment shall be stored in a staging area at least 150 ft from the river or in an isolated hard zone. Equipment shall be inspected daily for fluid leaks before leaving the staging area. Stationary equipment operated within 150 ft of the river shall be maintained and protected to prevent leaks and spills. Erosion and sediment control BMPs shall be installed prior to initiating and construction activities; and
- The contractor shall be responsible for the preparation of a Pollution Control Plan (PCP). The PCP shall designate a professional on-call spill response team, and identify all contractor activities, hazardous substances used, and wastes generated. The PCP shall describe how hazardous substances and wastes will be stored, used, contained, monitored, disposed of, and documented.

**Pile Removal and Installation BMPs**—The following mitigation measures shall be implemented to minimize disturbance during pile removal and installation activities:

- An air bubble system shall be employed during impact installation unless the piles are driven on dry areas;
- The contractor shall implement a soft-start procedure for impact pile driving activities. The objective of a soft-start is to provide a warning and/or give animals in close proximity to pile driving a chance to leave the area prior to an impact driver operating at full capacity, thereby exposing fewer

animals to loud underwater and airborne sounds. A soft-start procedure shall be used at the beginning of each day that pile installation activities are conducted (*i.e.*, for impact driving, an initial set of three strikes would be made by the hammer at 40 percent energy, followed by a one minute wait period, then two subsequent 3-strike sets at 40 percent energy, with one minute waiting periods, before initiating continuous driving);

- Monitoring of marine mammals shall take place starting 30 minutes before construction begins until 30 minutes after construction ends (See *Proposed Monitoring*);
- Before beginning vibratory pile removal activities, the City shall establish a 15 m shutdown zone to protect marine mammals from Level A harassment;
- Before beginning impact pile driving activities, the City shall establish a 55 m shutdown zone to protect marine mammals from Level A harassment;
- Before beginning any in-water work (not including pile driving/removal) and any above-water construction activities, the City shall establish a 10 m Level A shutdown zone to prevent injury from physical interaction with construction equipment;
- The City shall shut down operations if a marine mammal is sighted within or approaching the shutdown zone until the marine mammal is sighted moving away from the shutdown zone, or if not sighted for 15 minutes after the shutdown;
- If a species for which authorization has been not been granted or for which authorization has been granted but the take limit has been met approaches or enters the Level B harassment zone, construction activity must cease and the City shall contact the Office of Protected Resources, NMFS;
- If the shutdown zone is obscured by poor lighting conditions, pile driving shall not be initiated until the entire zone is visible; and
- In-water work shall only commence once observers have declared the shutdown zone clear of marine mammals.

Based on our evaluation of the applicant's proposed measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

## Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance and to ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

## Monitoring

The following marine mammal monitoring measures are included in the IHA.

(1) Protected Species Observers: The City shall employ two qualified PSOs to monitor the extent of the Region of

Activity for marine mammals.

Qualifications for marine mammal observers include:

- a. Visual acuity in both eyes (correction is permissible) sufficient for discerning moving targets at the water's surface with ability to estimate target size and distance. Use of binoculars is necessary to correctly identify the target;
- b. Advanced education (at least some college level course work) in biological science, wildlife management, mammalogy, or related fields (bachelor's degree or higher is preferred but not required);
- c. Experience or training in the field identification of marine mammals (cetaceans and pinnipeds);
- d. Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- e. 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;
- f. Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience); and
- g. Writing skills sufficient to prepare a report of observations that would include such information as the number and type of marine mammals observed; the behavior of marine mammals in the project area; dates and times when observations were conducted; dates and times when in-water construction activities were conducted; and dates and times when marine mammals were present at or within the defined Region of Activity.

(2) Monitoring Schedule: PSOs shall be present onsite during IWW construction activities as follows:

- a. During vibratory pile removal activities:
  - i. Two NMFS qualified observers shall be onsite the first day of removal at each bridge, one NMFS qualified observer shall be onsite every third day thereafter.
  - ii. One NMFS qualified observer shall be stationed at the best practicable land-based vantage point to observe the downstream portion of the disturbance zone, and the other positioned at the best practicable land-based vantage point to monitor the upstream portion of the disturbance zone.
  - iii. When PSOs are not onsite, the contractor's onsite inspector shall be trained in species identification and monitoring protocol, and shall be onsite during all pile removal activities to ensure that no species enter the 15 m shutdown zone.
- b. During pile driving activities:

- i. Two NMFS qualified observers shall be onsite the first two days of pile driving at each bridge, and every third day thereafter.

- ii. One NMFS observer shall be stationed at the best practicable land-based vantage point to observe the downstream portion of the disturbance and exclusion zones, and the other positioned at the best practicable land-based vantage point to monitor the upstream portion of the disturbance and exclusion zones.

- iii. When PSOs are not onsite, the contractor's onsite inspector shall be trained in species identification and monitoring protocol, and shall be onsite during all pile driving activities to ensure that no species enter the shutdown zone.

c. During in-water substructure demolition activities (not including pile driving/removal) and above-water superstructure demolition and construction activities:

- i. One NMFS qualified observer shall be onsite once a week to monitor the shutdown zone within 10 m of the construction site.

- ii. When PSO is not on-site, the contractor's inspector shall be trained in species identification and monitoring protocol, and shall be onsite during all construction activities to ensure that no species enter the 10 m shutdown zone during superstructure demolition and construction activities.

(3) Monitoring Protocols: PSOs shall monitor marine mammal presence within the shutdown zone and Level B harassment zones per the following protocols:

- a. A range finder or hand-held global positioning system device shall be used by PSOs to ensure that the defined shutdown zones are fully monitored and the Level B ZOLs monitored to the best extent practicable.

- b. A 30-minute pre-construction marine mammal monitoring period shall be required before the first pile driving or pile removal of the day. A 30-minute post-construction marine mammal monitoring period shall be required after the last pile driving or pile removal of the day. If the contractor's personnel take a break between subsequent pile driving or pile removal for more than 30 minutes, then additional pre-construction marine mammal monitoring shall be required before the next start-up of pile driving or pile removal.

- c. If marine mammals are observed, the following information shall be documented:

- i. Species of observed marine mammals;

- ii. Number of observed marine mammal individuals;
- iii. Life stages of marine mammals observed;
- iv. Behavioral habits, including feeding, of observed marine mammals, in both presence and absence of activities;
- v. Location within the Region of Activity; and
- vi. Animals' reaction (if any) to pile driving activities or other construction-related stressors including:
  - 1. Impacts to the long-term fitness of the individual animal, if any
  - 2. Long-term impacts to the population, species, or stock (*e.g.*, through effects on annual rates of recruitment or survival), if any
- vii. Overall effectiveness of mitigation measures
- d. During vibratory pile removal and impact driving, qualified PSOs shall monitor the Level B harassment zones from the best practicable land-based vantage point to observe the downstream and upstream portions of the disturbance zone according to the above schedule.
- e. PSOs shall use binoculars to monitor the Level B harassment zone.
- f. PSOs shall keep a running tally of takes of each marine mammal species authorized by extrapolating the observed takes to the days when monitoring did not occur. The City shall notify the Office of Protected Resources, NMFS if takes of any species come within five percent of the take limits established in the IHA.

#### Reporting

(1) The City shall provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(2) If comments are received from the NMFS West Coast Regional Administrator or NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft report will be considered to be the final report.

(3) In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by the NMFS authorization, such as an injury, serious injury, or mortality, the City shall immediately cease all operations and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, and the West Coast

Regional Stranding Coordinator, (206) 526-4747. The report must include the following information:

- a. Time, date, and location (latitude/longitude) of the incident;
- b. Description of the incident;
- c. Status of all sound source use in the 24 hours preceding the incident;
- d. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility, and water depth);
- e. Description of marine mammal observations in the 24 hours preceding the incident;
- f. Species identification or description of the animal(s) involved, including life stage and the fate of the animal(s); and
- g. Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with the City to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Activities may not be resumed until notified by NMFS via letter, email, or telephone.

(4) In the event that the City discovers an injured or dead marine mammal, and the lead PSO determines that the cause of injury or death is unknown and the death is relatively recent (*i.e.*, in less than a moderate state of decay as described in the next paragraph), the City shall immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must contain the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the City to determine whether modifications in the activities are appropriate.

(5) In the event that the City discovers an injured or dead marine mammal, and the lead PSO 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), the City shall report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators, within 24 hours of the discovery. The City shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. The City can continue its operations under such a case.

#### 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, the discussion of our analyses applies to all three species authorized to be taken by this project (California sea lion, Steller sea lion, and harbor seal), given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

Authorized takes are expected to be limited to short-term Level B harassment. Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (*e.g.*, startle reaction, flushing) and avoidance of the area from elevated noise levels during pile removal and installation and railway superstructure construction. The project is not expected to have a significant adverse effect on affected marine mammal habitat, as discussed in

detail in the “Anticipated Effects on Marine Mammal Habitat” section. There is no critical habitat in the vicinity of the project and the project activities would not permanently modify existing marine mammal habitat. The impacts to marine mammal habitat from the construction actions are expected to be temporary and include increased human activity and noise levels, minimal impacts to water quality, and negligible changes in prey availability near the individual bridge sites. The project may benefit marine mammal habitat by removing several hundred treated timber piles from the Columbia River.

Impacts to pinnipeds are expected to be minor and temporary. The area likely impacted by the construction is relatively small compared to the available habitat in the river. Pinnipeds in the vicinity are likely habituated to high levels of human activity as the Astoria waterfront is a highly developed area. Exposures to elevated sound levels produced during pile driving and removal activities may cause behavioral responses by an animal, but they are expected to be minor and temporary. Animals may become alert, avoid the area, leave the area, or show no observable response. Given the short daily duration of noise-generating activities and the limited season of in-water work, any harassment would be temporary. For California and Steller sea lions, sub-adult and adult males could

be harassed during construction activities. For harbor seals, sub-adult and adult males and/or females could be harassed during construction activities. The project occurs outside of known pupping periods for all species, and there are no known rookeries within the region of activity. Therefore, no pups or breeding adults are expected to be affected by the project activities.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No injury is anticipated or authorized;
- No serious injury or mortality is anticipated or authorized;
- In-water work is limited to a four-month period, and likely only 80 days within that time;
- No permanent effects to marine mammal habitat or prey is expected;
- Marine mammals are currently exposed to high human use area and are likely habituated to disturbance;
- Any impacts from the project are expected to result in short-term, mild behavioral reactions such as avoidance or flushing;
- There are no known important feeding, pupping, or other areas of biological significance in the project area; and

- The project affects only a small percentage of each stock of marine mammal affected, and only in a limited portion of their overall range.

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 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 10—AUTHORIZED PINNIPED TAKE, BY LEVEL B HARASSMENT

	Authorized take	Percent of stock
California Sea Lion .....	33,736	11.4
Steller Sea Lion .....	5,360	12.9
Harbor Seal .....	4,560	18.4

The number of instances of take of each stock proposed to be taken as a result of this project is less than 20 percent of the total stock (Table 10). Additionally, the number of takes requested is based on the number of estimated exposures, not necessarily the number of individuals exposed. Pinnipeds may remain in the general area of the project sites and the same individuals may be harassed multiple times over multiple days, rather than numerous individuals harassed once. Therefore, the percent of stock may be less since the numbers represented in Table 10 assume distinct individuals.

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 finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

#### Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

#### Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal

agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS West Coast Region Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.



**Authorization**

As a result of these determinations, NMFS has issued an IHA to the City for the harassment of small numbers of California sea lions, Steller sea lions, and Pacific harbor seals incidental to construction activities related to bridge replacements in Astoria, Oregon, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 26, 2018.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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

**RIN 0648-XF831**

**Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Lighthouse Repair and Tour Operations at Northwest Seal Rock, California**

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

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the St. George Reef Lighthouse Preservation Society (Society) to incidentally harass, by Level B harassment only, marine mammals during aircraft operations, lighthouse renovations, and tour operations associated with preservation of the St. George Reef Lighthouse Station on Northwest Seal Rock (NWSR) in the northeast Pacific Ocean.

**DATES:** This authorization is effective from February 19, 2018 through February 18, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Amy Fowler, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the IHA 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-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 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).

**Summary of Request**

On October 18, 2017, NMFS received a request from the Society for an IHA to take marine mammals incidental to restoration, maintenance, and tour operations at St. George Reef Lighthouse (Station) located on Northwest Seal Rock (NWSR) offshore of Crescent City, California in the northeast Pacific Ocean. NMFS determined the application adequate and complete on January 17, 2018. The Society’s request

was for take of California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus*), northern fur seals (*Callorhinus ursinus*) and Pacific harbor seals (*Phoca vitulina richardii*) by Level B harassment only. Neither the Society nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS has previously issued seven IHA’s to the Society for similar work between 2010 and 2017 (75 FR 4774, January 29, 2010; 76 FR 10564, February 25, 2011; 77 FR 8811, February 15, 2012; 78 FR 71576, November 29, 2013; 79 FR 6179, February 3, 2014; 81 FR 9440, February 23, 2016; and 82 FR 11005, February 17, 2017). The Society complied with all the requirements (e.g., mitigation, monitoring, and reporting) of the previous IHAs and information regarding their monitoring results may be found in the Estimated Take section.

**Description of Specified Activity**

The Station, listed in the National Park Service’s National Register of Historic Places, is located on NWSR offshore of Crescent City, California in the northeast Pacific Ocean. The Station, built in 1892, rises 45.7 meters (m) (150 feet (ft)) above sea level. The structure consists of hundreds of granite blocks topped with a cast iron lantern room and covers much of the surface of the islet. The purpose of the project is to restore the lighthouse, to conduct tours, and to conduct annual and emergency maintenance on the Station’s optical light system.

The Society proposes to conduct aircraft operations, lighthouse renovation, and periodic maintenance on the Station’s optical light system on a monthly basis. The Society’s activity will occur on a monthly basis over one weekend, November through April. The following specific aspects of the activities will likely result in the take of marine mammals: Acoustic and visual stimuli from (1) helicopter landings/takeoffs; (2) noise generated during restoration activities (e.g., painting, plastering, welding, and glazing); (3) maintenance activities (e.g., bulb replacement and automation of the light system); and (4) human presence.

A detailed description of the planned activities is provided in the **Federal Register** notice (83 FR 8841, March 1, 2018). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

## Comments and Responses

A notice of NMFS's proposal to issue an IHA was published in the **Federal Register** on March 1, 2018 (83 FR 8841). During the 30-day public comment period, the Marine Mammal Commission (Commission) submitted a letter on March 7, 2018. The Commission provided comments as described below and concurred with NMFS's findings that the recommended issuance of an IHA to the Society, subject to the inclusion of the mitigation, monitoring, and reporting measures.

**Comment:** The Commission requested clarification of certain issues associated with NMFS's notice that one-year renewals could be issued in certain limited circumstances and expressed concern that the process would bypass the public notice and comment requirements. The Commission also suggested that NMFS should discuss the possibility of renewals through a more general route, such as a rulemaking, instead of notice in a specific authorization. The Commission further recommended that if NMFS did not pursue a more general route, that the agency provide the Commission and the

public with a legal analysis supporting our conclusion that this process is consistent with the requirements of 101(a)(5)(D) of the MMPA.

**Response:** The process of issuing a renewal IHA does not bypass the public notice and comment requirements of the MMPA. The notice of the proposed IHA expressly notifies the public that under certain, limited conditions an applicant could seek a renewal of an IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Importantly, such renewals would be limited to where the activities are identical or nearly identical to those analyzed in the proposed IHA, monitoring does not indicate impacts that were not previously analyzed and authorized, and the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one

year and that the agency would consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA would be published in the **Federal Register**, as are all IHAs. Last, NMFS will publish on our website a description of the renewal process before any renewal is issued utilizing the new process.

## Description of Marine Mammals in the Area of Specified Activities

A detailed description of the species likely to be affected by the planned activities, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (83 FR 8841, March 1, 2018). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions as well as to NMFS's website ([www.nmfs.noaa.gov/pr/species/mammals/](http://www.nmfs.noaa.gov/pr/species/mammals/)) for generalized species accounts.

TABLE 1—MARINE MAMMALS IN THE VICINITY OF NORTHWEST SEAL ROCK

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
<b>Order Carnivora—Superfamily Pinnipedia</b>						
Family Otariidae (eared seals and sea lions):						
California sea lion .....	<i>Zalophus californianus</i> .....	U.S. ....	-; N	296,750 (n/a; 153,337; 2011).	9,200	389
Steller sea lion .....	<i>Eumetopias jubatus</i> .....	Eastern U.S. ....	-; N	41,638 (n/a; 41,638; 2015).	2,498	108
Northern fur seal .....	<i>Callorhinus ursinus</i> .....	California Breeding .....	-; N	14,050 (n/a; 7,524; 2013)	451	1.8
Family Phocidae (earless seals):						
Pacific harbor seal .....	<i>Phoca vitulina richardii</i> .....	California .....	-; N	30,968 (n/a; 27,348; 2012).	1,641	43

<sup>1</sup> Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (–) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/). CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance. In some cases, CV is not applicable.

<sup>3</sup> These values, found in NMFS's SARs, represent annual levels of human-caused mortality (M) plus serious injury (SI) 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.

## Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effect of stressors associated with the specified activities (e.g., helicopter operations) has the potential to result in behavioral harassment of marine mammals in the vicinity of the action areas. The **Federal Register** notice for the proposed IHA (83 FR 8841, March 1, 2018) included a discussion of the effects of such disturbance on marine

mammals, therefore that information is not repeated here.

NMFS described potential impacts to marine mammal habitat in detail in our **Federal Register** notice of proposed authorization (83 FR 8841, March 1, 2018). In summary, the project activities will not modify existing marine mammal habitat. Because of the short duration of the activities and the relatively small area of the habitat that

may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences for individual marine mammals or their populations.

## Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS's 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 will be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to aircraft operations and lighthouse maintenance activities. Based on the nature of the activity, Level A harassment is neither anticipated nor authorized.

TABLE 2—DISTURBANCE SCALE OF PINNIPED RESPONSES TO IN-AIR SOURCES TO DETERMINE TAKE

Level	Type of response	Definition
1 .....	Alert .....	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2* .....	Movement .....	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3* .....	Flush .....	All retreats (flushes) to the water.

\*Only Levels 2 and 3 are considered take, whereas Level 1 is not.

NMFS assumes that pinnipeds that move greater than two body lengths to longer retreats over the beach, or if already moving, a change of direction of greater than 90 degrees in response to the presence of surveyors, or pinnipeds that flush into the water, are behaviorally harassed, and thus subject to Level B taking (Table 2).

Below we describe how the take is estimated.

#### *Marine Mammal Occurrence*

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

For the 2010 season, the Society reported that no Steller sea lions were present in the vicinity of NWSR during restoration activities (SGRLPS 2010). Based on the monitoring report for the 2011 season, the maximum numbers of Steller sea lions present during the April and November 2011, work sessions were 2 and 155 animals, respectively (SGRLPS 2012). During the 2012 season, the Society did not observe any Steller sea lions present on NWSR during restoration activities. The Society did not conduct any operations for the 2013–2014, 2014–2015, and 2015–2016 seasons. The Society reported no Steller sea lions observed in the 2016–2017 and 2017–2018 work sessions (T. McNamara, pers. comm., 2018).

Based on the monitoring report for the 2011 season, the maximum numbers of California sea lions present during the April and November, 2011 work sessions were 2 and 160 animals, respectively (SGRLPS 2012). There were no California sea lions present during the March, 2012 work session (SGRLPS

2012). The Society reported 16 California sea lions observed in March 2017 and no California sea lions present in April 2017. The Society also reported that 16 California sea lions were observed in November 2017 (Terry McNamara, pers. comm., 2018).

For the 2010, 2011, and 2012 work seasons, the Society did not observe any northern fur seals present on NWSR during restoration activities (SGRLPS 2010; 2011; 2012). No northern fur seals were observed during the 2016–2017 and 2017–2018 work seasons (Terry McNamara, pers. comm., 2018).

For the 2010 and 2011 seasons, the Society did not observe any Pacific harbor seals present on NWSR during restoration activities (SGRLPS 2010; 2011). During the 2012 season, the Society reported sighting a total of two harbor seals present on NWSR (SGRLPS 2012). No harbor seals were observed during the 2016–2017 and 2017–2018 work seasons (Terry McNamara, pers. comm., 2018).

#### *Take Calculation and Estimation*

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Based on the Society's previous monitoring reports, NMFS estimates that approximately 2,880 California sea lions (calculated by multiplying the maximum single-day count of California sea lions present on NWSR (160) by 18 days of the restoration, maintenance, and touring activities), 2,790 Steller sea lions (calculated by multiplying the maximum single-day count of Steller sea lions that could be present (155) by 18 days of the restoration, maintenance, and touring activities), 36 Pacific harbor seals (calculated by multiplying the

maximum single-day count of harbor seals present on NWSR (2) by 18 days), and 18 Northern fur seals (calculated by multiplying the maximum number of northern fur seals present on NWSR (1) by 18 days) could be potentially affected by Level B behavioral harassment over the course of the IHA (Table 3). NMFS bases these estimates of the numbers of marine mammals that might be affected on consideration of the number of marine mammals that could be disturbed appreciably by approximately 75 hours of aircraft operations over the course of the 18 days of activity.

#### **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*

**Time and Frequency**—The Society shall conduct restoration and touring activities at a maximum of once per month over the course of the year, with the exception of between May 1, 2018 through October 31, 2018 (barring potential emergency light repairs during this time). Each restoration session shall last no more than three days. Maintenance of the light beacon shall occur only in conjunction with restoration activities (except if an emergency light repair is needed from May 1, 2018 through October 31, 2018).

**Helicopter Approach and Timing Techniques**—The Society shall ensure that its helicopter approach patterns to the Station and timing techniques shall be conducted at times when marine mammals are less likely to be disturbed. To the extent possible, the helicopter will approach NWSR when the tide is too high for the marine mammals to haul out on NWSR. Additionally, since the most severe impacts (stampede) precede rapid and direct helicopter approaches, the Society's initial approach to the station must be offshore from the island at a relatively high altitude (e.g., 800–1,000 ft, or 244–305 m). Before the final approach, the helicopter shall circle lower and approach from area with the lowest pinniped density. If for any safety reasons (e.g., wind condition) the Society cannot conduct these types of helicopter approach and timing techniques, they must postpone the restoration and maintenance activities for that day.

**Avoidance of Visual and Acoustic Contact with People on Island**—The Society shall instruct its members and restoration crews to avoid making unnecessary noise and not expose themselves visually to pinnipeds around the base of the station. Although CCR reported no impacts from these activities in the 2001 study, it is relatively simple for the Society to avoid this potential impact. The door to the lower platform shall remain closed and barricaded to all tourists and other personnel since the lower platform is used at times by pinnipeds.

NMFS has determined that the above mentioned mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

#### **Monitoring and Reporting**

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance and to ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS will 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.

#### *Monitoring*

As part of its IHA application, the Society shall sponsor marine mammal monitoring, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the IHA. These requirements include:

- A NMFS approved, experienced biologist will be present on the first flight of each day of the activity. This observer must be able to identify all species of pinnipeds expected to use the island, and qualified to determine age and sex classes when viewing conditions allow. The observer shall record data including species counts, numbers of observed disturbances, and descriptions of the disturbance behaviors during the activities, including location, date, and time of the event. In addition, the Society shall record observations regarding the number and species of any marine mammals either observed in the water or hauled out; and

- Aerial photographic surveys to provide an accurate means of documenting species composition, age and sex class of pinnipeds using the project site during human activity periods. The Society shall complete aerial photo coverage from the same helicopter used to transport the Society's personnel to the island during restoration trips. The Society shall take photographs of all marine mammals hauled out on the island from an altitude greater than 300 m (984 ft) by a skilled photographer, on the first flight of each day of activities. These photographs will be forwarded to a biologist capable of discerning marine mammal species. Data shall be provided to us in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities (see *Reporting*). The original photographs will be made available to us or other marine mammal experts for inspection and further analysis.

As detailed above, the monitoring requirements in relation to the Society's activities include species counts, numbers of observed disturbances, and

descriptions of the disturbance behaviors during the restoration activities, including location, date, and time of the event. In addition, the Society shall record observations regarding the number and species of any marine mammals either observed in the water or hauled out.

By completing the requirements mentioned above, the Society will add to the knowledge of pinnipeds in the action area by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, enabling appropriate personnel to conduct future follow-up research; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

If at any time injury, serious injury, or mortality of the species for which take is authorized occurs, or if take of any other kind of marine mammal occurs, and such action is believed to be a result of the Society's activities, the Society shall suspend restoration and tour activities and contact NMFS immediately. NMFS will then determine how best to proceed to ensure another injury or death does not occur and to guarantee the applicant remains in compliance with the MMPA.

Monitoring requirements in relation to the Society's restoration activities shall include observations made by the Society. Information recorded shall include species counts (with age/sex classes when possible) of animals present before approaching, numbers of observed disturbances, and descriptions of the disturbance behaviors during the helicopter operations, including relative location, date, and time of the event. For consistency, any reactions by pinnipeds to researchers shall be recorded according to the three-point scale shown in Table 2. Note that only observations of disturbance Levels 2 and 3 should be recorded as takes.

#### Reporting

A draft final report must be submitted to NMFS Office of Protected Resources within 90 days of conclusion of restoration activities in April. The report must include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. The Society must submit a final report to NMFS within 30 days after receiving comments from NMFS on the draft report. If the Society receives no comments from NMFS on the report, NMFS will consider the draft report to be the final report.

The report must describe the operations conducted and sightings of

marine mammals near the project. The report must provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report must provide:

1. A summary and table of the dates, times, and weather during all activities.
2. Species, number, location, and behavior of any marine mammals observed throughout all monitoring activities.
3. An estimate of the number (by species) of marine mammals exposed to human presence associated with the Society's activities.
4. A description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization, such as an injury (Level A harassment), serious injury, or mortality (e.g., stampede), society personnel shall immediately cease the specified activities and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Assistant West Coast Regional Stranding Coordinator. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description and location of the incident (including water depth, if applicable);
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available)

The Society shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. We will work with the Society to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Society shall not resume their activities until notified by us via letter, email, or telephone.

In the event that the Society discovers an injured or dead marine mammal, and the marine mammal observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we

describe in the next paragraph), the Society shall immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, (562) 980-3230. The report must include the same information identified in the paragraph above this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the Society to determine whether modifications in the activities are appropriate.

In the event that the Society discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Society shall report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Assistant West Coast Regional Stranding Coordinator within 24 hours of the discovery. Society personnel shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us. The Society shall continue their survey activities while NMFS reviews the circumstances of the incident.

#### 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).

Although the Society's survey activities may disturb a small number of marine mammals hauled out on NWSR, NMFS expects those impacts to occur to a small, localized group of animals for a limited duration (e.g., six hours in one day). Marine mammals will likely become alert or, at most, flush into the water in reaction to the presence of the Society's personnel during the activities. Disturbance will be limited to a short duration, allowing marine mammals to reoccupy NWSR within a short amount of time. Thus, the authorized action is unlikely to result in long-term impacts such as permanent abandonment of the area because of the availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the restoration activities and helicopter operations. Results from previous monitoring reports also show that the pinnipeds returned to NWSR and did not permanently abandon haulout sites after the Society conducted their activities.

With the exception of emergency repairs, which are unlikely to occur, the Society's activities occur during the least sensitive time (e.g., November through April, outside of the pupping season) for hauled out pinnipeds on NWSR. Thus, pups or breeding adults will likely not be present during the activity days.

Moreover, the Society's mitigation measures regarding helicopter approaches and restoration site ingress and egress minimize the potential for stampedes and large-scale movements. Thus, the potential for large-scale movements and stampede leading to injury, serious, injury, or mortality is low.

Any noise attributed to the Society's helicopter operations on NWSR will be short-term (approximately six minutes

per trip). We expect the ambient noise levels to return to a baseline state when helicopter operations have ceased for the day. As the helicopter lands and takes off from the station, sound levels are below the thresholds for airborne pinniped disturbance at the landing pad which is 15 m (48 ft) above the rocks. Additionally, the pinnipeds will likely flush before the helicopter approached NWSR, further increasing the distance between the pinnipeds and the received sound levels on NWSR.

If pinnipeds are present on NWSR, Level B behavioral harassment of pinnipeds may occur during helicopter landing and takeoff from NWSR due to the pinnipeds temporarily moving from the rocks and lower structure of the Station into the sea due to the noise and appearance of a helicopter during approaches and departures. It is expected that all or a portion of the marine mammals hauled out on NWSR will depart the rock and slowly move into the water upon initial helicopter approaches. The movement to the water will likely be gradual due to the required controlled helicopter approaches (see *Mitigation* for more details), the small size of the aircraft, the use of noise-attenuating blade tip caps on the rotors, and behavioral habituation on the part of animals as helicopter trips continue throughout the day. During the sessions of helicopter activity, if present on NWSR, some animals may be temporarily displaced from the island and either raft in the water or relocate to other haulouts.

Sea lions have shown habituation to helicopter flights within a day at the project site and most animals are expected to return soon after helicopter activities cease for that day. By clustering helicopter arrivals/departures within a short time period, we expect animals present to show less response to subsequent landings. NMFS anticipates no impact on the population size or breeding stock of Steller sea lions, California sea lions, Pacific harbor seals, or Northern fur seals.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species

or stock through effects on annual rates of recruitment or survival:

- The impacts to animals present will be of limited duration (i.e., at maximum three days a month);
- The impacts will be of limited intensity (i.e., temporary flushing at most); and
- No injury or mortality is anticipated or authorized.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the 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.

As mentioned previously, NMFS estimates that the Society's activities could potentially affect, by Level B harassment only, four species of marine mammals under our jurisdiction. For each species, these estimates are small numbers (less than one percent of the affected stocks of California sea lions, Pacific harbor seals, and Northern fur seals, and less than seven percent of the stock of Steller sea lions) relative to the population size (Table 3). However, actual take may be slightly less if animals decide to haul out at a different location for the day or if animals are foraging at the time of the survey activities.

TABLE 3—THE PERCENTAGE OF STOCK AFFECTED BY THE NUMBER OF TAKES PER SPECIES

Species	Maximum number per day	Days of activity	Take number	Stock abundance	Percent of stock
California sea lion <i>Zalophus californianus</i> .....	160	18	2,880	296,750	0.97
Steller sea lion <i>Eumetopias jubatus</i> .....	155	18	2,790	41,638	6.7
Pacific harbor seal <i>Phoca vitulina</i> .....	2	18	36	30,968	0.35
Northern fur seal <i>Callorhinus ursinus</i> .....	1	18	18	14,050	0.12

Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

#### Unmitigable Adverse Impact Analysis and Determination

There are no subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

#### Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast Region Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

#### 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 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 determined that the issuance of the IHA

qualifies to be categorically excluded from further NEPA review.

#### Authorization

As a result of these determinations, we have issued an IHA to the Society for conducting the described activities related to lighthouse station restoration, maintenance, and tours from February 19, 2018 through February 18, 2019 provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 26, 2018.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 2018-09240 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-22-P**

#### DEPARTMENT OF COMMERCE

##### National Telecommunications and Information Administration

##### NTIA 2018 Spectrum Policy Symposium

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, will host a symposium on June 12, 2018, focusing on the development and implementation of national spectrum policies to support continuing U.S. leadership and innovation in wireless telecommunications and other spectrum-dependent technologies.

**DATES:** The symposium will be held on June 12, 2018, from 8:30 a.m. to 11:00 a.m., Eastern Daylight Time (EDT).

**ADDRESSES:** The symposium will be held at The National Press Club, 529 14th Street NW, 13th Floor, Washington, DC 20045.

**FOR FURTHER INFORMATION CONTACT:** John Alden, Telecommunications Specialist, Office of Spectrum Management, NTIA, at (202) 482-8046 or [spectrumsymposium@ntia.doc.gov](mailto:spectrumsymposium@ntia.doc.gov). Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482-7002; email: [press@ntia.doc.gov](mailto:press@ntia.doc.gov).

**SUPPLEMENTARY INFORMATION:** NTIA serves as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and establishes policies concerning use of the radio spectrum by federal agencies. NTIA is hosting a symposium that will

focus on developing, implementing and maintaining spectrum management policies that enable the United States to strengthen its global leadership role in the introduction of wireless telecommunications technology, services, and innovation, while also supporting the expansion of existing technologies and the Nation's homeland security, national defense, and other critical government missions.

The keynote address will be delivered by David J. Redl, Assistant Secretary of Commerce for Communications and Information and NTIA Administrator. Additional speakers from Congress and the Executive Office of the President have been invited. Policy panel sessions are expected to include participants from the Federal Communications Commission, other federal agencies, and private sector and other non-government organizations. Prior to the event, NTIA will post a detailed agenda on its website at: <https://www.ntia.doc.gov/other-publication/2018/2018-ntia-spectrum-policy-symposium>.

The symposium is open to the public and members of the press. Pre-registration is requested due to limited seating capacity. Registration will be accepted on a first come, first served basis. NTIA asks registrants to provide their first and last names, email addresses, and their organization (optional) for both registration purposes and to receive updates on the symposium. Registration information, the agenda, and meeting updates, if any, and other relevant documents will be available on NTIA's website at <https://www.ntia.doc.gov/other-publication/2018/2018-ntia-spectrum-policy-symposium>.

The meeting will be physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, should notify Mr. Alden at the contact information listed above at least ten (10) business days before the event.

Dated: April 26, 2018.

**Kathy Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 2018-09237 Filed 5-1-18; 8:45 am]

**BILLING CODE 3510-60-P**



**DEPARTMENT OF DEFENSE****Department of the Army****[Docket ID: USA-2018-HQ-0010]****Proposed Collection; Comment Request****AGENCY:** Department of the Army Corps of Engineers, DoD.**ACTION:** Information collection notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995*, the Department of the Army announces a proposed revision of a public information collection and seeks public comment on the provisions thereof. 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 of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (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.

**DATES:** Consideration will be given to all comments received by July 2, 2018.**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24 Suite 08D09, Alexandria, VA 22350-1700.

**Instructions:** All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to U.S. Army Corps of Engineers, 441 G Street NW, Washington, DC 20314-1000, Attn: CECW-CO-R, or call the Department of

the Army Reports clearance officer at (703) 428-6440.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Application for Department of the Army Permit; ENG 4345 and Nationwide Permit (NWP) Pre-Construction Notification form, ENG Form 6082; OMB Control Number 0710-0003.

*Needs and Uses:* Information collected is used to evaluate, as required by law, proposed construction or filing in waters of the United States that result in impacts to the aquatic environment and nearby properties, and to determine which type of permit would be required if one was needed. Respondents are private landowners, businesses, non-profit organizations, and government agencies. Respondents also include sponsors of proposed and approved mitigation banks and in-lieu fee programs.

*Affected Public:* Individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal government; state, local, or tribal government.

*Annual Burden Hours:* 880,000.

*Number of Respondents:* 80,000.

*Responses per Respondent:* 1.

*Average Burden per Response:* 11 hours.

*Frequency:* On occasion.

The Corps of Engineers is required by three federal laws, passed by Congress, to regulate construction-related activities in waters of the United States. This is accomplished through the review of applications for permits to do this work. There are five types of permits that may be used. The ENG 4345 form used for standard permit applications has been in use since the 1970s and the request to extend the expiration date is being provided in this notice. In addition, the Corps is now proposing a form specific to their nationwide permit program. Nationwide Permits (NWP) are one type of permit authorization that involves a streamlined review process to ensure that no more than minimal individual or cumulative adverse environmental effect result from construction of the proposed activity. NWPs authorize discharges of dredged or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act and structures or work in navigable waters under Section 10 of the Rivers and Harbors Act of 1899.

This form is optional, but allows the Corps to collect the information needed to evaluate the applicants' proposal to determine eligibility for authorization. The Corps will provide outreach

materials to guide the public in which of the forms should be used and how using the form and providing the information requested can reduce the time it takes to review whether an application is complete.

Dated: April 27, 2018.

**Shelly E. Finke,**

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

[FR Doc. 2018-09315 Filed 5-1-18; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF EDUCATION****[Docket No.: ED-2018-ICCD-0052]**

**Agency Information Collection Activities; Comment Request; National Household Education Survey 2019 (NHES:2019)**

**AGENCY:** Department of Education (ED), National Center for Education Statistics (NCES)**ACTION:** Notice

**SUMMARY:** In accordance with the *Paperwork Reduction Act of 1995*, ED is proposing a revision of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before July 2, 2018.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2018-ICCD-0052. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216-44, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Kashka Kubzdela, 202-245-7377.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the *Paperwork Reduction Act of 1995* (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an



opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* National Household Education Survey 2019 (NHES:2019).

*OMB Control Number:* 1850-0768.

*Type of Review:* A revision of an existing information collection.

*Respondents/Affected Public:* Individuals or Households.

*Total Estimated Number of Annual Responses:* 123,177.

*Total Estimated Number of Annual Burden Hours:* 12,964.

*Abstract:* The National Household Education Survey (NHES) is a data collection program of the National Center for Education Statistics (NCES) designed to provide descriptive data on the education activities of the U.S. population, with an emphasis on topics that are appropriate for household surveys rather than institutional surveys. Such topics have covered a wide range of issues, including early childhood care and education, children's readiness for school, parents' perceptions of school safety and discipline, before- and after-school activities of school-age children, participation in adult and career education, parents' involvement in their children's education, school choice, homeschooling, and civic involvement. This request is to conduct the NHES:2019 full scale data collection, from December 2018 through September 2019, in conjunction with an In-Person Study of Nonresponding Households, designed to provide insight about nonresponse that can help plan future

survey administrations. NHES 2019 will use mail and web data collection modes and will field two surveys: The Early Childhood Program Participation survey (ECPP) and the Parent and Family Involvement in Education survey (PFI).

Dated: April 27, 2018.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2018-09328 Filed 5-1-18; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Bonneville Power Administration

[BPA File No.: RP-18]

#### Proposed Revised Rules of Procedure and Opportunity for Public Review and Comment

**AGENCY:** Bonneville Power Administration (BPA or Bonneville), Department of Energy (DOE).

**ACTION:** Notice of proposed revised rules of procedure.

**SUMMARY:** Bonneville is proposing to revise the rules of procedure that govern its hearings conducted pursuant to section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839e(i).

**DATES:** Anyone wishing to comment on the proposed revised rules of procedure must file such comments no later than 5:00 p.m. PDT on June 4, 2018.

**ADDRESSES:** Comments should be submitted through Bonneville's website at [www.bpa.gov/comment](http://www.bpa.gov/comment). Comments may also be submitted to BPA Public Involvement, Bonneville Power Administration, P.O. Box 14428, Portland, Oregon 97293. Bonneville requests that all comments contain the designation RP-18 in the subject line.

#### FOR FURTHER INFORMATION CONTACT:

Heidi Helwig, DKE-7, BPA Communications, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; by phone toll free at 1-800-622-4520; or by email to [hyhelwig@bpa.gov](mailto:hyhelwig@bpa.gov).

*Responsible Official:* Mary K. Jensen, Executive Vice President, General Counsel, is the official responsible for the development of Bonneville's rules of procedure.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

Part I Introduction and Background  
Part II Summary of Proposed Revised Rules

of Procedure  
Part III Proposed Revised Rules of Procedure

## Part I—Introduction and Background

The Northwest Power Act provides that Bonneville must establish and periodically review and revise its rates so that they recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including amortization of the Federal investment in the Federal Columbia River Power System over a reasonable number of years, and Bonneville's other costs and expenses. 16 U.S.C. 839e(a)(1). Section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i), requires that Bonneville's rates be established according to certain procedures, including notice of the proposed rates; one or more hearings conducted as expeditiously as practicable by a hearing officer; opportunity for both oral presentation and written submission of views, data, questions, and arguments related to the proposed rates; and a decision by the Administrator based on the record.

In addition, section 212(i)(2)(A) of the Federal Power Act, 16 U.S.C. 824k(i)(2)(A), provides in part that the Administrator may conduct a section 7(i) hearing to determine the terms and conditions for transmission service on the Federal Columbia River Transmission System under certain circumstances. Such a hearing must adhere to the procedural requirements of paragraphs (1) through (3) of section 7(i) of the Northwest Power Act, except that the hearing officer makes a recommended decision to the Administrator before the Administrator's final decision.

Bonneville last revised its procedures to govern hearings under section 7(i) of the Northwest Power Act in 1986. See "Procedures Governing Bonneville Power Administration Rate Hearings," 51 **Federal Register** 7611 (1986). Since the establishment of those procedures, there have been significant advancements in the technology available to conduct the hearings. The proposed revised rules of procedure incorporate changes to reflect the manner in which Bonneville has applied these advancements. In addition, through conducting numerous hearings over the past few decades, Bonneville has gained insight regarding the strengths and weaknesses of the current procedures. The proposed revisions incorporate changes to make the hearings more efficient and procedures that were regularly adopted by order of the hearing officer in

previous hearings. Finally, the proposed revisions explicitly provide that the rules apply to any proceeding under section 212(i)(2)(A) of the Federal Power Act ("section 212 proceedings").

In order to encourage public involvement and assist Bonneville in the development of the proposed revised procedures, Bonneville met with customers and other interested parties on February 13, 2018, in Portland, Oregon, to discuss how the current rules might be revised. Bonneville also solicited written comments over a two-week period ending February 28, 2018. After reviewing the comments, Bonneville incorporated a number of revisions to its proposed rules.

Although rules of agency procedure are exempt from notice and comment rulemaking requirements under the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A), Bonneville is nevertheless publishing notice of the proposed revisions to its procedural rules in the **Federal Register** to promote transparency and public participation. Bonneville will accept written comments on the proposed revisions until the deadline stated above. After considering the written comments, Bonneville will publish the final rules in **Federal Register** later this year.

## Part II—Summary of Proposed Revised Rules of Procedure

The statements below provide general summaries of some of the proposed revisions in each section of the rules.

### Section 1010.1 General Provisions

- The proposed revisions specify that the rules apply to wholesale power and transmission rate case proceedings and section 212 proceedings.
- A provision has been added to clarify that the rules do not establish substantive standards for the Administrator's final decisions.

### Section 1010.2 Definitions

- Various definitions were added or revised in this section.

### Section 1010.3 Hearing Officer

- A provision has been added to clarify that parties should contact the hearing clerk with procedural questions rather than Bonneville counsel or rates staff.
- A provision has been added to recognize that the hearing officer can establish special rules of practice that are consistent with the proposed rules.

### Section 1010.4 Initiation of Proceeding

- A provision has been added to require the **Federal Register** notice initiating the proceeding to include the

proposed new or revised terms and conditions of transmission service for section 212 proceedings.

- A provision has been added to require the **Federal Register** notice to include procedures for requesting access to the secure website for purposes of filing petitions to intervene.
- A provision has been added to state that the scope of a proceeding may include new issues that arise as a result of circumstances or events occurring outside of the proceeding.

### Section 1010.5 Ex Parte Communications

- Proposed revisions more clearly prohibit *ex parte* communications with the hearing officer.
- A provision has been added to clarify that communications between the hearing officer and the hearing clerk (or other staff providing administrative support to the hearing officer) are not *ex parte*.
- The procedures for addressing *ex parte* communications have been revised to provide that written *ex parte* communications and written summaries of oral *ex parte* communications will be posted on Bonneville's website rather than being made available in Bonneville's Public Involvement Office.

### Section 1010.6 Intervention

- The procedures for intervention were modified to provide prospective intervenors access to the secure website before filing a petition to intervene. Once access has been granted, a petition to intervene can be filed through the secure website.

### Section 1010.7 Joint Parties

- A provision has been added to encourage parties with similar interests to establish joint parties and describes how to form joint parties.

### Section 1010.8 Participants

- A provision has been added to describe the manner in which members of the general public, who are not parties, can submit comments.

### Section 1010.9 Prehearing Conference

- A provision has been added to recognize that the hearing officer will hold a prehearing conference to adopt a procedural schedule and any special rules of practice that are consistent with the proposed rules.

### Section 1010.10 Filing and Service of Documents

- Provisions have been added to require that litigants file all documents through the secure website and that

such filings will constitute service on all parties.

### Section 1010.11 Pleadings

- Provisions were added to specify the types of pleadings, establish format and content requirements, and clarify rights and procedures for filing responsive pleadings.
- Procedures have been added to govern interlocutory appeal of an order of the hearing officer to the Administrator.

### Section 1010.12 Clarification Sessions and Data Requests

- The scope of permissible data requests has been revised. Data requests must seek information that is relevant to an issue in the proceeding and proportional to the needs of the case according to a variety of factors listed in the rule.
- Provisions have been added to require litigants to be reasonable in the number and breadth of data requests.
- Provisions have been added to govern the treatment of information that is privileged, commercially sensitive, or pertains to critical electric infrastructure.
- Provisions have been added to govern the process for filing and responding to motions to compel. In deciding a motion to compel, the hearing officer will consider a variety of factors, including the potential impact of the decision on completing the proceeding according to the procedural schedule.

### Section 1010.13 Prefiled Testimony and Exhibits

- The proposed revisions establish format and content requirements for prefiled testimony and exhibits and specify that litigants will have the opportunity to rebut the direct testimony of other litigants.
- The proposed revisions clarify that materials incorporated into prefiled testimony by reference or by providing a link to a website will not be considered part of the record even if the prefiled testimony is accepted into the record. Any materials that a litigant wants included in the record should be submitted as an exhibit and subsequently moved in to evidence.
- The proposed revisions specify that prefiled testimony and exhibits are not part of the record until they have been admitted into evidence by the hearing officer and provide procedures for moving those materials into the record.

### Section 1010.14 Cross-Examination

- The proposed revisions specify the procedures for filing cross-examination

statements and provide that witnesses generally will be cross-examined as a panel.

- The proposed revisions clarify that witnesses are not required to perform calculations on the stand or answer questions about calculations that they did not perform.

- Friendly cross-examination is prohibited, except that counsel for a litigant with a position that is not adverse to the witnesses may seek leave from the hearing officer to ask limited follow-up questions of a witness after any redirect testimony. Any follow-up questions are limited to the scope of the cross-examination.

- The proposed revisions broadly define cross-examination exhibits and require litigants to file all cross-examination exhibits for a witness two business days before the witness is scheduled to appear.

- Litigants must provide physical copies of cross-examination exhibits at the beginning of cross-examination.

#### *Section 1010.15 Stipulations*

- A provision has been added to provide that the hearing officer may admit into evidence stipulations on any issue of fact.

#### *Section 1010.16 Official Notice*

- A provision has been added to recognize that the hearing officer or the Administrator may take official notice of certain matters, and provides guidelines for litigants requesting official notice.

#### *Section 1010.17 Briefs*

- The proposed revisions include a standard outline and format for briefs in order to help Bonneville identify parties' specific issues and recommendations and prepare the records of decision in a more orderly manner.

- The briefing provisions specify that Bonneville may file briefs in section 212 proceedings and that the Administrator may allow additional briefing opportunities in such proceedings.

#### *Section 1010.18 Oral Argument*

- Provisions have been added to permit oral argument and establish procedures for providing notice of intent to present oral argument.

#### *Section 1010.19 Telephone Conferences*

- A provision has been added to provide guidelines for telephone conferences.

#### *Section 1010.20 Hearing Officer's Recommended Decision*

- A provision has been added to address the hearing officer's

recommended decision in section 212 proceedings.

#### *Section 1010.21 Final Record of Decision*

- A provision has been added to note that the Administrator will issue a Final Record of Decision in all ratemaking and section 212 proceedings.

#### *Section 1010.22 Expedited Proceedings*

- Expedited proceedings are defined as extending 90–120 days from the date the **Federal Register** Notice is published.

### **Part III—Proposed Revised Rules of Procedure**

Bonneville Power Administration  
United States Department of Energy  
Rules of Procedure

#### *Section 1010.1 General Provisions*

- General rule of applicability
- Exceptions to general rule of applicability
- Effective date
- Scope of rules
- Waiver
- Computation of time

#### *Section 1010.2 Definitions*

#### *Section 1010.3 Hearing Officer*

#### *Section 1010.4 Initiation of Proceeding*

#### *Section 1010.5 Ex Parte Communications*

- General rule
- Exceptions
- Application
- Notice of meetings
- Written communications
- Oral communications
- Notice and opportunity for rebuttal

#### *Section 1010.6 Intervention*

- Filing
- Contents
- Time
- Opposition

#### *Section 1010.7 Joint Parties*

#### *Section 1010.8 Participants*

#### *Section 1010.9 Prehearing Conference*

#### *Section 1010.10 Filing and Service*

#### *Section 1010.11 Pleadings*

- Types of pleadings
- Content
- Format
- Answers to pleadings
- Replies to answers
- Interlocutory appeal

#### *Section 1010.12 Clarification Sessions and Data Requests*

- Clarification sessions
- Data Requests and responses
- Information that is attorney-client privileged or attorney work product
- Commercially Sensitive Information and CEII
- Disputes regarding responses to Data Requests
- Sanctions
- Moving responses to Data Requests into Evidence

#### *Section 1010.13 Prefiled Testimony and Exhibits*

- General rule
- Items by reference

(c) Moving Prefiled Testimony and Exhibits into Evidence

(d) Motions to strike

#### *Section 1010.14 Cross-Examination*

#### *Section 1010.15 Stipulations*

#### *Section 1010.16 Official Notice*

#### *Section 1010.17 Briefs*

(a) General rule

(b) Initial brief

(c) Brief on exceptions

(d) Additional briefing rule for proceedings pursuant to Section 1010.1(a)(2)

(e) Optional brief and memorandum of law

(f) Waiver of issues or arguments

#### *Section 1010.18 Oral Argument*

#### *Section 1010.19 Telephone Conferences*

#### *Section 1010.20 Hearing Officer's*

Recommended Decision

#### *Section 1010.21 Final Record of Decision*

#### *Section 1010.22 Expedited Proceedings*

(a) General rule

(b) Extensions

Attachment A—Brief Template

#### *Section 1010.1 General Provisions*

(a) General rule of applicability. These rules apply to all proceedings conducted under the procedural requirements contained in Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839e(i), for the purpose of:

(1) Revising or establishing rates under Section 7 of the Northwest Power Act;

(2) revising or establishing terms and conditions of general applicability for transmission service on the Federal Columbia River Transmission System pursuant to Section 212(i)(2)(A) of the Federal Power Act, 16 U.S.C. 824k(i)(2)(A); or

(3) addressing other matters the Administrator determines are appropriate for such rules.

(b) Exceptions to general rule of applicability. These rules do not apply to:

(1) Proceedings regarding implementation of rates or formulae previously adopted by the Administrator and approved, on either an interim or final basis, by the Federal Energy Regulatory Commission;

(2) Proceedings required by statute or by contract, in which the Administrator does not propose either (a) a new rate, formula rate, discount, credit, surcharge or other rate change, or (b) any new terms and conditions of transmission service or revisions thereto; or

(3) Contract negotiations unless otherwise provided by paragraph (a) of this section.

(c) Effective date. These rules will become effective 30 days after publication of the final rules in the **Federal Register**.

(d) Scope of rules. These rules are intended to establish procedures and

processes for all proceedings described in paragraph (a) of this section. These rules do not establish substantive standards for the Administrator's final decisions on issues in such proceedings.

(e) **Waiver.** To the extent permitted by law, the Administrator may waive any section of these rules or prescribe any alternative procedures the Administrator determines to be appropriate.

(f) **Computation of time.** Except as otherwise required by law, any period of time specified in these rules or by order of the Hearing Officer is computed to exclude the day of the event from which the time period begins to run and any day that is not a Business Day. The last day of any time period is included in the time period, unless it is not a Business Day. If the last day of any time period is not a Business Day, the period does not end until the close of business on the next Business Day.

#### Section 1010.2 Definitions

Capitalized terms not otherwise defined in these rules have the meaning specified below.

(a) **"Administrator"** means the BPA Administrator or the acting Administrator.

(b) **"Bonneville"** or **"BPA"** means the Bonneville Power Administration.

(c) **"Business Day"** means any day that is not a Saturday, Sunday, day on which Bonneville closes and does not reopen prior to its official close of business, or legal public holiday as designated in 5 U.S.C. 6103.

(d) **"Commercially Sensitive Information"** means information in the possession of a Litigant (including its officers, employees, agents, or experts) that is not otherwise publicly available and has economic value or could cause economic harm if disclosed, including but not limited to information that is copyrighted, licensed, proprietary, subject to a confidentiality obligation, or contains trade secrets or similar information that could provide a risk of competitive disadvantage or other business injury.

(e) **"Counsel"** means any member in good standing of the bar of the highest court of any state, commonwealth, possession, territory, or the District of Columbia. Counsel appearing in a proceeding must conform to the standards of ethical conduct required of practitioners in the Federal courts of the United States.

(f) **"Critical Energy/Electric Infrastructure Information"** or **"CEII"** means information related to (1) a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which

would negatively affect national security, economic security, public health or safety, or any combination of such matters; or (2) specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and (iv) does not simply give the general location of the critical infrastructure.

(g) **"Cross-examination Exhibit"** means any document or other material to be presented to a witness for any purpose on cross-examination.

(h) **"Data Request(s)"** means a written request for information in any form, including documents, or an admission submitted in accordance with Section 1010.12(b).

(i) **"Draft Record of Decision"** means the document that sets forth the Administrator's proposed decision on each issue in the pending proceeding.

(j) **"Ex Parte Communication"** means an oral or written communication (1) relevant to the merits of any issue in the pending proceeding; (2) that is not on the Record; and (3) with respect to which reasonable prior notice to Parties has not been given.

(k) **"Evidence"** means any material admitted into the Record by the Hearing Officer.

(l) **"Federal Register Notice"** means the notice identified under Section 1010.4.

(m) **"Final Record of Decision"** means the document that sets forth the Administrator's final decision on each issue in the pending proceeding.

(n) **"Hearing Clerk"** means the individual(s) assisting the Hearing Officer as designated in the **Federal Register Notice**.

(o) **"Hearing Officer"** means the official designated by the Administrator to conduct a proceeding under these rules.

(p) **"Hearing Officer's Recommended Decision"** means the document that sets forth the Hearing Officer's recommendation to the Administrator on each issue in a proceeding pursuant to Section 1010.1(a)(2).

(q) **"Litigant(s)"** means Bonneville and all Parties to the pending proceeding.

(r) **"Participant"** means any Person who is not a Party and who submits oral or written comments pursuant to Section 1010.8.

(s) **"Party"** means any Person whose intervention is effective under Section 1010.6. A Party may be represented by its Counsel or other qualified representative, provided that such representative conforms to the ethical standards prescribed in Section 1010.2(e).

(t) **"Person"** means an individual; partnership; corporation; limited liability company; association; an organized group of persons; municipality, including a city, county, or any other political subdivision of a state; state, including any agency, department, or instrumentality of a state; a province, including any agency, department, or instrumentality of a province; the United States or other nation, or any officer, or agent of any of the foregoing acting in the course of his or her employment or agency.

(u) **"Prefiled Testimony and Exhibits"** means any testimony, exhibits, studies, documentation, or other materials in a Litigant's direct or rebuttal case submitted in accordance with the procedural schedule. Prefiled Testimony and Exhibits do not include pleadings, briefs, or Cross-examination Exhibits.

(v) **"Rate"** means the monetary charge, discount, credit, surcharge, pricing formula, or pricing algorithm for any electric power or transmission service provided by Bonneville, including charges for capacity and energy. The term excludes, but such exclusions are not limited to, transmission line losses, leasing fees or charges from Bonneville for operation and maintenance of customer-owned facilities. A rate may be set forth in a contract; however, other portions of a contract do not thereby become part of the rate for purposes of these rules.

(w) **"Record"** means (1) Evidence; (2) transcripts, notices, briefs, pleadings, and orders from the proceeding; (3) comments submitted by Participants; (4) the Hearing Officer's Recommended Decision, if applicable; (5) the Draft Record of Decision, if any; and (6) such other materials and information as may have been submitted to, or developed by, the Administrator.

(x) **"Secure website"** means the website established and maintained by Bonneville for proceedings under these rules.

#### Section 1010.3 Hearing Officer

(a) The Hearing Officer is responsible for conducting the proceeding, managing the development of the Record, and resolving procedural matters. In addition, in a proceeding pursuant to Section 1010.1(a)(2), the Hearing Officer is responsible for

making a Recommended Decision to the Administrator as set forth in Section 1010.20.

(b) The Hearing Officer shall not expand the scope of the proceeding beyond the scope established in the **Federal Register** Notice. If the Hearing Officer is uncertain whether a potential action would improperly allow information outside the scope to be entered into Evidence, the Hearing Officer shall certify the question directly to the Administrator for a determination.

(c) The Hearing Officer may, in his or her discretion, issue special rules of practice to implement these rules, provided that such special rules are consistent with these rules.

(d) Except as provided in Section 1010.12(c), the Hearing Officer may issue protective orders or make other arrangements for the review of information requested in a Data Request.

(e) The Hearing Officer may reject or exclude all or part of any document or materials not submitted in accordance with these rules or order a Litigant to conform such document or materials to the requirements of these rules.

(f) Litigants shall direct communications regarding procedural issues to the Hearing Clerk. The Hearing Clerk's contact information will be provided in the **Federal Register** Notice.

#### Section 1010.4 Initiation of Proceeding

(a) Any proceeding conducted under these rules will be initiated on the day a notice of Bonneville's initial proposal is published in the **Federal Register**.

(b) The **Federal Register** Notice will:

(1) State, as applicable, the proposed rates and/or the proposed new or revised terms and conditions of transmission service, a statement of the justification and reasons supporting such proposals, and any additional information required by law;

(2) State the procedures for requesting access to the Secure website for purposes of filing petitions to intervene and the deadline for filing such petitions;

(3) State the deadline and the procedures for Participants to submit comments;

(4) If applicable, state that the proceeding is an expedited proceeding under Section 1010.22 and explain the reasons for the expedited proceeding;

(5) State the date on which the Hearing Officer will conduct the prehearing conference;

(6) In a proceeding pursuant to Section 1010.1(a)(2), state the date on which the Hearing Officer will issue the Hearing Officer's Recommended Decision, which date shall be used by

the Hearing Officer in establishing the procedural schedule for the proceeding;

(7) State the date(s) on which the Administrator expects to issue the Draft Record of Decision, if any, and the Final Record of Decision, which date(s) shall be used by the Hearing Officer in establishing the procedural schedule for the proceeding;

(8) Define the scope of the proceeding and specify:

(i) Issues that are not within the scope of the proceeding;

(ii) That only Bonneville may prescribe or revise the scope of the proceeding;

(iii) That Bonneville may revise the scope of the proceeding to include new issues that arise as a result of circumstances or events occurring outside the proceeding that are substantially related to the rates or terms and conditions under consideration in the proceeding; and

(iv) That, if Bonneville revises the scope of the proceeding to include new issues, Bonneville will provide public notice, a reasonable opportunity to intervene, testimony or other information regarding such issues, and an opportunity for Parties to respond to Bonneville's testimony or other information.

(9) Provide other information that is pertinent to the proceeding.

#### Section 1010.5 Ex Parte Communications

(a) *General Rule.* No Party or Participant in any proceeding under these rules shall make *Ex Parte* Communications to the Administrator, other Bonneville executives, any Bonneville staff member, the Hearing Officer, or the Hearing Clerk. In addition, no Bonneville staff member shall make *Ex Parte* Communications to the Hearing Officer or the Hearing Clerk. The Administrator, other Bonneville executives, Bonneville staff members, and the Hearing Officer shall not initiate or entertain *Ex Parte* Communications; however, communications among the Administrator, other Bonneville executives, and Bonneville staff members are not *Ex Parte* Communications.

(b) *Exceptions.* The following communications will not be considered *Ex Parte* Communications subject to paragraph (a) of this section:

(1) Relating to matters of procedure only;

(2) If otherwise authorized by law or other portions of these rules;

(3) From or to the Federal Energy Regulatory Commission;

(4) Which all Litigants agree may be made on an *ex parte* basis;

(5) Relating to communications in the ordinary course of business, information required to be exchanged pursuant to contracts, or information that Bonneville provides in response to a Freedom of Information Act request;

(6) Relating to a request for supplemental information necessary for an understanding of factual materials contained in documents filed in a proceeding under these rules and which is made after coordination with Counsel for Bonneville;

(7) Relating to a topic that is only secondarily the object of a proceeding, for which Bonneville is statutorily responsible under provisions other than Northwest Power Act Section 7, or which is eventually decided other than through a Section 7(i) proceeding; or

(8) Between the Hearing Officer and Hearing Clerk or other staff supporting the Hearing Officer.

(c) *Application.* The prohibitions contained in this Section 1010.5 apply from the day on which Bonneville publishes the **Federal Register** Notice and continue until the day the Administrator issues the Final Record of Decision in the proceeding.

(d) *Notice of meetings.* Bonneville will give reasonable notice to all Parties of any meeting that it intends to hold with any customer group or member of the public when it reasonably appears that matters relevant to any issue in the pending proceeding will be discussed.

(e) *Written communications.* Any written *Ex Parte* Communication received by the Administrator, other Bonneville executives, any Bonneville staff member, the Hearing Officer, or the Hearing Clerk will be promptly delivered to Counsel for Bonneville. The document will be posted for public review in a section of Bonneville's website for *ex parte* materials. The *Ex Parte* Communication will not become part of the Record.

(f) *Oral communications.* If the Administrator, other Bonneville executives, any Bonneville staff member, the Hearing Officer, or the Hearing Clerk receives an oral offer of any *Ex Parte* Communication, they shall decline to listen to such communication and explain that such communication is prohibited by this Section 1010.5. If unsuccessful in preventing such communication, the recipient thereof shall advise the communicator that he or she will not consider the communication. The recipient shall promptly prepare a statement setting forth the substance of the communication and the circumstances thereof and deliver the statement to Counsel for Bonneville. The statement will be posted for public review on the

*ex parte* website identified in paragraph (e) of this section.

(g) *Notice and opportunity for rebuttal.* Bonneville will notify Parties when any *Ex Parte* Communication has been posted on the *ex parte* website identified in paragraph (e) of this section. A motion seeking the opportunity to rebut any facts or contentions in an *Ex Parte* Communication must be filed within five Business Days of Bonneville's notification that the communication has been posted on the *ex parte* website. The Hearing Officer will grant such a motion if he or she finds that providing the opportunity to rebut the *Ex Parte* Communication is necessary to prevent substantial prejudice to a Litigant.

#### Section 1010.6 Intervention

(a) *Filing.* A Person seeking to become a Party in a proceeding under these rules must request access to the Secure website pursuant to the procedures set forth in the **Federal Register** Notice initiating the proceeding. After being granted access, such Person shall file a petition to intervene through the Secure website.

(b) *Contents.* A petition to intervene must state the name, address, and email address of the Person and the Person's interests in the outcome of the proceeding. Petitioners may designate no more than eight individuals on whom service will be made. If the petitioner requires additional individuals to be added to the service list, it may request such relief from the Hearing Officer. Entities that directly purchase power or transmission services under Bonneville's rate schedules, or trade organizations representing those entities, will be granted intervention, based on a petition filed in conformity with this Section 1010.6. Other petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether they have a relevant interest in the proceeding.

(c) *Time.*

(1) Petitions must be filed by the deadline specified in the **Federal Register** Notice, unless Bonneville provides a subsequent opportunity to intervene pursuant to Section 1010.4(b)(8)(iv).

(2) Late interventions are strongly disfavored. Granting an untimely petition to intervene must not be a basis for delaying or deferring any procedural schedule. A late intervenor must accept the Record developed prior to its intervention. In acting on an untimely petition, the Hearing Officer shall consider whether:

(i) The petitioner has a good reason for filing out of time;

(ii) Any disruption of the proceeding might result from granting a late intervention;

(iii) The petitioner's interest is adequately represented by existing Parties; and

(iv) Any prejudice to, or extra burdens on, existing Parties might result from permitting the intervention.

(d) *Opposition.* Any opposition to a timely petition to intervene must be filed within two Business Days after the deadline for filing petitions to intervene. Any opposition to a late-filed petition to intervene must be filed within two Business Days after service of the petition.

#### Section 1010.7 Joint Parties

(a) Parties with common interests or positions in a pending proceeding are encouraged to form a Joint Party for purposes of filing pleadings, Prefiled Testimony and Exhibits, and briefs and for conducting cross-examination. Such grouping will be without derogation to the right of any Party to represent a separate point of view where its position differs from that of the Joint Party in which it is participating.

(b) To form a Joint Party, one member of the proposed Joint Party must email a list of proposed Joint Party members to the Hearing Clerk and to Counsel for each proposed member and represent that all of the named members are in concurrence with the formation of the Joint Party. The Hearing Clerk will form the Joint Party, assign a Joint Party code, and email notice to all Litigants, stating the Joint Party code and listing the Joint Party members.

#### Section 1010.8 Participants

(a) Any Participant may submit written comments for the Record or present oral comments in legislative-style hearings, if any, for the purpose of receiving such comments. The **Federal Register** Notice will set forth the procedures and deadline for Participant comments. In the event new issues arise after such deadline due to unforeseen circumstances, the Hearing Officer may extend the deadline for Participant comments. Participant comments will be made available on Bonneville's website.

(b) The Hearing Officer may allow reasonable questioning of a Participant by Counsel for any Litigant if the Participant presents oral comments at a legislative-style hearing.

(c) Participants do not have the rights of Parties. The procedures in Sections 1010.6, 1010.7, and 1010.9 through 1010.19 are not available to Participants.

(d) Parties may not submit Participant comments. Employees of organizations

that have intervened may submit Participant comments as private individuals (that is, not speaking for their organizations) but may not use the comment procedures to further promote specific issues raised by their intervenor organizations.

#### Section 1010.9 Prehearing Conference

A prehearing conference will be held on the date specified in the **Federal Register** Notice. During the conference, the Hearing Officer shall establish (1) a procedural schedule, and (2) any special rules of practice in accordance with Section 1010.3(c).

#### Section 1010.10 Filing and Service

(a) Unless otherwise specified, a Litigant shall make any filing provided for by these rules with the Hearing Officer through the Secure website. Such filing will constitute service on all Litigants. If the Secure website is unavailable for filing, a Litigant shall serve the document to be filed on the Hearing Officer, Hearing Clerk, and all Litigants through email and thereafter file the document on the Secure website as soon as practicable when the Secure website becomes available.

(b) In addition to Parties whose petitions to intervene are granted by the Hearing Officer, the Administrator may designate additional Persons upon whom service will be made.

(c) Except as provided in paragraph (b) of this section, service will not be made upon Participants.

(d) Submission of Data Requests and responses to such requests is governed by Section 1010.12(b), except that paragraph (e) of this section governs the timing of such requests and responses.

(e) All filings provided for by these rules must be made, and Data Requests and responses must be submitted, on Business Days no later than 4:30 p.m., Pacific Time, in accordance with the procedural schedule adopted by the Hearing Officer. Filings made outside of these times are deemed to have been filed on the next Business Day and, if such day is after an applicable deadline, may be rejected by the Hearing Officer.

#### Section 1010.11 Pleadings

(a) *Types of pleadings.* Pleadings include petitions to intervene, motions, answers, and replies to answers. Pleadings do not include Prefiled Testimony and Exhibits, Cross-examination Exhibits, Data Requests and responses, or briefs.

(b) *Content.* Pleadings must include the docket number and title of the proceeding, the name of the Litigant filing the pleading, the specific relief sought, any relevant facts and law, and

an electronic signature (typed as “/s/ Name”) of the Litigant’s representative. Pleadings must follow the document numbering system established by the Hearing Officer and display the document number in the footer of the pleading.

(c) *Format*. Pleadings must be filed as text-recognized PDFs converted directly from a word processing software and conform to the following format: (1) Page size must be 8½ by 11 inches; in portrait orientation; (2) margins must be at least 1 inch on all sides; (3) text must be double-spaced, with the exception of headings, block quotes, and footnotes; and (4) font size must be comparable to 12 points Times New Roman (10 points Times New Roman for footnotes) or larger. Parties are encouraged to conform legal citations to the most current edition of *The Bluebook: A Uniform System of Citation*, published by The Harvard Law Review Association.

(d) *Answers to pleadings*. Unless otherwise determined by the Hearing Officer, answers to pleadings must be filed within four Business Days of service of the pleading.

(e) *Replies to answers*. Unless otherwise determined by the Hearing Officer, replies to answers are not allowed.

(f) *Interlocutory appeal*. Interlocutory appeal to the Administrator of an order issued by the Hearing Officer is discouraged. Such an appeal will only be permitted upon a motion filed within five Business Days of the order being appealed and an order by the Hearing Officer certifying the ruling to the Administrator. The Hearing Officer shall certify the ruling to the Administrator upon finding that:

(1) The order terminates a Party’s participation in the proceeding and the Party’s inability to participate thereafter could cause it substantial and irreparable harm;

(2) Review is necessary to prevent substantial prejudice to a Litigant; or

(3) Review could save the Administrator, Bonneville, and the Parties substantial effort or expense, or some other factor is present that outweighs the costs in time and delay of exercising review.

The Administrator may accept or reject the Hearing Officer’s certification of a ruling at his or her discretion. An answer to a motion for interlocutory appeal must be filed in accordance with paragraph (d) of this section.

#### *Section 1010.12 Clarification Sessions and Data Requests*

(a) *Clarification sessions*.

(1) The Hearing Officer may schedule one or more informal clarification sessions for the purpose of allowing Litigants to question witnesses about the contents of their Prefiled Testimony and Exhibits and the derivation of their recommendations and conclusions. The Hearing Officer will not attend the clarification sessions. Clarification sessions will not be used to conduct cross-examination, and discussions in clarification sessions will not be transcribed or become part of the Record. Litigants may participate in clarification sessions by phone or other technology made available by Bonneville.

(2) If a Litigant does not make any witness available for a clarification session, the witness’s Prefiled Testimony and Exhibits may be subject to a motion to strike.

(b) *Data Requests and responses*. All Data Requests and responses to Data Requests must be submitted according to the rules in this Section 1010.12(b) and Section 1010.10(e). For purposes of this Section 1010.12(b), “Requesting Litigant” means the Litigant that submitted the Data Request at issue, and “Responding Litigant” means the Litigant that received the Data Request.

(1) *Scope in general*. Except as otherwise provided in this Section 1010.12(b), a Data Request may seek information or an admission relevant to any issue in the proceeding; *provided, however*, such requests must be proportional to the needs of the proceeding considering the importance of the issues at stake, the amount in controversy, the Litigants’ relative access to relevant information, the Litigants’ resources, the extent of the Responding Litigant’s testimony on the subject and participation in the proceeding, the importance of the information sought to develop Evidence on the issue, and whether the burden or expense of responding to the request outweighs the likely benefit if the response were admitted into Evidence.

(i) Each Litigant shall be reasonable in the number and breadth of its Data Requests in consideration of the factors listed in paragraph (b)(1) of this section. A Litigant that believes it has received one or more unreasonable Data Request(s) from another Litigant may object to the request(s) on that basis. Any dispute over such an objection will be resolved in accordance with the procedures in paragraph (e) of this section.

(ii) A Litigant shall not be required to perform any new study or analysis, but a Litigant may, in its sole discretion and without waiving any objection to any

Data Request, agree to perform such study or analysis.

(iii) A Litigant shall not be required to produce publicly available information.

(iv) A Litigant shall not be required to produce information that is unduly burdensome to provide or produce the same information multiple times in response to cumulative or duplicative Data Requests.

(v) A Litigant shall not be required to produce any information that is protected from disclosure by the attorney-client privilege or attorney work product doctrine.

(vi) Bonneville shall not be required to produce documents that, in the opinion of Counsel for Bonneville, may be exempt from production under the Freedom of Information Act, 5 U.S.C. 552, or the Trade Secrets Act, 18 U.S.C. 1905.

(2) *Submitting Data Requests*. All Data Requests must be submitted through the Secure website.

(i) A Data Request must identify the Prefiled Testimony and Exhibits (page and line numbers) or other material addressed in the request.

(ii) A Litigant shall not submit a Data Request seeking the response to another Data Request.

(iii) During the period established in the procedural schedule for submitting Data Requests immediately following the filing of Bonneville’s Initial Proposal, Parties may submit Data Requests only to Bonneville.

(iv) A multi-part Data Request must include a reasonably limited number of subparts, and all subparts must address only one section or other discrete portion of a Litigant’s Prefiled Testimony and Exhibits. Each subpart of a multi-part Data Request will be considered a separate Data Request for purposes of this Section 1010.12(b).

(3) *Responding to Data Requests*. All Responses to Data Requests, except responses containing Commercially Sensitive Information or CEII, must be submitted through the Secure website.

(i) Except as otherwise provided by the Hearing Officer, a Litigant must provide a response to each Data Request no later than five Business Days after the day that the Data Request is submitted through the Secure website. The Hearing Officer may specify exceptions to this rule and establish alternative deadlines, for example, for periods spanning holidays.

(ii) An objection to a data request will be considered a response for purposes of this Section 1010.12(b). In any response that includes one or more objections, the Litigant must state the grounds for the objection(s) and why any



information or admission is being withheld.

(iii) As soon as a Responding Litigant estimates that it will not be able to respond to one or more Data Requests by the due dates because of the volume of or other burden caused by the request(s), the Responding Litigant shall contact the Requesting Litigant and confer about a possible delay in the due date. If the Litigants have not resolved the matter by the due date, the Responding Litigant shall file an objection on the due date and supplement the objection with a response in good faith as soon as possible thereafter. Any dispute over such an objection will be resolved in accordance with the procedures in paragraph (e) of this section.

(c) Information that is attorney-client privileged or attorney work product. If a Responding Litigant withholds information from a response to a Data Request on the basis of attorney-client privilege or the attorney work product doctrine, it must object and so state in its response. Upon written request by Counsel for the Requesting Litigant, the Responding Litigant must submit a supplemental response to the Data Request that includes a declaration made by Counsel for such Litigant in accordance with 28 U.S.C. 1746 stating that the information withheld is protected from disclosure by attorney-client privilege or the attorney work product doctrine, and identifying, without revealing information that itself is privileged or protected, the information withheld. The Hearing Officer may not order in camera review or release of information that a Litigant has withheld from a response to a Data Request on the basis of attorney-client privilege or the attorney work product doctrine.

(d) Commercially Sensitive Information and CEII.

(1) When a Responding Litigant has determined that responding to a Data Request will require it to produce Commercially Sensitive Information or CEII that is otherwise discoverable, the Litigant shall notify and confer with the Requesting Litigant to attempt to agree to the terms of a proposed protective order, including a non-disclosure certificate, to govern exchange and use of the Commercially Sensitive Information or CEII. If the conferring Litigants agree to the terms of a proposed protective order, they must file the proposed order with the Hearing Officer along with a motion seeking adoption of the order. If the conferring Litigants are unable to agree to the terms of a protective order within three Business Days of starting to confer, each

Litigant shall file a proposed protective order, and the Hearing Officer shall enter an order adopting a protective order to govern the exchange and use of Commercially Sensitive Information or CEII. Such protective order may be, but is not required to be, based upon the proposed protective orders filed by the Litigants and must be consistent with the requirements in paragraph (d)(2) of this section. Once the Hearing Officer has adopted a protective order, and the Requesting Litigant has filed its signed non-disclosure certificate(s), the Responding Litigant must provide the Commercially Sensitive Information or CEII to the Requesting Litigant within three Business Days.

(2) Any protective order proposed by a Litigant or adopted by the Hearing Officer must be consistent with the following requirements but is not limited to these requirements:

(i) Prior to receiving any Commercially Sensitive Information or CEII, a Litigant that wants access to such information must file on the Secure website signed non-disclosure certificate(s) for any individual that the Litigant intends to have access to such information.

(ii) Any documents or other materials that include Commercially Sensitive Information or CEII, including any copies or notes of such documents, must be plainly marked on each page with the following text: "Commercially Sensitive Information [or CEII]—Subject to Protective Order No. \_\_\_\_." Any electronic files must include the same text in the file name. The requirements of this paragraph do not preclude any additional marking required by law.

(iii) Responses to Data Requests that contain Commercially Sensitive Information or CEII must not be submitted via the Secure website. The protective order must prescribe a secure manner for providing such a response to any Litigant that files a signed non-disclosure certificate(s).

(iv) Any Prefiled Testimony and Exhibits, Cross-examination Exhibits, briefs, or other documents that include Commercially Sensitive Information or CEII must not be filed via the Secure website. The protective order must prescribe a secure manner for making such a filing directly with the Hearing Officer such as via encrypted email or on physical media (CD, USB stick, etc.) and for simultaneously serving the document on all Litigants that have filed signed non-disclosure certificates. Any Litigant that makes a filing with Commercially Sensitive Information or CEII must simultaneously file a redacted or public version of the document via the Secure website.

(v) The protective order must authorize Bonneville to file or otherwise submit any Commercially Sensitive Information or CEII from a proceeding under these rules with the Federal Energy Regulatory Commission or any other administrative or judicial body in accordance with any applicable requirements of that body.

(vi) The protective order must authorize Bonneville to retain any Commercially Sensitive Information or CEII from a proceeding under these rules until the decision in the proceeding is no longer subject to judicial review.

(vii) The protective order must include provisions that govern the return or destruction of Commercially Sensitive Information and CEII.

(viii) A protective order may include a "Highly Confidential" designation for Commercially Sensitive Information or CEII that is of such a sensitive nature that the producing Litigant is able to justify a heightened level of protection. The Hearing Officer shall determine the appropriate level or means of protection for such information, including the possible withholding of such information altogether.

(3) Notwithstanding the requirement in paragraph (d)(2)(iv) of this section that a protective order must provide a secure manner of filing documents that include Commercially Sensitive Information or CEII, Litigants are discouraged from making filings with such information because of the administrative burden that would result from the inclusion of such information in the Record. A Litigant should not file a document with such information unless it believes in good faith that its ability to present its argument would be significantly hindered by the absence of the information from the Record. Instead, Litigants are encouraged to summarize, describe, or aggregate Commercially Sensitive Information or CEII in filings in a manner that does not result in the inclusion of the information itself or otherwise effectively disclose the information.

(4) The rules governing CEII in this Section 1010.12(b) do not preclude the application of any federal regulations regarding CEII that apply to Bonneville and are adopted after the effective date of these rules.

(e) *Disputes regarding responses to Data Requests.* Litigants are strongly encouraged to informally resolve disputes regarding Data Requests and responses.

(1) *Duty to Confer.* Before filing a motion to compel a response to a Data Request, the Requesting Litigant must confer with the Responding Litigant to



attempt to informally resolve any dispute. Each Litigant must confer in good faith to attempt to informally resolve the dispute.

(2) *Motion to Compel*. If a dispute is not resolved informally, the Requesting Litigant may file a motion to compel no more than four Business Days after the earlier of the date a response to the Data Request is provided or the due date for the response. A motion to compel must demonstrate that the Data Request(s) at issue are within the scope described in paragraph (b)(1) of this section, and the Requesting Litigant must certify in the motion that it attempted to informally resolve the dispute in accordance with paragraph (e)(1) of this section.

(3) *Answer to motion to compel*. Any answer to a motion to compel must be filed in accordance with Section 1010.11(d).

(4) *Resolution of dispute by the Hearing Officer*. The Hearing Officer may hold a telephone conference to discuss and attempt to resolve a dispute regarding a response to a Data Request. In ruling on any motion to compel, the Hearing Officer shall consider, among other things, the factors listed in paragraph (b)(1) of this section, whether the Responding Litigant filed testimony related to the Data Request(s) before it received the Data Request(s), and the potential impact of the decision on completing the proceeding according to the procedural schedule.

(f) *Sanctions*. The Hearing Officer may remedy any refusal to comply with an order compelling a response to a Data Request or a violation of a protective order by:

(1) Striking the Prefiled Testimony and Exhibits to which the Data Request relates;

(2) Limiting Data Requests or cross-examination by the Litigant refusing to comply with the order; or

(3) Recommending to the Administrator that an appropriate adverse inference be drawn against the Litigant refusing to comply with the order.

(g) *Moving responses to Data Requests into Evidence*. A response to a Data Request must be admitted into Evidence to be considered part of the Record. A Litigant that intends to introduce a response to a Data Request into Evidence must either: (1) Attach the full text of each such response as an exhibit in the Litigant's Prefiled Testimony and Exhibits; or (2) submit a motion to that effect, by the deadline(s) established by the Hearing Officer.

### Section 1010.13 Prefiled Testimony and Exhibits

(a) *General rule*.

(1) All Prefiled Testimony and Exhibits must identify the witness(es) sponsoring the testimony and exhibits. Each Litigant that submits Prefiled Testimony and Exhibits must separately file a qualification statement for each witness sponsoring the testimony and exhibits. The qualification statement must describe the witness's education and professional experience as it relates to the subject matter of the Prefiled Testimony and Exhibits.

(2) Except as otherwise allowed by the Hearing Officer, all prefiled testimony must be in written form and conform to the format of pleadings in Section 1010.11(c). Each section of prefiled testimony must include a heading setting forth its subject matter. Prefiled testimony must include line numbers in the left-hand margin of each page.

(3) If prefiled testimony is based on the witness's understanding of the law, the witness shall so state in the testimony and, in order to provide context for the testimony, describe the witness's understanding of the law as it applies to the witness's position. In all other cases, legal arguments and opinions must not be included in Prefiled Testimony and Exhibits.

(4) A witness qualified as an expert may testify in the form of an opinion. Any conclusions by the witness should, if applicable, be supported by data and explanation.

(5) Litigants shall be provided an adequate opportunity to offer refutation or rebuttal of any material submitted by any other Party or by Bonneville. Any rebuttal to Bonneville's direct case must be included in a Party's direct testimony, along with any affirmative case that Party wishes to present. Any subsequent rebuttal testimony must be limited to rebuttal of the Parties' direct cases. New affirmative material may be submitted in rebuttal testimony only if in reply to another Party's direct case. No other new affirmative material may be introduced in rebuttal testimony. Rebuttal testimony must refer to the specific material being addressed (pages, lines, topic).

(6) For documents or materials of excessive length that a Litigant wants to include in its Prefiled Testimony and Exhibits, the Litigant should create and include an excerpt of the document or materials that excludes irrelevant or redundant material.

(b) *Items by reference*. Any materials that are incorporated by reference or referred to via electronic link in Prefiled Testimony and Exhibits will not be considered part of the testimony and exhibits for purposes of introducing the materials into Evidence. Only materials included as an exhibit to Prefiled

Testimony and Exhibits will be considered part of the testimony and exhibits for purposes of introducing the materials into Evidence.

(c) *Moving Prefiled Testimony and Exhibits into Evidence*. Prefiled Testimony and Exhibits must be admitted into Evidence to be considered part of the Record. If a Litigant's witness(es) sponsoring Prefiled Testimony and Exhibits are cross-examined, the Litigant shall move the witnesses' Prefiled Testimony and Exhibits into Evidence at the conclusion of the cross-examination. If there is no cross-examination of a Litigant's witness(es), a Litigant that intends to introduce the witness(es)'s Prefiled Testimony and Exhibits into Evidence shall, by any deadline established by the Hearing Officer, file a declaration of the witness(es) made in accordance with 28 U.S.C. 1746 that lists the Prefiled Testimony and Exhibits and certifies that the material is the same material previously filed in the proceeding and is true and correct to the best of their knowledge and belief. Upon filing of the declaration, the witnesses' Prefiled Testimony and Exhibits will be admitted into Evidence.

(d) *Motions to strike*. Motions to strike Prefiled Testimony and Exhibits must be filed by the deadlines established in the procedural schedule. An answer to a motion to strike must be filed in accordance with Section 1010.11(d). If the Hearing Officer grants a motion to strike, the Litigant sponsoring the stricken material shall file conformed copies with strikethrough deletions of such material within five Business Days of the Hearing Officer's order. Conformed copies must be filed with the same document number as the original exhibit, but with the designation "--CC" at the end (e.g., BP-20-E-BPA-16-CC). Material struck by the Hearing Officer shall not be admitted into Evidence but will be considered part of the Record for purposes of reference regarding whether the motion should have been granted.

### Section 1010.14 Cross-Examination

(a) Except as otherwise provided by the Hearing Officer, witnesses generally shall be cross-examined as a panel for Prefiled Testimony and Exhibits that they co-sponsor, provided that each panel member (1) has submitted a qualification statement, and (2) is under oath.

(b) At the time specified in the procedural schedule, a Litigant intending to cross-examine a witness shall file a cross-examination statement. The statement shall:

(1) Identify the witnesses the Litigant intends to cross-examine and the Prefiled Testimony and Exhibits sponsored by the witnesses that will be the subject of the cross-examination;

(2) Briefly describe the subject matter and portions of the Prefiled Testimony and Exhibits for cross-examination;

(3) Specify the amount of time requested for cross-examination of each witness; and

(4) Provide any other information required in an order issued by the Hearing Officer.

(c) A Litigant waives cross-examination for any witnesses not listed in its cross-examination statement, except that any Litigant may ask follow-up questions of witnesses appearing at the request of another Litigant.

(d) After the Litigants file cross-examination statements, the Hearing Officer shall issue a schedule setting forth the order of witnesses to be cross-examined.

(e) Cross-examination is limited to issues relevant to the Prefiled Testimony and Exhibits that (1) are identified in the Litigant's cross-examination statement, or (2) arise in the course of the cross-examination.

(f) Witnesses are not required to perform calculations on the stand or answer questions about calculations that they did not perform. Witnesses appearing as a panel shall determine in good faith which witness will respond to a cross-examination question.

(g) A Litigant may only cross-examine witnesses whose position is adverse to the Litigant seeking to cross-examine. Notwithstanding the preceding sentence, a Litigant whose position is not adverse to the witnesses subject to cross-examination may, immediately following any redirect testimony by those witnesses, seek leave from the Hearing Officer to ask limited follow-up questions of the witnesses. Any such follow-up questions allowed by the Hearing Officer must be limited to the scope of the cross-examination of the witnesses.

(h) Only a Litigant's Counsel may conduct cross-examination. Only Counsel for the witnesses being cross-examined may object to questions asked during cross-examination, except that Counsel for any Litigant may object to friendly cross-examination.

(i) To avoid duplicative cross-examination, the Hearing Officer may impose reasonable limitations if the Litigants conducting cross-examination have substantially similar positions.

(j) The Hearing Officer may impose reasonable time limitations on the cross-examination of any witness.

(k) *Cross-examination Exhibits.*

(1) A Litigant must file each Cross-examination Exhibit to be presented to a witness for any purpose two Business Days before the witness is scheduled to appear. For example, for a witness appearing on a Monday, the due date for documents is the preceding Thursday at 4:30 p.m.

(2) A Litigant must provide physical copies of each Cross-examination Exhibit to the Hearing Officer, the Hearing Clerk, each panel witness, witness's Counsel, and the court reporter at the beginning of cross-examination on the day the witness is scheduled to appear.

(3) A Cross-examination Exhibit must be limited to material the Litigant intends to introduce into Evidence.

(4) If a document is introduced into Evidence during cross-examination, and only part of the document is admitted into Evidence, the document must be conformed by the Litigant to include only that part of the document admitted into Evidence. The conformed document must be filed through the Secure website.

(l) All other matters relating to conduct of cross-examination are left to the Hearing Officer's discretion.

#### *Section 1010.15 Stipulations*

The Hearing Officer may admit into Evidence stipulations on any issue of fact.

#### *Section 1010.16 Official Notice*

The Administrator or the Hearing Officer may take official notice of any matter that may be judicially noticed by federal courts or any matter about which Bonneville is an expert. A Litigant requesting official notice shall provide a precise citation for the material for which official notice is requested and file the material on the Secure Website at the time the request is granted or as soon as practicable thereafter. The Hearing Officer may afford any Litigant making a timely request an opportunity to show the contrary of an officially noticed fact.

#### *Section 1010.17 Briefs*

(a) *General rule.* Briefs must be filed at times specified in the procedural schedule. All evidentiary arguments in briefs must be based on cited material admitted into Evidence. Material not admitted into Evidence must not be attached to or relied upon in any brief, except to address disputes regarding the admissibility of specific material into Evidence. Incorporation by reference is not permitted. The Hearing Officer may impose page limitations on any brief. All briefs must comply with the format requirements in Section 1010.11(c) and

the template provided in Attachment A, as may be amended.

(b) *Initial brief.* At the conclusion of the evidentiary portion of a proceeding, each Party may file an initial brief. The purpose of an initial brief is to identify separately each legal, factual, and policy issue to be resolved by the Administrator and present all arguments in support of a Party's position on each of these issues. The initial brief should also rebut contentions made by adverse witnesses in their Prefiled Testimony and Exhibits. The initial brief must contain a final revised exhibit list reflecting the status of all of the Party's Prefiled Testimony and Exhibits, Cross-examination Exhibits, and any other exhibits, including those admitted, withdrawn, conformed, and rejected.

(c) *Brief on exceptions.* After issuance of Bonneville's Draft Record of Decision, each Party may file a brief on exceptions. The purposes of the brief on exceptions are to (1) raise any alleged legal, policy, or evidentiary errors in the Draft Record of Decision; or (2) provide additional support for draft decisions contained in the Draft Record of Decision. All arguments raised by a Party in its initial brief will be deemed to have been raised in the Party's brief on exceptions, regardless of whether such arguments are included in the brief on exceptions.

(d) Additional briefing rule for proceedings pursuant to Section 1010.1(a)(2). In a proceeding pursuant to Section 1010.1(a)(2), Bonneville is considered a Party for purposes of filing briefs in accordance with this Section 1010.17, except that Section 1010.17(f) does not apply to Bonneville. In addition, in such a proceeding, the Hearing Officer or the Administrator may provide Litigants with additional briefing opportunities not otherwise set forth in these rules. Such additional briefing opportunities may include briefs on exceptions in addition to those set forth in Section 1010.17(c), above.

(e) *Optional brief and memorandum of law.* The Hearing Officer may allow the filing of a brief and memorandum of law not expressly provided for by this section.

(f) *Waiver of issues or arguments.* A Party whose briefs do not raise and fully develop the Party's position on any issue shall be deemed to take no position on such issue. Arguments or alleged errors not raised in initial briefs in accordance with Section 1010.17(b), briefs on exceptions in accordance with Section 1010.17(c), or briefs permitted by Section 1010.17(d) are deemed to be waived.

**Section 1010.18 Oral Argument**

(a) An opportunity for each Litigant to present oral argument will be provided in proceedings conducted under these rules.

(b) At the time specified in the procedural schedule, each Litigant that intends to present oral argument shall file a notice of intent to present oral argument. The notice must identify the speaker(s), a brief description of the subject matter to be addressed, and the amount of time requested.

(c) After Litigants file notices of intent to present oral argument, the Hearing Officer shall issue an order setting forth the schedule of oral argument.

**Section 1010.19 Telephone Conferences**

Telephone conferences may be permitted in appropriate circumstances, provided that: (1) There is a proposed agenda for the conference concerning the points to be considered and the relief, if any, to be requested during the conference; and (2) Litigants are provided notice and given an opportunity to be represented on the line. If the Hearing Officer schedules a telephone conference, the Hearing Officer may require that a court reporter be present on the line.

**Section 1010.20 Hearing Officer's Recommended Decision**

In a proceeding pursuant to Section 1010.1(a)(2), the Hearing Officer shall, unless he or she becomes unavailable, issue the Hearing Officer's Recommended Decision stating the Hearing Officer's findings and conclusions, and the reasons or basis thereof, on all material issues of fact, law, or discretion.

**Section 1010.21 Final Record of Decision**

(a) The Administrator will make a decision adopting final proposed rates for submission to the Federal Energy Regulatory Commission for confirmation and approval based on the Record.

(b) In a proceeding pursuant to Section 1010.1(a)(2), the Administrator will make a determination in a Final Record of Decision on any terms and conditions of transmission service, or revisions thereto, at issue in the proceeding.

(c) Any Final Record of Decision will be uploaded to the Secure Website and made available to Participants through Bonneville's external website.

**Section 1010.22 Expedited Proceedings**

(a) *General rule.* The Administrator will determine, in his or her discretion, whether to conduct an expedited proceeding. The Final Record of Decision in a proceeding conducted under this section will be issued on an expedited basis in 90–120 days from the date of the **Federal Register** Notice. The Hearing Officer may establish procedures or special rules as set forth in Section 1010.3(c) necessary for the expedited schedule.

(b) *Extensions.* The Hearing Officer may extend the schedule in response to a written motion by a Litigant showing good cause for the extension.

**Attachment A—Brief Template**

**I. CATEGORY [all issues pertaining to a particular category, for example: POWER RATES, TRANSMISSION RATES, TRANSMISSION TERMS AND CONDITIONS, JOINT ISSUES, PROCEDURAL ISSUES]**

*A. General Topic Area [for example: Secondary Sales]*

*Issue 1: The specific issue to be addressed [for example: Whether Bonneville's forecast of energy prices should be revised upward].*

**Summary of Party's Position**

A brief statement summarizing the party's position.

[For example: Bonneville staff's forecast of energy prices for secondary sales is too conservative. The record demonstrates that the trend in market prices is upward. The Administrator should revise the forecast for the price of secondary energy upward consistent with Party X's proposal.]

**Party's Position and Argument**

Statements of argument, including citations to the record.

**Requested Action or Decision**

A brief description of the requested action or decision the party wants the Administrator to make.

[For example: The projection of energy prices for Bonneville's secondary sales should be revised consistent with Party's X's proposal.]

*Issue 2: The specific issue to be addressed [for example: Whether Bonneville's surplus power sales forecast is reasonable.]*

**Summary of Party's Position**

[For example: Bonneville's surplus power sales forecast is flawed because it does not account for extraregional power sales.]

**Party's Position and Argument**

Statements of argument, including citations to the record.

**Requested Action or Decision**

[For example: Bonneville's surplus power sales forecast should be increased to reflect extraregional power sales.]

**POST-HEARING LIST OF EXHIBITS**

Filing code	Title	Date filed	Status
XX-XX-E-XX-01 .....	Direct Testimony .....	mm/dd/yyyy .....	Admitted.
XX-XX-E-XX-02 .....	Rebuttal Testimony .....	mm/dd/yyyy .....	Rejected.

Issued this 23rd day of April 2018.

**Elliot E. Mainzer,**

*Administrator and Chief Executive Officer.*

[FR Doc. 2018–09085 Filed 5–1–18; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC18–89–000.

*Applicants:* CSOLAR IV South, LLC, CSOLAR IV WEST, LLC, CD Global Solar II CSolar Holdings, LLC.

*Description:* Joint Application for Approval Under Section 203 of the Federal Power Act and Request for Expedited Approval of CSOLAR IV South, LLC, et al.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5174.

*Comments Due:* 5 p.m. ET 5/17/18.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER12–1266–009.

*Applicants:* Midcontinent Independent System Operator, Inc.  
*Description:* Clean-up filing regarding Order 745 to be effective 6/12/2012.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5073.

*Comments Due:* 5 p.m. ET 5/17/18.

*Docket Numbers:* ER18–926–001.

*Applicants:* Southern California Edison Company.

*Description:* Tariff Amendment: Amended GIA Stanton Energy Reliability Center Project SA No. 999 to be effective 2/8/2018.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5002.

*Comments Due:* 5 p.m. ET 5/17/18.

*Docket Numbers:* ER18–1294–001.

*Applicants:* Woomera Energy, LLC.  
*Description:* Compliance filing: Woomera Market Based Rate Tariff to be effective 12/31/9998.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5120.

*Comments Due:* 5 p.m. ET 5/17/18.

*Docket Numbers:* ER18–1441–000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) Rate Filing: GIA and Distribution Service Agmt SCEBESS–017 Project to be effective 4/26/2018.

*Filed Date:* 4/25/18.

*Accession Number:* 20180425–5204.

*Comments Due:* 5 p.m. ET 5/16/18.

*Docket Numbers:* ER18–1442–000.

*Applicants:* Citizens Sycamore-Penasquitos Transmission LLC.  
*Description:* Baseline eTariff Filing: Initial Transmission Owner Tariff Filing to be effective 12/31/9998.

*Filed Date:* 4/25/18.

*Accession Number:* 20180425–5211.

*Comments Due:* 5 p.m. ET 5/16/18.

*Docket Numbers:* ER18–1443–000.

*Applicants:* Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.

*Description:* § 205(d) Rate Filing: 2018–04–25 SA 1756 METC-Consumers Energy 11th Rev GIA (G479B) to be effective 5/1/2018.

*Filed Date:* 4/25/18.

*Accession Number:* 20180425–5220.

*Comments Due:* 5 p.m. ET 5/16/18.

*Docket Numbers:* ER18–1444–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Amendment to WMPA SA No. 4648; Queue No. AB2–057 (Consent to Assign) to be effective 3/2/2017.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5074.

*Comments Due:* 5 p.m. ET 5/17/18.

*Docket Numbers:* ER18–1445–000.

*Applicants:* Idaho Power Company.

*Description:* Compliance filing: LGIA, LGIP, SGIA, and SGIP Modifications to be effective 6/25/2018.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5102.

*Comments Due:* 5 p.m. ET 5/17/18.

*Docket Numbers:* ER18–1446–000.

*Applicants:* Avista Corporation.

*Description:* Tariff Cancellation: Avista Corp NITSA cancel to re-file to be effective 4/27/2018.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5149.

*Comments Due:* 5 p.m. ET 5/17/18.

*Docket Numbers:* ER18–1447–000.

*Applicants:* Avista Corporation.

*Description:* § 205(d) Rate Filing: Avista Corp NITSA Re-filing to be effective 4/27/2018.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5160.

*Comments Due:* 5 p.m. ET 5/17/18.

*Docket Numbers:* ER18–1448–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Compliance filing: Notice of Cancellation of ISA, Service Agreement No. 2381, NQ30 re: Deactivation to be effective N/A.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5192.

*Comments Due:* 5 p.m. ET 5/17/18.

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 26, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018–09249 Filed 5–1–18; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. IC18–4–000]

#### Commission Information Collection Activities (FERC–582); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–582 (Electric Fees, Annual Charges, Waivers, and Exemptions) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission published a 60-day Notice in the **Federal Register** in Docket No. IC18–4–000 requesting public comments. FERC received no comments in response to the Notice and is indicating that in its submittal to the OMB.

**DATES:** Comments on the collection of information are due June 1, 2018.

**ADDRESSES:** Comments filed with OMB, identified by OMB Control No. 1902–0132, should be sent via email to the

Office of Information and Regulatory Affairs: *oira\_submission@omb.gov*. Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202-395-8528.

A copy of the comments should also be sent to the Commission, in Docket No. IC18-4-000 by either of the following methods:

- *eFiling at Commission's Website:* <http://www.ferc.gov/docs-filing/efiling.asp>.

- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

**Instructions:** All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance, contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at: (866) 208-3676 (toll-free), or (202) 502-8659 for TTY.

**Docket:** Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), telephone

at (202) 502-8663, and fax at (202) 273-0873.

**SUPPLEMENTARY INFORMATION:**

**Title:** FERC-582, Electric Fees, Annual Charges, Waivers, and Exemptions.

**OMB Control No.:** 1902-0132.

**Type of Request:** Three-year extension of the FERC-582 information collection requirements with no changes to the current reporting requirements.

**Abstract:** The information required by FERC-582 is contained in Title 18 Code of Federal Regulations (CFR) Parts 381<sup>1</sup> and 382.<sup>2</sup>

The Commission uses the FERC-582 to implement the statutory provisions of the Independent Offices Appropriation Act of 1952 (IOAA)<sup>3</sup> which authorizes the Commission to establish fees for its services. In addition, the Omnibus Budget Reconciliation Act of 1986 (OBRA)<sup>4</sup> authorizes the Commission to assess and collect fees and annual charges in any fiscal year in amounts equal to all the costs incurred by the Commission in that fiscal year.

To comply with the FERC-582, respondents submit to the Commission the sum of the megawatt-hours (MWh) of all unbundled transmission (including MWh delivered in wheeling transactions and MWh delivered in exchange transactions) and the megawatt-hours of all bundled wholesale power sales (to the extent the

bundled wholesale power sales were not separately reported as unbundled transmission). The data collected in the FERC-582 are drawn directly from the FERC Form 1<sup>5</sup> transmission data. The Commission sums the costs of its electric regulatory program and subtracts all electric regulatory program filing fee collections to determine the total collectible electric regulatory program costs. Then, the Commission uses the data submitted under FERC-582 to determine the total megawatt-hours of transmission of electric energy in interstate commerce. Respondents (public utilities and power marketers) subject to these annual charges must submit FERC-582 data to the Commission by April 30 of each year.<sup>6</sup> The Commission issues bills for annual charges to respondents. Then, respondents must pay the charges within 45 days of the Commission's issuance of the bill.

Respondents file requests for waivers and exemptions of fees and charges<sup>7</sup> based on need. The Commission's staff uses the filer's financial information to evaluate the request for a waiver or exemption of the obligation to pay a fee or an annual charge.

**Estimate of Annual Burden<sup>8</sup>:** The Commission estimates the burden and cost<sup>9</sup> for this information collection as follows.

**FERC-582, ELECTRIC FEES, ANNUAL CHARGES, WAIVERS, AND EXEMPTIONS<sup>10</sup>**

Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response	Total annual burden hrs. & cost	Cost per respondent
(1)	(2)	(1) × (2) = (3)	(4)	(3) * (4) = (5)	(5) / (1) = (5)
67 .....	1	67	1 hr.; \$76.50 .....	67 hrs.; \$5,125.50 ..	\$76.50

**Comments:** Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used;

(3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: April 25, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018-09251 Filed 5-1-18; 8:45 am]

**BILLING CODE 6717-01-P**

<sup>1</sup> 18 CFR, Sections 381.105, 381.106, 381.108, 381.302, and 381.305.

<sup>2</sup> 18 CFR, Sections 382.102, 382.103, 382.105, 382.106, and 382.201.

<sup>3</sup> 31 U.S.C. 9701.

<sup>4</sup> 42 U.S.C. 7178.

<sup>5</sup> Annual Report of Major Electric Utilities, Licensees and Others (OMB Control No. 1902-0021), described in 18 CFR 141.1.

<sup>6</sup> 18 CFR 382.201.

<sup>7</sup> 18 CFR parts 381 and 382.

<sup>8</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR part 1320.

<sup>9</sup> The Commission staff thinks that the average respondent for this collection is similarly situated

to the Commission, in terms of salary plus benefits. Based on FERC's 2017 annual average of \$158,754 (for salary plus benefits), the average hourly cost is \$76.50/hour.

<sup>10</sup> This includes requirements of 18 CFR 381.105 (methods of payment), 381.106 (waiver), 381.108 (exemption), 381.302 (declaratory order), 381.303 (review of DOE remedial order), 381.304 (DOE denial of adjustment), and 381.305 (OGC interpretation).

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Project No. 2533–061]****Brainerd Public Utilities; Notice of Intent To File License Application, Filing of Pre-Application Document (PAD), Commencement of Pre-Filing Process, and Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests**

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 2533–061.

c. *Dated Filed:* February 28, 2018.

d. *Submitted By:* Brainerd Public Utilities.

e. *Name of Project:* Brainerd Hydroelectric Project (Brainerd Project).

f. *Location:* The Brainerd Project is located on the Mississippi River in the City of Brainerd, Crow Wing County, Minnesota. The project does not occupy United States lands.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Scott Magnuson, Superintendent, Brainerd Public Utilities, 8027 Highland Scenic Road, P.O. Box 273, Brainerd, MN 56401. Phone 218–825–3213 or email at [smagnuson@bpu.org](mailto:smagnuson@bpu.org).

i. *FERC Contact:* Patrick Ely at (202) 502–8598 or email at [Patrick.Ely@ferc.gov](mailto:Patrick.Ely@ferc.gov).

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Brainerd Public Utilities as the

Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Brainerd Public Utilities filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (<http://www.ferc.gov>), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2533–061.

*All filings with the Commission must bear the appropriate heading:*

Comments on Pre-Application Document, Study Requests, Comments on Scoping Document 1, Request for Cooperating Agency Status, or Communications to and from Commission Staff. Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by June 28, 2018.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

**Scoping Meetings**

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

**Evening Scoping Meeting**

*Date:* Wednesday, May 16, 2018.

*Time:* 6:00 p.m.

*Location:* Brainerd City Fire Department, 23 Laurel Street, Brainerd, MN 56401.

*Phone Number:* (212) 828–2312.

**Daytime Scoping Meeting**

*Date:* Thursday, May 17, 2018.

*Time:* 9:00 a.m.

*Location:* Brainerd City Fire Department, 23 Laurel Street, Brainerd, MN 56401.

*Phone Number:* (212) 828–2312.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at <http://www.ferc.gov>, using the eLibrary link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be

issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

#### Environmental Site Review

The potential applicant and Commission staff will conduct an Environmental Site Review of the project on Wednesday, May 16, 2018, starting at 10:00 a.m. All participants should meet at Brainerd Industrial Center, 1801 Mill Ave., Brainerd, MN 56401. Participants will be met at the entrance gate prior to entering the property. Participants must wear closed toe shoes and be 16 years or older. Please notify Adele Braun at (952) 842-3703, or [ABraun@barr.com](mailto:ABraun@barr.com), by May 9, 2018, if you plan to attend the environmental site review.

#### Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or

concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

#### Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: April 26, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018-09248 Filed 5-1-18; 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:* RP18-738-000.

*Applicants:* WBI Energy

Transmission, Inc.

*Description:* § 4(d) Rate Filing: 2018 Housekeeping Filing to be effective 5/25/2018.

*Filed Date:* 4/24/18.

*Accession Number:* 20180424-5065.

*Comments Due:* 5 p.m. ET 5/7/18.

*Docket Numbers:* RP18-739-000.

*Applicants:* Texas Eastern

Transmission, LP.

*Description:* § 4(d) Rate Filing: Negotiated Rate NRG Power Marketing 910616 to be effective 5/1/2018.

*Filed Date:* 4/24/18.

*Accession Number:* 20180424-5223.

*Comments Due:* 5 p.m. ET 5/7/18.

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 25, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018-09245 Filed 5-1-18; 8:45 am]

**BILLING CODE 6717-01-P**

#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

##### Notice of Revocation of Market-Based Rate Authority and Termination of Electric Market-Based Rate Tariff

	Docket No.
Electric Quarterly Reports .....	ER02-2001-020
Fibrominn LLC .....	ER12-1161-002
BluCo Energy LLC .....	ER12-1279-000
Alternate Power Source Inc., .....	ER11-4550-000
Atlantic Coast Energy Corporation .....	ER13-734-000

On March 19, 2018, the Commission issued an order announcing its intent to revoke the market-based rate authority of the public utilities listed in the caption of that order, which included the companies listed in the caption above, which had failed to file their required Electric Quarterly Reports.<sup>1</sup> The Commission directed those public utilities to file the required Electric Quarterly Reports within 15 days of the date of issuance of the order or face revocation of their authority to sell

power at market-based rates and termination of their electric market-based rate tariffs.<sup>2</sup>

The time period for compliance with the March 19 Order has elapsed. The above-captioned companies failed to file their delinquent Electric Quarterly Reports. The Commission hereby revokes, effective as of the date of issuance of this notice, the market-based rate authority and terminates the electric market-based rate tariff of each

of the companies who are named in the caption of this order.

Dated: April 25, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018-09250 Filed 5-1-18; 8:45 am]

**BILLING CODE 6717-01-P**

<sup>1</sup> *Electric Quarterly Reports*, 162 FERC 61,249 (2018) (March 19 Order).

<sup>2</sup> *Id.* at Ordering Paragraph A.



**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Project No. 1256–036]

**Loup River Public Power District; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application*: Revised Recreation Plan.
- b. *Project No.*: 1256–036.
- c. *Date Filed*: February 15, 2018.
- d. *Applicant*: Loup River Public Power District.
- e. *Name of Project*: Loup River Hydroelectric Project.
- f. *Location*: Loup and Platte Rivers in Nance and Platte Counties, Nebraska.
- g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a–825r.
- h. *Applicant Contact*: Neal D. Suess, President/CEO, Loup River Public Power District, 2404 Fifteenth Street, P.O. Box 988, Columbus, NE 68602, (402) 564–3171, ext. 268.
- i. *FERC Contact*: Shana High, (202) 502–8674, [shana.high@ferc.gov](mailto:shana.high@ferc.gov).
- j. *Deadline for filing comments, motions to intervene, and protests*, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/doc-sfiling/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–1256–036.
- k. *Description of Request*: Article 413 of the project license required Loup River Public Power District (licensee) to make specific revisions to the Recreation Plan filed as part of its license application. These revisions include: provisions to continue operating and maintaining five parks and three trails, and remove playground

equipment from Tailrace Park; drawings of the restroom at Headworks OHV Park, the volleyball court at Park Camp, the fishing pier at Lake North Park, and the trail segment along the southeast shore of Lake Babcock; procedures to ensure continued operation and maintenance of the Headworks OHV Park; a discussion about how the needs of the disabled will be considered; and an implementation schedule. The licensee's revised Recreation Plan generally incorporates these revisions. Regarding continued operation and maintenance of the Headworks Off-Highway Vehicle (OHV) Park, after the Nebraska OHV Association dissolved in September of 2016, the licensee closed the Headworks OHV Park, as OHV riding has unique challenges that are beyond the expertise of its staff. The revised Recreation Plan states that the licensee is committed to reopening the Headworks OHV area when it has the assistance of a third-party to provide the necessary expertise and liability insurance. The licensee states that it has been contacted by several organizations that are interested in filling this role.

l. *Locations of the Application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions to Intervene, or Protests*: Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments,

motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*: Any filing must (1) bear in all capital letters the title COMMENTS, MOTION TO INTERVENE, or PROTEST as applicable; (2) set forth in the heading the name of the applicant and the project number(s) of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person intervening or protesting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the application. Agencies may obtain copies of the application directly from the applicant. A copy of any motion to intervene or protest must be served upon each representative of the applicant specified in the particular application. If an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: April 25, 2018.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2018–09252 Filed 5–1–18; 8:45 am]

BILLING CODE 6717–01–P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Project No. 14616–000]

**Notice of Draft License Application (DLA) and Draft Preliminary Draft Environmental Assessment (PDEA) and Request for Preliminary Terms and Conditions: Oregon State University**

Take notice that the following Draft License Application (DLA) and Draft Preliminary Draft Environmental Assessment (PDEA) have been filed with the Commission and are available for public inspection.



- a. *Type of Application*: Major Unconstructed Project.
- b. *Project No.*: 14616–000.
- c. *Date Filed*: April 20, 2018.
- d. *Applicant*: Oregon State University.
- e. *Name of Project*: Pacific Marine Energy Center—South Energy Test Site.
- f. *Location*: On the Pacific Ocean, 6 nautical miles off the central Oregon coast near the city of Newport, and in Lincoln County, Oregon. The project occupies 1,695 acres of submerged lands on the Outer Continental Shelf administered by the U.S. Department of the Interior, Bureau of Ocean Energy Management.
- g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).
- h. *Applicant Contact*: Dr. Burke Hales, College of Earth, Ocean and Atmospheric Sciences, Oregon State University, 104 CEOAS Administration Building, Corvallis, OR 97331–5503; 541–737–5452; email: [ceoas-NewWaves@oregonstate.edu](mailto:ceoas-NewWaves@oregonstate.edu).
- i. *FERC Contact*: Jim Hastreiter at (503) 552–2760; or email at [james.hastreiter@ferc.gov](mailto:james.hastreiter@ferc.gov).
- j. *Status of Project*: With this notice the Commission is soliciting (1) preliminary terms, conditions, and recommendations on the draft PDEA, and (2) comments on the DLA.

k. *Deadline for filing*: July 20, 2018.

All comments on the draft PDEA and DLA should be sent to the addresses noted above in Item (h), and filed with FERC.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14616–000.

All comments must bear the heading Preliminary Comments, Preliminary Recommendations, Preliminary Terms and Conditions, or Preliminary Prescriptions.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at <http://www.ferc.gov> using the eLibrary

link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

Register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Oregon State University has mailed a copy of the draft PDEA and DLA to interested entities and parties. Copies of these documents are available for review at Oregon State University, 370 Strand Agricultural Hall, Corvallis, OR 97331–5503.

m. With this notice, we are initiating consultation with the OREGON STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

Dated: April 25, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018–09253 Filed 5–1–18; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. AD18–12–000, Docket No. EL17–45–000, Docket No. ER18–370–000]

#### Transmission Planning Within the California Independent System Operator Corporation; California Public Utilities Commission, Northern California Power Agency, City and County of San Francisco, State Water Contractors, Transmission Agency of Northern California v. Pacific Gas and Electric Company; Southern California Edison Company; Second Supplemental Notice of Technical Conference

As announced in the Notice of Technical Conference issued on March 23, 2018, and the Supplemental Notice of Technical Conference issued on April 10, 2018 (April 10 Supplemental Notice), the Federal Energy Regulatory Commission staff will hold a technical conference on May 1, 2018, at the Commission's headquarters at 888 First Street NE, Washington, DC 20426, between 9:00 a.m. and 4:00 p.m. (Eastern Time).

The April 10 Supplemental Notice provided a list of questions that Commission staff intends to use to guide

the discussion at the conference. These questions are narrowly focused on the processes used by participating transmission owners in the California Independent System Operator Corporation (CAISO) to determine which transmission-related maintenance and compliance activities/facilities, including, but not limited to, transmission-related capital additions, are subject to the CAISO Transmission Planning Process. We note that discussions at the conference may involve issues raised in proceedings that are currently pending before the Commission. These proceedings include, but are not limited to:

California Public Utilities Commission, Transmission Agency of Northern California, Sacramento Municipal Utility District, M–S–R Public Power Agency, City of Santa Clara, California, State Water Contractors, Modesto Irrigation District, and Northern California Power Agency v. Pacific Gas and Electric Company, Docket No. EL17–95–000;

Joint California Complainants v. Pacific Gas and Electric Company, Docket No. EL17–59–001;

Pacific Gas and Electric Company, Docket Nos. ER16–2320–000, –002, –003;

Pacific Gas and Electric Company, Docket No. ER17–2154–000, –001; and

Southern California Edison Company, Docket Nos. ER18–169–000, –001 and EL18–44–000, –001.

For Further Information, Please Contact Individuals Identified for Each Topic:

Technical Information: Laura Switzer, Office of Energy Markets Regulation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6231, [laura.switzer@ferc.gov](mailto:laura.switzer@ferc.gov).

Legal Information for Docket Nos. AD18–12–000 and EL17–45–000: Linda Kizuka, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8773, [linda.kizuka@ferc.gov](mailto:linda.kizuka@ferc.gov).

Legal Information for Docket Nos. AD18–12–000 and ER18–370–000: Susanna Ehrlich, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6260, [susanna.ehrlich@ferc.gov](mailto:susanna.ehrlich@ferc.gov).

Logistical Information: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8368, [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov).

Dated: April 25, 2018.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2018–09254 Filed 5–1–18; 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:* RP18–740–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) Rate Filing: 042518 Negotiated Rates—Uniper Global Commodities R–7650–02 to be effective 5/1/2018.

*Filed Date:* 4/25/18.

*Accession Number:* 20180425–5094.

*Comments Due:* 5 p.m. ET 5/7/18.

*Docket Numbers:* RP18–741–000.  
*Applicants:* Saltville Gas Storage Company L.L.C.

*Description:* § 4(d) Rate Filing: April 2018 Cleanup Filing—NRA and Contact Update to be effective 5/26/2018.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5018.

*Comments Due:* 5 p.m. ET 5/8/18.

*Docket Numbers:* RP18–742–000.  
*Applicants:* Midcontinent Express Pipeline LLC.

*Description:* § 4(d) Rate Filing: Fuel Tracker Filing 04/26/18 to be effective 6/1/2018.

*Filed Date:* 4/26/18.

*Accession Number:* 20180426–5019.

*Comments Due:* 5 p.m. ET 5/8/18.

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 26, 2018.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2018–09246 Filed 5–1–18; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER13–2483–002.  
*Applicants:* Old Dominion Electric Cooperative.

*Description:* Report Filing: Refund Report of Old Dominion Electric Cooperative to be effective N/A.

*Filed Date:* 4/24/18.

*Accession Number:* 20180424–5169.

*Comments Due:* 5 p.m. ET 5/15/18.

*Docket Numbers:* ER17–2508–001.  
*Applicants:* RE Gaskell West 1 LLC.  
*Description:* Notice of Non-Material Change in Status of RE Gaskell West 1 LLC.

*Filed Date:* 4/24/18.

*Accession Number:* 20180424–5280.

*Comments Due:* 5 p.m. ET 5/15/18.

*Docket Numbers:* ER18–913–001.  
*Applicants:* Northern States Power Company, a Minnesota corporation, a Wisconsin corporation.

*Description:* Tariff Amendment: Theoretical Reserve Amortization Supplement to be effective 1/1/2017.

*Filed Date:* 4/25/18.

*Accession Number:* 20180425–5119.

*Comments Due:* 5 p.m. ET 5/16/18.

*Docket Numbers:* ER18–1436–000.  
*Applicants:* C.P. Crane LLC.  
*Description:* Tariff Cancellation: Cancellation notice to be effective 6/1/2018.

*Filed Date:* 4/24/18.

*Accession Number:* 20180424–5267.

*Comments Due:* 5 p.m. ET 5/15/18.

*Docket Numbers:* ER18–1437–000.  
*Applicants:* C.P. Crane LLC.  
*Description:* Request for Waiver of C.P. Crane LLC.

*Filed Date:* 4/24/18.

*Accession Number:* 20180424–5278.

*Comments Due:* 5 p.m. ET 5/15/18.

*Docket Numbers:* ER18–1438–000.  
*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Cancellation: Notice of Cancellation of ISA, Service Agreement No. 3639, Queue No. W4–038 to be effective 6/1/2018.

*Filed Date:* 4/25/18.

*Accession Number:* 20180425–5155.

*Comments Due:* 5 p.m. ET 5/16/18.

*Docket Numbers:* ER18–1439–000.

*Applicants:* Northern Indiana Public Service Company.

*Description:* § 205(d) Rate Filing: NIPSCO/IMTCO CIAC Agreement (Marshall Upgrades) to be effective 4/24/2018.

*Filed Date:* 4/25/18.

*Accession Number:* 20180425–5178.

*Comments Due:* 5 p.m. ET 5/16/18.

*Docket Numbers:* ER18–1440–000.  
*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Cancellation: PJM SA No. 4740 among, PJM, O2 EMC and Virginia Electric and Power Company to be effective 6/1/2018.

*Filed Date:* 4/25/18.

*Accession Number:* 20180425–5191.

*Comments Due:* 5 p.m. ET 5/16/18.

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 25, 2018.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2018–09255 Filed 5–1–18; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP18–24–000]

#### Steel Reef Pipelines US LLC; Notice of Schedule for Environmental Review of the Saskatchewan Pipeline Project

On December 8, 2017, Steel Reef Pipelines US LLC (Steel Reef) filed an application in Docket No. CP18–24–000 requesting permission pursuant to Section 3 of the Natural Gas Act to construct, operate, and maintain certain natural gas pipeline border crossing facilities to export natural gas from the

United States to Canada. The proposed project is known as the Saskatchewan Pipeline Project (Project) and is located at the Canadian border in Burke County, North Dakota. Additionally, Steel Reef requested a Presidential Permit for the Project's facilities.

On November 20, 2017, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

### Schedule for Environmental Review

Issuance of EA—June 8, 2018

90-day Federal Authorization Decision

Deadline—September 6, 2018

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

### Project Description

Steel Reef's proposed Project includes border crossing facilities consisting of a 250-foot-long, 10.75-inch-diameter pipeline, a meter station, and associated appurtenant aboveground facilities. The Project would transport up to 30 million standard cubic feet per day of sour natural gas gathered from existing oil wells owned and operated by Petro Harvester Oil & Gas, LLC in Burke County, North Dakota.

### Background

On January 11, 2018, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the proposed Saskatchewan Pipeline Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; other interested parties; and local libraries and newspapers.<sup>1</sup> In response to the NOI, the Commission received comments from the U.S. Department of Interior's Bureau of Indian Affairs regarding tribal consultation, and the North Dakota State

Water Commission regarding waterbody/wetland crossing permits.

### Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. 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](http://www.ferc.gov/docs-filing/esubscription.asp).

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](http://www.ferc.gov)). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.*, CP18–24), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: April 26, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018–09247 Filed 5–1–18; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–9977–36–OW]

### The National Drinking Water Advisory Council: Request for Nominations

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

**ACTION:** Request for nominations.

**SUMMARY:** The Environmental Protection Agency (EPA) invites nominations of qualified candidates to be considered for a three-year appointment to the National Drinking Water Advisory Council (NDWAC or Council). The 15-member Council was established by the Safe Drinking Water Act (SDWA) to provide practical and independent advice, consultation, and recommendations to the EPA Administrator on the activities, functions, policies, and regulations required by the SDWA. This notice solicits nominations to fill four

vacancies from August 2018 through December 2020 and five vacancies from December 2018 through December 2021. To maintain the representation required by statute, nominees will be selected to represent state and local agencies concerned with water hygiene and public water supply (two vacancies); private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply (two vacancies)—of which one such member shall be associated with small, rural public water systems; and the general public (five vacancies).

**DATES:** Nominations should be submitted on or before May 31, 2018.

**ADDRESSES:** Submit nominations to Tracey M. Ward, Designated Federal Officer (DFO), The National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water, Mail Code 4601–M, 1200 Pennsylvania Avenue NW, Washington, DC, 20460. You may also email nominations, with the subject line: “NDWAC Resume 2018,” to [ward.tracey@epa.gov](mailto:ward.tracey@epa.gov).

### FOR FURTHER INFORMATION CONTACT:

Email your questions to Tracey Ward at [ward.tracey@epa.gov](mailto:ward.tracey@epa.gov), or call (202) 564–3796.

### SUPPLEMENTARY INFORMATION:

*National Drinking Water Advisory Council:* The Council was created by Congress on December 16, 1974, as part of the Safe Drinking Water Act of 1974, Public Law 93–523, 42 U.S.C. 300j–5, and is operated in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The Council consists of 15 members, including the chairperson, all of whom are appointed by the EPA Administrator. Five members represent appropriate state and local agencies concerned with water hygiene and public water supply; five members represent private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply—of which two such members shall be associated with small, rural public water systems; and five members represent the general public. The current list of members is available on the EPA's NDWAC website at <https://www.epa.gov/ndwac>, under “NDWAC Roster.”

The Council will meet in person once each year and may hold a second meeting, either in person or by video/teleconference, during the year. These meetings generally occur in the spring and fall. Additionally, members may be asked to participate in ad hoc workgroups to develop policy

<sup>1</sup> Through an administrative error, the NOI was not mailed to interested Indian Tribes. On April 9, 2018, we subsequently sent the NOI to the Three Affiliated Tribes.

recommendations, advice letters, and reports to address specific program issues.

**Member Nominations:** Any interested person and/or organization may nominate qualified individuals for membership. The EPA values and welcomes diversity.

In an effort to obtain nominations of diverse candidates, the Agency encourages nominations of women and men of all racial and ethnic groups.

All nominations will be fully considered, but applicants need to be aware of the specific representation required by the SDWA for the upcoming vacancies: State and local agencies concerned with water hygiene and public water supply (two vacancies); private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply (two vacancies)—of which one such member shall be associated with small, rural public water systems; and the general public (five vacancies). Other criteria used to evaluate nominees will include:

- Demonstrated experience with drinking water issues at the national, state, or local level;
- Excellent interpersonal, oral, and written communication and consensus-building skills;
- Willingness to commit time to the Council and demonstrated ability to work constructively on committees;
- Absence of financial conflicts of interest;
- Absence of appearance of a lack of impartiality; and
- Background and experience that would help members contribute to the diversity of perspectives on the Council, e.g., geographic, economic, social, cultural, educational backgrounds, professional affiliations, and other considerations.

Nominations must include a resume, which provides the nominee's background, experience, and educational qualifications, as well as a brief statement (one page or less) describing the nominee's interest in serving on the Council and addressing the other criteria previously described. Nominees are encouraged to provide any additional information that they think would be useful for consideration, such as: Availability to participate as a member of the Council; how the nominee's background, skills, and experience would contribute to the diversity of the Council; and any concerns the nominee has regarding membership. Nominees should be identified by name, occupation, position, current business address, email, and telephone number. Interested

candidates may self-nominate. The DFO will acknowledge receipt of nominations.

Persons selected for membership will receive compensation for travel and a nominal, daily compensation (if appropriate) while attending meetings. Additionally, all selected candidates will be designated as Special Government Employees (SGEs) and will be required to submit the "Confidential Financial Disclosure Form for Environmental Protection Agency Special Government Employees" (EPA Form 3110-48). This confidential form provides information to the EPA's ethics officials, to determine whether there is a conflict between the SGE's public duties and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations. The form may be viewed and downloaded through the "Ethics Requirements" link on the EPA's NDWAC website at <https://www.epa.gov/ndwac>.

Other sources, in addition to this **Federal Register** notice, may also be utilized in the solicitation of nominees. To help the EPA in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity.

Dated: April 24, 2018.

**Jennifer McLain,**

*Acting Director, Office of Ground Water and Drinking Water.*

[FR Doc. 2018-09204 Filed 5-1-18; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9977-57—Region 10]

### Re-issuance of a General NPDES Permit (GP) for Small Suction Dredges in Idaho

**AGENCY:** Environmental Protection Agency, Region 10.

**ACTION:** Final reissuance of a general permit.

**SUMMARY:** The EPA is reissuing a National Pollutant Discharge Elimination System (NPDES) General Permit (IDG370000) for small suction dredge operations in Idaho (intake nozzle size of 5 inches in diameter or a diametric equivalent or less and with equipment rated at 15 horsepower or less). EPA provided a public comment period from December 13, 2017, through January 29, 2018. EPA received many comments suggesting that the requirements of the GP are not stringent enough to meet the State of Idaho's

WQS while other comments challenged EPA's authority to issue a permit for this activity. Additional comments questioned the meaning of some permit requirements. A Response to Comments document was prepared to address the comments received and explains any changes made to the draft to produce the final permit.

**DATES:** The final CWA § 401

Certification from the Idaho Department of Environmental Quality is dated April 11, 2018.

The GP will be effective May 2, 2018.

**ADDRESSES:** Copies of the general permit, Fact Sheet and Response to Comments are available upon request. Written requests may be submitted to EPA, Region 10, 1200 Sixth Avenue, Suite 155, OWW-191, Seattle, WA 98101.

**FOR FURTHER INFORMATION CONTACT:** The above documents may be found on the EPA Region 10 website at <https://www.epa.gov/npdes-permits/npdes-general-permit-small-suction-dredge-placer-miners-idaho>. Requests may also be made to Cindi Godsey at (206) 553-1676. Requests may also be electronically mailed to: [godsey.cindi@epa.gov](mailto:godsey.cindi@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Executive Order 12866:* This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget for review.

Dated: April 25, 2018.

**Daniel D. Opalski,**

*Director, Office of Water & Watersheds, Region 10.*

[FR Doc. 2018-09317 Filed 5-1-18; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2015-0665; FRL-9977-38-OW]

**RIN 2040-ZA25**

### Final 2016 Effluent Guidelines Program Plan

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

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of the Environmental Protection Agency's (EPA) Final 2016 Effluent Guidelines Program Plan (Final 2016 Plan). Section 304(m) of the Clean Water Act (CWA) requires the EPA to biennially publish a plan for new and revised effluent limitations guidelines, after public review and comment. The Final 2016 Plan identifies any new or

existing industrial categories selected for effluent guidelines or pretreatment standards and provides a schedule for their development. The information and analyses from the EPA's 2015 and 2016 Annual Reviews, in addition to input from public comments on the Preliminary 2016 Plan, were used in developing the Final 2016 Plan.

**FOR FURTHER INFORMATION CONTACT:**

Phillip Flanders, Engineering and Analysis Division, Office of Water, 4303T, U.S. EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566-8323; fax number: (202) 566-1053; email address: [Flanders.Phillip@epa.gov](mailto:Flanders.Phillip@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Supporting Documents*—A key document that provides additional information for this notice is the Final 2016 Effluent Guidelines Program Plan.

*B. How Can I Get Copies of This Document and Other Related Information?*

1. Docket. The EPA has established official public dockets for these actions under Docket ID No. EPA-HQ-OW-2015-0665. The official public docket is the collection of materials that are available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460.

2. Electronic access. You can access this **Federal Register** document electronically through the United States government online source for Federal regulations at <http://www.regulations.gov>.

3. Internet access. Copies of the supporting documents are available at <http://www.epa.gov/eg/effluent-guidelines-plan>.

**II. How is this document organized?**

The outline of this notice follows.

*A. Legal Authority.*

*B. Summary of the Final 2016 Effluent Guidelines Program Plan.*

*A. Legal Authority*

This notice is published under the authority of the CWA, 33 U.S.C. 1251, *et seq.*, and in particular sections 301(d), 304(b), 304(g), 304(m), 306, 307(b), and 308 of the Act, 33 U.S.C. 1311(d), 1314(b), 1314(g), 1314(m), 1316, 1317(b), and 1318.

*B. Summary of the Final 2016 Effluent Guidelines Program Plan*

The EPA prepared the Final 2016 Plan pursuant to CWA section 304(m). The Final 2016 Plan provides a summary of the EPA's review of effluent guidelines

and pretreatment standards, consistent with CWA sections 301(d), 304(b), 304(g), 304(m), and 307(b). From these reviews and considering public comment, the Final 2016 Plan identifies any new or existing industrial categories selected for effluent guidelines or pretreatment standards rulemakings, and provides a schedule for such rulemakings. In addition, the Final 2016 Plan presents any new or existing categories of industry selected for further review and analysis.

The Final 2016 Plan identifies one new rulemaking (and the associated schedule) for the Steam Electric Power Generating Point Source Category. The EPA has concluded that no additional industries warrant new or revised effluent guidelines at this time. The Final 2016 Plan also announces that the EPA is initiating a new study to look holistically at the management of oil and gas extraction wastewater from onshore facilities. The focus of this study is not to look specifically at any one existing effluent guideline. Rather, the EPA intends to engage with stakeholders to evaluate approaches to manage both conventional and unconventional oil and gas extraction wastewater from onshore facilities including, but not limited to, an assessment of technologies for facilities that treat and discharge oil and gas extraction wastewater. Lastly, the Final 2016 Plan announces that the EPA is initiating a new study of the Electrical and Electronic Components Point Source Category. The focus of this study will be on changes within the industry since the 1983 rulemaking, particularly as these changes pertain to wastewater characteristics and wastewater treatment technologies.

The Final 2016 Plan and the 2015 and 2016 Annual Effluent Guidelines Review Reports can be found at <http://www.epa.gov/eg/effluent-guidelines-plan>.

Dated: April 24, 2018.

**David P. Ross,**

*Assistant Administrator, Office of Water.*

[FR Doc. 2018-09320 Filed 5-1-18; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[EPA-R09-SFUND-2018-07; FRL-9977-39—Region 9]

**Ecology Control Industries, Inc. Removal Site, Torrance, CA; Notice of Proposed Settlement Agreement and Order on Consent**

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

**ACTION:** Notice of proposed settlement.

**SUMMARY:** This notice announces the availability for review and comment of a proposed administrative settlement agreement under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), between the U.S. Environmental Protection Agency ("EPA"), and Bridge Point South Bay II, LLC ("Bridge Point LLC"), regarding the Ecology Control Industries, Inc. Removal Site ("ECI Site") in Torrance, California. The Settlement Agreement requires the purchaser to conduct a removal action to address soil contamination at the ECI Site.

**DATES:** Comments must be received on or before June 1, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-SFUND-2018-07, to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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:** Xiao Zhang, Assistant Regional Counsel, Office of Regional Counsel (ORC-3), Environmental Protection Agency,

Region 9, 75 Hawthorne Street, San Francisco, CA 94105; tel: (415) 972-3266; fax: (415) 947-3570; *Zhang.Xiao@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Bridge Point LLC is agreeing to perform a removal action to address soils contaminated with the pesticide dichlorodiphenyl-trichloroethane (DDT). The removal action will reduce the risk to future users of the property and the surrounding community from exposure to contamination primarily caused by historical DDT manufacturing operations at a nearby plant. Under the terms of the settlement, Bridge Point LLC will complete the removal action and pay EPA's costs for oversight of the cleanup activities. In exchange, Bridge Point LLC will receive a covenant not to sue from the United States. EPA will consider all comments submitted by the date set forth above and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate the proposed settlement is inappropriate, improper, or inadequate.

Dated: April 10, 2018.

**Enrique Manzanilla,**  
Director, Superfund Division, U.S.  
Environmental Protection Agency, Region 9.

[FR Doc. 2018-09322 Filed 5-1-18; 8:45 am]

**BILLING CODE 6560-50-P**

## EXPORT-IMPORT BANK

[Public Notice: 2018-3009]

### Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Notice of submission of information collection approval from the Office of Management and Budget and request for comments.

**SUMMARY:** As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, Export-Import Bank of the United States has submitted a Generic Information Collection Request (Generic ICR): "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery" to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et. seq.*).

**DATES:** Comments must be received on or before June 1, 2018 to be assured of consideration.

**ADDRESSES:** Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 11-01) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038 Attn: OMB 3048-0036.

**FOR FURTHER INFORMATION CONTACT:** To request additional information, please contact Mia Johnson, *Mia.Johnson@exim.gov*, or by mail to Mia L. Johnson, Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC 20571.

**SUPPLEMENTARY INFORMATION:**  
*Title and Form Number:* EIB 11-01, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*Abstract:* The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable. The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both

the respondents and the Federal Government;

- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** of January 23, 2018 (Vol. 83, No. 15).

*Current Actions:* Renewal of approval for a collection of information.

*Type of Review:* Regular

*Survey Type:* Web based/email based survey; Feedback/Comment Evaluation Form; Detailed Mail Evaluation Form; Telephone; Focus Group.

*Affected Public:* Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

*Estimated Number of Respondents in the Three Year Interval:* 14,010.

Below we provide projected average estimates for the next three years:

*Average Expected Annual Number of Activities:* 10.

*Average Number of Respondents per Activity:* 467.

*Annual Responses:* 4,670.

*Frequency of Response:* Once per request.

*Average Minutes per Response:* 8.

*Annual Burden Hours:* 623.

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 Office of Management and Budget control number.

**Bassam Doughman,**

*IT Specialist.*

[FR Doc. 2018-09304 Filed 5-1-18; 8:45 am]

**BILLING CODE 6690-01-P**

## FARM CREDIT ADMINISTRATION

### Sunshine Act Meeting

#### Farm Credit Administration Board

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice, regular meeting.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

**DATES:** The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on May 10, 2018, from 9:00 a.m. until such time as the Board concludes its business.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090. Submit attendance requests via email to [VisitorRequest@FCA.gov](mailto:VisitorRequest@FCA.gov). See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

**FOR FURTHER INFORMATION CONTACT:** Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883-4009, TTY (703) 883-4056, [aultmand@fca.gov](mailto:aultmand@fca.gov).

**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available) and parts will be closed to the public. Please send an email to [VisitorRequest@FCA.gov](mailto:VisitorRequest@FCA.gov) at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883-4009. The matters to be considered at the meeting are:

#### Open Session

##### A. Approval of Minutes

- April 12, 2018

##### B. New Business

- Standards of Conduct—Proposed Rule
- Investment Eligibility—Final Rule

#### Closed Session\*

- Office of Secondary Market Oversight Periodic Report

Dated: April 30, 2018.

**Dale L. Aultman,**

*Secretary, Farm Credit Administration Board.*

\* Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

[FR Doc. 2018-09370 Filed 4-30-18; 11:15 am]

**BILLING CODE 6705-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[DA 18-389]

### Incentive Auction Task Force and Media Bureau Extend Post Incentive Auction Special Displacement Window Through June 1, 2018

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Communications Commission's Incentive Auction Task Force and Media Bureau announce that the displacement application filing window for low power television, TV translator, and analog-to-digital replacement translator stations that were displaced by the incentive auction and repacking process (Special Displacement Window).

**DATES:** The Special Displacement Window opened April 10, 2018 and will close on June 1, 2018 at 11:59 p.m. EDT.

**FOR FURTHER INFORMATION CONTACT:** Shaun Maher, Video Division, Media

Bureau, Federal Communications Commission, [Shaun.Maher@fcc.gov](mailto:Shaun.Maher@fcc.gov), (202) 418-2324.

**SUPPLEMENTARY INFORMATION:** The Incentive Auction Task Force and the Media Bureau hereby announce that the displacement application filing window for low power television, TV translator, and analog-to-digital replacement translator stations that were displaced by the incentive auction and repacking process (Special Displacement Window), currently scheduled to close May 15, 2018, is hereby extended to June 1, 2018 at 11:59 p.m. EDT. This brief extension of the Special Displacement Window will allow applicants further time to analyze data and other information and to prepare or make changes to their applications accordingly.

For additional information or questions, please contact Hossein Hashemzadeh (technical), [Hossein.Hashemzadeh@fcc.gov](mailto:Hossein.Hashemzadeh@fcc.gov), (202) 418-1658 or Shaun Maher (legal), [Shaun.Maher@fcc.gov](mailto:Shaun.Maher@fcc.gov), (202) 418-2324 of the Video Division, Media Bureau. Press contact: Charles Meisch, [Charles.Meisch@fcc.gov](mailto:Charles.Meisch@fcc.gov), (202) 418-2943.

**Barbara Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 2018-09331 Filed 5-1-18; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064-0124]

### Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

**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 July 2, 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 3064–0124. 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](mailto: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:* Notification of Change of Insured Status.

*OMB Number:* 3064–0124.

*Form Number:* None.

*Affected Public:* Insured depository institutions.

*Burden Estimate:*

#### SUMMARY OF ANNUAL BURDEN

	Type of burden	Obligation to respond	Estimated number of respondents	Estimated time per response (hours)	Frequency of response	Average total annual estimated burden (hours)
Certification .....	Reporting .....	Mandatory .....	150	.25	On Occasion .....	37.5
Notification .....	Disclosure .....	Mandatory .....	2	1	On Occasion .....	3
Total Estimated Annual Burden .....						39.5

**General Description of Collection:**  
This information collection consists of two parts: (1) A certification that insured depository institutions provide the FDIC when all deposit liabilities from one insured depository institution are assumed from another insured depository institution, with the latter institution responsible for providing the certification; and (2) a notification that an insured depository institution provides to its depositors when it seeks to voluntarily terminate its insured status. The certification is necessary to implement the provisions of section 8(q) of the Federal Deposit Insurance Act, 12 U.S.C. 1818(q), regarding termination of the insured status of the transferring institution and termination of the separate deposit insurance coverage provided on deposit accounts assumed by the assuming institution. The depositor notification is required by section 8(a)(6) of the Federal Deposit Insurance Act, 12 U.S.C. 1818(a)(6). This provision ensures that the institution's depositors receive appropriate information regarding the institution's intent to terminate its insured status and that, prior to the termination of the institution's insured status, depositors receive appropriate information concerning federal deposit insurance coverage of their accounts once the institution's insured status is terminated.

There is no change in the methodology or substance of this information collection. The number of certifications submitted under this information collection is closely related to the number of insured depository institutions that are acquired by another depository institution through mergers

or as a result of the closing of the institution by its chartering authority. The number of depositor notifications is driven by the number of institutions that elect to voluntarily terminate its insured status without having its deposits assumed by another insured depository institution. The change in burden is due to economic fluctuation reflected in a lower number of certifications following mergers or closures and a reduction in the number of notifications due to voluntary terminations of insured status.

**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 27, 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2018–09325 Filed 5–1–18; 8:45 am]

**BILLING CODE 6714–01–P**

#### FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0195]

#### Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

**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 July 2, 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 3064–0195. 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:* Minimum requirements for appraisal management companies.

*OMB Number:* 3064–0195.

*Form Number:* None.

*Affected Public:* Participating States and Appraisal Management Companies that are subsidiaries owned and controlled by insured depository institutions.

*Burden Estimate:*

**SUMMARY OF ANNUAL BURDEN**

	Type of burden	Estimated number of respondents	Estimated number of responses	Estimated time per response (hours)	Frequency of response	Total annual estimated burden hours	FDIC, FRB and OCC share	FHFA share
IC #1—AMC Written Notice of Appraiser Removal from Network or Panel (323.10).	Record Keeping ...	9,881	1	0,08	On Occasion ...	790	237 .....	79
IC #2—State Recordkeeping Requirements (323.11(a) & (b)).	Record Keeping ...	5	1	40	On Occasion ...	200	50 .....	50
IC #3—AMC Reporting Requirements (State and Federal AMCs) (323.12 & 13(c)).	Reporting .....	200	2	1	On Occasion ...	400	120 .....	40
IC #4—State Reporting Requirements to the Appraisal Sub Committee (323.14).	Reporting .....	55	1	1	On Occasion ...	55	14 .....	14
Total Estimated Annual Burden.	.....	.....	.....	.....	.....	1,445	421 hours	183 hours.

*General Description of Collection:* The FDIC, the Office of the Comptroller of the Currency (OCC), The Board of Governors of the Federal Reserve System (FRB) and the Federal Home Finance Agency (FHFA) (collectively, the Agencies) issued regulations to implement the requirements of section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to be applied by States in the registration and supervision of appraisal management companies (AMCs). The regulations also implement the requirement in section 1473 of the Dodd-Frank Act for States to report to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) the information required by the Appraisal Subcommittee (ASC) to administer the new national registry of appraisal management companies (AMC National Registry or Registry). The FDIC's regulation is found at 12 CFR part 323 (the Regulation) and contains the following PRA recordkeeping and reporting requirements:

*AMC Recordkeeping Requirements (IC #1).* Section 323.10 of the Regulation provides that an appraiser in an AMC's network or panel is deemed to remain on the network or panel until: (i) The AMC sends a written notice to the appraiser removing the appraiser with an explanation; or (ii) receives a written

notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser. The AMC would retain these notices in its files.

*State Recordkeeping Requirements (IC #2).* States seeking to register AMCs must have an AMC registration and supervision program. Section 323.11(a) of the Regulation requires each participating State to establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to: (i) Review and approve or deny an application for initial registration; (ii) periodically review and renew, or deny renewal of, an AMC's registration; (iii) examine an AMC's books and records and require the submission of reports, information, and documents; (iv) verify an AMC's panel members' certifications or licenses; (v) investigate and assess potential violations of laws, regulations, or orders; (vi) discipline, suspend, terminate, or deny registration renewals of, AMCs that violate laws, regulations, or orders; and (vii) report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the ASC.

Section 323.11(b) requires each participating State to impose requirements on AMCs not regulated by a Federal financial institutions regulatory agency nor owned and

controlled by an insured depository institution to: (i) Register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which the AMC operates; (ii) use only State-certified or State-licensed appraisers for Federally-regulated transactions in conformity with any Federally-regulated transaction regulations; (iii) establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type; (iv) direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Practice; and (v) establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with section 129E(a)–(i) of the Truth-in-Lending Act.

*AMC Reporting Requirements (IC #3).* Section 323.13(c) requires that a Federally-regulated AMC report to the State or States in which it operates the information required to be submitted by the State pursuant to the ASC's policies, including: (i) Information regarding the determination of the AMC National

Registry fee; and (ii) the information listed in section 323.12 of the Regulation. Section 323.12 provides that an AMC may not be registered by a State or included on the AMC National Registry if such company is owned, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Each person that owns more than 10 percent of an AMC is required to submit to a background investigation carried out by the State appraiser certifying and licensing agency. While section 323.12 does not authorize States to conduct background investigations of Federally-regulated AMCs, it would allow a State to do so if the Federally-regulated AMC chooses to register voluntarily with the State.

**State Reporting Requirements (IC #4).** Section 323.14 requires that each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State must submit to the ASC the information concerning such AMCs required to be submitted under the Regulation and any additional information required by the ASC.

#### **Burden Estimate Methodology and Assumptions:**

There is no change in the methodology or substance of this information collection. For the information collections described above, the general methodology is to compute the industry wide burden hours for States and appraisal management companies (AMCs) and then assign a share of the burden hours to each of the regulatory agencies for each information collection. The Agencies are revising their burden estimates based on the following assumptions:

**IC #1: AMC Written Notice of Appraiser Removal from Network or Panel.** The burden for written notices of appraiser removal from a network or panel is estimated to be equal to the number of appraisers who leave the profession per year multiplied by the estimated percentage of appraisers who work for AMCs, then multiplied by burden hours per notice. The number of appraisers who leave is calculated by adding the number of appraisers who are laid off or resign to the number of appraisers that have had their licenses revoked or surrendered. The total burden hours are then split between the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Federal Housing Finance Agency (FHFA) in a ratio of 3:3:3:1 in accordance with the burden sharing agreement among the

Agencies. Finally, the burden hours are calculated by multiplying the estimated number of written notices of appraiser removal (9,881) by the estimated burden per notice (0.08 hours) for a total of 790 burden hours.<sup>1</sup> As previously mentioned, the total burden hours are then split between the FDIC, FRB, OCC, and the FHFA such that the FHFA is responsible for 79 hours and the other three agencies are responsible for 237 hours each.

**IC #2: Develop and Maintain a State Licensing Program.** The burden on the States for developing and maintaining an AMC licensing program is calculated by multiplying the number of states without a registration and licensing program by the hour burden to develop the system. The total burden hours are then equally divided among the FDIC, FRB, OCC, and FHFA. According to the Appraisal Institute as of July 26, 2017, there are 5 states that have not developed a system to register and oversee AMCs.<sup>2</sup> The 2015 ICR estimate of the hour burden per state without a registration system was 40 hours. The FDIC does not believe this estimate needs to be updated for this renewal. Therefore, the total hour burden is 200 hours: 5 States  $\times$  40 hours/state = 200 hours. Finally, the total hour burden is divided among the four agencies such that each agency is responsible for 50 burden hours.<sup>3</sup>

**IC #3: AMC Reporting Requirements (State and Federal AMCs).** The burden for AMC reporting requirements is calculated by multiplying the number of AMCs by the frequency of response then by the burden per response. The burden hours are then divided between the FDIC, FRB, OCC, and FHFA at a ratio of 3:3:3:1.<sup>4</sup> FDIC estimates there are approximately 400 entities that provide appraisal management services as defined by section 323.9(d). Of these 400 entities, FDIC estimates approximately 200 entities meet the definition of an AMC as defined by section 323.9(c).<sup>5</sup>

<sup>1</sup> The “per notice” burden estimate of 0.08 hours is unchanged from the estimate provided for the currently-approved ICR. The subject matter experts at the FDIC do not believe this estimate needs to be updated for this renewal.

<sup>2</sup> Appraisal Institute “Enacted State AMC Laws”. <https://www.appraisalinstitute.org/advocacy/enacted-state-amc-laws1/>.

<sup>3</sup> The assumption to divide the burden hours between the agencies is based on a burden-sharing agreement among the FDIC, FRB, OCC, and FHFA. The burden hours are shared in the same ratio as the 2015 ICR.

<sup>4</sup> Id.

<sup>5</sup> The FDIC anticipates more definitive information will become available when AMC registration requirements become effective on August 10, 2018.

The frequency of response is estimated as the number of states that do not have an AMC registration program in which the average AMC operates.<sup>6</sup> According to the Appraisal Institute, Five (5) states do not have AMC registration or oversight programs.<sup>7</sup> According to the Consumer Financial Protection Bureau (CFPB), the average AMC operates in 19.56 states.<sup>8</sup> Therefore, the average AMC operates in approximately 2 states that do not have AMC registration systems: (5 States/55 states)  $\times$  19.56 states = 1.778 states  $\sim$  2 states. Therefore the total hour burden for IC #3 is 400 hours: 200 AMCs  $\times$  2 states (frequency)  $\times$  1 hour = 400 hours. The burden hours are then divided such that the FDIC, FRB, and OCC are each responsible for 120 burden hours and the FHFA is responsible for 40 burden hours.<sup>9</sup>

**IC #4: State Reporting Requirements to the Appraisal Subcommittee.** The burden hours for State reporting to the ASC are estimated by multiplying the number of states by the hour burden per state.<sup>10</sup> Then the burden hours are divided equally among the FDIC, FRB, OCC, and the FHFA. The total burden hour for state reporting is 50 hours: 55 states  $\times$  1 hour/state = 55 hours. This is then equally divided across the 4 agencies for 14 burden hours each, with rounding.<sup>11</sup>

#### **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

<sup>6</sup> The number of states includes all U.S. states, territories, and districts to include: The Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

<sup>7</sup> Appraisal Institute “Enacted State AMC Laws”. <https://www.appraisalinstitute.org/advocacy/enacted-state-amc-laws1/>. Date accessed: February 27, 2018.

<sup>8</sup> The CFPB conducted a survey of 9 AMCs in 2013 regarding the provisions in the rule and the related PRA burden.

<sup>9</sup> See footnote 9.

<sup>10</sup> The number of states includes all U.S. states, territories, and districts to include: The Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. The burden estimate of 1 hour per report is unchanged from the estimate provided for the currently-approved ICR. The subject matter experts at the FDIC do not believe this estimate needs to be updated for this renewal.

<sup>11</sup> See footnote 9.

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 27, 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2018–09324 Filed 5–1–18; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS18–06]

### Appraisal Subcommittee; Notice of Meeting

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

**ACTION:** Notice of meeting.

*Description:* In accordance with Section 1104 (b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

*Location:* Federal Reserve Board—International Square location, 1850 K Street NW, Washington, DC 20006.

*Date:* May 9, 2018.

*Time:* 10:00 a.m.

*Status:* Open.

### Reports

Chairman

Executive Director

Delegated State Compliance Reviews  
Financial Report

### Action and Discussion Items

February 14, 2018 Open Session  
Minutes

Reprogramming Request for State  
Investigator Training Grant  
Revisions to ASC Delegations of  
Authority

State Requests for Extension of  
Implementation Period to establish  
AMC Program  
Selection of ASC Vice Chair

### How To Attend and Observe an ASC Meeting

If you plan to attend the ASC Meeting in person, we ask that you send an email to [meetings@asc.gov](mailto:meetings@asc.gov). You may register until close of business four business days before the meeting date. You will be contacted by the Federal

Reserve Law Enforcement Unit on security requirements. You will also be asked to provide a valid government-issued ID before being admitted to the Meeting. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC meetings.

Dated: April 25, 2018.

**James R. Park,**

*Executive Director.*

[FR Doc. 2018–09214 Filed 5–1–18; 8:45 am]

**BILLING CODE 6700–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10669]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services.

**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 July 2, 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](mailto: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–10669 Health Equity Technical Assistance Monitoring and Tracking

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:* New collection (Request for a new OMB control number); *Title of Information Collection:* Health Equity Technical Assistance Monitoring and Tracking; *Use:* The Centers for Medicare & Medicaid Services (CMS) Office of Minority Health (OMH) developed the CMS Equity Plan for Improving Quality in Medicare (CMS Equity Plan for Medicare). The Plan outlines CMS' path to help advance health equity by improving the quality of care provided to minority and other underserved Medicare beneficiaries, particularly those with disparities in chronic diseases. CMS identified six high-impact priority areas based on a review of the evidence base and stakeholder input. These priorities encompass both system- and community-level approaches to achieve equity in Medicare. Priority 2: Evaluate Disparities Impacts and Integrate Equity Solutions Across CMS Programs, focuses on increasing understanding of the impact CMS programs have on health disparities and on identifying, developing and integrating proven solutions to improve their impact on vulnerable populations.

CMS created a Health Equity Technical Assistance (TA) email ([HealthEquityTA@cms.hhs.gov](mailto:HealthEquityTA@cms.hhs.gov)) to support CMS programs as they integrate health equity into their programs. This TA offers guidance from health equity subject matter experts on a variety of topics including reviewing data to identify health disparities, identifying root causes of health disparities, gaining an organizational champion, building organizational capacity to address health disparities, implementing interventions, tracking success of intervention, and serves as a portal to access health equity resources. *Form Number:* CMS-10669 (OMB control number: 0938-New); *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other For-profits); *Number of Respondents:* 274; *Total Annual Responses:* 274; *Total Annual Hours:* 23. (For policy questions regarding this collection contact Alexandra Bryden at 410-786-2076).

Dated: April 27, 2018.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2018-09329 Filed 5-1-18; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Statement of Organization, Functions, and Delegations of Authority; Office of the National Coordinator for Health Information Technology

Part A, Office of the Secretary, Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Chapter AR, Office of the National Coordinator for Health Information Technology (ONC), as last amended at 79 FR 31941 (June 3, 2014), 77 FR 29349-50 (May 17, 2012), 76 FR 65196 (Oct. 20, 2011), 76 FR 6795 (Feb. 8, 2011), 75 FR 49494 (Aug. 13, 2010), 74 FR 62785-86 (Dec. 1, 2009), 70 FR 48718-20 (Aug. 19, 2005) is amended as follows:

I. Under AR.10, Organization, delete all of components and replace with the following:

- A. Immediate Office of the National Coordinator (ARA)
- B. Office of Policy (ARI)
- C. Office of Technology (ARC)
- D. Office of the Chief Operating Officer (ARE)

II. Delete AR.20, Functions, in its entirety and replace with the following: Section AR.20, Functions.

A. *Immediate Office of the National Coordinator:* The Immediate Office of the National Coordinator (IO/ONC) is headed by the National Coordinator, who provides leadership and executive and strategic direction for the ONC organization. The National Coordinator is responsible for carrying out ONC's mission and implementing the functions of ONC. The IO/ONC (1) ensures the interoperability of health information, as central and foundational to the core mission of HHS to enhance and protect the health and well-being of all Americans; (2) ensures that health information technology initiatives are coordinated across HHS programs; (3) ensures that health information technology policy and programs of HHS are coordinated with those of relevant executive branch agencies (including Federal commissions and advisory committees) with a goal of avoiding duplication of effort and of helping to

ensure that each agency undertakes activities primarily within the areas of its greatest expertise and technical capability; (4) reviews Federal health information technology investments to ensure Federal health information programs are meeting the objectives of the strategic plan required under Executive Order 13335, to create a national interoperable health information technology infrastructure; (4) provides comments and advice regarding specific Federal health information technology programs; and (5) develops, maintains, and reports on measurable outcome goals for health information technology to assess progress within HHS and other executive branch agencies.

The Deputy National Coordinator, a part of the IO/ONC, works with and reports directly to the National Coordinator, and is responsible for supporting the National Coordinator in day-to-day operations and strategy for ONC, and for management of such ONC staff that report to the Deputy or as requested by the National Coordinator. The Deputy, in conjunction with the National Coordinator, provides executive oversight for the activities of ONC offices.

The Deputy National Coordinator for Operations works with, and reports directly to, the National Coordinator and is responsible for day-to-day operations and strategy for ONC agency-wide support functions as well as providing executive oversight in conjunction with the National Coordinator.

The Chief Privacy Officer, a part of the IO/ONC, advises the National Coordinator on privacy, security, and data stewardship of electronic health information and coordinates with other Federal agencies, with State and regional efforts, and with foreign countries with regard to the privacy, security, and data stewardship of electronic individually identifiable health information.

B. *Office of Policy:* The Office of Policy is headed by an Executive Director. This office is responsible for: (1) Policy and rulemaking activities, including implementation of provisions included in the Health Information Technology for Economic and Clinical Health (HITECH) Act, the 21st Century Cures Act, and Executive Order 13335: Incentives for the Use of Health Information Technology and Establishing the Position of the National Health Information Technology Coordinator; (2) ONC's domestic policy initiatives; (3) coordination with executive branch agencies, Federal commissions, advisory committees, and

external partners; (4) advanced analysis and evaluation of health information technology policies for ONC and the Department, including in the areas of interoperability, information blocking, care transformation, privacy and security, and quality improvement; and (5) operation of the Health Information Technology Advisory Committee established in the 21st Century Cures Act.

C. *Office of Technology*: The Office of Technology is headed by an Executive Director. This office is responsible for (1) executing provisions of law including those in Title XXX of the Public Health Service Act as well as those mandated under the HITECH Act and the 21st Century Cures Act; (2) providing technical leadership and coordination within the health IT community to identify, evaluate, and influence the development of standards, implementation guidance, and best practices for representing and exchanging electronic health information; (3) coordinating with

Federal agencies and other public and private partners to implement and advance interoperability nationwide; (4) leading the development of electronic testing tools, resources, and data to achieve interoperability, enhanced usability, and aid in the optimization of health IT; (5) administering the ONC Health IT Certification Program, including the Certified Health IT Product List (CHPL); and (6) leading ONC's technical interoperability interests and investments to advance the development of innovative solutions for interoperability.

D. *Office of the Chief Operating Officer*: The Office of the Chief Operating Officer is headed by the Deputy National Coordinator for Operations/Chief Operating Officer and fulfills the administrative (*i.e.*, executive secretariat) reporting, infrastructure, and budget support needs of the office. The Office of the Chief Operating Officer is responsible for:

(1) Managing enterprise risk and formulating solutions to ensure ONC

has the resources to achieve its mission and goals; (2) ensuring fiscal integrity and adherence to Federal laws and regulations; (3) providing centralized, agency-wide strategy and services including: Budget and financial management; full lifecycle grants management; procurement management; human capital; information technology; facilities management; ethics; and records management.

### III. Delegation of Authority.

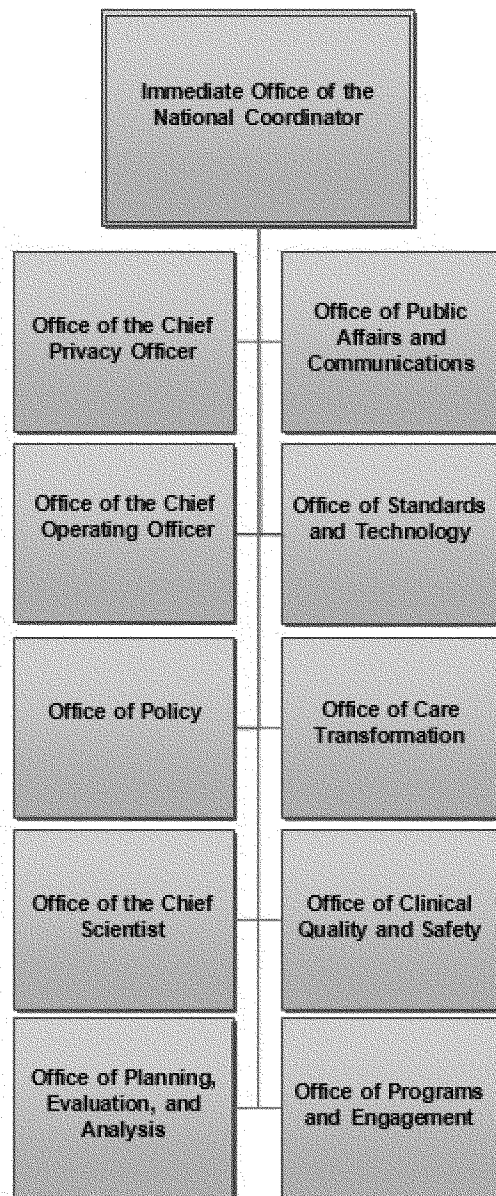
Pending further delegation, directives or orders by the Secretary or by the National Coordinator for Health Information Technology, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

**Alex M. Azar II,**

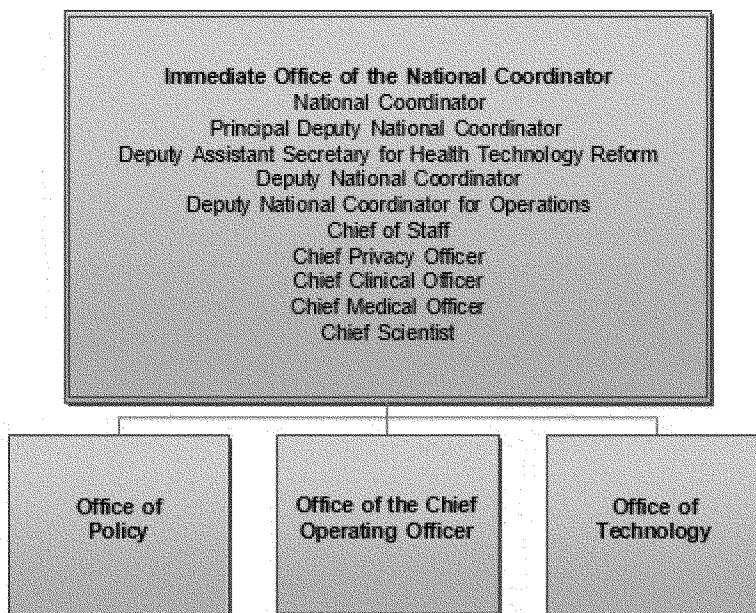
*Secretary of Health and Human Services.*

**BILLING CODE 4150-24-P**

## Current ONC Organizational Structure



## Proposed ONC Organizational Structure



[FR Doc. 2018-09361 Filed 4-30-18; 4:15 pm]

BILLING CODE 4150-24-C

**DEPARTMENT OF HOMELAND SECURITY****U.S. Customs and Border Protection****Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will increase from the previous quarter. For the calendar quarter beginning April 1, 2018, the interest rates for overpayments will be 4 percent for corporations and 5 percent for non-corporations, and the interest rate for underpayments will be 5 percent for both corporations and non-corporations. This notice is published for the convenience of the importing

public and U.S. Customs and Border Protection personnel.

**DATES:** The rates announced in this notice are applicable as of April 1, 2018.

**FOR FURTHER INFORMATION CONTACT:**

Bruce W. Ingalls, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 298-1107.

**SUPPLEMENTARY INFORMATION:****Background**

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 provides different interest rates applicable to overpayments: One for corporations and One for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2018-07, the IRS determined the rates of interest for the calendar quarter beginning April 1, 2018, and ending on June 30, 2018. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (2%) plus three percentage points (3%) for a total of five percent (5%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (2%) plus two percentage points (2%) for a total of four percent (4%). For overpayments made by non-corporations, the rate is the Federal short-term rate (2%) plus three percentage points (3%) for a total of five percent (5%). These interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties are the same from the previous quarter. These interest rates are subject to change for the calendar quarter beginning July 1, 2018, and ending September 30, 2018.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under payments (percent)	Over payments (percent)	Corporate overpayments (eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033116	3	3	2
040116	033118	4	4	3
040118	063018	5	5	4

Dated: April 23, 2018.

**Samuel D. Grable,***Assistant Commissioner and Chief Financial Officer, Office of Finance.*

[FR Doc. 2018-09287 Filed 5-1-18; 8:45 am]

BILLING CODE 9111-14-P

**DEPARTMENT OF HOMELAND SECURITY****U.S. Customs and Border Protection****Notice of Issuance of Final Determination Concerning Gyrocompasses****AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.**ACTION:** Notice of final determination.

**SUMMARY:** This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain gyrocompasses. Based upon the facts presented, CBP has concluded that the country of origin of the gyrocompasses is the United States for purposes of U.S. Government procurement.



**DATES:** This final determination was issued on April 24, 2018. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within June 1, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ross M. Cunningham, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade, (202) 325–0034.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on April 24, 2018, pursuant to subpart B of Part 177, U.S. Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued one final determination concerning the country of origin of certain gyrocompasses, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination (HQ H287851) was issued under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that the processing in the United States will result in a substantial transformation. Therefore, the country of origin for purposes of U.S. Government procurement of the gyrocompasses is the United States.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: April 24, 2018.

**Alice A. Kipel,**

*Executive Director, Regulations and Rulings,  
Office of Trade.*

HQ H287851

April 24, 2018

OT:RR:CTF:VS H287851 RMC

CATEGORY: Country of Origin

Michael S. Snarr

Baker & Hostetler LLP

Washington Square, Suite 110

1050 Connecticut Ave., NW

Washington, DC 20036–5304

Re: U.S. Government Procurement;  
Country of Origin of Gyrocompass;  
Substantial Transformation

Dear Mr. Snarr:

This is in response to your letter dated June 12, 2017, requesting a final determination on behalf of [ ] (“the Manufacturer”) pursuant to subpart B of Part 177 of the U.S. Customs and Border Protection (“CBP”) Regulations (19 C.F.R. Part 177). A meeting was held in our office on December 18, 2018, during which you and your client explained how the product functions and the assembly process. A follow-up submission dated January 4, 2018, was also provided.

This final determination concerns the country of origin of a gyrocompass that will be assembled in the United States. As a U.S. importer, [the Manufacturer] is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

You have asked that certain information submitted in connection with this request be treated as confidential. Inasmuch as this request conforms to the requirements of 19 C.F.R. § 177.2(b)(7), the request for confidentiality is approved. The information contained within brackets in this ruling or in the attachments to this ruling request, forwarded to our office, will not be released to the public and will be withheld from published versions of this ruling.

#### FACTS:

[The Manufacturer] is incorporated in [ ] and has its principal place of business in [ ]. It is a wholly-owned subsidiary of [ ] (“the Parent Company”) a [ ] entity. [The Parent Company] develops gyrocompasses and advanced inertial navigational systems for navigation on land, at sea, in the air, and in space.

The subject merchandise is a “surface gyrocompass and attitude reference system” sold under the name [ ]. The technical offer documentation provided describes the merchandise as a “small size, low weight, low power consumption, IMO-certified, solid-state Fiber-Optic gyrocompass providing all necessary data for demanding navigation and control applications: True-North heading, roll, pitch and rates of return.” The merchandise transmits these data to onboard navigational and control systems to control a ship’s movement at sea.

Five main components comprise the merchandise:

1. Inertial Sensor Assembly (“ISA”)—Manufactured in France from French (or

possibly U.S.) parts, the ISA contains interferometric fiber-optic gyroscopes (“FOGs”) and accelerometers. The FOGs incorporate fiber-optic coils connected to integrated optical circuits to create the interferometers that provide the actual place of gyroscopic measurement. Three FOGs are combined into a single component structure along with three accelerometers to form the ISA. The capability of the ISA is limited to measuring raw accelerations and rotation rates. After testing in France, the ISA will be shipped to the United States.

2. Digital Signal Processing (“DSP”) Board—Manufactured in the United States from U.S. parts, the DSP Board acquires the measurements from the ISA, compensates for various kinds of potential measurement errors, computes an angular position using algorithms, and sends the computed parameters to a dual-access memory unit. It is comprised of 46 different components including capacitors, resistors, connectors, inductors, an oscillator, a flash memory unit, and others.

3. Interface Board—Manufactured in the United States from U.S. parts (other than the connectors on the interface board, which are sourced in Germany “as per the standard for connectors of this purpose”), the Interface Board contains the connections for the components necessary for communication between the product and the ship’s other hardware (e.g., panel mounted receptacle connectors, serial link drivers, and Ethernet LAN transformer). Thus, the Interface Board allows the gyroscope to communicate with the ship’s other navigational equipment, and vice versa. It is comprised of 56 different components including connectors, capacitors, inductors, diodes, digital isolators, a filter, and Ethernet transformer, and others.

4. Processor Board—Manufactured in the United States from U.S. parts, the Processor Board contains a microcontroller that serves as the intelligence of the merchandise. It also contains micro and flash memory that are necessary for the functioning of the merchandise. It is comprised of 61 different components including resistors, oscillators, connectors, diodes, LEDs, a DC power converter, a flash memory unit, and others.

5. Customized Housing—Machined in the United States from U.S. parts, the customized housing consists of a metal baseplate and top cover that enclose and protect the other components.

The U.S. assembly processes described in [the Manufacturer’s] submission begin when a subcontractor

assembles the DSP board, Interface Board, Processor Board, and housing in the United States. You state that the combined manufacturing time for the boards is 4.2 hours, while the customized metal housing takes about ten hours. For the boards, the assembly process generally involves the placement and soldering into place of the electronic components necessary for the boards' functioning. The housing is made by bending sheets of metal, brazing them together, and powder coating the component.

Once the boards and housing have been completed, they are ready to be integrated with the French-origin ISAs to produce the final product. Although the ISAs generate raw data such as angular rates and linear acceleration, these measurements "lack the accuracy and proper frame of reference needed to compute the relevant parameters for navigation or to transmit these data into a functional format for the ship's navigation and control" (i.e., heading, roll, pitch, and heave). You state that the DSP board, interface board, and processor board are essential in processing and converting the "raw" signal that the ISA generates into a signal that can be used by the ship's navigational and control systems. For example, according to the information provided, the processor board serves as the "intelligence" of the product and contains firmware and the user interface that allows a ship's crew to control the product. The interface board serves as the electrical link between the ship's electrical equipment and the product, and the DSP board processes the raw data generated by the ISA into a format that is compatible with navigational equipment. Thus, you state that the U.S. processor board, interface board, and DSP board are essential to the capabilities and functioning of the product.

The final assembly of the [ ] product in the United States will take approximately seven and a half hours and will begin when the ISA is mounted to the baseplate of the housing, which involves placing a gasket, affixing heat-sink compound, and fastening screws. Technicians will then combine the interface board, processor board, and DSP Board to form "electronic clusters." This process will involve soldering connectors, attaching flexible cables, and screwing components together. The processor board and the DSP board will then each be loaded with software developed in France.

After this process is complete, the electronic clusters will be connected to the ISA through the mounting of cables that permit electronic exchange between

the ISA and the electronic cluster. You state that this integration in the United States will produce an Inertial Measurement Unit ("IMU") that has the capacity of recording and collecting raw navigational data, as well as generating and transmitting those data in a format that related nautical systems can use.

In order to make the IMUs ready for installation, however, calibration testing must be conducted. In this stage of the production process, a motion tester and software tester will be used to ensure smooth integration with a ship's navigation systems. [The Manufacturer] states that the calibration testing will take up to 24 hours. Once this testing is completed, the finished gyrocompass will be ready for use in the field.

#### ISSUE:

What is the country of origin of the gyrocompasses for purposes of U.S. Government procurement?

#### LAW AND ANALYSIS:

CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government, pursuant to subpart B of Part 177, 19 C.F.R. § 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*).

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

*See also* 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with Federal Acquisition Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define "U.S.-made end product" as:

. . . an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, the extent of operations performed and whether the parts lose their identity and become an integral part of the new article are considered. *See Belcrest Linens v. United States*, 6 CIT 204 (1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases.

In HQ 558919, dated March 20, 1995, U.S. Customs (now U.S. Customs and Border Protection) held that an extruder assembly manufactured in England was substantially transformed in the United States when it was combined with U.S. components (a drive unit, an electric control panel, and an extruder screw) to create a vertical extruder. Assembly operations in the United States included "the complete wiring of the motor and control panel to the subassembly, followed by a complete set up and testing program to insure that the vertical extruder is operating within its design parameters." In reaching the decision that a substantial transformation had occurred, Customs emphasized the importance of the U.S. components to the functioning of the final product. Based on the extent of the assembly operations and the importance of the U.S. components, Customs held that the country of origin of the vertical extruder was the United States.

By contrast, assembly operations that are minimal or simple will generally not result in a substantial transformation. For example, in HQ 734050, dated June 17, 1991, CBP held that Japanese-origin printer components were not substantially transformed in China when assembled to form finished printers. Three components, the circuit, power source, and outer case units, were entirely assembled or molded in Japan. Two components, the head and mechanical units, were made in Japan, but exported to China in an unassembled state. In China, the head and mechanical units were assembled with screws and screwdrivers. Thereafter, the head, mechanism,

circuit, and power source units were mounted onto the outer case with screws and screwdrivers. In holding that the country of origin of the assembled printers was Japan, CBP recognized that the vast majority of the printer's parts were of Japanese origin and that the operations performed in China were relatively simple assembly operations.

Here, as in HQ 558919, the merchandise contains many U.S. materials that are important components of the final product. With the exception of the French-origin ISA, which may in some cases contain U.S. parts, and some German-origin connectors on one subassembly, all the materials used in the gyroscope are of U.S.-origin. These U.S.-origin parts are essential to the functionality of the finished gyrocompass. As noted above, the processor board serves as the "intelligence" of the product and contains firmware and the user interface that allows a ship's crew to control the product. The interface board serves as the electrical link between the ship's electrical equipment and the product, and the DSP board processes the raw data generated by the ISA into a format that is compatible with navigational equipment. Without the U.S.-origin components, the ISA's functionality would be limited to measuring raw accelerations and rotation rates and would not be capable of producing the output expected from a navigational gyrocompass including heading, roll, pitch, and heave.

In addition, the assembly processes that will occur in the United States are complex and time-consuming. Each of the electronic boards contains dozens of electrical components that must be properly mounted to the surface of the board and soldered into place. This process takes 4.2 hours, while the customized metal housing takes about ten hours to manufacture. Next, these components will be combined with the ISA in a process that includes placing a gasket, affixing a heat-sink compound, soldering connectors, attaching cables, fastening screws, and loading software. This process will take an additional seven and a half hours. Finally, significant post-assembly testing procedures, which will calibrate the merchandise and ensure smooth communication with the ship's navigational equipment, will be carried out in the United States. [The Manufacturer] states that the calibration testing will take up to 24 hours. Consistent with previous CBP decisions, the large number of individual components, the 4.2 hours that will be spent assembling the boards, the ten hours that will be spent manufacturing

the metal housing, the seven and a half hours that will be spent on final assembly, and the time spent on final calibration testing (up to 24 hours) are evidence of complex and meaningful assembly operations in the United States.

In addition, we find that the French-origin ISAs will undergo a change in name, character, and use when they are assembled into finished gyrocompasses in the United States. Although a change in a product's name is the weakest evidence of a substantial transformation, *Uniroyal, Inc. v. United States*, 3 CIT 220, *aff'd* 703 F.2d 1022 (Fed. Cir. 1983), we note that the name of the imported material will change from ISA to gyrocompass after assembly in the United States. Furthermore, the ISA's character—or its "mark, sign [or] distinctive quality," *Energizer Battery Inc. v. United States*, No. 16–116, slip op. at 18 (CIT 2016) (quoting Webster's Third New Int'l Dictionary of the English Language Unabridged (2002) at 376)—will change from a component capable of taking raw measurements to a calibrated system able to record, collect, and transmit data to a ship's navigational systems. Finally, the integration of the French-origin ISA into the finished product changes its use from a measurement component to a complete gyrocompass and "attitude reference system that is capable of delivering actionable data integrated into the ship's navigation and control systems." Because of the change in name, character, and use that occurs in the United States, and considering the totality of the U.S. assembly operations, amount and importance of U.S. materials, and testing that will occur in the United States, the country of origin of the gyrocompasses will be the United States for purposes of U.S. Government procurement.

HOLDING:

The country of origin of the gyrocompasses for purposes of U.S. Government procurement will be the United States.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,  
Alice A. Kipel, Executive Director  
Regulations & Rulings  
Office of Trade

[FR Doc. 2018–09289 Filed 5–1–18; 8:45 am]  
BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Saybolt LP (St. Rose, LA) as a Commercial Gauger

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of accreditation and approval of Saybolt LP (St. Rose, LA), as a commercial gauger.

**SUMMARY:** Notice is hereby given, pursuant to CBP regulations, that Saybolt LP (St. Rose, LA), has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of June 13, 2017.

**DATES:** Saybolt LP (St. Rose, LA) was approved and accredited as a commercial gauger and laboratory as of June 13, 2017. The next triennial inspection date will be scheduled for June 2020.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Mocella, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to 19 CFR 151.13, that Saybolt LP, 190 James Drive East, Suite 110, St. Rose, LA 70087, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Saybolt LP (St. Rose, LA), is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3 .....	Tank gauging.
7 .....	Temperature determination.
8 .....	Sampling.
11 .....	Physical Properties Data.
12 .....	Calculations.
17 .....	Maritime measurement.

Anyone wishing to employ this entity to conduct gauger services should

request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [CBPGaugersLabs@cbp.dhs.gov](mailto:CBPGaugersLabs@cbp.dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: April 25, 2018.

**Dave Fluty,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. 2018-09288 Filed 5-1-18; 8:45 am]

**BILLING CODE 9111-14-P**

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0036]

#### Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; FFL Out of Business Records Request—ATF F 5300.3A

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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. The proposed collection OMB 1140-0036 (FFL Out of Business Records Request—ATF F 5300.3A) is being revised due to minor changes to ATF F 5300.3A, as well as an increase in the in respondents, burden hours, and cost since the last renewal in 2016. The proposed information collection is also being published to obtain comments from the public and affected agencies. **DATES:** Comments are encouraged and will be accepted for 60 days until July 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments, particularly with respect to the estimated public burden or associated

response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact Kris Howard, Program Manager, National Tracing Center Division, either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at [kris.howard@atf.gov](mailto:kris.howard@atf.gov), or by telephone at 304-260-3683.

**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 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;
- 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

(check justification or form 83):

Revision of a currently approved collection.

##### 2. The Title of the Form/Collection:

FFL Out of Business Records Request.

##### 3. The agency form number, if any, and the applicable component of the Department sponsoring the collection:

Form number (if applicable): ATF F 5300.3A.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

##### 4. Affected public who will be asked or required to respond, as well as a brief abstract:

*Primary:* Business or other for-profit.

*Other (if applicable):* None.

*Abstract:* The form is used by ATF to notify licensees that go out of business to send their firearms related business records to the ATF, if the business discontinuance is absolute, or to allow

the licensee to notify ATF of the successor who will be maintaining control of their firearms related records. The questions are simple and a return address is supplied. The format is easy for the user to list the required information ATF needs to perform its functions in regard to the law.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* A combined total of 4,607 respondents will utilize the form and then package and ship/deliver business records to the ATF following business discontinuance. It will take a combined total of five minutes for respondents to prepare the form, and an additional six hours to package and then ship/deliver business records to the ATF.

6. *An estimate of the total public burden (in hours) associated with the collection:* The combine estimated annual public burden associated with this collection is 27,904.25 hours which is equal to 3,147 (# of respondents who used the form) \* 0.0833333 hours (5 minutes – total time taken to complete the form) + 4,607 (# or respondents) \* 6 hours (time taken to package and ship/deliver business records to the ATF).

7. *An Explanation of the Change in Estimates:* The burden changes associated with this collection due to an increase in respondents, as well as the inclusion of the combined time taken and costs associated with both preparing the form and then packaging and shipping/delivering business records to the ATF.

*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 27, 2018.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2018-09297 Filed 5-1-18; 8:45 am]

**BILLING CODE 4410-14-P**

**DEPARTMENT OF JUSTICE****Bureau of Alcohol, Tobacco, Firearms and Explosives**

[OMB Number 1140-0062]

**Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; Identification of Imported Explosives Materials**

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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. The proposed information collection OMB 1140-0062 (Identification of Imported Explosives Materials) is being revised due to a change in burden, since there is an increase in the number of respondents, responses, and total burden hours since the last renewal in 2015. The proposed information collection is also being published to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and will be accepted for 60 days until July 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact Anita Scheddel, Program Analyst, Explosives Industry Programs Branch, either by mail 99 New York Ave. NE, Washington, DC 20226, or by email at [Anita.Scheddel@atf.gov](mailto:Anita.Scheddel@atf.gov), or by telephone at 202-648-7158.

**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 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;

— 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* (check justification or form 83): Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Identification of Imported Explosives Materials.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number (if applicable): None.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Business or other for-profit.

*Other (if applicable):* None.

*Abstract:* The information is necessary to ensure that explosive materials can be effectively traced. All licensed importers are required to identify by marking all explosive materials they import for sale or distribution.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 17 respondents will utilize the information collection, and it will take each respondent approximately one hour to respond a total three times annually.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 51 hours, which is equal to 17 (total number of respondents) \* 3 (total # of responses annually) \* 1 hour (total time to respond).

7. *An Explanation of the Change in Estimates:* Due to an increase in the number of federally licensed explosive material importers, the total respondents, responses, and burden hours for this information collection has

increased by 2, 6 and 6 respectively, since the last renewal in 2015.

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 27, 2018.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2018-09298 Filed 5-1-18; 8:45 am]

**BILLING CODE 4410-14-P**

**DEPARTMENT OF JUSTICE****Bureau of Alcohol, Tobacco, Firearms and Explosives**

[OMB Number 1140-0050]

**Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection Identification Markings Placed on Firearms**

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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. The proposed information collection OMB 1140-0050 (Identification Markings Placed on Firearms) is being revised due to a change in burden, since there is an increase in the number of respondents, although there is a reduction in responses and total burden hours from the previous renewal in 2015, due to less firearms being imported. The proposed information collection is also being published to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and will be accepted for 60 days until July 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information,

please contact Rinell Lawrence, Firearms Industry Programs Branch (FIPB) either by mail at 99 New York Avenue NE, Washington, DC 20226, by email at [fipb-informationcollection@atf.gov](mailto:fipb-informationcollection@atf.gov), or by telephone at 202-648-7190.

**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 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;
- 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 (check justification or form 83):* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Identification Markings Placed on Firearms.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

*Form number (if applicable):* None.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Business or other for-profit.

*Other (if applicable):* None.

*Abstract:* Each licensed firearms manufacturer or licensed firearm importer must legibly identify each firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing on the frame or receiver an individual serial number; which will be used to facilitate

investigations about the criminal use of firearms.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 13,868 respondents will utilize this information collection, and it will take each respondent approximately 1 minute to complete each response.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 85,630 hours which is equal to 13,868 (# of respondents) \* 370.4767089702913 (# of responses per respondents) \* 0.0166667 hours (1 minute).

7. *An Explanation of the Change in Estimates:* Although there is an increase in the number of respondents to this collection by 2,654, the total responses, and burden hours have reduced by 401,768, and 6,696 respectively, due to a general reduction of imported firearms. Consequently, the public burden cost for this information collection was also reduced by \$ 369,627.

*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 27, 2018.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2018-09299 Filed 5-1-18; 8:45 am]

**BILLING CODE 4410-14-P**

#### DEPARTMENT OF LABOR

##### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Mental Health Parity and Addiction Equity Act Notices

**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, "Mental Health Parity and Addiction Equity Act Notices," 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 June 22, 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](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1210-001) website at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201706-1210-001](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1210-001) (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](mailto: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](mailto: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](mailto: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](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Mental Health Parity and Addiction Equity Act (MHPAEA) Notices information collection. The MHPAEA generally requires that the financial requirements and treatment limitations imposed on mental health and substance use disorder (MH/SUD) benefits cannot be more restrictive than the predominant financial requirements and treatment limitations that apply to substantially all medical and surgical benefits. The MHPAEA and its implementing regulations at 29 CFR 2590.712(d)(2) provide that a plan or issuer must disclose the criteria for medical necessity determinations with respect to MH/SUD benefits to any current or potential participant, beneficiary, or contracting provider upon request and must disclose the reason for any denial of reimbursement or payment for services with respect to MH/SUD benefits to the participant or

beneficiary. The 21st Century Cures Act, among other things, contained provisions intended to improve compliance with MHPAEA by requiring the Departments of Labor, Health and Human Services, and the Treasury to solicit feedback from the public on how to improve the process for group health plans and issuers to disclose the information required under the MHPAEA and other laws. Approval of this ICR would implement the new information collection requirements, based on the public comments. Internal Revenue Code of 1986 section 9812, Employee Retirement Income Security Act of 1974 section 712, and Public Health Service Act section 2705 authorize this information collection. See 26 U.S.C. 9812, 29 U.S.C. 1185a, and 42 U.S.C. 300gg-5.

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 1210-0138. The DOL notes that the authority for existing information collection requirements submitted to the OMB continue while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notices published in the **Federal Register** on May 26, 2016, 81 FR 33550, and June 20, 2017, 82 FR 28095.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by June 22, 2018. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210-0138. 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:* Mental Health Parity and Addiction Equity Act Notices.

*OMB Control Number:* 1210-0138.

*Affected Public:* Private Sector—businesses or other for-profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 1,154,036.

*Total Estimated Number of Responses:* 1,154,036.

*Total Estimated Annual Time Burden:* 26,912 hours.

*Total Estimated Annual Other Costs Burden:* \$3,247,931.

*Authority:* 44 U.S.C. 3507(a)(1)(D).

Dated: April 26, 2018.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2018-09291 Filed 5-1-18; 8:45 am]

**BILLING CODE 4510-29-P**

## DEPARTMENT OF LABOR

### Wage and Hour Division

#### **Agency Information Collection Activities; Comment Request; Proposed Revision; Information Collections: Employment Information Form**

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is soliciting comments concerning a proposed revision of the information collection request (ICR) titled, "Employment Information Form." This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA). 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. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 2, 2018.

**ADDRESSES:** You may submit comments identified by Control Number 1235-0021, by either one of the following methods: *Email:* WHDPRAComments@dol.gov; *Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

#### **FOR FURTHER INFORMATION CONTACT:**

Robert Waterman, Compliance Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693-0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

#### **SUPPLEMENTARY INFORMATION:**

*I. Background:* The Wage and Hour Division of the Department of Labor administers the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, *et seq.*, which sets the Federal minimum wage, overtime pay, recordkeeping, and youth employment standards of most general application. See 29 U.S.C. 206; 207; 211; 212. FLSA requirements apply to employers of employees engaged in interstate commerce or in the production of goods for interstate commerce and of employees in certain enterprises, including employees of a



public agency; however, the FLSA contains exemptions that apply to employees in certain types of employment. *See* 29 U.S.C. 213, *et al.* FLSA section 11(a) provides that the Secretary of Labor may investigate and gather data regarding the wages, hours, or other conditions and practices of employment in any industry subject to the FLSA, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters deemed necessary or appropriate to determine whether any person has violated any provision of the FLSA. 29 U.S.C. 211(a).

Other Federal laws the WHD administers provide similar authority. These Acts include the: Walsh-Healey Public Contracts Act (41 U.S.C. 38); McNamara-O'Hara Service Contract Act (41 U.S.C. 353(a)); Davis-Bacon Act (40 U.S.C. 3141 *et seq.*, pursuant to Reorganization Plan No. 14 of 1950, and Related Acts); Consumer Credit Protection Act (15 U.S.C. 1676); Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1862(a)); Employee Polygraph Protection Act (29 U.S.C. 2004(a)(3)); Family and Medical Leave Act (29 U.S.C. 2616(a)); Immigration and Nationality Act H-2A program (8 U.S.C. 1188(g)); the Immigration and Nationality Act H-2B program (8 U.S.C. 1184(c)(14)(B) and the Immigration and Nationality Act H-1C program (8 U.S.C. 1182(m)(2)(E)(ii)). The regulatory provisions authorizing the filing of complaints under these laws and how the agency acts upon the concerns can be found at 29 CFR 4.191, 5.6, 500.1(e), 501.1(c), 501.5, 801.7(a)(3), 825.401; 41 CFR 50–201.1202; and 20 CFR 655.1200(b).

WHD staff use Form WH-3 as a guide for obtaining optional information from complainants (*e.g.*, current and former employees, unions, and competitor employers, self-reporting employers) about alleged employer violations of the labor standards provisions of the above-cited Acts. Complainants generally provide the optional information requested on the form to WHD staff over the telephone or in-person. Where the information provided does not support a potential WHD enforcement action, complainants are advised and referred to the appropriate agency for further assistance. When the WHD schedules a complaint-based investigation, the agency makes the completed Form WH-3 part of the investigation case file. The form is printed in both English and Spanish.

The Wage and Hour Division (WHD) uses this information to determine

whether covered employers have complied with various legal requirements of the laws administered by the Wage and Hour Division. The WHD seeks a revision to this collection associated with the new pilot self-audit program titled: Payroll Audit Independent Determination (PAID). Under the PAID program, employers are encouraged to conduct audits and, if they discover minimum wage or overtime violations, to self-report and correct their mistakes. This ICR is being submitted as a revision for approval for the addition of the PAID pilot program.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- 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;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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;
- 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 submissions of responses.

III. *Current Actions:* The Department of Labor seeks an approval for the revision of this information collection in order to ensure effective administration of the government contract programs.

*Type of Review:* Revision.

*Agency:* Wage and Hour Division.

*Title:* Information Collections: Employment Information Form.

*OMB Number:* 1235–0021.

*Affected Public:* Business or other for-profit, Not-for-profit institutions, Farms, State, Local, or Tribal Government.

*Total Respondents:* 35,677.

*Total Annual Responses:* 35,677.

*Estimated Total Burden Hours:* 12,059.

*Estimated Time per Response:* various.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operation/maintenance):* \$5.

Dated: April 26, 2018.

**Melissa Smith,**

*Director, Division of Regulations, Legislation and Interpretation.*

[FR Doc. 2018–09301 Filed 5–1–18; 8:45 am]

**BILLING CODE 4510–27–P**

## **NATIONAL SCIENCE FOUNDATION (NSF)**

### **Sunshine Act Meetings; National Science Board**

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended, (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of a revision to an announcement of meetings for the transaction of National Science Board business.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 83 FR 18351–53, published on April 26, 2018.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETINGS:**

**Thursday, May 3, 2018**

*Committee on Strategy (CS)*

Open session: 9:10–9:30 a.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- FY 2018 Appropriations and FY 2019 Budget Request Summary
- Committee Chair's Reflections on Past Board Term

*Committee on Strategy (CS)*

Closed session: 9:30–10:30 a.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- FY 2018–FY 2019 Budget Discussion

**CHANGES IN THE MEETINGS:**

**Thursday, May 3, 2018**

*Committee on Strategy (CS)*

Open session: 9:10–10:10 a.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- Convergence Accelerators and Big Ideas
- Committee Chair's Reflections on Past Board Term

Closed session: 10:10–10:30 a.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- FY 2018 Appropriations

**CONTACT PERSON FOR MORE INFORMATION:**

Brad Gutierrez, [bgutierrez@nsf.gov](mailto:bgutierrez@nsf.gov), 703–292–7000. Please refer to the National



Science Board website for additional information. Meeting information and schedule updates (time, place, subject matter, and status of meeting) may be found at <http://www.nsf.gov/nsb/meetings/notices.jsp#sunshine>.

**Chris Blair,**

*Executive Assistant, National Science Board Office.*

[FR Doc. 2018-09346 Filed 4-30-18; 11:15 am]

**BILLING CODE 7555-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-454, STN 50-455, STN 50-456, and STN 50-457; NRC-2018-0081]

### Exelon Generation Company, LLC

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Director's decision under 10 CFR 2.206; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has issued a director's decision in response to a petition dated February 8, 2017, filed by Mr. Barry Quigley (the petitioner), requesting that the NRC take action with regard to Exelon Generation Company, LLC (Exelon or the licensee). The petitioner's requests and the director's decision are included in the **SUPPLEMENTARY INFORMATION** section of this document.

**DATES:** The director's decision was issued on April 24, 2018.

**ADDRESSES:** Please refer to Docket ID NRC-2018-0081 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0081. Address questions about NRC dockets to Jennifer Borges; telephone: 301-287-9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at

1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the "Availability of Documents" section of this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Joel Wiebe, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, telephone: 301-415-6606; e-mail: [Joel.Wiebe@nrc.gov](mailto:Joel.Wiebe@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the director's decision is attached.

Dated at Rockville, Maryland, this 26th day of April, 2018.

For the Nuclear Regulatory Commission.

**Joel S. Wiebe,**

*Senior Project Manager, Plant Licensing Branch III, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

**Attachment—**Director's Decision DD-18-01  
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF NUCLEAR REACTOR  
REGULATION

In the Matter of Exelon Generation Company, LLC

Braidwood Station, Unit Nos. 1 and 2

Docket Nos. STN 50-456, 50-457

License Nos. NPF-72, NPF-77

Byron Station, Unit Nos. 1 and 2

Docket Nos. STN 50-454, 50-455

License Nos. NPF-37, NPF-66

### DIRECTOR'S DECISION UNDER 10 CFR 2.206

#### I. Introduction

By e-mail to Mr. Victor M. McCree, Executive Director for Operations, dated February 8, 2017 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17061A127), Mr. Barry Quigley filed a petition under Title 10, "Energy," of the *Code of Federal Regulations* (10 CFR) 2.206, "Requests for Action under this Subpart." Attachments to the petition are located at ADAMS Accession Nos. ML17061A126, ML17061A125, and ML17061A124. The petitioner requested that the U.S. Nuclear Regulatory Commission (NRC or the Commission) take the following actions against Exelon Generation Company, LLC (Exelon), the licensee for Byron Station,

Unit Nos. 1 and 2, and Braidwood Station, Units 1 and 2:

1. Issue a violation under 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," Criterion III, "Design Control," for deficiencies in the analysis of record (AOR) for the main steam isolation valve (MSIV) room pressurization following a high-energy line break (HELB).

2. Issue a violation under 10 CFR Part 50, Appendix B, Criterion XVI, "Corrective Action," for failure to update the AOR in a timely manner.

3. Require Exelon to show that the consequences of the secondary missiles resulting from MSIV room pressurization do not have adverse consequences.

4. Issue a Demand for Information under 10 CFR 2.204, "Demand for Information," to compare and contrast the behavior of Exelon management as described in the petition with the NRC's policy statement on the attributes of a safety-conscious work environment (SCWE).

5. Use Exelon's response to Item 4 above as a basis on which to determine whether to issue a "chilling effects" letter.

As the basis for the request, the petitioner stated the following:

1. (a)—Break enthalpies used in the MSIV room pressurization AOR are actually the thermodynamic internal energy of the steam, not the enthalpy. Because, in the range of interest, the internal energy is about 13 percent less than the enthalpy, the energy flow to the areas of concern is nonconservative.

- (b)—Steam flow from secondary piping is neglected.

2. Corrective actions to resolve an issue in the AOR are long overdue (8 years) and improperly tracked.

3. A proposed revision to the AOR shows that the MSIV room roof slabs will be ejected by the high pressures in the MSIV rooms becoming potential missiles.

4. Management dismissed information in the updated final safety evaluation report (UFSAR) that supported the concerns about the AOR as "excessive detail" and directed personnel to remove the information. Management dismissed UFSAR internal inconsistency related to the "Break Exclusion Zone" without discussion or review and stated that the information supporting the concern could be deleted as an UFSAR cleanup item. Recently, there was an operability concern for which engineering management maintained a position of operability in the face of conflicting information. The information that engineering management relied on to support operability was demonstrably irrelevant.

The petitioner met with the Office of Nuclear Reactor Regulation (NRR) Petition Review Board (PRB) on April 13, 2017, to clarify the basis for the petition. The NRC is treating the transcript of this meeting (ADAMS Accession No. ML17111A774) as a supplement to the petition. In its acknowledgement letter dated July 17, 2017 (ADAMS Accession No. ML17125A245), the NRC informed the petitioner that Items 1, 2, 4, and 5 were accepted for review under 10

CFR 2.206 and that the agency had referred the issues in the petition to NRR for appropriate action. This letter states that Item 3 does not request enforcement action and, therefore, does not meet the criteria for acceptance for review under 10 CFR 2.206. However, the NRC informed the petitioner that the item is likely to be resolved when reviewing activities to address the AOR under Item 1.

By letter dated July 26, 2017 (ADAMS Accession No. ML17166A362), the NRC requested that Exelon provide a voluntary response to the petition. By letter dated September 1, 2017 (ADAMS Accession No. ML17255A824), Exelon provided its voluntary response.

## II. Discussion

1. Issue a violation under 10 CFR Part 50, Appendix B, Criterion III, for deficiencies in the AOR for the MSIV room pressurization following an HELB.

The petitioner's basis and the licensee's September 1, 2017, voluntary response letter both identify errors in calculation 3C8-0282-001, Revision 3. The licensee stated in its voluntary response letter that calculation 3C8-0282-001 is the design-basis analysis for the structural design of the MSIV house and the main steam tunnel. The regulation under 10 CFR Part 50, Appendix B, Criterion III, "Design Control," requires, in part, that the licensee provide for verifying or checking the adequacy of design, such as by the performance of design reviews, by the use of alternate or simplified calculational methods, or by the performance of a suitable testing program. The NRC Region III staff conducted inspections at the Byron and Braidwood Stations between October 30 and November 16, 2017. The inspectors identified that as of October 22, 1996, and continuing through the date of the NRC inspections, the licensee failed to verify that Design Analysis 3C8-0282-001, Revision 3, which was the AOR addressing a postulated HELB in the safety-related main steam safety valve (MSSV) rooms [the petitioner and the licensee used the label MSIV house or room], would not cause a structural failure since it failed to apply worst-case environmental loading. The NRC Inspection Reports 05000454/455-2017-010 for Byron Station and 05000456/457-2017-008 for Braidwood Station, dated December 15, 2017 (ADAMS Accession Nos. ML17349A917 and ML17349A894, respectively), each identify a non-cited violation (NCV) of 10 CFR Part 50, Appendix B, Criterion III, "Design Control."

2. Issue a violation under 10 CFR Part 50, Appendix B, Criterion XVI, for failure to update the AOR in a timely manner.

The petitioner's basis states that although the errors regarding the wrong break enthalpies in calculation 3C8-0282-001, Revision 3, were documented on June 30, 2008, in Issue Report 792213, "MSLB Calc[ulation] Energy Release Error," the analysis still contains the nonconservative break enthalpies 8 years later. Exelon's voluntary response letter agrees that Issue Report 792213 for Byron Station and the related Issue Report 792215 for Braidwood Station were documented on June 30, 2008. Exelon's voluntary response letter shows that

it issued a contract with a vendor to revise calculation 3C8-0282-001, Revision 3, in February 2013; 5 years after identification of the error. In November 2013, the vendor provided a draft copy of a revision to calculation 3C8-0282-001 to Exelon for review. Currently, Exelon still has the analysis and proposed plant modifications under review to correct the analysis.

The regulation under 10 CFR 50, Appendix B, Criterion XVI, "Corrective Action," requires, in part, that measures shall be established to assure that conditions adverse to quality, such as non-conformances, are promptly identified and corrected. The NRC Region III staff conducted inspections at the Byron and Braidwood Stations between October 30 and November 16, 2017. The inspectors identified that as of the dates of NRC inspections at Byron and Braidwood Stations, the licensee failed to promptly correct errors in Design Analysis 3C8-0282-001, Revision 3, for a main steam line break in the safety-related MSSV rooms [the petitioner and the licensee used the label MSIV house or room] and steam tunnels that were identified on June 30, 2008. The NRC Inspection Reports 05000454/455-2017-010 for Byron Station and 05000456/457-2017-008 for Braidwood Station, dated December 15, 2017, each identify a NCV of 10 CFR Part 50, Appendix B, Criterion XVI, "Corrective Action."

3. Require Exelon to show that the consequences of the secondary missiles resulting from MSIV room pressurization do not have adverse consequences.

The July 17, 2017, acknowledgement letter informed the petitioner that this item did not meet the criteria for review under 10 CFR 2.206 because it does not request enforcement action, as specified in Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions" (MD 8.11). However, the licensee and NRC have taken action that addresses the issue raised by the petitioner. In September 2017, the licensee initiated operability evaluations (Operability Evaluation 17-002, Revision 0, for Braidwood Station and Operability Evaluation 17-001, Revision 0, for Byron Station) to address the consequences of secondary missiles from the MSIV room pressurization and has determined that no equipment safety functions are affected by potential missiles. During inspections conducted at Byron Station (Inspection Reports 05000454/455-2017-003 (ADAMS Accession No. ML17306A639) and 05000454/455-2017-010) and Braidwood Station (Inspection Reports 05000456/457-2017-003 (ADAMS Accession No. ML17306A664) and 05000456/457-2017-008), the NRC reviewed the licensee's revisions to the applicable operability evaluations and did not identify any concerns, but did identify NCVs of 10 CFR part 50, Appendix B, Criterion III, "Design Control," for the failure to identify design deficiencies involving secondary missiles from the MSSV room pressurization and NCVs of 10 CFR part 50, Appendix B, Criterion XVI, "Corrective Action," for the failure to correct the design deficiencies.

4. Issue a "Demand for Information" under 10 CFR 2.204, to compare and contrast the behavior of Exelon management as described

in the petition with the NRC's policy statement on the attributes of an SCWE.

As described in the NRC Enforcement Manual (ADAMS Accession No. ML102630150), a demand for information (DFI) is a formal request made to a licensee or applicant to obtain information for the NRC staff to determine whether an Order should be issued to modify, suspend, or revoke the license, or whether to take other enforcement action. The PRB determined that issuance of a DFI in this circumstance was not necessary to evaluate the SCWE concerns expressed in the petition. Consistent with MD 8.11, the NRC's letter dated July 26, 2017, requested that Exelon provide a voluntary response to the concerns raised in the petition. Exelon's September 1, 2017, response, in part, provided the results of its evaluation of the SCWE at Byron Station. Exelon's evaluation included interviews with Braidwood Station personnel that were involved with the activities that the petitioner described in the petition. The evaluation concluded that the actions taken and behaviors demonstrated by Exelon management in response to the issues and activities cited in the petition dated February 8, 2017, demonstrate a healthy SCWE.

The NRC conducted an inspection at Byron Station that ended on August 25, 2017 (Inspection Report 05000454/455-2017-007 (ADAMS Accession No. ML17276B174) that, in part, assessed the licensee's SCWE at Byron Station. Information obtained from interviews and focus groups (including with engineering personnel) indicated that an environment was established where licensee personnel felt free to raise nuclear safety issues without fear of retaliation. Licensee personnel were generally aware of and familiar with the corrective action program (CAP) and other processes, including the Employee Concerns Program (ECP) and the NRC's allegation process, through which concerns could be raised. In addition, a review of the types of issues in the ECP indicated that the licensee's staff members were appropriately using the CAP and ECP to identify issues. The inspection did not identify any examples where there was retaliation for raising nuclear safety issues. Documents regarding surveys and monitoring of the safety culture and SCWE generally supported the conclusions from the interviews. The inspection did not identify any chilling effect or impediment to the establishment of an SCWE at Byron Station.

5. Use Exelon's response to Item 4 above as a basis on which to determine whether to issue a "chilling effects" letter.

A chilling effect letter is a regulatory tool identified in the NRC Allegations Manual (ADAMS Accession No. ML17003A227) that the NRC uses to ensure that licensees are taking appropriate actions to foster a workplace environment that encourages employees to raise safety concerns and to feel free to do so without fear of retaliation, referred to as an SCWE. A chilling effect letter may be appropriate when there are indications of a chilled work environment, but no discrimination concern has been substantiated. Neither Exelon's voluntary response nor NRC's inspection at Byron Station, as discussed in Item 4, identified

evidence of a chilled environment at the Byron Station.

### III. Conclusion

The NRC staff conducted inspections at the Byron Station and Braidwood Station that assessed the licensee's compliance with the regulations under 10 CFR part 50, Appendix B, Criterion III, "Design Control," and Criterion XVI, "Corrective Action," related to the adequacy of the AOR for the structural design of the MSIV house and the main steam tunnel, and took enforcement action as outlined in the inspection reports identified above. The NRC staff requested that the licensee evaluate the SCWE concerns expressed in the petition, and conducted an inspection that assessed the licensee's SCWE at Byron Station. Based on the licensee's voluntary response and the results of the inspection, the NRC staff did not identify challenges to the licensee's SCWE or evidence of a chilled environment at the Byron Station and, therefore, determined that issuance of a chilling effect letter was not warranted. Because these actions address the underlying concerns raised in requests 1, 2, 4, and 5 of the petition, the petition is granted in part.

As provided in 10 CFR 2.206(c), a copy of this director's decision will be filed with the Secretary of the Commission for review. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 24th day of April, 2018.

For the Nuclear Regulatory Commission.  
Brian E. Holian,  
*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 2018-09210 Filed 5-1-18; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-250 and 50-251; NRC-2018-0074]

### Florida Power & Light Company; Turkey Point Nuclear Generating, Unit Nos. 3 and 4

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License renewal application; opportunity to request a hearing and to petition for leave to intervene.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the subsequent license renewal of Renewed Facility Operating License Nos. DPR-31 and DPR-41, which authorize Florida Power & Light Company (FPL or the applicant) to operate Turkey Point Nuclear Generating Unit Nos. 3 and 4 (Turkey

Point). The renewed licenses would authorize the applicant to operate Turkey Point for an additional 20 years beyond the period specified in each of the current renewed licenses. The current renewed operating licenses for Turkey Point expire as follows: Unit No. 3 on July 19, 2032, and Unit No. 4 on April 10, 2033.

**DATES:** A request for a hearing or petition for leave to intervene must be filed July 2, 2018.

**ADDRESSES:** Please refer to Docket ID NRC-2018-0074 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0074. Address questions about NRC dockets to Jennifer Borges; telephone: 301-287-9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Lois M. James, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3306, email: [Lois.James@nrc.gov](mailto:Lois.James@nrc.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Introduction

By letters dated January 30, 2018 (ADAMS Package Accession No. ML18037A812); February 9, 2018 (ADAMS Accession No. ML18044A653); February 16, 2018 (ADAMS Package Accession No. ML18053A123); March 1, 2018 (ADAMS Package Accession No.

ML18072A224), and April 10, 2018 (ADAMS Package Accession No. ML18102A521 and Accession No. ML18113A132), the NRC received an application from FPL, filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended (the Act), and part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), to renew the operating licenses for Turkey Point at 2,644 megawatt thermal each. The Turkey Point units are pressurized-water reactors designed by Westinghouse Electric Company and are located in Homestead, Miami-Dade County, Florida. A notice of receipt of the subsequent license renewal application (SLRA) was published in the **Federal Register** (FR) on April 18, 2018 (83 FR 17196).

The NRC staff has determined that FPL has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c), to enable the staff to undertake a review of the application, and that the application is, therefore, acceptable for docketing. The current Docket Nos. 50-250 and 50-251 for Renewed Facility Operating License Nos. DPR-31 and DPR-41, respectively, will be retained. The determination to accept the SLRA for docketing does not constitute a determination that a subsequent renewed license should be issued, and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested subsequent renewed licenses, the NRC will have made the findings required by the Act, and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a subsequent renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review; and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed licenses will continue to be conducted in accordance with the current licensing basis and that any changes made to the plant's current licensing basis will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement as a supplement to the Commission's NUREG-1437, "Generic Environmental Impact Statement for License Renewal

of Nuclear Power Plants,” dated June 2013. In considering the SLRA, the Commission must find that the applicable requirements of subpart A of 10 CFR part 51 have been satisfied, and that any matters raised under 10 CFR 2.335 have been addressed. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold public scoping meetings. Detailed information regarding the environmental scoping meetings will be the subject of a separate **Federal Register** notice.

## II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission’s “Agency Rules of Practice and Procedure” in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC’s regulations are accessible electronically from the NRC Library on the NRC’s website at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC’s Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (First Floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of hearing will be issued.

As required by 10 CFR 2.309, a petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner’s right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner’s property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner’s interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention

and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party’s admitted contentions, including the opportunity to present evidence, consistent with the NRC’s regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner’s interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the “Electronic Submission (E-Filing)” section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency

thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

## III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC’s website at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or other adjudicatory document (even in instances in which the participant, or its

counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals.html>, by email to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit

documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted a request for exemption from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Detailed information about the subsequent license renewal process can be found under the Nuclear Reactors icon at <http://www.nrc.gov/reactors/operating/licensing/renewal.html> on the NRC's website. Copies of the application to renew the operating licenses for Turkey Point are available for public inspection at the NRC's PDR, and at

<https://www.nrc.gov/reactors/operating/licensing/renewal/subsequent-license-renewal.html>, the NRC's website while the application is under review. The application may be accessed in ADAMS through the NRC Library on the internet at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession No. ML18113A132. As stated above, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC's PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by email to [pdr.resources@nrc.gov](mailto:pdr.resources@nrc.gov).

The NRC staff has verified that a copy of the SLRA is also available for inspection near the site at the Homestead Branch Library, 700 North Homestead Boulevard, Homestead, Florida 33030; South Dade Regional Library, 10750 SW 211th Street, Miami, Florida 33189; Naranja Branch Library, 14850 SW 280 St., Homestead, Florida 33032; and Main Library, 101 West Flagler St., Miami, Florida 33130.

Dated at Rockville, Maryland, this 27th day of April 2018.

For the Nuclear Regulatory Commission.

**Eric R. Oesterle,**

*Chief, License Renewal Project Branch,  
Division of Materials and License Renewal,  
Office of Nuclear Reactor Regulation.*

[FR Doc. 2018-09279 Filed 5-1-18; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 52-029 and 52-030; NRC-2008-0558]**

### **Duke Energy Florida, LLC; Levy Nuclear Plant, Units 1 and 2**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Termination of licenses.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is terminating the Levy Nuclear Plant (LNP) Units 1 and 2 Combined Licenses (COLs) designated as NPF-99 and NPF-100 and their included licenses to manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material. By letter dated January 25, 2018, Duke Energy Florida, LLC (Duke) requested that the NRC terminate the LNP COLs. Construction was not initiated for LNP Units 1 and 2, and nuclear materials were never procured or possessed under these licenses. Consequently, the LNP site is approved for unrestricted use.

**DATES:** The termination was issued on April 26, 2018.

**ADDRESSES:** Please refer to Docket ID NRC–2008–0558 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2008–0558. Address questions about NRC dockets to Jennifer Borges telephone: 301–287–9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Brian Hughes, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6582; email: [Brian.Hughes@nrc.gov](mailto:Brian.Hughes@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The NRC issued COLs NPF–99 and NPF–100 to Duke for LNP Units 1 and 2 on October 26, 2016 (ADAMS Accession No. ML16176A200). Since issuance of the licenses, Duke has not begun construction or procured nuclear materials for use on the site. In Duke's letter dated November 6, 2017 (ADAMS Accession No. ML17313A290), Duke informed the NRC that it no longer plans to move forward with building LNP Units 1 and 2 and would consequently submit an application for termination of the licenses. By subsequent letter dated January 25, 2018 (ADAMS Accession No. ML18029A117), Duke requested termination of LNP COLs NPF–99 and NPF–100 and their included title 10 of the *Code of Federal*

*Regulations* (10 CFR) parts 30, 40, and 70 licenses for LNP Units 1 and 2.

##### **II. License Termination**

Termination of COLs issued under 10 CFR part 52 is controlled by 10 CFR 52.110, "Termination of license." As discussed in "Current NRC Staff Views on Applying the 1987 Policy Statement on Deferred Plants" (ADAMS Accession No. ML18065B257), the NRC staff does not apply the requirements for termination in 10 CFR 52.110 to plants that have not begun operation. Regardless, the staff finds that Duke's license termination application dated January 25, 2018, demonstrates that the criteria of 10 CFR 52.110 are met. Requirements for termination of the included licenses under sections 30.36, 40.42, and 70.38 of 10 CFR include the submission of NRC Form 314 or equivalent information. The staff finds that Duke met these requirements through the information provided as part of its January 25, 2018, submission.

Further, as there was no construction on the LNP site and nuclear materials have never been procured or possessed under these licenses, there is no need for a site radiation survey to be conducted under 10 CFR parts 30, 40, or 70. With no radiological contamination associated with the licenses, the LNP site may be released for unrestricted use pursuant to 10 CFR 20.1402.

##### **III. Environmental Review**

Duke seeks to terminate the LNP Units 1 and 2 COLs for which construction never commenced and nuclear material was never procured or brought onsite. Terminating a COL is a licensing action that would ordinarily require an environmental assessment under 10 CFR 51.21, unless a categorical exclusion in 10 CFR 51.22(c) applies and no special circumstances under 10 CFR 51.22(b) exist. Actions listed in 10 CFR 51.22(c) were previously found by the Commission to be part of a category of actions that "does not individually or cumulatively have a significant effect on the human environment."

The categorical exclusion identified in 51.22(c)(20) includes:

Decommissioning of sites where licensed operations have been limited to the use of—

- (i) Small quantities of short-lived radioactive materials;
- (ii) Radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources; or
- (iii) Radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1) and the NRC has determined that the facility meets the radiological criteria for

unrestricted use in 10 CFR 20.1402 without further remediation or analysis.

This categorical exclusion captures decommissioning activities at sites where contamination from radioactive material is determined to be nominal. In the case of LNP Units 1 and 2, no associated radiological contamination exists because construction never commenced and nuclear material was never procured or brought on site. As a result, a decommissioning plan for this site is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1), and the site meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis. Further, no special circumstances under 10 CFR 51.22(b) apply. The factors listed in 10 CFR 51.22(c)(20) are consistent with the circumstances here because there is no environmental impact associated with the LNP COLs, which is even less than the nominal impacts anticipated by the categorical exclusion. Therefore, application of the categorical exclusion to the termination of the LNP COLs is warranted. Consequently, in accordance with 10 CFR 51.21, an environmental assessment is not required for the termination of COLs NPF–99 and NPF–100 and their included 10 CFR parts 30, 40, and 70 licenses.

##### **IV. Conclusion**

As discussed above, the Commission has determined that the LNP COL termination request meets the categorical exclusion criteria set forth in 10 CFR 51.22(c)(20) and that the unrestricted use criteria pursuant to 10 CFR 20.1402 are met. The Commission grants Duke's request to terminate the COLs designated as NPF–99 and NPF–100 and their included 10 CFR parts 30, 40, and 70 licenses for LNP Units 1 and 2. This license termination was effective upon Duke's receipt of NRC's termination letter, dated April 26, 2018 (ADAMS Accession No. ML18107A111).

Dated at Rockville, Maryland, this 26th day of April 2018.

For the Nuclear Regulatory Commission.

**Jennifer L. Dixon-Herrity,**

*Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.*

[FR Doc. 2018–09236 Filed 5–1–18; 8:45 am]

**BILLING CODE 7590–01–P**



**NUCLEAR REGULATORY COMMISSION****[Docket No. 030-34866; NRC-2018-0083]****In the Matter of Qal-Tek Associates, LLC****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Order imposing civil monetary penalty; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order imposing civil monetary penalty of \$22,400 to Qal-Tek Associates, LLC. After consideration of the licensee's request for mitigation of the proposed civil penalty amount, the NRC staff determined that the violations occurred and that adequate basis did not exist for mitigation of the civil penalty amount of \$22,400.

**DATES:** This Order was effective March 29, 2018.

**ADDRESSES:** Please refer to Docket ID NRC-2018-0083 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0083. Address questions about NRC dockets to Jennifer Borges; telephone: 301-287-9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** G. Michael Vasquez, Region IV, telephone: 817-200-1182; email

[Michael.Vasquez@nrc.gov](mailto:Michael.Vasquez@nrc.gov) and John Kramer, Region IV, telephone: 817-200-1121; email [John.Kramer@nrc.gov](mailto:John.Kramer@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

Dated at Arlington, Texas, this 26th day of April, 2018.

For the Nuclear Regulatory Commission.

**Kriss M. Kennedy,**  
*Regional Administrator, Region IV.*

**Attachment:** Order**UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION**

In the Matter of Qal-Tek Associates, LLC,  
Idaho Falls, ID

Docket No. 030-34866, License No. 11-27610-01

EA-17-101

**ORDER IMPOSING CIVIL MONETARY PENALTY (EFFECTIVE UPON ISSUANCE)****I**

Qal-Tek Associates, LLC (Qal-Tek or the Licensee) is the holder of Materials License No. 11-27610-01 issued on December 28, 1998, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to part 30 of title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes the use and possession of nuclear materials in accordance with conditions specified therein. The facility is located on the Licensee's site in Idaho Falls, Idaho.

**II**

The NRC conducted an inspection of the Licensee's activities on April 24-25, 2017. The results of this inspection indicated that the Licensee had not conducted its activities in compliance with the NRC's requirements associated with packaging radioactive material to ensure that radiation levels do not exceed regulatory limits. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated December 12, 2017. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated January 11, 2018. In its response, the Licensee did not dispute the violations or their severity, but requested mitigation of the proposed civil penalty amount.

**III**

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined as set forth in the Appendix to this Order that the violations occurred as stated and that adequate basis does not exist for mitigation of the civil penalty amount. Therefore, a civil penalty in the amount of \$22,400 should be imposed.

**IV**

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The Licensee pay a civil penalty in the amount of \$22,400 within 30 days of the issuance date of this Order, in accordance with NUREG/BR-0254 "Payment Methods" (<http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0254/>). In addition, at the time payment is made, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555.

**V**

In accordance with 10 CFR 2.202, the Licensee and any other person adversely affected by this Order may request a hearing on this Order within 30 days of the issuance date of this Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter "petition"), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended by 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e->

submittals/getting-started.html. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document.

The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link located on the NRC's web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff.

Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for

granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "Cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person (other than Qal-Tek) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Qal-Tek or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing or alternative dispute resolution (ADR), or written approval of an extension of time in which to request a hearing or ADR, the provisions specified in Section IV above shall be final 30 days from the issuance date of this Order without further order or proceedings. If an extension of time for requesting a hearing or ADR has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing or ADR request has not been received. If ADR is requested, the provisions specified in Section IV shall be final upon termination of

an ADR process that did not result in issuance of an order.

For the Nuclear Regulatory Commission.  
*Kriss M. Kennedy, Regional Administrator,*  
*NRC Region IV.*

Dated this 29th day of March 2018

## APPENDIX

### EVALUATION AND CONCLUSION

On December 12, 2017, the U.S. Nuclear Regulatory Commission (NRC) issued a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) for violations identified during an NRC inspection. Qal-Tek Associates, LLC (Qal-Tek or Licensee) responded to the Notice on January 11, 2018. The Licensee did not dispute the violations or severity, however, the Licensee requested mitigation of the proposed civil penalty amount. The NRC's evaluation and conclusion regarding the Licensee's request is as follows:

#### *Summary of the Licensee's Request for Mitigation of Civil Penalty Amount*

The Licensee stated that the problem was identified by the Licensee because of their self-monitoring effort of proper package receiving operations. The Licensee stated that it implemented timely actions to identify the root cause of the problem and develop corrective actions. Also, the Licensee stated that it discontinued transporting similar types of packages until corrective actions were implemented.

#### *NRC Evaluation of Licensee's Request for Mitigation of Civil Penalty Amount*

The NRC Enforcement Policy, Section 2.3.4.b.2(b), states, in part, that when a problem requiring corrective action is identified through an event (i.e., the problem is self-revealing), the decision as to whether to give the Licensee credit for actions related to identification normally should consider the ease of discovery, whether the event occurred as a result of a Licensee's self-monitoring effort (i.e., whether the Licensee was "looking for the problem"), the degree of Licensee initiative in identifying the problem, and whether prior opportunities existed to identify the problem. Any of these considerations may be overriding if particularly noteworthy or particularly egregious.

In this case, the Licensee discovered the problem because the Licensee was following the requirements for package receipt per 10 CFR 20.1906, "Procedures for receiving and opening packages." Specifically, this regulation requires Licensees to monitor the external surfaces of packages for radioactive contamination and radiation levels as soon as practical after receipt of the package. But for its adherence to these requirements, there is no indication that the Licensee would have otherwise discovered the problem.

In addition, the NRC determined that identification credit should be withheld due to two prior opportunities that existed for the Licensee to identify the problem prior to the event. The first opportunity involved the preparation of the package from Idaho Falls, Idaho, to New York City. A Qal-Tek radiation safety officer, who was under schedule



pressure, deviated from using the typical containment system that possessed a positive fastening device because of package weight considerations. This change resulted in the radiation safety officer using a containment system that did not have a positive fastening device. This change should have caused a review to determine if shipping requirements were satisfied, but did not. When the package arrived in New York City another Qal-Tek radiation safety officer had an opportunity to identify that the package containment system did not utilize a positive fastening device, failed to do so, and used the same package for the return shipment back to Idaho Falls resulting in the event. Further, the lack of a fastening device on the containment system was apparent and should have been identified by anyone handling the containment system.

As documented in the NRC Inspection Report 030-34866/2017-001, dated October 11, 2017 (NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML17236A425), the NRC concluded that both radiation safety officers lacked a questioning attitude. Specifically, both individuals recognized that the containment system did not have a positive fastening device and neither raised the concern to their management. Rather, both individuals used a wooden board as an incorrect method to secure the lid of the containment system.

#### Conclusion

Based on its evaluation, the NRC has concluded that these violations occurred as stated and that the Licensee did not provide an adequate basis for mitigation of the proposed civil penalty. Therefore, the NRC will impose a civil penalty in the amount of \$22,400.

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## OFFICE OF PERSONNEL MANAGEMENT

### Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** This provides the consolidated notice of all agency-specific excepted authorities, approved by the Office of Personnel Management (OPM), under Schedule A, B, and C, as of June 30, 2016, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

**FOR FURTHER INFORMATION CONTACT:** Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202-606-2246.

**SUPPLEMENTARY INFORMATION:** Civil Service Rule VI (5 CFR 6.1) requires the

Office of Personnel Management (OPM) to publish notice of exceptions granted under Schedule A, B, and C. Under 5 CFR 213.103(a) it is required that all Schedule A, B, and C appointing authorities available for use by all agencies to be published as regulations in the Federal Register (FR) and the Code of Federal Regulations (CFR). Excepted appointing authorities established solely for use by one specific agency do not meet the standard of general applicability prescribed by the Federal Register Act for regulations published in either the FR or the CFR. Therefore, 5 CFR 213.103(b) requires monthly publication, in the Notices section of the **Federal Register**, of any Schedule A, B, and C appointing authorities applicable to a single agency. Under 5 CFR 213.103(c) it is required that a consolidated listing of all Schedule A, B, and C authorities, current as of June 30 of each year, be published annually in the Notices section of the **Federal Register** at [www.federalregister.gov/agencies/personnel-management-office](http://www.federalregister.gov/agencies/personnel-management-office). That notice follows. Governmentwide authorities codified in the CFR are not printed in this notice.

When making appointments under an agency-specific authority, agencies should first list the appropriate Schedule A, B, or C, followed by the applicable number, for example: Schedule A, 213.3104(x)(x). Agencies are reminded that all excepted authorities are subject to the provisions of 5 CFR part 302 unless specifically exempted by OPM at the time of approval.

OPM maintains continuing information on the status of all Schedule A, B, and C appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by writing to the Senior Executive Resources Services, Office of Personnel Management, 1900 E Street NW, Room 7412, Washington, DC 20415, or by calling 202-606-2246.

The following exceptions are current as of June 30, 2016.

#### Schedule A

##### 03. Executive Office of the President (Sch. A, 213.3103)

(a) Office of Administration—

(1) Not to exceed 75 positions to provide administrative services and support to the White House Office.

(b) Office of Management and Budget—

(1) Not to exceed 20 positions at grades GS-5/15.

(2) Not to exceed 85 positions that require unique technical skills needed

for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of the Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS-0301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS-14/15 level. No new appointments may be made under this authority after September 30, 2017.

(c) Council on Environmental Quality—

(1) Professional and technical positions in grades GS-9/15 on the staff of the Council.

(d)–(f) (Reserved)

(g) National Security Council—

(1) All positions on the staff of the Council.

(h) Office of Science and Technology Policy—

(1) Thirty positions of Senior Policy Analyst, GS-15; Policy Analyst, GS-11 through 14; and Policy Research Assistant, GS-9, for employment of anyone not to exceed five years on projects of a high priority nature.

(i) Office of National Drug Control Policy—

(1) Not to exceed 18 positions, GS-15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

##### 04. Department of State (Sch. A, 213.3104)

(a) Office of the Secretary—

(1) All positions, GS-15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

(2) (Reserved)

(b)–(f) (Reserved)

(g) Bureau of Population, Refugees, and Migration—

(1) Not to exceed 10 positions at grades GS-5/11 on the staff of the Bureau.

(h) Bureau of Administration—

(1) (Reserved)

(2) One position of the Director, Art in Embassies Program, GM-1001-15.

(3) (Reserved)

##### 05. Department of the Treasury (Sch. A, 213.3105)

(a) Office of the Secretary—

(1) Not to exceed 20 positions at the equivalent of GS-13/15 or Senior Level (SL) to supplement permanent staff in the study of complex problems relating to international financial, economic,

trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed four years.

(2) Covering no more than 100 positions supplementing permanent staff studying domestic economic and financial policy, with employment not to exceed four years.

(3) Not to exceed 100 positions in the Office of the Under Secretary for Terrorism and Financial Intelligence.

(4) Up to 35 temporary or time-limited positions at the GS-9/15 grade levels to support the organization, design, and stand-up activities for the Consumer Financial Protection Bureau (CFPB), as mandated by P.L. 111-203. This authority may be used for the following series: GS-0201, GS-0501, GS-0560, GS-1035, GS-1102, GS-1150, GS-1720, GS-1801, and GS-2210. No new appointments may be made under this authority after July 21, 2011, the designated transfer date of the CFPB.

(b)-(d) (Reserved)

(e) Internal Revenue Service—

(1) Twenty positions of investigator for special assignments.

(f) (Reserved)

(g) (Reserved, moved to DOJ)

(h) Office of Financial Stability—

(1) Positions needed to perform investment, risk, financial, compliance, and asset management requiring unique qualifications currently not established by OPM. Positions will be in the Office of Financial Stability and the General Schedule (GS) grade levels 12/15 or Senior Level (SL), for initial employment not to exceed four years. No new appointments may be made under this authority after December 31, 2012.

*06. Department of Defense (Sch. A, 213.3106)*

(a) Office of the Secretary—

(1)-(5) (Reserved)

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—

(1) Dependent School Systems overseas—Professional positions in Military Dependent School systems overseas.

(2) Positions in Attaché 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense (DOD), when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the DOD when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than two months following the transfer from the area or separation of a dependent's sponsor: Provided that

(i) A school employee may be permitted to complete the school year; and

(ii) An employee other than a school employee may be permitted to serve up to one additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS-12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(9) (Reserved)

(10) Temporary or time-limited positions in direct support of U.S. Government efforts to rebuild and create an independent, free and secure Iraq and Afghanistan, when no other appropriate appointing authority applies. Positions will generally be

located in Iraq or Afghanistan, but may be in other locations, including the United States, when directly supporting operations in Iraq or in Afghanistan. No new appointments may be made under this authority after September 30, 2014.

(11) Not to exceed 3,000 positions that require unique cyber security skills and knowledge to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, investigation, investigative analysis and cyber-related infrastructure inter-dependency analysis. This authority may be used to make permanent, time-limited and temporary appointments in the following occupational series: Security (GS-0080), computer engineers (GS-0854), electronic engineers (GS-0855), computer scientists (GS-1550), operations research (GS-1515), criminal investigators (GS-1811), telecommunications (GS-0391), and IT specialists (GS-2210). Within the scope of this authority, the U.S. Cyber Command is also authorized to hire miscellaneous administrative and program (GS-0301) series when those positions require unique cyber security skills and knowledge. All positions will be at the General Schedule (GS) grade levels 9/15 or equivalent. No new appointments may be made under this authority after December 31, 2017.

(c) (Reserved)

(d) General—

(1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical, or

technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) Uniformed Services University of the Health Sciences—

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) National Defense University—

(1) Not to exceed 16 positions of senior policy analyst, GS-15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed six years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) Defense Communications Agency—

(1) Not to exceed 10 positions at grades GS-10/15 to staff and support the Crisis Management Center at the White House.

(h) Defense Acquisition University—

(1) The Provost and professors.

(i) George C. Marshall European Center for Security Studies, Garmisch, Germany—

(1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed three years, which may be renewed in increments from one to two years thereafter.

(j) Asia-Pacific Center for Security Studies, Honolulu, Hawaii—

(1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed three years and may be extended for periods not to exceed three years.

(k) Business Transformation Agency—

(1) Fifty temporary or time-limited (not to exceed four years) positions, at

grades GS-11/15. The authority will be used to appoint persons in the following series: Management and Program Analysis, GS-0343; Logistics Management, GS-0346; Financial Management Programs, GS-0501; Accounting, GS-0510; Computer Engineering, GS-0854; Business and Industry, GS-1101; Operations Research, GS-1515; Computer Science, GS-1550; General Supply, GS-2001; Supply Program Management, GS-2003; Inventory Management, GS-2010; and Information Technology, GS-2210.

(l) Special Inspector General for Afghanistan—

(1) Positions needed to establish the Special Inspector General for Afghanistan Reconstruction. These positions provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated and otherwise made available for the reconstruction of Afghanistan. These positions are established at General Schedule (GS) grade levels for initial employment not to exceed three years and may, with prior approval of OPM, be extended for an additional period of two years. No new appointments may be made under this authority after January 31, 2011.

07. *Department of the Army (Sch. A, 213.3107)*

(a)–(c) (Reserved)

(d) U.S. Military Academy, West Point, New York—

(1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, Coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and Librarian when filled by an officer of the Regular Army retired from active service, and the Military Secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) (Reserved)

(g) Defense Language Institute—

(1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or knowledge of foreign language teaching methods.

(h) Army War College, Carlisle Barracks, PA—

(1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed five years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved)

(j) U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey—

(1) Positions of Academic Director, Department Head, and Instructor.

(k) U.S. Army Command and General Staff College, Fort Leavenworth, Kansas—

(1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to five years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

08. *Department of the Navy (Sch. A, 213.3108)*

(a) General—

(1)–(14) (Reserved)

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) Naval Academy, Naval Postgraduate School, and Naval War College—

(1) Professors, Instructors, and Teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and Social Counselors at the Naval Academy.

(c) Chief of Naval Operations—

(1) One position at grade GS-12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) Military Sealift Command

(1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) (Reserved)

(g) Office of Naval Research—

(1) Scientific and technical positions, GS-13/15, in the Office of Naval Research International Field Office which covers satellite offices within the Far East, Africa, Europe, Latin America, and the South Pacific. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

*09. Department of the Air Force (Sch. A, 213.3109)*

(a) Office of the Secretary—

(1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) General—

(1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Two hundred positions, serviced by Hill Air Force Base, Utah, engaged in interdepartmental activities in support of national defense projects involving scientific and technical evaluations.

(c) Norton and McClellan Air Force Bases, California—

(1) Not to exceed 20 professional positions, GS-11/15, in Detachments 6 and 51, SM-ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) U.S. Air Force Academy, Colorado—

(1) (Reserved)

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved)

(f) Air Force Office of Special Investigations—

(1) Positions of Criminal Investigators/Intelligence Research Specialists, GS-5/15, in the Air Force Office of Special Investigations.

(g) Wright-Patterson Air Force Base, Ohio—

(1) Not to exceed eight positions, GS-12/15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) Air University, Maxwell Air Force Base, Alabama—

(1) Positions of Professor, Instructor, or Lecturer.

(i) Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio—

(1) Civilian deans and professors.

(j) Air Force Logistics Command—

(1) One Supervisory Logistics Management Specialist, GM-346-14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) Wright-Patterson AFB, Ohio—

(1) One position of Supervisory Logistics Management Specialist, GS-346-15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) Air National Guard Readiness Center—

(1) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

*10. Department of Justice (Sch. A, 213.3110)*

(a) General—

(1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions at GS-15 and below on the staff of an office of a special counsel.

(3)–(5) (Reserved)

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed two years, but may be extended in 1-year increments for the duration of the in-country program.

(7) Positions necessary throughout DOJ, for the excepted service transfer of NDIC employees hired under Schedule A, 213.3110(d). Authority expires September 30, 2012.

(b) (Reserved)

(c) Drug Enforcement Administration—

(1) (Reserved)

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS-132 series, grades GS-9/15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS-7/11.

(d) (Reserved, moved to Justice)

(e) Bureau of Alcohol, Tobacco, and Firearms—

(1) One hundred positions of Criminal Investigator for special assignments.

(2) One non-permanent Senior Level (SL) Criminal Investigator to serve as a senior advisor to the Assistant Director (Firearms, Explosives, and Arson).

*11. Department of Homeland Security (Sch. A, 213.3111)*

(a) (Revoked 11/19/2009)

(b) Law Enforcement Policy—

(1) Ten positions for oversight policy and direction of sensitive law enforcement activities.

(c) Homeland Security Labor Relations Board/Homeland Security Mandatory Removal Board—

(1) Up to 15 Senior Level and General Schedule (or equivalent) positions.

(d) General—

(1) Not to exceed 1,000 positions to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure interdependency analysis requiring unique qualifications currently not established by OPM. Positions will be at the General Schedule (GS) grade levels 9/15. No new appointments may be made under this authority after March 31, 2017.

(e) Papago Indian Agency—Not to exceed 25 positions of Immigration and Customs Enforcement (ICE) Tactical Officers (Shadow Wolves) in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood. (Formerly 213.3105(b)(9))

(f) U.S. Citizenship and Immigration Services

(1) Reserved. (Formerly 213.3110(b)(1))

(2) Not to exceed 500 positions of interpreters and language specialists, GS-1040-5/9. (Formerly 213.3110(b)(2))

(3) Reserved. (Formerly 213.3110(b)(3))

(g) U.S. Immigration and Customs Enforcement—

(1) Not to exceed 200 staff positions, GS-15 and below, for an emergency staff to provide health related services to foreign entrants. (Formerly 213.3116(b)(16))

(h) Federal Emergency Management Agency—

(1) Field positions at grades GS-15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93-288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort. (Formerly 213.3195(a))

(2) Not to exceed 30 positions at grades GS-15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work

directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least six months have elapsed since the individual's latest appointment under this authority. (Formerly 213.3195(b))

(3) Not to exceed 350 professional and technical positions at grades GS–5/15, or equivalent, in Mobile Emergency Response Support Detachments (MERS). (Formerly 213.3195(c))

(i) U.S. Coast Guard—

(1) Reserved. (Formerly 213.3194(a))

(2) Lamplighters. (Formerly 213.3194(b))

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut. (Formerly 213.3194(c))

*12. Department of the Interior (Sch. A, 213.3112)*

(a) General—

(1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire

prevention or suppression and blister rust control for not to exceed 180 working days a year: Provided, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term “Indian.”

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators, and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved)

(c) Indian Arts and Crafts Board—

(1) The Executive Director

(d) (Reserved)

(e) Office of the Assistant Secretary, Territorial and International Affairs—

(1) (Reserved)

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by

territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed six months.

(3) (Reserved)

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) National Park Service—

(1) (Reserved)

(2) Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95–565.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) Bureau of Reclamation—

(1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: Provided, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) Office of the Deputy Assistant Secretary for Territorial Affairs—

(1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond one year.

*13. Department of Agriculture (Sch. A, 213.3113)*

(a) General—

(1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection

is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service:

Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved)

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for sub professional services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: Provided, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of Sec. 213.3102 or positions within the Forest Service.

(6)–(7) (Reserved)

(b)–(c) (Reserved)

(d) Farm Service Agency—

(1) (Reserved)

(2) Members of State Committees:

Provided, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for one year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) Rural Development—

(1) (Reserved)

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3)–(5) (Reserved)

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) Agricultural Marketing Service—

(1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, peanut, and processed and fresh fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of six months for training without regard to the service year limitation.

(3) Milk Market Administrators

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved)

(l) Food Safety and Inspection Service—

(1)–(2) (Reserved)

(3) Positions of Meat and Poultry Inspectors (Veterinarians at GS–11 and below and non-Veterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) Grain Inspection, Packers and Stockyards Administration—

(1) One hundred and fifty positions of Agricultural Commodity Aid (Grain),

GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) Alternative Agricultural Research and Commercialization Corporation—

(1) Executive Director

14. Department of Commerce (Sch. A, 213.3114)

(a) General—

(1)–(2) (Reserved)

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b)–(c) (Reserved)

(d) Bureau of the Census—

(1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census.

(2) Current Program Interviewers employed in the field service.

(e)–(h) (Reserved)

(i) Office of the Under Secretary for International Trade—

(1) Fifteen positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed two years for an individual appointee.

(2) (Reserved)

(3) Not to exceed 15 positions in grades GS–12/15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period not to exceed two years and may, with prior

OPM approval, be extended for an additional two years.

(j) National Oceanic and Atmospheric Administration—

(1)–(2) (Reserved)

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed eight months in any one calendar year.

(k) (Reserved)

(l) National Telecommunication and Information Administration—

(1) Thirty-eight professional positions in grades GS–13/15.

*15. Department of Labor (Sch. A, 213.3115)*

(a) Office of the Secretary—

(1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved)

(d) Employment and Training Administration—

(1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

*16. Department of Health and Human Services (Sch. A, 213.3116)*

(a) General—

(1) Intermittent positions, at GS–15 and below and WG–10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

(b) Public Health Service—

(1) (Reserved)

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved)

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is

contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved)

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term “Indian.”

(9) (Reserved)

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed four years of service in health manpower shortage areas.

(11)–(15) (Reserved)

(c)–(e) (Reserved)

(f) The President's Council on Physical Fitness—

(1) Four staff assistants.

*17. Department of Education (Sch. A, 213.3117)*

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

*18. Environmental Protection Agency (sch. A, 213.3118)*

*24. Board of Governors, Federal Reserve System (Sch. A, 213.3124)*

(a) All positions

*27. Department of Veterans Affairs (Sch. A, 213.3127)*

(a) Construction Division—

(1) Temporary construction workers paid from “purchase and hire” funds and appointed for not to exceed the duration of a construction project.

(b) Alcoholism Treatment Units and Drug Dependence Treatment Centers—

(1) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) Board of Veterans' Appeals—

(1) Positions, GS–15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100–687, appointments under this

authority shall be for a term of nine years, and may be renewed.

(2) Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Vietnam Era Veterans

Readjustment Counseling Service—

(1) Not to exceed 600 positions at grades GS–3/11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

(e) Not to exceed 75 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of the Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to non-supervisory Digital Services Expert positions (GS–0301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–15 level. No new appointments may be made under this authority after September 30, 2017.

*32. Small Business Administration (Sch. A, 213.3132)*

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed four years, and no more than two years may be spent on a single disaster. Exception to this time limit may only be made with prior Office of Personnel Management approval. Appointments under this authority may not be used to extend the 2-year service limit contained below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of two years without a break in service of at least six months. Persons who have had more than two years of service under paragraph (a) of this section must have a break in service of at least eight months following such service before



appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

**33. Federal Deposit Insurance Corporation (Sch. A, 213.3133)**

(a)–(b) (Reserved)

(c) Temporary or time-limited positions that are directly related with resolving failing insured depository institutions; financial companies; or brokers and dealers; covered by the Dodd-Frank Wall Street Reform and Consumer Protection Act, including but not limited to, the marketing and sale of institutions and any associated assets; paying insured depositors; and managing receivership estates and all associated receivership management activities, up to termination. Time limited appointments under this authority may not exceed seven years.

**36. U.S. Soldiers' and Airmen's Home (Sch. A, 213.3136)**

(a) (Reserved)

(b) Positions when filled by member-residents of the Home.

**37. General Services Administration (Sch. A, 213.3137)**

(a) Not to exceed 203 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of the Smarter Information Technology Delivery Initiative. This authority may be used nationwide to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–11 to 15. No new appointments may be made under this authority after September 30, 2017.

**46. Selective Service System (Sch. A, 213.3146)**

(a) State Directors

**48. National Aeronautics and Space Administration (Sch. A, 213.3148)**

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

**55. Social Security Administration (Sch. A, 213.3155)**

(a) Arizona District Offices—

(1) Six positions of Social Insurance Representative in the district offices of

the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) New Mexico—

(1) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Alaska—

(1) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

**62. The President's Crime Prevention Council (Sch. A, 213.3162)**

(a) (Reserved)

**65. Chemical Safety and Hazard Investigation Board (Sch. A, 213.3165)**

(a) (Reserved)

(b) (Reserved)

**66. Court Services and Offender Supervision Agency of the District of Columbia (Sch. A, 213.3166)**

(a) (Reserved, expired 3/31/2004)

**70. Millennium Challenge Corporation (MCC) (Sch. A, 213.3170)**

(a) (Reserved, expired 9/30/2007)

(b)

(1) Positions of Resident Country Directors and Deputy Resident Country Directors. The length of appointments will correspond to the length or term of the compact agreements made between the MCC and the country in which the MCC will work, plus one additional year to cover pre- and post-compact agreement related activities.

**74. Smithsonian Institution (Sch. A, 213.3174)**

(a) (Reserved)

(b) Smithsonian Tropical Research Institute—All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) National Museum of the American Indian—Positions at GS–15 and below requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

**75. Woodrow Wilson International Center for Scholars (Sch. A, 213.3175)**

(a) One Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, two Social Science Program Administrators, one Middle East Studies Program Administrator, one African Studies Program Administrator, one Global Sustainability and Resilience Program Administrator, one Canadian Studies Program Administrator; one China Studies Program Administrator, and one Science, Technology and Innovation Program Administrator.

**78. Community Development Financial Institutions Fund (Sch. A, 213.3178)**

(a) (Reserved, expired 9/23/1998)

**80. Utah Reclamation and Conservation Commission (Sch. A, 213.3180)**

(a) Executive Director

**82. National Foundation on the Arts and the Humanities (Sch. A, 213.3182)**

(a) National Endowment for the Arts—

(1) Artistic and related positions at grades GS–13/15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and program development, arts education, access programs and advocacy, or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

**90. African Development Foundation (Sch. A, 213.3190)**

(a) One Enterprise Development Fund Manager. Appointment is limited to four years unless extended by OPM.

**91. Office of Personnel Management (Sch. A, 213.3191)**

(a)–(c) (Reserved)

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

**94. Department of Transportation (Sch. A, 213.3194)**

(a)–(d) (Reserved)

(e) Maritime Administration—

(1)–(2) (Reserved)

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved)

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and



Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

(f) Up to 40 positions at the GS-13/15 grade levels and within authorized SL allocations necessary to support the following credit agency programs of the Department: The Federal Highway Administration's Transportation Infrastructure Finance and Innovation Act Program, the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Program, the Federal Maritime Administration's Title XI Program, and the Office of the Secretary's Office of Budget and Programs Credit Staff. This authority may be used to make temporary, time-limited, or permanent appointments, as the DOT deems appropriate, in the following occupational series: Director or Deputy Director SL-301/340, Origination Team Lead SL-301, Deputy Director/Senior Financial Analyst GS-1160, Origination Financial Policy Advisor GS-0301, Credit Budgeting Team Lead GS-1160, Credit Budgeting Financial Analysts GS-1160, Portfolio Monitoring Lead SL-1160, Portfolio Monitoring Financial Analyst GS-1160, Financial Analyst GS-1160. No new appointments may be made under this authority after December 31, 2014.

95. (Reserved)

#### Schedule B

03. Executive Office of the President (Sch. B, 213.3203)

(a) (Reserved)  
(b) Office of the Special Representative for Trade Negotiations—  
(1) Seventeen positions of economist at grades GS-12/15.

04. Department of State (Sch. B, 213.3204)

(a) (1) One non-permanent senior level position to serve as Science and Technology Advisor to the Secretary.

(b)–(c) (Reserved)

(d) Seventeen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved)

(f) Scientific, professional, and technical positions at grades GS-12/15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed four years.

05. Department of the Treasury (Sch. B, 213.3205)

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b)–(c) (Reserved)

(d) (Reserved) Transferred to 213.3211(b)

(e) (Reserved) Transferred to 213.3210(f)

06. Department of Defense (Sch. B, 213.3206)

(a) Office of the Secretary—

(1) (Reserved)

(2) Professional positions at GS-11/15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved)

(5) Four Net Assessment Analysts.

(b) Interdepartmental activities—

(1) Seven positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS-15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) National Defense University—

(1) Sixty-one positions of Professor, GS-13/15, for employment of any one individual on an initial appointment not to exceed three years, which may be renewed in any increment from one to six years indefinitely thereafter.

(d) General—

(1) One position of Law Enforcement Liaison Officer (Drugs), GS-0301-15, U.S. European Command.

(2) Acquisition positions at grades GS-5/11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) Office of the Inspector General—

(1) Positions of Criminal Investigator, GS-1811-5/15.

(f) Department of Defense Polygraph Institute, Fort McClellan, Alabama—

(1) One Director, GM-15.

(g) Defense Security Assistance Agency—

All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

07. Department of the Army (Sch. B, 213.3207)

(a) U.S. Army Command and General Staff College—

(1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed four years.

08. Department of the Navy (Sch. B, 213.3208)

(a) Naval Underwater Systems Center, New London, Connecticut—

(1) One position of Oceanographer, grade GS-14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) Armed Forces Staff College, Norfolk, Virginia—All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) Defense Personnel Security Research and Education Center—One Director and four Research Psychologists at the professor or GS-15 level.

(d) Marine Corps Command and Staff College—All civilian professor positions.

(e) Executive Dining facilities at the Pentagon—One position of Staff Assistant, GS-0301, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) (Reserved)

09. Department of the Air Force (Sch. B, 213.3209)

(a) Air Research Institute at the Air University, Maxwell Air Force Base, Alabama—Not to exceed four

interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed three years, with an option to renew or extend the appointments in increments of 1-, 2-, or 3- years indefinitely thereafter.

(b)–(c) (Reserved)

(d) Air University—Positions of Instructor or professional academic staff at the Air University associated with courses of instruction of varying durations, for employment not to exceed three years, which may be renewed for an indefinite period thereafter.

(e) U.S. Air Force Academy, Colorado—One position of Director of Development and Alumni Programs, GS–0301–13.

*10. Department of Justice (Sch. B, 213.3210)*

(a) Drug Enforcement Administration—

Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5/11. Service under the authority may not exceed four years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved)

(c) Not to exceed 400 positions at grades GS–5/15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved)

(e) United States Trustees—Positions, other than secretarial, GS–6/15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

(f) Bureau of Alcohol, Tobacco, and Firearms

(1) Positions, grades GS–5/12 (or equivalent), of Criminal Investigator. Service under this authority may not exceed three years and 120 days.

*11. Department of Homeland Security (Sch. B, 213.3211)*

(a) Coast Guard.

(1) (Reserved)

(b) Secret Service—Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective

services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed:

(1) a total of four years; or

(2) 120 days following completion of the service required for conversion under Executive Order 11203.

*13. Department of Agriculture (Sch. B, 213.3213)*

(a) Foreign Agricultural Service—

(1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed five years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding two years.

(b) General—

(1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service, Economic Research Service, and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed two years and may be extended for up to two additional years. Extensions beyond four years, up to a maximum of two additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Human Resources Officer for the Research, Education, and Economics Mission Area, or the Human Resources Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–0301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

*14. Department of Commerce (Sch. B, 213.3214)*

(a) Bureau of the Census—

(1) (Reserved)

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5/12.

(b)–(c) (Reserved)

(d) National Telecommunications and Information Administration—

(1) Not to exceed 10 Telecommunications Policy Analysts, grades GS–11/15. Employment under this authority may not exceed two years.

*15. Department of Labor (Sch. B, 213.3215)*

(a) Administrative Review Board—Chair and a maximum of four additional Members.

(b) (Reserved)

(c) Bureau of International Labor Affairs—

(1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

*17. Department of Education (Sch. B, 213.3217)*

(a) Seventy-five positions, not to exceed GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in mid-career development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed one year.

(b) Fifty positions, GS–7/11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed one year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of one year.

*27. Department of Veterans Affairs (Sch. B, 213.3227)*

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811–5/12, conducting undercover investigations in the Veterans Health Administration (VA) supervised by the VA, Office of Inspector General. Initial appointments shall be greater than one year, but not to exceed four years and may be extended indefinitely in 1-year increments.

*28. Broadcasting Board of Governors (Sch. B, 213.3228)*

(a) International Broadcasting Bureau—

(1) Not to exceed 200 positions at grades GS–15 and below in the Office of Cuba Broadcasting. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

*36. U.S. Soldiers' and Airmen's Home (Sch. B, 213.3236)*

(a) (Reserved)  
(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

*40. National Archives and Records Administration (Sch. B, 213.3240)*

(a) Executive Director, National Historical Publications and Records Commission.

*48. National Aeronautics and Space Administration (Sch. B, 213.3248)*

(a) Not to exceed 40 positions of Astronaut Candidates at grades GS–11/15. Employment under this authority may not exceed three years.

*50. Consumer Financial Protection Bureau (Sch. B, 213.3250)*

(a) One position of Deputy Director; and one position of Associate Director

of the Division of Supervision, Enforcement, and Fair Lending.

*55. Social Security Administration (Sch. B, 213.3255)*

(a) (Reserved)

*74. Smithsonian Institution (Sch. B, 213.3274)*

(a) (Reserved)  
(b) Freer Gallery of Art—  
(1) Not to exceed four Oriental Art Restoration Specialists at grades GS–9/15.

*76. Appalachian Regional Commission (Sch. B, 213.3276)*

(a) Two Program Coordinators.

*78. Armed Forces Retirement Home (Sch. B, 213.3278)*

(a) Naval Home, Gulfport, Mississippi—  
(1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

*82. National Foundation on the Arts and the Humanities (Sch. B, 213.3282)*

(a) (Reserved)  
(b) National Endowment for the Humanities—

(1) Professional positions at grades GS–11/15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require in-depth knowledge of a discipline of the humanities.

*91. Office of Personnel Management (Sch. B, 213.3291)*

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13/14. Appointments may be made for any period up to three years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Federal Executive Institute—No more than 57 positions of faculty members at grades GS–13/15. Initial appointments under this authority may be made for any period up to three years and may be extended in 1, 2, or 3 year increments.

#### SCHEDULE C

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE	Farm Service Agency .....	State Executive Director—Virginia	DA150160	7/15/2015
		Chief of Staff .....	DA150168	8/11/2015
		State Executive Director—Oklahoma.	DA160015	11/24/2015
		State Executive Director—New Hampshire.	DA160033	1/6/2016
		State Executive Director—Rhode Island.	DA160077	3/4/2016
		State Executive Director—Maryland.	DA160091	3/30/2016
		State Executive Director—Wisconsin.	DA160111	4/15/2016
		Deputy Chief of Staff .....	DA150161	7/28/2015
		Chief of Staff .....	DA150164	7/28/2015
		Legislative Analyst (5) .....	DA150167	8/4/2015
	Natural Resources Conservation Service. Office of the Under Secretary for Food Safety. Office of the Assistant Secretary for Congressional Relations.		DA150185	9/4/2015
			DA160002	10/6/2015
			DA160009	11/9/2015
			DA160148	6/24/2016
		Senior Legislative Analyst .....	DA150196	9/30/2015
		Director, Intergovernmental Affairs	DA160026	12/22/2015
		Confidential Assistant (2) .....	DA160113	4/29/2016
			DA160149	6/24/2016
		Deputy Director, Intergovernmental Affairs.	DA160136	6/10/2016
		Director of Oversight .....	DA160145	6/24/2016
	Rural Housing Service .....	State Director—North Dakota .....	DA150169	8/7/2015
		State Director—California .....	DA160021	12/11/2015
		State Director—Montana .....	DA160067	2/5/2016
		State Director—Washington .....	DA160090	3/30/2016
		Senior Advisor (2) .....	DA160081	3/17/2016
			DA160112	4/14/2016

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
APPALACHIAN REGIONAL COMMISSION. DEPARTMENT OF COMMERCE ...	Office of the Under Secretary for Marketing and Regulatory Programs.	Chief of Staff (2) .....	DA150186 DA160082	8/31/2015 3/30/2016
	Rural Utilities Service .....	Confidential Assistant .....	DA160035	1/19/2016
		Policy Advisor .....	DA150190	9/17/2015
		Senior Advisor .....	DA160028	12/22/2015
	Office of the Under Secretary for Rural Development.	Special Advisor (2) .....	DA150192 DA160142	9/22/2015 6/24/2016
		Confidential Assistant .....	DA160087	3/17/2016
		Chief of Staff .....	DA160084	3/28/2016
		Senior Advisor .....	DA160110	4/14/2016
		Special Assistant .....	DA160004	10/19/2015
	Office of the Under Secretary for Research, Education, and Economics.			
	Office of the Secretary .....	Senior Advisor .....	DA160085	3/18/2016
		White House Liaison (2) .....	DA160007 DA160141	10/19/2015 6/22/2016
		Deputy White House Liaison .....	DA160073	2/26/2016
		Confidential Assistant (2) .....	DA160019 DA160147	12/4/2015 6/23/2016
		Special Assistant (3) .....	DA160031 DA160122	1/6/2016 5/12/2016
			DA160123	5/12/2016
		Senior Advisor (3) .....	DA160032 DA160030	1/6/2016 1/16/2016
			DA160094	4/1/2016
		Special Assistant and Advisor .....	DA160071	2/18/2016
	Office of Under Secretary for Natural Resources and Environment.	Confidential Assistant .....	DA160010	11/9/2015
	Office of Communications .....	Chief of Staff .....	DA160133	5/24/2016
		Scheduler .....	DA160012	11/24/2015
		Deputy Director of Scheduling .....	DA160014	12/1/2015
		Senior Advisor for Strategic Communications.	DA160083	3/17/2016
		Deputy Press Secretary .....	DA160080	3/18/2016
		Advance Associate .....	DA160144	6/23/2016
	Office of the Deputy Secretary .....	Special Assistant .....	DA160013	11/24/2015
	Office of the General Counsel .....	Senior Counselor .....	DA160027	12/22/2015
	Office of Civil Rights .....	Special Advisor .....	DA160029	1/5/2016
	Office of the Under Secretary Farm and Foreign Agricultural Service.	State Executive Director .....	DA160070	2/19/2016
		Deputy Chief of Staff .....	DA160126	5/13/2016
		Senior Advisor .....	DA160137	6/10/2016
	Rural Business Service .....	Senior Advisor .....	DA160089	3/30/2016
	Office of the Chief Information Officer.	Senior Advisor .....	DA160092	4/14/2016
	Office of Small and Disadvantaged Business Utilization.	Director .....	DA160125	5/13/2016
	Foreign Agricultural Service .....	Deputy Chief of Staff .....	DA160132	5/24/2016
		Special Assistant .....	DA160119	6/1/2016
	Office of the Assistant Secretary for Civil Rights.	Chief of Staff .....	DA160143	6/22/2016
		Senior Advisor .....	DA160140	6/24/2016
	Office of the Chairman .....	Special Assistant—Chair .....	AP160001	4/4/2016
	Office of the Executive Secretariat	Associate Director (2) .....	DC150120 DC150121	7/6/2015 7/6/2015
		Deputy Director .....	DC150163	8/25/2015
		Special Advisor .....	DC160024	11/18/2015
	Office of the Under Secretary .....	Special Assistant (2) .....	DC150130 DC160103	7/20/2015 3/17/2016
		Senior Advisor (8) .....	DC160003 DC160004	10/6/2015 10/6/2015
			DC160011 DC160017	10/21/2015 11/5/2015
			DC160043 DC160111	12/4/2015 3/18/2016
			DC160148 DC160021	4/29/2016 11/13/2015
		Chief Speechwriter and Senior Advisor.	DC160091	2/17/2016

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Chief Communications Officer .....	DC160094	2/23/2016
		Deputy Chief Communications Officer for Strategic Communications.	DC160095	3/2/2016
	Office of Public Affairs .....	Deputy Press Secretary .....	DC150132	7/20/2015
		Deputy Speechwriter .....	DC150153	8/25/2015
		Press Assistant (2) .....	DC150156	8/25/2015
			DC160165	6/22/2016
		Deputy Director of Public Affairs and Press Secretary.	DC160006	10/6/2015
		Deputy Director of Public Affairs and Director of Digital Strategy and Engagement.	DC160007	10/8/2015
		Deputy Director of Public Affairs and Director of Speechwriting (2).	DC160015	10/28/2015
			DC160106	3/14/2016
		Chief Speechwriter and Advisor .....	DC160054	1/4/2016
		Deputy Director of Speechwriting ..	DC160107	3/18/2016
		Speechwriter and Press Assistant	DC160141	5/6/2016
	Office of the Assistant Secretary for Industry and Analysis.	Special Assistant (2) .....	DC150131	7/24/2015
			DC160014	10/30/2015
		Director, Office of Advisory Committees and Industry Outreach.	DC160041	12/4/2015
		Deputy Director, Office of Advisory Committees and Industry Outreach.	DC160053	1/4/2016
	Office of Legislative and Intergovernmental Affairs.	Senior Director .....	DC160101	3/7/2016
		Associate Director for Oversight (2)	DC150141	7/30/2015
			DC150145	8/5/2015
		Special Assistant .....	DC150138	7/31/2015
		Confidential Assistant .....	DC160105	3/14/2016
		Associate Director .....	DC160108	3/17/2016
		Director of Intergovernmental Affairs.	DC160161	6/17/2016
	Economics and Statistics Administration.	Special Assistant .....	DC150136	7/31/2015
		Press Secretary (2) .....	DC150171	9/10/2015
			DC160146	4/25/2016
		Senior Advisor .....	DC160163	6/22/2016
	Office of Director General of the United States and Foreign Commercial Service and Assistant Secretary for Global Markets.	Advisor .....	DC150140	7/31/2015
	Office of the Director .....	Special Advisor .....	DC150149	8/19/2015
		Senior Advisor (2) .....	DC150139	8/7/2015
			DC160117	3/21/2016
		Senior Advisor for Minority-Owned Business Enterprise Policy.	DC160031	11/25/2015
		Associate Director of Legislative, Education and Intergovernmental Affairs.	DC160033	11/25/2015
	Office of the Deputy Secretary .....	Deputy Chief Data Officer .....	DC150144	8/11/2015
	Office of the Chief of Staff .....	Advance Assistant .....	DC150146	8/11/2015
		Scheduler .....	DC160029	11/23/2015
		Director, Office of Faith Based and Neighborhood Partnerships.	DC160034	1/13/2016
		Scheduling Assistant .....	DC160083	2/2/2016
		Advance Specialist .....	DC160088	2/23/2016
	Office of Policy and Strategic Planning.	Senior Policy Advisor .....	DC150147	8/11/2015
		Confidential Assistant .....	DC150164	9/4/2015
	Office of Scheduling and Advance	Special Assistant .....	DC160020	11/10/2015
		Scheduler .....	DC150157	8/25/2015
		Special Assistant .....	DC150165	9/4/2015
	Office of the Deputy Assistant Secretary.	Policy Advisor .....	DC150154	9/4/2015
		Special Advisor .....	DC160116	3/30/2016
		Associate Director of Strategic Partnerships.	DC160100	2/26/2016
	Office of the Deputy Assistant Secretary for Domestic Operations.	Special Advisor .....	DC150167	9/11/2015
	Immediate Office of the Secretary	Executive Assistant .....	DC150168	9/11/2015

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
COMMISSION ON CIVIL RIGHTS COMMODITY FUTURES TRADING COMMISSION.	National Travel and Tourism Office Office of the Assistant Secretary for Economic Development.	Special Advisor .....	DC160090	2/17/2016
		Special Assistant .....	DC160002	10/6/2015
		Special Assistant .....	DC160005	10/6/2015
	Office of the Chief Information Officer. Office of the Assistant Secretary for Enforcement and Compliance.	Senior Advisor .....	DC160038	1/6/2016
		Director of External Affairs .....	DC160151	5/10/2016
		Director of Public Affairs .....	DC160157	6/3/2016
		Chief of Staff .....	DC160010	10/21/2015
	Office of the Chief Financial Officer and Assistant Secretary for Administration. Office of Business Liaison .....	Senior Advisor .....	DC160030	11/23/2015
		Special Assistant .....	DC160075	1/15/2016
		Chief of Staff for Administration .....	DC160042	12/4/2015
		Director, Shared Services Change and Communications Management.	DC160096	2/23/2016
	Office of the Chief Financial Officer and Assistant Secretary for Administration. Office of Business Liaison .....	Senior Advisor and Chief of Staff for Administration.	DC160119	4/19/2016
		Special Assistant .....	DC160110	3/21/2016
	Office of the White House Liaison Bureau of Industry and Security .....	Senior Advisor .....	DC160164	6/17/2016
		Special Assistant .....	DC160122	4/13/2016
	Office of the General Counsel .....	Congressional Affairs Specialist .....	DC160124	4/15/2016
		Special Advisor .....	DC160150	5/10/2016
	Advocacy Center .....	Senior Counsel .....	DC160143	4/25/2016
		Special Advisor .....	DC160149	4/29/2016
	Office of the Commissioners .....	Policy Advisor .....	DC160162	6/17/2016
		Special Assistant .....	CC160001	11/18/2015
	Office of the Chairperson .....	Public Affairs Specialist (Speech- writer).	CT150002	7/16/2015
		Policy Advisor .....	CT150003	9/10/2015
	Office of Commissioners .....	Special Advisor .....	CT160001	2/3/2016
		Special Assistant .....	PS150006	9/15/2015
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Commissioners .....	Director, Office of Congressional Relations.	PS160001	10/7/2015
		Special Assistant (Legal) .....	PS160002	11/12/2015
COUNCIL ON ENVIRONMENTAL QUALITY.	Office of the Director .....	Associate Director for Land and Water.	EQ160001	6/24/2016
		Special Assistant (7) .....	DD150155	7/1/2015
DEPARTMENT OF DEFENSE .....	Office of the Secretary .....	Special Assistant (7) .....	DD150150	7/2/2015
		Special Assistant (7) .....	DD160004	10/15/2015
		Special Assistant (7) .....	DD160067	3/17/2016
		Special Assistant (7) .....	DD160084	3/18/2016
		Special Assistant (7) .....	DD160087	4/1/2016
		Special Assistant (7) .....	DD160147	5/20/2016
		Advance Officer (4) .....	DD150167	7/31/2015
		Advance Officer (4) .....	DD160022	12/9/2015
		Advance Officer (4) .....	DD160047	1/28/2016
		Advance Officer (4) .....	DD160086	4/4/2016
		Protocol Officer (2) .....	DD160008	10/26/2015
		Protocol Officer (2) .....	DD160011	10/28/2015
		Deputy White House Liaison .....	DD160016	11/13/2015
		Confidential Assistant .....	DD160026	12/14/2015
		Director of Operations .....	DD160085	3/18/2016
		Director, Travel Operations .....	DD160146	5/23/2016
	Office of Assistant Secretary of Defense (Public Affairs).	Speechwriter (3) .....	DD150153	7/8/2015
		Speechwriter (3) .....	DD160078	3/17/2016
	Washington Headquarters Services	Defense Fellow (8) .....	DD160089	3/23/2016
		Defense Fellow (8) .....	DD150151	7/13/2015
		Defense Fellow (8) .....	DD150173	8/20/2015
		Defense Fellow (8) .....	DD150201	10/13/2015
		Defense Fellow (8) .....	DD150202	10/21/2015
		Defense Fellow (8) .....	DD150203	10/21/2015
		Defense Fellow (8) .....	DD150204	10/21/2015
		Defense Fellow (8) .....	DD160007	10/23/2015
	Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics).	Special Assistant for Energy, In- stallations and Environment.	DD160024	12/9/2015
		Special Assistant for Energy, In- stallations and Environment.	DD150162	7/21/2015

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant (Chief, Acquisition, Technology and Logistics).	DD150163	7/21/2015
		Special Assistant (2) .....	DD150198 DD160027 DD160012	10/13/2015 12/15/2015 10/30/2015
		Special Assistant (Legislative Affairs) (Team Chief, Personnel and Readiness).		
		Special Assistant (Legislative Affairs) (Chief, Policy).	DD160068	3/1/2016
		Special Assistant (Policy) .....	DD160080	3/4/2016
		Special Assistant (Legislative Affairs).	DD160069	4/19/2016
	Office of the Director, Operational Test and Evaluation.	Special Assistant .....	DD150166	7/21/2015
	Office of the Under Secretary of Defense (Personnel and Readiness).	Special Assistant for Personnel and Readiness (4).	DD150154 DD160010 DD160031 DD160083 DD150178	7/27/2015 10/30/2015 12/28/2015 3/17/2016 8/21/2015
	Office of the Director of Defense Research and Engineering.	Special Assistant for Research and Engineering.		
	Office of the Assistant Secretary of Defense (Asian and Pacific Security Affairs).	Special Assistant for Afghanistan, Pakistan and Central Asia (2).	DD150172 DD160001	8/24/2015 10/30/2015
		Special Assistant for South and Southeast Asia.	DD160088	4/1/2016
		Special Assistant for East Asia .....	DD160137	5/10/2016
	Office of the Assistant Secretary of Defense (International Security Affairs).	Special Assistant for Middle East Policy.	DD150175	8/24/2015
		Senior Advisor for Russia, Ukraine and Eurasia Policy.	DD150184	9/16/2015
		Special Assistant for Nuclear Missile Defense Policy.	DD150200	10/21/2015
		Special Assistant for Russia, Ukraine and Eurasia.	DD160060	1/15/2016
		Special Assistant .....	DD160057	1/20/2016
		Senior Advisor (Europe/North Atlantic Treaty Organization).	DD160002	3/4/2016
		Special Assistant (Middle East Policy).	DD160100	4/14/2016
		Special Assistant for the Middle East.	DD160145	5/18/2016
	Office of the Deputy Chief Management Officer.	Special Assistant .....	DD150185	9/3/2015
	Office of the Under Secretary of Defense (Policy).	Special Assistant for Afghanistan, Pakistan, and Central Asia.	DD150179	9/16/2015
		Special Advisor for Russia/Ukraine External Affairs.	DD150199	10/9/2015
		Special Assistant for Deputy Assistant Secretary of Defense for Plans.	DD160064	2/4/2016
		Special Assistant for Strategy, Plans, and Forces.	DD160092	4/8/2016
		Special Assistant for Afghanistan, Pakistan, and Central Asia.	DD160098	4/13/2016
		Chief of Staff for Special Operations and Combatting Terrorism.	DD160151	6/8/2016
	Office of the Under Secretary of Defense (Intelligence).	Special Assistant (Intelligence) .....	DD150189	9/18/2015
	Office of the Under Secretary of Defense (Comptroller).	Special Assistant (Budget and Appropriations Affairs).	DD160015	11/16/2015
	Office of the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict and Interdependent Capabilities).	Special Assistant for Special Operations/Low Intensity Conflict.	DD160054	1/14/2016
		Special Assistant (Special Operations and Low-Intensity Conflict).	DD160071	3/3/2016
		Chief of Staff for Stability and Humanitarian Affairs.	DD160148	5/25/2016

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF THE AIR FORCE. DEPARTMENT OF THE ARMY .....	Office of the Assistant Secretary of Defense (Global Strategic Affairs).	Special Assistant, Plans and Capabilities.	DD160033	2/10/2016
	Office of the Assistant Secretary of Defense (Homeland Defense and America's Security Affairs).	Special Assistant for Cyber Policy	DD160077	3/2/2016
	Office of the Assistant Secretary Air Force for Acquisition.	Director of Private Sector Engagement.	DF160035	5/10/2016
	Office of the Assistant Secretary Army (Installations, Energy and Environment).	Special Assistant (Installations, Energy and Environment).	DW150050	7/1/2015
	Office of the Assistant Secretary Army (Acquisition, Logistics and Technology).	Senior Advisor (Acquisition, Logistics and Technology).	DW150055	8/26/2015
DEPARTMENT OF THE NAVY .....	Office of the Secretary of the Army	Special Assistant .....	DW160048	6/17/2016
	Office of the Under Secretary of the Navy.	Senior Advisor .....	DN160012	3/18/2016
DEPARTMENT OF EDUCATION ...	Office of the General Counsel .....	Associate General Counsel (2) .....	DB150107	7/1/2015
			DB160080	4/28/2016
		Deputy Chief of Staff .....	DB160056	3/17/2016
	Office of the Under Secretary .....	Senior Counsel .....	DB160069	4/19/2016
		Special Assistant for Strategic Operations.	DB150108	7/8/2015
		Special Assistant (3) .....	DB150113	8/5/2015
			DB160078	4/29/2016
			DB160096	6/7/2016
			DB150126	10/1/2015
		Executive Director, White House Initiative on Historically Black Colleges and Universities.		
		Senior Policy Advisor .....	DB160002	10/29/2015
		Policy Advisor, White House Initiative on American Indian and Alaska Native.	DB160004	11/12/2015
		Executive Director, White House Initiative on Asian Americans and Pacific Islanders.	DB160005	11/13/2015
		Director of Strategic Communications.	DB160006	11/23/2015
		Chief of Staff, White House Initiative on Historically Black Colleges.	DB160015	12/11/2015
		Director of College Scorecard .....	DB160023	1/21/2016
		Policy Advisor (2) .....	DB160022	2/10/2016
			DB160068	4/14/2016
		Assistant Director, White House Initiative on Educational Excellence for African Americans.	DB160041	3/2/2016
		Deputy Director, White House Initiative on Educational Excellence for Hispanics.	DB160074	4/26/2016
		Chief of Staff, White House Initiative on Educational Excellence for Hispanics.	DB160091	5/18/2016
		Deputy Director, White House Initiative on Asian American and Pacific Islanders.	DB160085	5/19/2016
	Office of Elementary and Secondary Education.	Confidential Assistant .....	DB160098	6/7/2016
		Deputy Assistant Secretary for Policy and Strategic Initiatives.	DB150109	7/8/2015
		Confidential Assistant .....	DB150125	9/29/2015
		Strategic Communications Manager.	DB160020	1/8/2016
		Special Assistant .....	DB160064	3/29/2016
		Director of Strategic Initiatives .....	DB160070	4/19/2016
		Chief of Staff .....	DB160079	4/28/2016
		Confidential Assistant, Special Projects.	DB160088	5/19/2016
	Office of the Secretary .....	Deputy Director of Scheduling and Advance.	DB150112	7/27/2015
		Special Assistant .....	DB150122	9/4/2015
		Deputy Director of Advance .....	DB150124	9/29/2015



## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Strategic Operations Manager .....	DB160003	10/30/2015
		Deputy Director, Strategic Partnership.	DB160008	11/23/2015
		Chief of Staff, Strategic Partnerships.	DB160011	11/24/2015
		Director of Scheduling and Advance.	DB160021	1/8/2016
		Director of Advance .....	DB160031	2/3/2016
		Deputy Director, Education Technology.	DB160033	2/3/2016
		Director of Scheduling and Advance.	DB160037	2/17/2016
		Special Advisor .....	DB160038	3/9/2016
		Director, White House Liaison .....	DB160053	3/17/2016
		Deputy Director, White House Liaison.	DB160060	3/21/2016
		Deputy Director of Advance .....	DB160059	3/24/2016
		Director of Strategic Initiatives .....	DB160075	4/26/2016
		Change Management Director .....	DB160086	5/12/2016
		Leadership Development Director ..	DB160087	5/12/2016
		Deputy Director of Scheduling and Advance.	DB160089	5/13/2016
	Office of Legislation and Congressional Affairs.	Confidential Assistant (2) .....	DB150114	8/5/2015
			DB160103	6/27/2016
		Special Assistant .....	DB160009	11/24/2015
		Director of Budget and Appropriations.	DB160014	12/14/2015
		Director of Outreach and Engagement.	DB160018	12/22/2015
		Deputy Assistant Secretary for Legislative Affairs.	DB160076	4/29/2016
		Principal Advisor for Legislative Affairs.	DB160077	4/29/2016
	Office of the Deputy Secretary .....	Deputy Chief of Staff .....	DB160095	6/7/2016
		Confidential Assistant .....	DB150115	8/10/2015
		Deputy Chief of Staff .....	DB150127	10/1/2015
	Office of Communications and Outreach.	Senior Policy Advisor .....	DB160065	3/29/2016
		Deputy Chief of Staff (2) .....	DB150117	8/19/2015
			DB160024	1/21/2016
		Senior Writer .....	DB150119	8/24/2015
		Confidential Assistant .....	DB160027	1/21/2016
		Deputy Assistant Secretary for State and Local Engagement.	DB160028	1/21/2016
		Senior Advisor .....	DB160029	1/21/2016
		Director of Digital Content .....	DB160030	2/10/2016
		Senior Director of Digital Strategy	DB160046	2/19/2016
		Senior Communications Advisor ....	DB160045	2/24/2016
		Assistant Press Secretary .....	DB160055	3/17/2016
		Managing Writer .....	DB160067	4/14/2016
		Director of Strategic Media Initiatives.	DB160094	5/25/2016
	Office of Planning, Evaluation and Policy Development.	Deputy Assistant Secretary for P–12 Education.	DB150121	8/27/2015
		Senior Policy Advisor (4) .....	DB160010	11/27/2015
			DB160071	4/19/2016
			DB160072	4/19/2016
			DB160108	6/24/2016
		Special Assistant .....	DB160048	3/2/2016
		Chief of Staff .....	DB160073	4/19/2016
		Confidential Assistant .....	DB160097	6/7/2016
		Policy Advisor .....	DB160100	6/10/2016
	Office of Career Technical and Adult Education.	Director of Policy .....	DB160012	11/24/2015
		Director of Strategic Initiatives .....	DB160013	11/24/2015
		Confidential Assistant (2) .....	DB160017	12/21/2015
			DB160099	6/16/2016
		Chief of Staff .....	DB160063	3/24/2016
		Special Assistant .....	DB160083	4/29/2016
	Office of Innovation and Improvement.	Strategic Advisor .....	DB160019	12/22/2015
		Senior Policy Advisor .....	DB160047	2/26/2016

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF ENERGY .....	Office of Postsecondary Education	Senior Policy Advisor .....	DB160025	1/21/2016
		Special Assistant .....	DB160084	5/5/2016
	Office for Civil Rights .....	Special Projects Manager .....	DB160066	4/1/2016
		Confidential Assistant (2) .....	DB160092	5/19/2016
			DB160093	5/25/2016
	Office of Management .....	Special Assistant (2) .....	DE150094	7/17/2015
			DE150114	7/31/2015
		Senior Advisor .....	DE150136	8/20/2015
	Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.	Director of Intergovernmental Affairs.	DE150098	7/17/2015
	Assistant Secretary for Congressional and Intergovernmental Affairs.	Advisor for Intergovernmental and Tribal Affairs.	DE150109	7/30/2015
		Special Assistant (2) .....	DE150121	7/30/2015
			DE160007	11/6/2015
		Legislative Affairs Advisor (3) .....	DE150146	10/28/2015
			DE160070	3/4/2016
			DE160130	6/10/2016
		Advisor for Intergovernmental and External Affairs (2).	DE160047	1/21/2016
			DE160082	3/23/2016
		Special Advisor (2) .....	DE160062	4/14/2016
			DE160131	6/10/2016
	Assistant Secretary for Energy Efficiency and Renewable Energy.	Special Advisor .....	DE150107	7/17/2015
		Senior Advisor (2) .....	DE150143	9/10/2015
			DE160008	10/19/2015
		Special Assistant .....	DE160028	11/12/2015
		Senior Advisor for External Affairs	DE160045	12/18/2015
		Special Advisor for External Affairs	DE160076	3/8/2016
		Deputy Chief of Staff .....	DE160117	5/13/2016
	Office of the Secretary .....	Special Assistant (3) .....	DE150097	7/27/2015
			DE160051	1/19/2016
			DE160134	6/17/2016
		Special Advisor .....	DE160015	11/6/2015
		White House Liaison .....	DE160043	12/10/2015
		Deputy White House Liaison and Special Project Manager.	DE160050	1/8/2016
		Special Advisor for Finance and Clean Energy Investment.	DE160072	3/1/2016
		Special Advisor for Clean Energy and Risk Management.	DE160133	6/30/2016
	Office of the Secretary of Energy Advisory Board.	Director and Senior Advisor, Office of Secretarial Boards and Councils.	DE150113	7/31/2015
		Principal Deputy Director .....	DE150112	8/5/2015
		Deputy Director .....	DE160061	2/10/2016
	Office of the Assistant Secretary for Nuclear Energy.	Senior Advisor .....	DE150129	8/5/2015
	Office of the Assistant Secretary for Nuclear Energy.	Senior Communications Advisor ....	DE150126	8/20/2015
		Associate Deputy Assistant Secretary for Policy and Small Modular Reactors Commercialization.	DE160027	12/2/2015
	Office of the Deputy Secretary .....	Special Assistant (3) .....	DE150124	8/17/2015
			DE150125	8/17/2015
			DE160038	2/10/2016
		Special Advisor for Communications.	DE160040	12/14/2015
		Special Advisor .....	DE160114	5/16/2016
	Loan Programs Office .....	Director of Strategic Initiatives .....	DE150108	8/20/2015
		Special Advisor .....	DE160030	11/13/2015
		Senior Advisor .....	DE160031	11/23/2015
	Office of Energy Policy and Systems Analysis.	Special Advisor (3) .....	DE150127	8/20/2015
			DE160068	2/10/2016
			DE160079	3/9/2016
		Special Assistant .....	DE160013	11/4/2015
	Office of Scheduling and Advance	Senior Analyst for Energy Security	DE160116	5/10/2016
		Director, Office of Scheduling and Advance.	DE150140	9/3/2015
		Director of Scheduling .....	DE160006	10/28/2015

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date	
ENVIRONMENTAL PROTECTION AGENCY.		Special Assistant and Scheduler ...	DE160014	11/4/2015	
		Senior Advance Lead .....	DE160019	11/4/2015	
		Director of Operations .....	DE160025	11/18/2015	
		Special Assistant (2) .....	DE160035	11/24/2015	
			DE160046	1/19/2016	
		Deputy Scheduler .....	DE160024	11/25/2015	
		Senior Advisor for Strategic Plan- ning.	DE160039	12/14/2015	
	Office of Public Affairs .....	Press Secretary .....	DE150141	9/29/2015	
		Deputy Press Secretary (4) .....	DE150142	10/9/2015	
			DE160059	2/10/2016	
			DE160080	4/18/2016	
			DE160113	5/5/2016	
		Press Assistant .....	DE160012	11/4/2015	
		Chief Speechwriter .....	DE160060	2/10/2016	
		Special Advisor for Digital Commu- nications.	DE160075	3/8/2016	
		Deputy Director .....	DE160132	6/17/2016	
	Office of Economic Impact and Di- versity.	Special Advisor .....	DE160002	10/14/2015	
	Office of Associate Administrator for External Affairs.	Press Secretary .....	DE160010	10/16/2015	
	Office of Assistant Secretary for International Affairs.	Chief of Staff .....	DE160004	11/4/2015	
	Office of Assistant Secretary for Fossil Energy.	Special Assistant .....	DE160135	6/29/2016	
		Special Assistant .....	DE160023	11/12/2015	
	Office of Under Secretary for Science.	Special Advisor .....	DE160029	11/13/2015	
	Office of Assistant Secretary for Electricity Delivery and Energy Reliability.	Special Advisor .....	DE160044	12/30/2015	
	Office of the Under Secretary .....	Senior Advisor for External Affairs	DE160112	5/5/2016	
	Office of Technology Transition .....	Special Assistant .....	DE160048	1/8/2016	
	Office of Science .....	Chief of Staff .....	DE160078	3/9/2016	
	Office of the Associate Adminis- trator for Congressional and Intergovernmental Relations.	Special Advisor .....	DE160086	3/30/2016	
		Special Advisor for Congressional and Intergovernmental Relations.	EP150047	7/16/2015	
		Deputy Associate Administrator for Congressional Affairs.	EP160020	2/12/2016	
	Office of Public Affairs .....	Deputy Press Secretary (2) .....	EP150048	8/11/2015	
			EP160027	3/30/2016	
			EP160019	1/20/2016	
	Office of Public Engagement and Environmental Education.	Deputy Director of Speechwriting .. Deputy Director for Public Engage- ment and Public Health Based Initiatives.	EP150052	9/14/2015	
		Deputy Associate Administrator for Public Engagement and Environ- mental Education.	EP160037	5/12/2016	
	Office of the Administrator .....	Special Advisor .....	EP150056	9/15/2015	
		Director of Scheduling and Adv- ance.	EP160005	10/9/2015	
		Deputy White House Liaison .....	EP160001	10/16/2015	
		Deputy Chief of Staff for Oper- ations.	EP160004	10/16/2015	
	Scheduling Staff .....	Deputy Director of Scheduling .....	EP160009	11/18/2015	
		Scheduler .....	EP160018	3/1/2016	
	Advance Staff .....	Deputy Director for Advance .....	EP160008	11/20/2015	
	Office of Information Analysis and Access.	Data Analyst .....	EP160023	2/12/2016	
	EXECUTIVE OFFICE OF THE PRESIDENT.	Council on Environmental Quality ..	Executive Assistant .....	OP160001	10/9/2015
			Special Assistant, Climate Pre- paredness.	OP160003	3/17/2016
EXPORT-IMPORT BANK .....	Office of Congressional Affairs .....	Deputy Director of Intergovern- mental Affairs.	EB150004	7/27/2015	
	Office of Communications .....	Director of Media Relations .....	EB150005	8/26/2015	
		Director of Speechwriter .....	EB160002	1/15/2016	
	Office of the Chairman .....	Project Manager and Executive As- sistant.	EB160001	11/6/2015	

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
FEDERAL ENERGY REGULATORY COMMISSION.	Office of the Chairman .....	Confidential Assistant .....	EB160003	5/2/2016
		Program Analyst .....	DR150019	9/3/2015
FEDERAL MARITIME COMMISSION. FEDERAL MEDIATION AND CONCILIATION SERVICE. FEDERAL TRADE COMMISSION .. GENERAL SERVICES ADMINISTRATION.	Office of General Counsel .....	Confidential Assistant .....	DR160002	5/31/2016
		Program Analyst .....	DR160001	10/6/2015
	Office of the Secretary .....	Senior Legislative and Public Affairs Specialist.	MC160001	11/17/2015
		Senior Advisor .....	FM160002	5/3/2016
	Office of Public Affairs .....	Public Affairs Specialist .....	FT150009	8/13/2015
		Special Assistant .....	GS150045	7/15/2015
	Office of Congressional and Intergovernmental Affairs.	Deputy Associate Administrator for Intergovernmental Affairs.	GS150046	7/16/2015
		Deputy Associate Administrator for Policy.	GS150052	8/21/2015
	Office of the Regional Administrators.	Policy Advisor .....	GS160002	10/21/2015
		Special Assistant (National Capital Region).	GS150047	8/4/2015
	Great Lakes Region .....	Special Assistant .....	GS150048	8/10/2015
	Mid-Atlantic Region .....	Special Assistant .....	GS150050	8/14/2015
	Office of the Administrator .....	Special Assistant (2) .....	GS150051	8/21/2015
		Deputy Chief of Staff .....	GS160022	4/25/2016
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Communications and Marketing.	Deputy Chief of Staff .....	GS160025	5/16/2016
		Deputy Press Secretary .....	GS150057	10/6/2015
	Northeast and Caribbean Region ..	Senior Advisor .....	GS160003	10/21/2015
		Press Secretary .....	GS160021	4/22/2016
	Office of the Assistant Secretary for Public Affairs.	Special Assistant .....	GS160004	12/2/2015
		Senior Advisor (2) .....	DH150163	7/8/2015
		National Press Secretary for Health Care.	DH160080	3/22/2016
		Confidential Assistant (2) .....	DH150171	7/15/2015
		Press Secretary .....	DH150173	7/23/2015
		Senior Communications Director ...	DH150178	8/25/2015
		Director of Communications, Public Health.	DH150184	8/26/2015
		Director of Speechwriting and Senior Advisor.	DH160034	12/18/2015
		Director of Specialty Media .....	DH160048	1/4/2016
		Communications Advisor .....	DH160078	3/17/2016
	Office of the Assistant Secretary for Planning and Evaluation.	Senior Advisor .....	DH160079	3/18/2016
		Confidential Assistant (5) .....	DH160150	6/13/2016
	Office of the Secretary .....	Confidential Assistant (5) .....	DH150165	7/8/2015
		Senior Advisor (2) .....	DH150170	7/10/2015
		Special Assistant (2) .....	DH150179	8/7/2015
		Policy Advisor (2) .....	DH160112	4/22/2016
		Deputy White House Liaison .....	DH160131	6/2/2016
		White House Liaison for Political Personnel, Boards and Commissions.	DH160145	6/24/2016
		Director of Advance .....	DH150175	8/7/2015
		Deputy Scheduler .....	DH160041	1/11/2016
		Special Advisor .....	DH160015	11/6/2015
		Confidential Assistant .....	DH160019	11/18/2015
		Special Assistant (4) .....	DH160039	1/6/2016
		Senior Advisor .....	DH160155	6/17/2016
		Deputy White House Liaison .....	DH160046	1/6/2016
		White House Liaison for Political Personnel, Boards and Commissions.	DH160045	1/7/2016
		Director of Advance .....	DH160117	4/19/2016
		Deputy Scheduler .....	DH160135	5/24/2016
	Administration for Children and Families.	Special Advisor .....	DH160138	5/24/2016
		Confidential Assistant .....	DH150172	7/15/2015
		Special Assistant (4) .....	DH160011	10/30/2015
		Senior Advisor .....	DH160022	11/19/2015
		Special Assistant (4) .....	DH160042	1/6/2016
		Senior Advisor .....	DH160136	5/25/2016
		Special Assistant (4) .....	DH160151	6/13/2016
		Senior Advisor .....	DH160151	6/13/2016

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF HOMELAND SECURITY.	Office of the Assistant Secretary for Health.	Chief of Staff .....	DH150174	7/27/2015
		Speechwriter .....	DH150185	8/26/2015
		Senior Policy Advisor .....	DH150192	10/1/2015
		Associate Director for Policy, Office of Minority Health.	DH160086	4/11/2016
		Confidential Assistant .....	DH160143	6/7/2016
	Office of the Assistant Secretary for Legislation.	Special Assistant (2) .....	DH150191	10/1/2015
			DH160002	10/9/2015
		Policy Advisor .....	DH160040	1/6/2016
	Office for Civil Rights .....	Special Assistant .....	DH150193	10/1/2015
		Special Assistant .....	DH160004	10/9/2015
	Centers for Medicare and Medicaid Services.			
		Senior Advisor .....	DH160016	11/9/2015
	Substance Abuse and Mental Health Services Administration.	Policy Advisor .....	DH160008	10/21/2015
	Office of the National Coordinator for Health Information Technology.	Chief of Staff .....	DH160006	10/26/2015
	Administration for Children, Youth and Families/Office of Commissioner.	Director of Communications .....	DH160056	3/3/2016
		Senior Policy Advisor .....	DH160018	11/10/2015
	Office of Intergovernmental and External Affairs.	Special Assistant .....	DH160036	12/22/2015
	Office of the Deputy Secretary .....	Chief of Staff .....	DH160043	1/6/2016
		Special Assistant .....	DH160120	5/23/2016
	Office of Health Reform .....	Policy Advisor .....	DH160118	4/19/2016
	National Institutes of Health .....	Senior Director of External Partnerships.	DH160115	4/25/2016
	Office of Refugee Resettlement/Office of the Director.	Director for Patient Engagement ..	DH160116	4/25/2016
		Policy Analyst .....	DH160140	6/21/2016
	Health Resources and Services Administration Office of the Administrator.	Chief of Staff .....	DH160147	6/13/2016
	Office of the General Counsel .....	Policy Advisor .....	DH160149	6/13/2016
	Office of the Assistant Secretary for Public Affairs.	Special Counsel .....	DM150187	7/2/2015
	Special Assistant (3) .....		DM150188	7/16/2015
			DM160244	5/5/2016
	Confidential Assistant .....		DM160261	6/8/2016
			DM150212	7/21/2015
	Assistant Press Secretary (5) .....		DM150189	7/8/2015
			DM150221	9/9/2015
	Deputy Press Secretary (2) .....		DM160134	2/18/2016
			DM160183	3/30/2016
	Confidential Assistant .....		DM160224	4/14/2016
			DM150190	7/8/2015
	Press Assistant .....		DM150222	8/4/2015
			DM150199	7/15/2015
	Press Secretary .....		DM150223	8/3/2015
			DM150225	8/11/2015
	Communications Director .....		DM150244	8/21/2015
			DM150262	9/16/2015
	Director of Strategic Communications.			
		Speechwriter .....	DM160133	2/18/2016
	Director of Strategic Engagement ..		DM160184	4/15/2016
		Special Assistant for Science and Technology.	DM150193	7/10/2015
	Office of the Under Secretary for Science and Technology.	Counselor for Export Controls .....	DM160107	3/1/2016
		Senior Counselor .....	DM150200	7/16/2015
	Office of the Secretary .....	Counselor (3) .....	DM150224	7/31/2015
			DM160036	12/10/2015
	Special Assistant .....		DM160250	5/25/2016
			DM150226	7/31/2015
	Confidential Assistant .....		DM150210	7/21/2015
		Special Assistant (2) .....	DM150229	8/4/2015
	Deputy White House Liaison (2) ....		DM150251	9/3/2015
			DM160001	10/2/2015
			DM160145	3/10/2016

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Travel Operations Coordinator .....	DM160028	11/12/2015
		Advance Officer .....	DM160033	11/16/2015
		Senior Advance Officer .....	DM160223	4/14/2016
		Counselor .....	DM160235	4/22/2016
		Director of Trips of Advance .....	DM160238	5/3/2016
		Deputy Director for Trips and Advance.	DM160242	5/5/2016
	United States Citizenship and Immigration Services.	Counselor .....	DM150214	7/21/2015
		Special Assistant .....	DM160197	4/13/2016
		Advisor .....	DM160255	5/24/2016
	Office of the Under Secretary for National Protection and Programs Directorate.	Assistant Director of Legislative Affairs.	DM150219	7/31/2015
		Special Assistant .....	DM160004	10/9/2015
		Advisor for Counterterrorism and Intelligence.	DM160062	12/8/2015
		Special Advisor .....	DM160071	12/10/2015
		External Engagement Coordinator	DM160140	3/4/2016
		Confidential Assistant .....	DM160243	5/5/2016
		Senior Advisor .....	DM160252	6/16/2016
	Federal Emergency Management Agency.	Special Assistant (2) .....	DM150263	9/28/2015
			DM150257	10/13/2015
		Counselor .....	DM160105	1/20/2016
		Press Secretary .....	DM160270	6/27/2016
	Office of the Executive Secretariat	Special Projects Coordinator .....	DM150265	10/1/2015
		Deputy Secretary's Briefing Book Coordinator.	DM160101	1/19/2016
		Deputy Secretary's Briefing Book Coordinator.	DM160169	3/24/2016
		Secretary's Briefing Book Coordinator.	DM160104	1/19/2016
		Congressional Correspondence Analyst.	DM160109	1/21/2016
		Special Assistant (2) .....	DM160108	1/28/2016
			DM160170	3/24/2016
		Senior Advisor .....	DM160148	3/4/2016
	Office of the Assistant Secretary for Policy.	Special Assistant (4) .....	DM160016	11/4/2015
			DM160018	11/4/2015
			DM160019	11/4/2015
			DM160248	5/25/2016
		Deputy Director for Asia-Pacific .....	DM160030	11/16/2015
		Special Assistant Information Sharing Policy.	DM160149	3/7/2016
		Policy Advisor .....	DM160222	4/14/2016
	United States Immigration and Customs Enforcement.	Deputy Chief of Staff .....	DM160029	11/20/2015
		Special Assistant (2) .....	DM160181	3/30/2016
			DM160191	4/1/2016
	Office of Assistant Secretary for Legislative Affairs.	Legislative Affairs Specialist .....	DM160035	12/3/2015
		Director of Legislative Affairs .....	DM160110	1/20/2016
		Intergovernmental Affairs Coordinator.	DM160124	2/5/2016
		Legislative Director .....	DM160164	3/17/2016
		Associate Director (2) .....	DM160165	3/17/2016
			DM160182	3/30/2016
		Director of Legislative and Congressional Affairs.	DM160176	4/8/2016
	Office of the Assistant Secretary for Intergovernmental Affairs.	Intergovernmental Affairs Coordinator (2).	DM160076	12/15/2015
		Chief of Staff .....	DM160171	3/29/2016
		Senior Advisor .....	DM160190	4/1/2016
			DM160227	4/19/2016
	Ombudsman, Citizenship and Immigration Services.	Special Advisor for Public Engagement.	DM160106	1/28/2016
		Special Assistant .....	DM160172	3/23/2016
	United States Customs and Border Protection.	Senior Advisor for Strategic Communication.	DM160136	3/7/2016
		Special Assistant .....	DM160254	5/24/2016
	Transportation Security Administration.	Senior Advisor .....	DM160228	4/26/2016

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office for Civil Rights and Civil Liberties.	Advisor .....	DM160257	6/16/2016
	Office of Fair Housing and Equal Opportunity.	Special Policy Advisor (2) .....	DU150066	7/10/2015
	Office of the Deputy Secretary .....	Special Assistant (3) .....	DU160021	3/29/2016
			DU150067	7/24/2015
	Office of Public Affairs .....	Deputy Assistant Secretary for Public Affairs. Special Advisor for Public Engagement. Director of Strategic Communications. Press Secretary .....	DU160031	5/6/2016
			DU160036	5/23/2016
			DU150072	8/12/2015
			DU150071	8/20/2015
			DU150073	8/28/2015
			DU160019	3/30/2016
			DU160026	4/14/2016
	Office of the Secretary .....	Senior Policy Advisor (2) .....	DU150077	8/27/2015
			DU160032	5/23/2016
			DU160002	10/27/2015
	Office of Public and Indian Housing	Special Assistant and Briefing Book Coordinator.	DU160023	4/29/2016
		Special Advisor .....	DU150074	9/3/2015
		Senior Policy Advisor .....	DU160011	2/23/2016
	Office of Field Policy and Management.	Special Advisor (2) .....	DU160012	2/27/2016
			DU150078	9/28/2015
	Office of Congressional and Intergovernmental Relations.	Senior Advisor .....	DU150079	10/9/2015
DEPARTMENT OF THE INTERIOR	Office of the Administration .....	Advisor .....	DU160009	2/2/2016
		Congressional Relations Specialist	DU160014	3/11/2016
		Director of Scheduling .....	DU160003	12/2/2015
	Office of Housing .....	Advance Coordinator .....	DU160005	1/11/2016
		Special Assistant .....	DU160007	1/21/2016
		Advisor for Single Family Asset Management.	DU160033	5/10/2016
	Office of Policy Development and Research.	Special Advisor .....	DU160022	4/19/2016
	Secretary's Immediate Office .....	Senior Advisor for Alaskan Affairs	DI150098	7/1/2015
		Director of Digital Strategy (2) .....	DI150105	7/27/2015
		Writer .....	DI150113	7/27/2015
			DI150104	7/30/2015
			DI150130	10/9/2015
		Special Assistant (3) .....	DI160018	12/18/2015
			DI160027	2/2/2016
		Deputy Director, Intergovernmental Affairs.	DI160002	10/19/2015
		Deputy Director .....	DI160003	11/4/2015
		Deputy Director—Advance .....	DI160016	11/24/2015
		Advisor for Strategic Partnerships and Diversity Engagement.	DI160020	12/18/2015
		Advisor .....	DI160026	1/21/2016
		Deputy Press Secretary .....	DI160031	2/11/2016
		Advisor .....	DI150122	9/29/2015
	Office of Assistant Secretary—Insular Areas.	Senior Advisor—Indian Affairs (2) ..	DI150120	10/9/2015
	Office of Assistant Secretary—Indian Affairs.		DI160032	2/23/2016
	Office of Congressional and Legislative Affairs.	Advisor .....	DI160013	12/14/2015
		Special Assistant, Office of Congressional and Legislative Affairs.	DI150121	10/9/2015
		Counsel .....	DI160052	4/6/2016
	United States Fish and Wildlife Service.	Deputy Director, Office of Congressional and Legislative Affairs.	DI160057	4/15/2016
		Special Assistant .....	DI150047	10/16/2015
	Office of Special Trustee for American Indians.	Advisor .....	DI150125	10/28/2015
	Bureau of Ocean Energy Management.	Special Assistant .....	DI160004	10/28/2015
	Office of Assistant Secretary—Fish and Wildlife and Parks.	Senior Advisor .....	DI160075	6/24/2016
		Chief of Staff .....	DI160010	11/2/2015

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF JUSTICE .....	Bureau of Safety and Environmental Enforcement.	Advisor .....	DI160028	1/16/2016
		Advisor .....	DI160009	11/16/2015
	Office of the Deputy Secretary .....	Advisor .....	DI160014	11/24/2015
		National Park Service .....	Centennial Program Manager .....	12/22/2015
	Office of Assistant Secretary—Land and Minerals Management.	Advisor .....	DI160024	12/22/2015
		Counselor .....	DI160067	5/16/2016
	Bureau of Land Management .....	Senior Advisor .....	DI160070	6/1/2016
		Special Assistant .....	DI160073	6/9/2016
	Bureau of Reclamation .....	Special Assistant .....	DJ150071	7/1/2015
		Confidential Assistant (2) .....	DJ160007	10/13/2015
	Office on Violence Against Women	Advisor .....	DJ160091	5/6/2016
		Senior Advisor .....	DJ160043	1/19/2016
	Executive Office for United States Attorneys.	Senior Advisor .....	DJ160053	2/17/2016
		Senior Counsel .....	DJ150097	7/1/2015
	Office of Legal Policy .....	Counsel .....	DJ160063	3/8/2016
		Counsel .....	DJ150101	8/5/2015
	Office of the Deputy Attorney General.	Senior Policy Advisor .....	DJ160109	5/20/2016
		Senior Counsel .....	DJ150100	8/14/2015
	Special Assistant (2) .....	Special Assistant (2) .....	DJ150126	8/27/2015
		Chief of Staff (2) .....	DJ160094	4/29/2016
	Antitrust Division .....	Chief of Staff (2) .....	DJ150112	8/14/2015
		Deputy Speechwriter .....	DJ160115	6/7/2016
	Office of Public Affairs .....	Press Secretary and Senior Advisor (2).	DJ150122	8/31/2015
		Media Affairs Coordinator .....	DJ160003	10/15/2015
	Office of the Attorney General .....	Chief Speechwriter .....	DJ160111	5/27/2016
		Deputy Director .....	DJ160011	11/16/2015
	Director of Advance .....	Deputy Press Secretary .....	DJ160054	2/18/2016
		Special Assistant (2) .....	DJ160103	5/23/2016
	Civil Rights Division .....	Director of Advance .....	DJ160113	6/7/2016
		Special Assistant (2) .....	DJ150129	9/18/2015
	Community Relations Service .....	White House Liaison .....	DJ160019	11/13/2015
		Director of Scheduling .....	DJ160049	1/29/2016
	Office of Justice Programs .....	Special Assistant (2) .....	DJ160026	12/4/2015
		Senior Counsel (2) .....	DJ160041	1/14/2016
	Office of the Associate Attorney General.	Senior Counsel .....	DJ150136	9/28/2015
		Senior Advisor .....	DJ160110	5/24/2016
	Office of Legislative Affairs .....	Senior Policy Advisor (3) .....	DJ160005	10/8/2015
		Director, Center for Faith-Based and Neighborhood Partnerships.	DJ160112	6/3/2016
	Office of the Secretary .....	Deputy Chief of Staff and Senior Counsel.	DJ160018	11/5/2015
		Attorney Advisor .....	DJ160022	11/17/2015
DEPARTMENT OF LABOR .....	Office of the Secretary .....	Confidential Assistant .....	DJ160033	12/23/2015
		Special Assistant (3) .....	DJ160044	1/21/2016
	Advisor for Private Sector Engagement (2).	White House Liaison and Counselor.	DJ160070	4/1/2016
		Advisor .....	DJ160056	2/25/2016
	Advisor for Worker Voice Engagement.	Senior Policy Advisor .....	DJ160032	1/6/2016
		Deputy Chief of Staff .....	DJ160052	2/10/2016
	Policy Advisor .....	Deputy Director of Scheduling and Advance.	DJ160066	3/10/2016
		Chief of Staff .....	DL150073	7/13/2015
	Office of the Deputy Secretary .....	Special Assistant .....	DL150080	8/13/2015
		Advisor .....	DL160092	5/16/2016
	Advisor .....	Advisor .....	DL150078	8/4/2015
		Advisor .....	DL150086	9/11/2015
	Advisor .....	Advisor .....	DL160010	11/5/2015
		Advisor .....	DL160018	1/5/2016
	Advisor .....	Advisor .....	DL160046	3/1/2016
		Advisor .....	DL160061	4/1/2016
	Advisor .....	Advisor .....	DL160066	4/13/2016
		Advisor .....	DL160070	4/18/2016
	Advisor .....	Advisor .....	DL160062	4/25/2016
		Advisor .....	DL160081	4/25/2016
	Advisor .....	Advisor .....	DL150074	7/13/2015
		Advisor .....	DL160027	1/13/2016



## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of Public Affairs .....	Counselor .....	DL160050	3/8/2016
		Special Assistant (3) .....	DL150079	8/27/2015
			DL160001	10/16/2015
			DL160002	10/21/2015
	Employment and Training Administration.	Digital Content Manager .....	DL160013	11/16/2015
		Director of Digital Strategy .....	DL160030	1/20/2016
		Digital Engagement Director .....	DL160053	3/18/2016
		Senior Policy Advisor (2) .....	DL150084	8/27/2015
	Office of Federal Contract Compliance Programs.		DL160017	11/30/2015
		Policy Advisor .....	DL160089	5/13/2016
	Bureau of International Labor Affairs.	Special Assistant .....	DL150085	9/2/2015
	Veterans Employment and Training Service.	Special Assistant .....	DL150089	9/17/2015
	Office of Congressional and Intergovernmental Affairs.	Special Advisor .....	DL150094	10/8/2015
		Chief of Staff (2) .....	DL160020	12/16/2015
			DL160090	5/13/2016
		Senior Counselor .....	DL160019	12/18/2015
		Associate Counselor .....	DL160036	3/10/2016
		Senior Legislative Officer and Counselor.	DL160035	3/17/2016
		Legislative Officer (2) .....	DL160054	3/18/2016
			DL160101	6/29/2016
		Senior Legislative Officer (3) .....	DL160064	4/8/2016
			DL160065	4/8/2016
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of the Assistant Secretary for Policy.		DL160095	6/3/2016
		Associate Assistant Secretary .....	DL160024	12/28/2015
	Mine Safety and Health Administration.	Senior Policy Advisor .....	DL160029	1/20/2016
		Policy Advisor .....	DL160096	6/6/2016
		Chief of Staff .....	DL160033	1/29/2016
	Office of Disability Employment Policy.	Senior Advisor .....	DL160082	4/25/2016
		Senior Advisor .....	DL160032	2/5/2016
	Occupational Safety and Health Administration.	Senior Advisor .....	DL160034	2/11/2016
	Women's Bureau .....	Chief of Staff .....	DL160047	3/10/2016
	Employee Benefits Security Administration.	Chief of Staff .....	DL160080	4/25/2016
	Office of Workers Compensation Programs.	Chief of Staff .....	DL160086	5/13/2016
	Office of Legislative and Intergovernmental Affairs.	Legislative Affairs Specialist (2) .....	NN150068	8/3/2015
			NN160006	12/10/2015
	Office of the Administrator .....	White House Liaison .....	NN150073	8/25/2015
	Office of Communications .....	Senior Advisor/Press Secretary .....	NN160008	11/12/2015
		Media Relations Specialist .....	NN160069	4/28/2016
NATIONAL ENDOWMENT FOR THE ARTS.	Office of the Chairman .....	Special Assistant for Congressional Affairs/Council Operations.	NA150006	8/17/2015
		Press Secretary .....	NA160002	10/26/2015
		Public Affairs Specialist(Social Media).	NA160003	10/28/2015
		Confidential Assistant .....	NA160004	11/9/2015
		White House Liaison/Senior Advisor.	NA160006	6/22/2016
		Digital Communications Strategist	NH160004	3/29/2016
NATIONAL ENDOWMENT FOR THE HUMANITIES.	Office of the Chairman .....			
	Office of Board Members .....	Confidential Assistant (3) .....	TB150006	7/27/2015
			TB150008	9/25/2015
NATIONAL TRANSPORTATION SAFETY BOARD.	Office of the Managing Director .....		TB160003	4/13/2016
		Confidential Assistant .....	TB150007	8/12/2015
	Office of E-Government and Information Technology.	Program Analyst .....	BO150034	7/30/2015
	Health Division .....	Confidential Assistant .....	BO160042	6/20/2016
		Confidential Assistant (2) .....	BO150037	8/20/2015
	Office of Communications .....		BO160001	11/4/2015
		Deputy Associate Director for Communications.	BO150038	9/4/2015
		Press Assistant .....	BO150040	9/15/2015
		Assistant Press Secretary .....	BO160038	6/2/2016
OFFICE OF MANAGEMENT AND BUDGET.				

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of the Director .....	Senior Advisor .....	BO150042	9/25/2015
		Confidential Assistant (6) .....	BO160008	12/9/2015
			BO160009	12/9/2015
			BO160015	1/12/2016
			BO160022	3/3/2016
			BO160040	6/10/2016
			BO160041	6/10/2016
			BO150041	10/1/2015
	Office of Federal Procurement Policy.	Confidential Assistant .....		
	Staff Offices .....	Press Secretary .....	BO160005	11/19/2015
	Office of General Government Programs.	Confidential Assistant .....	BO160013	1/7/2016
	Office of Legislative Affairs .....	Deputy for Legislative Affairs .....	BO160025	3/14/2016
	Office of National Security Programs.	Confidential Assistant .....	BO160027	3/17/2016
	Office of the General Counsel .....	Confidential Assistant .....	BO160029	3/29/2016
	Office of the Director .....	Confidential Assistant .....	BO160030	3/29/2016
	Office of Natural Resource Programs.	Confidential Assistant .....	BO160031	3/29/2016
	Office of Education, Income Maintenance and Labor.	Confidential Assistant .....	BO160035	4/14/2016
	Office of Information and Regulatory Affairs.	Counselor .....	BO160037	5/5/2016
		Confidential Assistant .....	BO160036	5/10/2016
OFFICE OF PERSONNEL MANAGEMENT.	Office of State, Local and Tribal Affairs.	Policy Specialist (2) .....	QQ150005	9/2/2015
			QQ150004	9/4/2015
	Office of Intergovernmental Public Liaison.	Digital Engagement Specialist .....	QQ160001	3/11/2016
	Office of Legislative Affairs .....	Legislative Analyst .....	QQ160002	4/19/2016
	Office of the Director .....	Senior Advisor for Innovation .....	PM120007	8/31/2015
	Office of the Director .....	Executive Assistant (3) .....	PM160010	12/18/2015
			PM160021	4/15/2016
			PM160025	4/18/2016
		Special Assistant .....	PM160011	12/18/2015
		Deputy Chief of Staff .....	PM160013	12/22/2015
OFFICE OF SCIENCE AND TECHNOLOGY POLICY. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.		Senior Advisor .....	PM160014	1/7/2016
		Project Manager .....	PM160027	5/25/2016
	Office of Communications .....	Senior Advisor .....	PM150027	10/14/2015
		Public Affairs Specialist .....	PM160009	12/9/2015
		Deputy Director of Communication	PM160019	3/11/2016
	Office of Congressional, Legislative, and Intergovernmental Affairs.	Senior Congressional Relations Officer.	PM160005	11/4/2015
		Senior Advisor .....	PM160018	3/8/2016
	Office of the Chief Information Officer.	Special Assistant .....	PM160004	12/9/2015
	Office of Healthcare and Insurance Employee Services .....	Program Analyst .....	PM160015	2/17/2016
		Senior Advisor for Workforce Planning and Talent Development.	PM160017	3/8/2016
	Office of Science and Technology Policy.	Confidential Assistant .....	TS160005	5/12/2016
	Office of Intergovernmental Affairs and Public Liaison.	Director for Intergovernmental Affairs.	TN150012	7/10/2015
		Director for Private Sector Engagement.	TN160004	2/5/2016
OVERSEAS PRIVATE INVESTMENT CORPORATION. PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS.	Office of the United States Trade Representative.	Special Assistant .....	TN150013	7/10/2015
	Office of the Ambassador .....	Director of Scheduling and Advance.	TN150014	7/23/2015
	Office of Board of Directors .....	Senior Advisor .....	PQ160007	3/1/2016
	Office of the Director .....	Deputy Director, President's Commission on White House Fellowships.	WH150002	8/31/2015
SECURITIES AND EXCHANGE COMMISSION. SELECTIVE SERVICE SYSTEM .... SMALL BUSINESS ADMINISTRATION.		Associate Director .....	WH160001	10/19/2015
	Office of the Chairman .....	Executive Correspondence Coordinator.	SE150005	9/10/2015
	Office of the Director .....	Chief of Staff .....	SS160001	12/16/2015
	Office of the Administrator .....	Idea Lab Director .....	SB150043	7/9/2015

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
SOCIAL SECURITY ADMINISTRATION. DEPARTMENT OF STATE .....	Office of Communications and Public Liaison.	Senior Advisor (4) .....	SB150042	7/10/2015
			SB150055	9/4/2015
			SB160018	3/8/2016
			SB160025	4/28/2016
		Special Advisor .....	SB150045	7/30/2015
		Director of Advance and Operations.	SB160017	2/24/2016
		Special Assistant (2) .....	SB160016	3/4/2016
			SB160019	4/4/2016
		Deputy Press Secretary .....	SB150046	7/30/2015
		Senior Advisor for Public Engagement.	SB160001	10/15/2015
		Senior Advisor for Strategic Communications.	SB160011	2/5/2016
		Deputy Associate Administrator for Communications and Public Liaison.	SB160013	2/5/2016
		Speech Writer .....	SB160020	3/21/2016
		Assistant Administrator for Public Engagement.	SB160028	5/13/2016
	Office of the Ombudsman .....	Senior Advisor .....	SB150048	8/3/2015
	Office of Capital Access .....	Special Advisor .....	SB150051	8/5/2015
		Senior Advisor .....	SB150053	9/3/2015
	Office of Native American Affairs ...	Assistant Administrator for Native American Affairs (2).	SB150054	9/3/2015
			SB160022	4/6/2016
	Office of Government Contracting and Business Development.	Senior Advisor .....	SB150057	9/17/2015
		Special Advisor .....	SB160029	5/13/2016
	Office of Investment and Innovation.	Special Advisor .....	SB150059	9/29/2015
	Office of Congressional and Legislative Affairs.	Legislative Policy Advisor .....	SB160002	10/6/2015
	Office of Field Operations .....	Regional Administrator, Region VIII, Denver, Colorado.	SB160008	1/13/2016
	Office of the Commissioner .....	Senior Advisor .....	SB160021	4/1/2016
		Senior Advisor .....	SZ160006	1/5/2016
	Office of the United States Global Aids Coordinator.	Senior Advisor (2) .....	DS150087	7/1/2015
			DS150121	9/29/2015
	Bureau of Public Affairs .....	Director of Public Affairs and Communications.	DS160022	12/31/2015
		Staff Assistant (2) .....	DS150104	7/2/2015
			DS160044	2/19/2016
		Supervisory Public Affairs Specialist.	DS150107	7/21/2015
		Public Affairs Specialist .....	DS160088	4/28/2016
	Office of the Under Secretary for Management.	Deputy Assistant Secretary .....	DS160101	5/23/2016
		White House Liaison .....	DS150103	7/8/2015
		Staff Assistant .....	DS160008	11/20/2015
	Office to Monitor and Combat Trafficking In Persons.	Public Affairs Specialist .....	DS150067	7/10/2015
		Staff Assistant .....	DS160106	6/8/2016
	Bureau of Legislative Affairs .....	Legislative Management Officer (2)	DS150097	7/10/2015
			DS150125	9/25/2015
		Deputy Assistant Secretary .....	DS150113	9/2/2015
		Principal Deputy Assistant Secretary.	DS160060	3/18/2016
		Special Assistant .....	DS150105	7/14/2015
	Office of the Deputy Secretary ..... Office of the Secretary .....	Staff Assistant (2) .....	DS150106	7/14/2015
			DS160013	12/1/2015
		Special Assistant (2) .....	DS150091	9/29/2015
			DS160062	4/6/2016
		Program Analyst .....	DS160045	2/5/2016
	Bureau of East Asian and Pacific Affairs.	Senior Advisor .....	DS150108	2/29/2016
		Special Assistant .....	DS150094	7/15/2015
	Bureau of International Narcotics and Law Enforcement Affairs.	Senior Advisor .....	DS150092	7/17/2015
	Foreign Policy Planning Staff .....	Writer-Editor (Speechwriter) .....	DS150110	7/27/2015

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Chief of Protocol .....	Protocol Officer (Visits) .....	DS150111	7/29/2015
	Bureau of European and Eurasian Affairs.	Deputy Assistant Secretary .....	DS150086	7/30/2015
	Office of the Under Secretary for Economic Growth, Energy, and the Environment.	Special Envoy and Coordinator for International Energy Affairs.	DS150116	8/14/2015
	Bureau of Arms Control, Verification, and Compliance.	Public Affairs Specialist .....	DS150117	8/21/2015
	Bureau of South and Central Asian Affairs.	Deputy Assistant Secretary .....	DS150119	8/25/2015
	Office of the Global Women's Issues.	Staff Assistant (3) .....	DS150114	8/26/2015
			DS160048	2/19/2016
			DS160084	4/18/2016
		Special Assistant .....	DS160098	5/19/2016
	Bureau of Western Hemisphere Affairs.	Deputy Assistant Secretary .....	DS150120	8/26/2015
	Office of International Information Programs.	Information Technology Specialist	DS150112	9/10/2015
	Bureau for Education and Cultural Affairs.	Special Assistant .....	DS150123	9/25/2015
	Bureau of Democracy, Human Rights and Labor.	Senior Advisor .....	DS150124	9/25/2015
	Bureau for Education and Cultural Affairs.	Supervisory Public Affairs Specialist.	DS150129	9/25/2015
	Bureau of Economic and Business Affairs.	Senior Advisor .....	DS150130	9/25/2015
	Bureau of Democracy, Human Rights and Labor.	Foreign Affairs Officer .....	DS160002	10/8/2015
		Special Assistant .....	DS160003	10/13/2015
	Office of the Under Secretary for Arms Control and International Security Affairs.	Senior Advisor (2) .....	DS150101	10/9/2015
			DS150102	10/9/2015
	Foreign Policy Planning Staff .....	Staff Assistant .....	DS160103	5/26/2016
		Special Assistant (Speechwriter) ...	DS150132	10/15/2015
		Staff Assistant (2) .....	DS160019	12/15/2015
			DS160085	4/18/2016
		Foreign Affairs Officer (2) .....	DS160020	12/16/2015
			DS160024	1/13/2016
		Senior Advisor (4) .....	DS160064	3/30/2016
			DS160081	4/14/2016
			DS160112	6/15/2016
			DS160115	6/22/2016
	Office of the Under Secretary for Public Diplomacy and Public Affairs.	Writer-Editor (Speechwriter) .....	DS150131	10/16/2015
		Staff Assistant .....	DS160061	3/18/2016
	Bureau of Western Hemisphere Affairs.	Foreign Affairs Officer .....	DS160005	10/23/2015
	Bureau of Political and Military Affairs.	Writer-Editor (Speechwriter) .....	DS150134	10/30/2015
	Office of the Lead Coordinator for Iran Nuclear Implementation.	Staff Assistant .....	DS160007	10/30/2015
		Foreign Affairs Officer .....	DS160009	11/17/2015
		Deputy Lead Coordinator .....	DS160010	11/17/2015
	Office of the Chief of Protocol .....	Protocol Officer (Visits) .....	DS160011	11/13/2015
		Protocol Officer (Ceremonials) .....	DS160021	1/19/2016
		Public Affairs Specialist .....	DS160087	4/25/2016
		Protocol Officer .....	DS160090	5/5/2016
	Bureau of African Affairs .....	Senior Advisor .....	DS160014	12/1/2015
	Bureau of Energy Resources .....	Deputy Assistant Secretary .....	DS160016	12/4/2015
	Bureau of Arms Control, Verification, and Compliance.	Public Affairs Specialist .....	DS160023	1/6/2016
	Bureau for Education and Cultural Affairs.	Deputy Assistant Secretary .....	DS160015	1/7/2016
	Office of the Deputy Secretary for Management and Resources.	Senior Advisor .....	DS160056	3/3/2016
	Bureau of East Asian and Pacific Affairs.	Deputy Assistant Secretary for Multilateral Affairs and Strategy.	DS160054	3/4/2016
	Bureau of Economic and Business Affairs.	Senior Advisor (Speechwriter) .....	DS160057	3/4/2016

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date		
TRADE AND DEVELOPMENT AGENCY.	Office of International Information Programs. Office of the Under Secretary for Public Diplomacy and Public Affairs. Office of the Coordinator for Counterterrorism. Office of the Special Representative for Global Partnership Initiative. Bureau of Oceans and International Environmental and Scientific Affairs. Office of the Counselor ..... Bureau of International Security and Nonproliferation. Bureau of Legislative Affairs ..... Office of the Director .....	Special Representative for Commercial and Business Affairs.	DS160104	5/27/2016		
		Special Assistant .....	DS160117	6/30/2016		
		Staff Assistant .....	DS160058	3/14/2016		
		Senior Advisor .....	DS160082	4/21/2016		
		Deputy Coordinator .....	DS160093	5/9/2016		
		Senior Advisor .....	DS160100	5/23/2016		
		Staff Assistant .....	DS160096	5/26/2016		
		Special Assistant .....	DS160107	6/3/2016		
		Staff Assistant .....	DS160108	6/3/2016		
		Deputy Assistant Secretary .....	DS160109	6/3/2016		
		Director of Public Engagement .....	TD160001	10/27/2015		
		DEPARTMENT OF TRANSPORTATION.	Office of Public Affairs .....  Office of the Chief Information Officer. Office of the Assistant Secretary for Governmental Affairs.  Office of the Secretary .....  Office of Assistant Secretary for Transportation Policy.  Immediate Office of the Administrator.  Office of the General Counsel .....  Office of Civil Rights ..... Office of the Assistant Secretary for Aviation and International Affairs. Office of the Assistant Secretary for Administration. Office of the Assistant Secretary (Public Affairs).	Senior Advisor .....	TD160002	5/5/2016
				Chief of Staff .....	TD160003	5/24/2016
				Press Secretary (2) .....	DT150076	8/3/2015
				Chief Speechwriter .....	DT160062	4/28/2016
Deputy Press Secretary .....	DT160038			3/4/2016		
Deputy Press Secretary .....	DT160045			3/11/2016		
Deputy Director for Public Affairs ...	DT160049			4/12/2016		
Special Advisor .....	DT150077			8/17/2015		
Deputy Assistant Secretary for Governmental Affairs.	DT150078			8/17/2015		
Director of Governmental Affairs, Budget and Programs.	DT160018			12/21/2015		
Director of Governmental Affairs ....	DT160041			3/11/2016		
Associate Director for Governmental Affairs.	DT160042			4/1/2016		
Deputy White House Liaison .....	DT150081			8/24/2015		
Special Assistant (Scheduling and Advance) (2).	DT150083			9/15/2015		
Director of Scheduling .....	DT150084			9/15/2015		
White House Liaison .....	DT160008	11/10/2015				
White House Liaison .....	DT160068	6/10/2016				
Policy Advisor and Director of Strategic Initiatives.	DT160004	11/4/2015				
Deputy Assistant Secretary for Transportation Policy.	DT160014	12/11/2015				
Senior Policy Advisor .....	DT160060	4/15/2016				
Associate Administrator for External Affairs and Senior Advisor.	DT160006	11/4/2015				
Advisor for Governmental Affairs ...	DT160012	11/25/2015				
Director of Communications .....	DT160043	3/18/2016				
Special Advisor .....	DT160046	4/1/2016				
Associate Administrator for Communications and Legislative Affairs.	DT160065	6/10/2016				
Special Assistant .....	DT160007	11/4/2015				
Associate General Counsel .....	DT160017	12/17/2015				
Special Counsel .....	DT160044	3/11/2016				
Special Assistant .....	DT160025	1/28/2016				
Policy Advisor .....	DT160050	4/15/2016				
Deputy Assistant Secretary for Management and Administration.	DT160067	6/10/2016				
DEPARTMENT OF THE TREASURY.	Office of the Assistant Secretary (Public Affairs).	Press Assistant .....	DY150106	7/8/2015		
		Media Affairs Specialist .....	DY150107	7/8/2015		

## SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
UNITED STATES INTERNATIONAL TRADE COMMISSION.	Office of the Secretary of the Treasury.	Spokesperson (5) .....	DY150109	7/8/2015
			DY150115	7/9/2015
			DY150114	7/14/2015
			DY160061	3/1/2016
			DY160063	3/25/2016
		Confidential Assistant .....	DY150134	8/27/2015
		Senior Advisor (3) .....	DY150137	9/3/2015
			DY160017	12/10/2015
			DY160078	4/25/2016
		Senior Speechwriter (2) .....	DY160012	11/13/2015
			DY160065	3/24/2016
		Special Assistant .....	DY160014	11/17/2015
		Senior Advisor (5) .....	DY150112	7/8/2015
			DY160004	10/9/2015
			DY160060	3/1/2016
			DY160062	3/1/2016
			DY160097	6/20/2016
		Deputy Executive Secretary (2) .....	DY150133	8/20/2015
			DY150144	9/16/2015
		Special Advisor .....	DY150147	9/30/2015
	Office of the Assistant Secretary (Legislative Affairs).	Special Assistant (3) .....	DY160002	10/2/2015
			DY160024	1/19/2016
			DY160096	6/17/2016
		Associate Director (3) .....	DY160003	10/9/2015
			DY160079	4/21/2016
			DY160081	4/21/2016
		Deputy White House Liaison (2) ....	DY160041	2/5/2016
			DY160082	4/22/2016
		Senior Advisor for Housing .....	DY150116	7/14/2015
		Special Advisor (3) .....	DY150120	7/17/2015
			DY150121	7/17/2015
			DY150136	9/2/2015
	Office of the Assistant Secretary for International Finance.	Special Assistant (3) .....	DY160022	1/11/2016
			DY160080	4/21/2016
			DY160099	6/30/2016
			DY150119	7/17/2015
	Office of the Under Secretary for Domestic Finance.	Policy Advisor .....	DY160016	12/10/2015
		Special Advisor .....	DY160019	12/18/2015
	Office of the Assistant Secretary for Management.	Outreach Manager .....	DY160040	2/10/2016
		Special Assistant (2) .....	DY160018	12/10/2015
	United States Mint .....		DY160030	1/21/2016
		Confidential Assistant .....	DY160034	2/2/2016
	Office of the Under Secretary for International Affairs.	Senior Advisor .....	DY160036	2/2/2016
		Senior Advisor .....	DY160085	4/26/2016
DEPARTMENT OF VETERANS AFFAIRS.	Office of Commissioner Broadbent	Confidential Assistant .....	TC150005	8/25/2015
	Office of the Vice Chairman .....	Staff Assistant (Economics) .....	TC150006	8/25/2015
		Confidential Assistant .....	TC160003	1/14/2016
		Confidential Assistant .....	TC160004	5/3/2016
	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Press Secretary .....	DV150046	7/1/2015
	Office of the Assistant Secretary for Policy and Planning.	Director Insight and Design .....	DV150056	9/4/2015
	Office of the Secretary and Deputy	Director Special Programs .....	DV150057	9/4/2015
		Special Assistant .....	DV150062	10/1/2015
		Senior Advisor for Management Initiatives and White House Liaison.	DV160015	12/22/2015
	Office of the Assistant Secretary for Government Relations.	Director, Outreach (2) .....	DV150065	10/1/2015
			DV160007	11/13/2015
	Office of Intergovernmental Affairs	Special Assistant .....	DV160039	4/22/2016
		Special Assistant .....	DV160025	3/10/2016
		Special Advisor .....	DV160033	4/6/2016

**Authority:** 5 U.S.C. 3301 and 3302; E.O.10577, 3 CFR, 1954–1958 Comp., p.218.

Office of Personnel Management.

**Jeff T.H. Pon,**

*Director.*

[FR Doc. 2018–09303 Filed 5–1–18; 8:45 am]

**BILLING CODE 6325–39–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** This provides the consolidated notice of all agency specific excepted authorities, approved by the Office of Personnel Management (OPM), under Schedule A, B, and C, as of June 30, 2017, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

**FOR FURTHER INFORMATION CONTACT:** Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

**SUPPLEMENTARY INFORMATION:** Civil Service Rule VI (5 CFR 6.1) requires the Office of Personnel Management (OPM) to publish notice of exceptions granted under Schedule A, B, and C. Under 5 CFR 213.103(a) it is required that all Schedule A, B, and C appointing authorities available for use by all agencies to be published as regulations in the **Federal Register** (FR) and the Code of Federal Regulations (CFR). Excepted appointing authorities established solely for use by one specific agency do not meet the standard of general applicability prescribed by the **Federal Register** Act for regulations published in either the FR or the CFR. Therefore, 5 CFR 213.103(b) requires monthly publication, in the Notices section of the **Federal Register**, of any Schedule A, B, and C appointing authorities applicable to a single agency. Under 5 CFR 213.103(c) it is required that a consolidated listing of all Schedule A, B, and C authorities, current as of June 30 of each year, be published annually in the Notices section of the **Federal Register** at [www.federalregister.gov/agencies/personnel-management-office](http://www.federalregister.gov/agencies/personnel-management-office). That notice follows. Governmentwide authorities codified in the CFR are not printed in this notice.

When making appointments under an agency-specific authority, agencies should first list the appropriate

Schedule A, B, or C, followed by the applicable number, for example: Schedule A, 213.3104(x)(x). Agencies are reminded that all excepted authorities are subject to the provisions of 5 CFR part 302 unless specifically exempted by OPM at the time of approval.

OPM maintains continuing information on the status of all Schedule A, B, and C appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by writing to the Senior Executive Resources Services, Office of Personnel Management, 1900 E Street NW, Room 7412, Washington, DC 20415, or by calling (202) 606–2246.

The following exceptions are current as of June 30, 2017

#### Schedule A

##### 03. Executive Office of the President (Sch. A, 213.3103)

###### (a) Office of Administration—

(1) Not to exceed 75 positions to provide administrative services and support to the White House Office.

###### (b) Office of Management and Budget—

(1) Not to exceed 20 positions at grades GS–5/15.

(2) Not to Exceed 34 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–14 to 15 level. No new appointments may be made under this authority after September 30, 2017.

###### (c) Council on Environmental Quality—

(1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

###### (d)–(f) (Reserved)

###### (g) National Security Council—

(1) All positions on the staff of the Council.

###### (h) Office of Science and Technology Policy—

(1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

###### (i) Office of National Drug Control Policy—

(1) Not to exceed 18 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

##### 04. Department of State (Sch. A, 213.3104)

###### (a) Office of the Secretary—

(1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

###### (2) (Reserved)

###### (b)–(f) (Reserved)

###### (g) Bureau of Population, Refugees, and Migration—

(1) Not to exceed 10 positions at grades GS–5 through 11 on the staff of the Bureau.

###### (h) Bureau of Administration—

###### (1) (Reserved)

(2) One position of the Director, Art in Embassies Program, GM–1001–15.

###### (3) (Reserved)

##### 05. Department of the Treasury (Sch. A, 213.3105)

###### (a) Office of the Secretary—

(1) Not to exceed 20 positions at the equivalent of GS–13 through GS–15 or Senior Level (SL) to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Covering no more than 100 positions supplementing permanent staff studying domestic economic and financial policy, with employment not to exceed 4 years.

(3) Not to exceed 100 positions in the Office of the Under Secretary for Terrorism and Financial Intelligence.

(4) Up to 35 temporary or time-limited positions at the GS–9 through 15 grade levels to support the organization, design, and stand-up activities for the Consumer Financial Protection Bureau (CFPB), as mandated by P.L. 111–203. This authority may be used for the following series: GS–201, GS–501, GS–560, GS–1035, GS–1102, GS–1150, GS–1720, GS–1801, and GS–2210. No new appointments may be made under this authority after July 21, 2011, the designated transfer date of the CFPB.

###### (b)–(d) (Reserved)

###### (e) Internal Revenue Service—

(1) Twenty positions of investigator for special assignments.

###### (f) (Reserved)

(g) *(Reserved, moved to DOJ)*

(h) *Office of Financial Stability—*

(1) Positions needed to perform investment, risk, financial, compliance, and asset management requiring unique qualifications currently not established by OPM. Positions will be in the Office of Financial Stability and the General Schedule (GS) grade levels 12–15 or Senior Level (SL), for initial employment not to exceed 4 years. No new appointments may be made under this authority after December 31, 2012.

06. *Department of Defense (Sch. A, 213.3106)*

(a) *Office of the Secretary—*

(1)–(5) *(Reserved)*

(6) One Executive Secretary, U.S.—USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—*

(1) Dependent School Systems overseas—Professional positions in Military Dependent School systems overseas.

(2) Positions in Attaché 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the DOD when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: Provided that

(i) A school employee may be permitted to complete the school year; and

(ii) An employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the

additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS–12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(9) *(Reserved)*

(10) Temporary or time-limited positions in direct support of U.S. Government efforts to rebuild and create an independent, free and secure Iraq and Afghanistan, when no other appropriate appointing authority applies. Positions will generally be located in Iraq or Afghanistan, but may be in other locations, including the United States, when directly supporting operations in Iraq or in Afghanistan. No new appointments may be made under this authority after September 30, 2014.

(11) Not to exceed 3,000 positions that require unique cyber security skills and knowledge to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, investigation, investigative analysis and cyber-related infrastructure inter-dependency analysis. This authority may be used to make permanent, time-limited and temporary appointments in the following occupational series: Security (GS–0080), computer engineers (GS–0854), electronic engineers (GS–0855), computer scientists (GS–1550), operations research (GS–1515), criminal investigators (GS–1811), telecommunications (GS–0391), and IT specialists (GS–2210). Within the scope

of this authority, the U.S. Cyber Command is also authorized to hire miscellaneous administrative and program (GS–0301) series when those positions require unique cyber security skills and knowledge. All positions will be at the General Schedule (GS) grade levels 09–15 or equivalent. No new appointments may be made under this authority after December 31, 2017.

(c) *(Reserved)*

(d) *General—*

(1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical, or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences—*

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University—*

(1) Not to exceed 16 positions of senior policy analyst, GS–15, at the Strategic Concepts Development Center.



Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

*(g) Defense Communications Agency—*

(1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

*(h) Defense Acquisition University—*

(1) The Provost and professors.

*(i) George C. Marshall European Center for Security Studies, Garmisch, Germany—*

(1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

*(j) Asia-Pacific Center for Security Studies, Honolulu, Hawaii—*

(1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

*(k) Business Transformation Agency—*

(1) Fifty temporary or time-limited (not to exceed four years) positions, at grades GS–11 through GS–15. The authority will be used to appoint persons in the following series: Management and Program Analysis, GS–343; Logistics Management, GS–346; Financial Management Programs, GS–501; Accounting, GS–510; Computer Engineering, GS–854; Business and Industry, GS–1101; Operations Research, GS–1515; Computer Science, GS–1550; General Supply, GS–2001; Supply Program Management, GS–2003; Inventory Management, GS–2010; and Information Technology, GS–2210.

*(l) Special Inspector General for Afghanistan—*

(1) Positions needed to establish the Special Inspector General for Afghanistan Reconstruction. These positions provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated and otherwise made available for the reconstruction of Afghanistan. These positions are established at General Schedule (GS) grade levels for initial employment not to exceed 3 years and may, with prior approval of OPM, be extended for an additional period of 2

years. No new appointments may be made under this authority after January 31, 2011.

*07. Department of the Army (Sch. A, 213.3107)*

*(a)–(c) (Reserved)*

*(d) U.S. Military Academy, West Point, New York—*

(1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, Coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and Librarian when filled by an officer of the Regular Army retired from active service, and the Military Secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

*(e)–(f) (Reserved)*

*(g) Defense Language Institute—*

(1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or knowledge of foreign language teaching methods.

*(h) Army War College, Carlisle Barracks, PA—*

(1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

*(i) (Reserved)*

*(j) U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey—*

(1) Positions of Academic Director, Department Head, and Instructor.

*(k) U.S. Army Command and General Staff College, Fort Leavenworth, Kansas—*

(1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

*08. Department of the Navy (Sch. A, 213.3108)*

*(a) General—*

(1)–(14) (Reserved)

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

*(b) Naval Academy, Naval Postgraduate School, and Naval War College—*

(1) Professors, Instructors, and Teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and Social Counselors at the Naval Academy.

*(c) Chief of Naval Operations—*

(1) One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

*(d) Military Sealift Command*

(1) All positions on vessels operated by the Military Sealift Command.

*(e)–(f) (Reserved)*

*(g) Office of Naval Research—*

(1) Scientific and technical positions, GS–13/15, in the Office of Naval Research International Field Office which covers satellite offices within the Far East, Africa, Europe, Latin America, and the South Pacific. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

*09. Department of the Air Force (Sch. A, 213.3109)*

*(a) Office of the Secretary—*

(1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

*(b) General—*

(1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Two hundred positions, serviced by Hill Air Force Base, Utah, engaged in interdepartmental activities in support of national defense projects involving scientific and technical evaluations.

*(c) Norton and McClellan Air Force Bases, California—*

(1) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

*(d) U.S. Air Force Academy, Colorado—*

(1) (Reserved)

(2) Positions of Professor, Associate Professor, Assistant Professor, and

Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved)

(f) *Air Force Office of Special*

*Investigations—*

(1) Positions of Criminal

Investigators/Intelligence Research Specialists, GS–5 through GS–15, in the Air Force Office of Special Investigations.

(g) *Wright-Patterson Air Force Base, Ohio—*

(1) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) *Air University, Maxwell Air Force Base, Alabama—*

(1) Positions of Professor, Instructor, or Lecturer.

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio—*

(1) Civilian deans and professors.

(j) *Air Force Logistics Command—*

(1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) *Wright-Patterson AFB, Ohio—*

(1) One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) *National Guard Readiness Center—*

(1) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

10. *Department of Justice (Sch. A, 213.3110)*

(a) *General—*

(1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions at GS–15 and below on the staff of an office of a special counsel.

(3)–(5) (Reserved)

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended in 1-year increments for the duration of the in-country program.

(7) Positions necessary throughout DOJ, for the excepted service transfer of

NDIC employees hired under Schedule A, 213.3110(d). Authority expires September 30, 2012.

(b) (Reserved)

(c) *Drug Enforcement Administration—*

(1) (Reserved)

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

(d) (Reserved, moved to Justice)

(e) *Bureau of Alcohol, Tobacco, and Firearms—*

(1) One hundred positions of Criminal Investigator for special assignments.

(2) One non-permanent Senior Level (SL) Criminal Investigator to serve as a senior advisor to the Assistant Director (Firearms, Explosives, and Arson).

11. *Department of Homeland Security (Sch. A, 213.3111)*

(a) (Revoked 11/19/2009)

(b) *Law Enforcement Policy—*

(1) Ten positions for oversight policy and direction of sensitive law enforcement activities.

(c) *Homeland Security Labor Relations Board/Homeland Security Mandatory Removal Board—*

(1) Up to 15 Senior Level and General Schedule (or equivalent) positions.

(d) *General—*

(1) Not to exceed 1,000 positions to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure interdependency analysis requiring unique qualifications currently not established by OPM. Positions will be at the General Schedule (GS) grade levels 09–15. No new appointments may be made under this authority after the completion of regulations implementing the Border Patrol Agency Pay Reform Act of 2014 or January 15, 2019.

(e) *Papago Indian Agency—*Not to exceed 25 positions of Immigration and Customs Enforcement (ICE) Tactical Officers (Shadow Wolves) in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood. (Formerly 213.3105(b)(9))

(f) *U.S. Citizenship and Immigration Services*

(1) Reserved. (Formerly

213.3110(b)(1))

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9. (Formerly 213.3110(b)(2))

(3) Reserved. (Formerly

213.3110(b)(3))

(g) *U.S. Immigration and Customs Enforcement—*

(1) Not to exceed 200 staff positions, GS–15 and below for an emergency staff to provide health related services to foreign entrants. (Formerly 213.3116(b)(16))

(h) *Federal Emergency Management Agency—*

(1) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort. (Formerly 213.3195(a))

(2) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority. (Formerly 213.3195(b))

(3) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS). (Formerly 213.3195(c))

(i) *U.S. Coast Guard—*

(1) Reserved. (Formerly 213.3194(a))

(2) Lamplighters. (Formerly 213.3194(b))

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the

Coast Guard Academy, New London, Connecticut. (Formerly 213.3194(c))

*12. Department of the Interior (Sch. A, 213.3112)*

*(a) General—*

(1) Technical, maintenance, and clerical positions at or below grades GS-7, WG-10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS-7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: Provided, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS-7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such

as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators, and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

*(b) (Reserved)*

*(c) Indian Arts and Crafts Board—*

(1) The Executive Director

*(d) (Reserved)*

*(e) Office of the Assistant Secretary, Territorial and International Affairs—*

(1) (Reserved)

(2) Not to exceed four positions of Territorial Management Interns, grades GS-5, GS-7, or GS-9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved)

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

*(f) National Park Service—*

(1) (Reserved)

(2) Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95-565.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95-250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

*(g) Bureau of Reclamation—*

(1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: Provided, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

*(h) Office of the Deputy Assistant Secretary for Territorial Affairs—*

(1) Positions of Territorial Management Interns, GS-5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

*13. Department of Agriculture (Sch. A, 213.3113)*

*(a) General—*

(1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved)

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS-7 and WG-10 in the following types of positions: Field assistants for sub professional services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph

may not exceed 180 working days in a service year: Provided, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of Sec. 213.3102 or positions within the Forest Service.

(6)–(7) (Reserved)

(b)–(c) (Reserved)

(d) *Farm Service Agency*—

(1) (Reserved)

(2) *Members of State Committees:*

Provided, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) *Rural Development*—

(1) (Reserved)

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3)–(5) (Reserved)

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service*—

(1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, peanut, and processed and fresh fruit and vegetable commodities and the following positions in support of these

commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) *Milk Market Administrators*

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved)

(l) *Food Safety and Inspection Service*—

(1)–(2) (Reserved)

(3) Positions of Meat and Poultry Inspectors (Veterinarians at GS–11 and below and non-Veterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Grain Inspection, Packers and Stockyards Administration*—

(1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) *Alternative Agricultural Research and Commercialization Corporation*—

(1) Executive Director

14. *Department of Commerce (Sch. A, 213.3114)*

(a) *General*—

(1)–(2) (Reserved)

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b)–(c) (Reserved)

(d) *Bureau of the Census*—

(1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census.

(2) Current Program Interviewers employed in the field service.

(e)–(h) (Reserved)

(i) *Office of the Under Secretary for International Trade*—

(1) Fifteen positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved)

(3) Not to exceed 15 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters.

Appointments under this authority may be made for a period not to exceed 2 years and may, with prior OPM approval, be extended for an additional 2 years.

(j) *National Oceanic and Atmospheric Administration*—

(1)–(2) (Reserved)

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved)

(l) *National Telecommunication and Information Administration*—

(1) Thirty-eight professional positions in grades GS–13 through GS–15.

15. *Department of Labor (Sch. A, 213.3115)*

(a) *Office of the Secretary*—

(1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved)

(d) *Employment and Training Administration*—

(1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS-7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

*16. Department of Health and Human Services (Sch. A, 213.3116)*

*(a) General—*

(1) Intermittent positions, at GS-15 and below and WG-10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

*(b) Public Health Service—*

(1) (Reserved)

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved)

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved)

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term “Indian.”

(9) (Reserved)

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(15) (Reserved)

*(c)–(e)* (Reserved)

*(f)* The President’s Council on Physical Fitness—

(1) Four staff assistants.

*17. Department of Education (Sch. A, 213.3117)*

*(a)* Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

*18. Environmental Protection Agency (Sch. A, 213.3118)*

*24. Board of Governors, Federal Reserve System (Sch. A, 213.3124)*

*(a) All positions*

*27. Department of Veterans Affairs (Sch. A, 213.3127)*

*(a) Construction Division—*

(1) Temporary construction workers paid from “purchase and hire” funds and appointed for not to exceed the duration of a construction project.

*(b) Alcoholism Treatment Units and Drug Dependence Treatment Centers—*

(1) Not to exceed 400 positions of rehabilitation counselors, GS-3 through GS-11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

*(c) Board of Veterans’ Appeals—*

(1) Positions, GS-15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100-687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS-15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

*(d) Vietnam Era Veterans Readjustment Counseling Service—*

(1) Not to exceed 600 positions at grades GS-3 through GS-11, involved in the Department’s Vietnam Era Veterans Readjustment Counseling Service.

*(e)* Not to exceed 75 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to non-supervisory Digital Services Expert positions (GS-301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS-15 level. No new appointments may be made under this authority after September 30, 2017.

*32. Small Business Administration (Sch. A, 213.3132)*

*(a)* When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office of Personnel Management approval. Appointments under this authority may not be used to extend the 2-year service limit contained below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

*(b)* When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

*33. Federal Deposit Insurance Corporation (Sch. A, 213.3133)*

*(a)–(b)* (Reserved)

*(c)* Temporary or time-limited positions that are directly related with resolving failing insured depository institutions; financial companies; or brokers and dealers; covered by the Dodd-Frank Wall Street Reform and Consumer Protection Act, including but not limited to, the marketing and sale of institutions and any associated assets; paying insured depositors; and managing receivership estates and all associated receivership management activities, up to termination. Time limited appointments under this authority may not exceed 7 years.

*36. U.S. Soldiers’ and Airmen’s Home (Sch. A, 213.3136)*

*(a)* (Reserved)

*(b)* Positions when filled by member-residents of the Home.

37. *General Services Administration* (Sch. A, 213.3137)

(a) Not to Exceed 203 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used nationwide to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–11 to 15 level. No new appointments may be made under this authority after September 30, 2017.

46. *Selective Service System* (Sch. A, 213.3146)

(a) *State Directors*

48. *National Aeronautics and Space Administration* (Sch. A, 213.3148)

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

55. *Social Security Administration* (Sch. A, 213.3155)

(a) *Arizona District Offices—*

(1) Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) *New Mexico—*

(1) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Alaska—*

(1) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

62. *The President's Crime Prevention Council* (Sch. A, 213.3162)

(a) (Reserved)

65. *Chemical Safety and Hazard Investigation Board* (Sch. A, 213.3165)

(a) (Reserved)

(b) (Reserved)

66. *Court Services and Offender Supervision Agency of the District of Columbia* (Sch. A, 213.3166)

(a) (Reserved, expired 3/31/2004)

70. *Millennium Challenge Corporation (MCC)* (Sch. A, 213.3170)

(a) (Reserved, expired 9/30/2007)

(b)

(1) Positions of Resident Country Directors and Deputy Resident Country Directors. The length of appointments will correspond to the length or term of the compact agreements made between the MCC and the country in which the MCC will work, plus one additional year to cover pre- and post-compact agreement related activities.

74. *Smithsonian Institution* (Sch. A, 213.3174)

(a) (Reserved)

(b) *Smithsonian Tropical Research Institute*—All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) *National Museum of the American Indian*—Positions at GS–15 and below requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

75. *Woodrow Wilson International Center for Scholars* (Sch. A, 213.3175)

(a) One Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, two Social Science Program Administrators, one Middle East Studies Program Administrator, one African Studies Program Administrator, one Global Sustainability and Resilience Program Administrator, one Canadian Studies Program Administrator; one China Studies Program Administrator, and one Science, Technology and Innovation Program Administrator.

78. *Community Development Financial Institutions Fund* (Sch. A, 213.3178)

(a) (Reserved, expired 9/23/1998)

80. *Utah Reclamation and Conservation Commission* (Sch. A, 213.3180)

(a) Executive Director

82. *National Foundation on the Arts and the Humanities* (Sch. A, 213.3182)

(a) *National Endowment for the Arts—*

(1) Artistic and related positions at grades GS–13 through GS–15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and program development, arts education, access programs and advocacy, or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

90. *African Development Foundation* (Sch. A, 213.3190)

(a) One Enterprise Development Fund Manager. Appointment is limited to four years unless extended by OPM.

91. *Office of Personnel Management* (Sch. A, 213.3191)

(a)–(c) (Reserved)

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

94. *Department of Transportation* (Sch. A, 213.3194)

(a)–(d) (Reserved)

(e) *Maritime Administration—*

(1)–(2) (Reserved)

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved)

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

(f) Up to 40 positions at the GS–13 through 15 grade levels and within authorized SL allocations necessary to support the following credit agency programs of the Department: The Federal Highway Administration's Transportation Infrastructure Finance and Innovation Act Program, the

Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Program, the Federal Maritime Administration's Title XI Program, and the Office of the Secretary's Office of Budget and Programs Credit Staff. This authority may be used to make temporary, time-limited, or permanent appointments, as the DOT deems appropriate, in the following occupational series: Director or Deputy Director SL-301/340, Origination Team Lead SL-301, Deputy Director/Senior Financial Analyst GS-1160, Origination Financial Policy Advisor GS-301, Credit Budgeting Team Lead GS-1160, Credit Budgeting Financial Analysts GS-1160, Portfolio Monitoring Lead SL-1160, Portfolio Monitoring Financial Analyst GS-1160, Financial Analyst GS-1160. No new appointments may be made under this authority after December 31, 2014.

95. (Reserved)

#### Schedule B

03. Executive Office of the President (Sch. B, 213.3203)

(a) (Reserved)

(b) Office of the Special Representative for Trade Negotiations—

(1) Seventeen positions of economist at grades GS-12 through GS-15.

04. Department of State (Sch. B, 213.3204)

(a)(1) One non-permanent senior level position to serve as Science and Technology Advisor to the Secretary.

(b)–(c) (Reserved)

(d) Seventeen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved)

(f) Scientific, professional, and technical positions at grades GS-12 to GS-15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

05. Department of the Treasury (Sch. B, 213.3205)

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b)–(c) (Reserved)

(d) (Reserved) Transferred to 213.3211(b)

(e) (Reserved) Transferred to 213.3210(f)

06. Department of Defense (Sch. B, 213.3206)

(a) Office of the Secretary—

(1) (Reserved)

(2) Professional positions at GS-11 through GS-15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved)

(5) Four Net Assessment Analysts.

(b) Interdepartmental activities—

(1) Seven positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS-15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) National Defense University—

(1) Sixty-one positions of Professor, GS-13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) General—

(1) One position of Law Enforcement Liaison Officer (Drugs), GS-301-15, U.S. European Command.

(2) Acquisition positions at grades GS-5 through GS-11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) Office of the Inspector General—

(1) Positions of Criminal Investigator, GS-1811-5/15.

(f) Department of Defense Polygraph Institute, Fort McClellan, Alabama—

(1) One Director, GM-15.

(g) Defense Security Assistance Agency—

All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

07. Department of the Army (Sch. B, 213.3207)

(a) U.S. Army Command and General Staff College—

(1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

08. Department of the Navy (Sch. B, 213.3208)

(a) Naval Underwater Systems Center, New London, Connecticut—

(1) One position of Oceanographer, grade GS-14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) Armed Forces Staff College, Norfolk, Virginia—All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) Defense Personnel Security Research and Education Center—One Director and four Research Psychologists at the professor or GS-15 level.

(d) Marine Corps Command and Staff College—All civilian professor positions.

(e) Executive Dining facilities at the Pentagon—One position of Staff Assistant, GS-301, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) (Reserved)

09. Department of the Air Force (Sch. B, 213.3209)

(a) Air Research Institute at the Air University, Maxwell Air Force Base, Alabama—Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1-, 2-, or 3- years indefinitely thereafter.

(b)–(c) (Reserved)

(d) Air University—Positions of Instructor or professional academic staff at the Air University associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) U.S. Air Force Academy, Colorado—One position of Director of Development and Alumni Programs, GS-301-13.



10. *Department of Justice (Sch. B, 213.3210)*

(a) *Drug Enforcement Administration—*

Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved)

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved)

(e) *United States Trustees*—Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

(f) *Bureau of Alcohol, Tobacco, and Firearms—*

(1) Positions, grades GS–5 through GS–12 (or equivalent), of Criminal Investigator. Service under this authority may not exceed 3 years and 120 days.

11. *Department of Homeland Security (Sch. B, 213.3211)*

(a) *Coast Guard—*

(1) (Reserved)

(b) *Secret Service*—Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed:

(1) a total of 4 years; or

(2) 120 days following completion of the service required for conversion under Executive Order 11203.

13. *Department of Agriculture (Sch. B, 213.3213)*

(a) *Foreign Agricultural Service—*

(1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) *General—*

(1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service, Economic Research Service, and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Human Resources Officer for the Research, Education, and Economics Mission Area, or the Human Resources Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

14. *Department of Commerce (Sch. B, 213.3214)*

(a) *Bureau of the Census—*

(1) (Reserved)

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through 12.

(b)–(c) (Reserved)

(d) *National Telecommunications and Information Administration—*

(1) Not to exceed 10 Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

15. *Department of Labor (Sch. B, 213.3215)*

(a) *Administrative Review Board*—Chair and a maximum of four additional Members.

(b) (Reserved)

(c) *Bureau of International Labor Affairs—*

(1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

17. *Department of Education (Sch. B, 213.3217)*

(a) Seventy-five positions, not to exceed GS–13, of a professional or analytical nature when filled by

persons, other than college faculty members or candidates working toward college degrees, who are participating in mid-career development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

27. *Department of Veterans Affairs (Sch. B, 213.3227)*

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration (VA) supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

28. *Broadcasting Board of Governors (Sch. B, 213.3228)*

(a) *International Broadcasting Bureau—*

(1) Not to exceed 200 positions at grades GS–15 and below in the Office of Cuba Broadcasting. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

36. *U.S. Soldiers' and Airmen's Home (Sch. B, 213.3236)*

(a) (Reserved)

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

40. *National Archives and Records Administration (Sch. B, 213.3240)*

(a) Executive Director, National Historical Publications and Records Commission.



48. *National Aeronautics and Space Administration (Sch. B, 213.3248)*

(a) Not to exceed 40 positions of Astronaut Candidates at grades GS–11 through 15. Employment under this authority may not exceed 3 years.

50. *Consumer Financial Protection Bureau (Sch. B, 213.3250)*

(a) One position of Deputy Director; and one position of Associate Director of the Division of Supervision, Enforcement, and Fair Lending.

55. *Social Security Administration (Sch. B, 213.3255)*

(a) (Reserved)

74. *Smithsonian Institution (Sch. B, 213.3274)*

(a) (Reserved)

(b) *Freer Gallery of Art—*

(1) Not to exceed four Oriental Art Restoration Specialists at grades GS–9 through GS–15.

76. *Appalachian Regional Commission (Sch. B, 213.3276)*

(a) Two Program Coordinators.

78. *Armed Forces Retirement Home (Sch. B, 213.3278)*

(a) *Naval Home, Gulfport, Mississippi—*

(1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

82. *National Foundation on the Arts and the Humanities (Sch. B, 213.3282)*

(a) (Reserved)

(b) *National Endowment for the Humanities—*

(1) Professional positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require

in-depth knowledge of a discipline of the humanities.

91. *Office of Personnel Management (Sch. B, 213.3291)*

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) *Federal Executive Institute—*No more than 57 positions of faculty members at grades GS–13 through GS–15. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1, 2, or 3 year increments.

**Schedule C**

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE	Office of Agricultural Marketing Service.	Confidential Assistant .....	DA170154	03/28/2017
	Office of Assistant Secretary and Director General for United States and Foreign Commercial Service.	Senior Advisor .....	DC160210	10/13/2016
	Office of Assistant Secretary for Global Markets.	Special Advisor for Select United States of America.	DC170147	05/22/2017
	Office of Assistant Secretary for Industry and Analysis.	Director, Office of Advisory Committees and Industry Outreach.	DC170008	10/28/2016
	Office of Assistant Secretary Legislative and Intergovernmental Affairs.	Senior Advisor .....	DC170006	10/28/2016
		Special Assistant .....	DC160180	07/15/2016
		Associate Director for Intergovernmental Affairs.	DC170073	03/31/2017
		Associate Director for Legislative Affairs.	DC170080	03/14/2017
	Office of Broadcasting Board of Governors.	Legislative Affairs Specialist .....	DC170133	06/06/2017
		Special Communications Advisor ...	IB170002	04/25/2017
	Office of Bureau of Industry and Security.	Chief of Staff .....	DC170007	10/27/2016
	Office of Director General of the United States and Foreign Commercial Service and Assistant Secretary for Global Markets.	Congressional Affairs Specialist .....	DC170114	04/21/2017
		Director of Outreach .....	DC170100	05/17/2017
		Senior Advisor .....	DC170134	06/06/2017
		Special Advisor .....	DC160209	10/04/2016
	Office of Economic Development Administration.	Confidential Assistant .....	DC170101	04/06/2017
		Senior Advisor (2) .....	DC160195	08/17/2016
	Office of Farm Service Agency .....	DC160166	07/07/2016	
		Special Advisor .....	DC170063	04/14/2017
		Confidential Assistant .....	DA170131	03/28/2017
		Special Assistant .....	DA160164	03/30/2017
	Office of Foreign Agricultural Service.	Confidential Assistant .....	DA170133	03/30/2017
		Speechwriter & Communications Advisor.	DA160169	03/31/2017
		Senior Advisor .....	DC170056	02/27/2017
		Confidential Assistant (2) .....	DC170116	05/02/2017
	Immediate Office ..... Office of International Trade Administration.	DC170118	05/12/2017	
		Senior Advisor (2) .....	DC170085	04/20/2017
		Senior Advisor for Budget and Administration.	DC170111	05/04/2017
		DC170089	04/19/2017	
	Office of Minority Business Development Agency.	Special Advisor for Business Development.	DC170093	03/28/2017
	Office of Natural Resources Conservation Service.	Special Assistant .....	DC170054	06/21/2017
		Confidential Assistant .....	DA170126	04/12/2017

Agency name	Organization name	Position title	Authorization No.	Effective date
BROADCASTING BOARD OF GOVERNORS. DEPARTMENT OF COMMERCE ...	Office of Business Liaison .....	Deputy Director .....	DC160186	08/04/2016
		Special Assistant (3) .....	DC170069	03/22/2017
			DC170082	03/28/2017
			DC170107	04/14/2017
	Office of Communications .....	Advance Associate .....	DA160178	05/02/2017
		Deputy Director (Press Secretary)	DA170138	04/12/2017
		Deputy Press Secretary (2) .....	DA170141	04/12/2017
			DA160176	04/14/2017
		Press Assistant (2) .....	DA170153	04/14/2017
			DA160166	04/14/2017
	Office of Communications .....	Staff Assistant .....	DA170142	04/12/2017
	Office of the Under Secretary for Research, Education and Economics.	Confidential Assistant .....	DA160173	09/26/2016
	Office of Executive Secretariat .....	Associate Director, Office of Executive Secretariat.	DC170067	03/28/2017
		Associate Director, Office of the Executive Secretariat.	DC160184	08/04/2016
		Confidential Assistant (2) .....	DC170137	06/15/2017
			DC170009	11/09/2016
			DC170001	10/12/2016
	Office of Legislative and Intergovernmental Affairs.	Deputy Director .....	DC170148	04/12/2017
	Office of Policy and Strategic Planning.	Director of Intergovernmental Affairs.		
	Office of Public Affairs .....	Policy Assistant .....	DC170105	04/14/2017
		Senior Policy Advisor .....	DC170108	05/05/2017
		Deputy Director of Public Affairs and Press Secretary.	DC170066	03/23/2017
		Deputy Director of Speechwriting ..	DC170075	03/27/2017
		Director of Digital Strategy .....	DC170145	06/20/2017
		Press Assistant (2) .....	DC170057	03/22/2017
			DC160197	07/28/2016
		Senior Public Affairs Coordinator ...	DC170052	03/06/2017
		Senior Speechwriter and Press Assistant.	DC170071	03/31/2017
	Office of Scheduling and Advance	Deputy Director of Advance .....	DC170079	03/24/2017
		Director of Scheduling and Special Advisor.	DC160196	08/17/2016
		Scheduling and Advance Assistant	DC160203	09/29/2016
		Senior Advisor .....	DC160185	08/04/2016
	Office of the Assistant Secretary for Administration.	Chief of Staff .....	DA160151	05/03/2017
	Office of the Assistant Secretary for Congressional Relations.	Deputy Director for Intergovernmental Affairs.	DA170145	05/04/2017
		Director of Intergovernmental Affairs.	DA170151	05/05/2017
		Legislative Analyst (2) .....	DA170129	05/04/2017
			DA170125	05/03/2017
		Legislative Director .....	DA160128	05/16/2017
		Policy Advisor (2) .....	DA170150	05/04/2017
			DA170167	05/12/2017
	Office of the Assistant Secretary for Export Administration.	Senior Advisor .....	DC170129	05/23/2017
	Office of the Chief Financial Officer	Chief of Staff .....	DA160153	05/17/2017
	Office of the Chief Financial Officer and Assistant Secretary for Administration.	Special Assistant for Administration	DC160181	07/21/2016
	Office of the Chief of Staff .....	Advance Assistant .....	DC170081	04/14/2017
		Confidential Assistant .....	DC170062	03/22/2017
		Director of Advance and Protocol (2).	DC170115	06/16/2017
			DC180013	06/16/2017
		Director of Scheduling .....	DC170083	03/28/2017
		Program Manager, Office of Faith Based and Neighborhood Partnerships.	DC170097	04/06/2017
		Scheduling Assistant .....	DC170139	06/21/2017
		Special Advisor .....	DC160191	08/05/2016
		Special Assistant .....	DC170124	05/12/2017
	Office of the Deputy Secretary .....	Special Advisor .....	DC160199	09/12/2016
		Special Assistant .....	DC160189	07/27/2016
	Office of the General Counsel .....	Deputy General Counsel for Strategic Initiatives.	DC170136	05/31/2017
		Senior Advisor .....	DA170158	06/07/2017

Agency name	Organization name	Position title	Authorization No.	Effective date
COMMISSION ON CIVIL RIGHTS  COMMODITY FUTURES TRADING COMMISSION.  COUNCIL ON ENVIRONMENTAL QUALITY.  DEPARTMENT OF DEFENSE .....	Office of the Secretary .....	Senior Counsel .....	DC170095	03/31/2017
		Advance Lead .....	DA170159	07/18/2016
		Advisor for Special Projects .....	DA160129	07/22/2016
		Confidential Assistant (2) .....	DA170113	07/12/2016
			DC170126	05/08/2017
		Confidential Assistant for Special Projects.	DA170103	06/09/2017
		Deputy White House Liaison (2) ....	DA170116	06/27/2017
			DA160156	07/26/2016
		Scheduler .....	DA170143	07/08/2016
		Senior Advisor .....	DA170148	07/08/2016
		Staff Assistant (2) .....	DA170099	06/15/2017
	Office of the Under Secretary .....		DA170162	07/21/2016
		Deputy Director, Office of Public Affairs.	DC160171	07/06/2016
		Director of Congressional and Public Affairs.	DC160179	07/20/2016
	Office of the Under Secretary for Food Safety.	Press Secretary and Program Manager, Office of Public Affairs.	DC170103	04/14/2017
		Special Assistant .....	DC160207	10/06/2016
	Office of the Under Secretary for Marketing and Regulatory Programs.	Staff Assistant .....	DA170147	08/05/2016
	Office of the Under Secretary for Research, Education, and Economics.	Confidential Assistant .....	DA160175	08/13/2016
	Office of Under Secretary for Natural Resources and Environment.	Chief of Staff .....	DA160157	09/06/2016
		Confidential Assistant .....	DA170146	09/06/2016
	Office of White House Liaison .....	Senior Advisor .....	DA160161	09/14/2016
		Special Advisor .....	DA160159	09/14/2016
	Patent and Trademark Office .....	Deputy Director, Office of White House Liaison.	DC170053	03/06/2017
		Director, Office of White House Liaison.	DC170061	03/21/2017
		Special Advisor .....	DC160177	07/19/2016
	Office of Risk Management Agency Office of Rural Housing Service .....	Deputy Chief Communications Officer for Strategic Communications.	DC170077	03/23/2017
		Senior Advisor .....	DC170088	03/24/2017
		Senior Advisor .....	DA160179	10/07/2016
	Office of the Commissioners .....	Staff Assistant .....	DA170124	10/07/2016
		Special Assistant (2) .....	CC170001	01/09/2017
	Office of Division of Enforcement .. Office of the Chairperson .....		CC170002	01/09/2017
		Director, Division of Enforcement ..	CT170005	03/15/2017
	Office of Council on Environmental Quality.	Public Affairs Specialist (Speechwriter).	CT170001	01/27/2017
		Director of Legislative Affairs .....	CT170004	03/23/2017
		Market Intelligence Advisor .....	CT170008	04/11/2017
		Director, Office of Public Affairs .....	CT170009	06/08/2017
		Executive Assistant .....	EQ160002	09/08/2016
DEPARTMENT OF DEFENSE .....	Office of Assistant Secretary of Defense (Public Affairs).	Special Assistant for Legislative Affairs.	EQ170001	11/08/2016
		Speechwriter .....	DD170112	04/14/2017
		Chief Speechwriter .....	DD170014	12/08/2016
		Special Assistant (Middle East Policy)(2).	DD170134	05/04/2017
	Office of the Assistant Secretary of Defense (International Security Affairs).		DD160165	08/01/2016
	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant (Legislative Affairs) Chief, Policy.	DD170130	05/24/2017
		Special Assistant (Legislative Affairs) for Installations, Environment, and Energy.	DD170153	05/30/2017
		Special Assistant (Legislative Affairs) for Europe/North Atlantic Treaty Organization.	DD170148	06/02/2017
		Special Assistant (Legislative Affairs) Chief, Research.	DD170165	06/15/2017
		Special Assistant (Legislative Affairs) for General Services Administration/Cyber.	DD170138	06/20/2017
		Special Assistant (Legislative Affairs) Chief, Acquisition, Technology and Logistics.	DD170169	06/20/2017

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF THE AIR FORCE.	Office of the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict).	Special Assistant .....	DD170008	11/15/2016
		Special Assistant for Special Operations/Low Intensity Conflict.	DD170162	05/24/2017
	Office of the Assistant Secretary of Defense (Strategy Plans and Capabilities).	Senior Advisor (Strategy, Plans, and Force Development).	DD170147	05/17/2017
		Special Assistant (Nuclear & Missile Defense).	DD170163	05/24/2017
		Special Assistant (Strategy Plans and Capabilities).	DD170171	06/15/2017
		Special Assistant for Strategy and Force Development.	DD170173	06/15/2017
		Special Assistant, Cost Assessment and Program Evaluation.	DD170123	05/12/2017
	Office of the Director (Cost Assessment and Program Evaluation).	Special Assistant .....	DD160185	08/29/2016
	Office of the Secretary .....	Confidential Assistant .....	DD170022	12/22/2016
	Office of the Secretary of Defense	Special Assistant (Russia, Ukraine, & Eurasia).	DD170034	01/04/2017
		Special Assistant for White House Liaison.	DD170117	05/05/2017
		Advance Officer (3) .....	DD170136	05/17/2017
			DD170164	06/02/2017
			DD170029	12/21/2016
		Confidential Assistant .....	DD170093	06/02/2017
		Deputy White House Liaison (2) ....	DD170094	06/02/2017
			DD170011	11/22/2016
		Protocol Officer .....	DD170030	12/21/2016
		Special Assistant (2) .....	DD160177	09/01/2016
			DD170026	12/28/2016
			DD170006	10/31/2016
		Special Assistant (Personnel and Readiness).		
		Special Assistant, Principal Deputy Under Secretary of Defense (Acquisition, Technology and Logistics).	DD160184	09/08/2016
		Special Assistant for Energy, Installations and Environment.	DD170010	11/09/2016
		Special Assistant (Comptroller) .....	DD170151	05/17/2017
	Office of the Under Secretary of Defense (Comptroller).			
	Office of the Under Secretary of Defense (Policy).	Special Assistant for Homeland Defense Integration and Defense Support.	DD160155	07/06/2016
		Special Assistant for Asian and Pacific Security Affairs.	DD160161	07/18/2016
		Correspondence Assistant, Office of the Under Secretary of Defense for Policy.	DD170001	08/12/2016
		Special Assistant for Middle East Policy.	DD160176	08/25/2016
		Special Assistant for Afghanistan, Pakistan and Central Asia.	DD160192	10/31/2016
	Washington Headquarters Services	Defense Fellow (15) .....	DD170110	05/12/2017
			DD170124	05/12/2017
			DD170122	06/02/2017
			DD170179	06/15/2017
			DD160157	07/12/2016
			DD160158	07/19/2016
			DD160170	08/16/2016
			DD160171	08/16/2016
			DD160179	08/29/2016
			DD160180	08/29/2016
			DD160181	08/29/2016
			DD160194	10/14/2016
			DD160195	10/14/2016
			DD170009	11/15/2016
			DD170017	11/30/2016
			DF160044	08/23/2016
	Office of Assistant Secretary Air Force, Installations, Environment, and Energy.	Special Assistant .....		
	Office of Assistant Secretary of the Air Force for Manpower and Reserve Affairs.	Special Assistant .....	DF160041	08/11/2016
	Office of the Secretary .....	Special Assistant and Speechwriter	DF160040	07/13/2016

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF THE ARMY .....	Office Assistant Secretary Army (Civil Works).	Special Assistant (Civil Works) (2)	DW160040	07/12/2016
			DW160041	07/14/2016
	Office Assistant Secretary Army (Manpower and Reserve Affairs).	Special Advisor (Manpower and Reserve Affairs).	DW160050	07/08/2016
	Office of the General Counsel .....	Special Assistant .....	DW160046	07/19/2016
	Office of the Secretary .....	Special Advisor for Digital Strategy and Engagement.	DW160051	07/01/2016
DEPARTMENT OF THE NAVY .....		Director of Strategic Communications for the Secretary of the Army.	DW160053	07/08/2016
	Office of the Assistant Secretary of Navy (Energy, Installations and Environment).	Climate Change and Sustainability Project Manager.	DN160051	08/12/2016
	Office of the Under Secretary of the Navy.	Special Assistant for International Affairs.	DN170007	02/06/2017
		Residence Director .....	DN170017	02/09/2017
		Confidential Assistant .....	DB170112	05/19/2017
DEPARTMENT OF EDUCATION ...	Office for Civil Rights .....	Special Assistant .....	DB170115	05/23/2017
		Policy Analyst .....	DB160111	07/01/2016
	Office of Career Technical and Adult Education.	Communications Director .....	DB170122	06/08/2017
	Office of Communications and Outreach.	Confidential Assistant (3) .....	DB170098	04/19/2017
			DB170123	06/20/2017
			DB160113	07/08/2016
		Deputy Press Secretary .....	DB160118	07/21/2016
		Press Secretary and Strategic Communications Advisor.	DB160114	07/07/2016
		Special Assistant (3) .....	DB170088	04/07/2017
			DB170099	04/19/2017
			DB170106	04/20/2017
		Special Assistant (Supervisory) .....	DB170116	05/26/2017
	Office of Elementary and Secondary Education.	Confidential Assistant (2) .....	DB170102	04/18/2017
			DB160116	07/07/2016
		Deputy Assistant Secretary for Policy and Strategic Initiatives.	DB160127	09/14/2016
		Special Assistant .....	DB170110	05/12/2017
	Office of Innovation and Improvement.	Senior Policy Advisor .....	DB160119	07/26/2016
		Chief of Staff .....	DB160120	07/29/2016
	Office of Legislation and Congressional Affairs.	Confidential Assistant (3) .....	DB170077	04/03/2017
			DB170096	04/18/2017
			DB170117	06/13/2017
	Office of Planning, Evaluation and Policy Development.	Senior Policy Advisor (2) .....	DB160105	07/01/2016
			DB160106	07/01/2016
	Office of Postsecondary Education	Special Assistant .....	DB170109	05/16/2017
	Office of Special Education and Rehabilitative Services.	Confidential Assistant .....	DB170100	04/18/2017
		Special Assistant .....	DB160117	07/15/2016
	Office of the Deputy Secretary .....	Engagement Manager .....	DB160102	07/05/2016
	Office of the General Counsel .....	Attorney Advisor .....	DB170082	04/03/2017
		Confidential Assistant .....	DB170092	04/06/2017
	Office of the Secretary .....	Confidential Assistant (5) .....	DB170078	04/03/2017
			DB170085	04/12/2017
			DB170093	04/19/2017
			DB170094	04/24/2017
			DB170121	06/07/2017
		Deputy Director of Scheduling and Advance.	DB160130	09/30/2016
		Director of Scheduling and Advance.	DB160112	07/01/2016
		Director, White House Liaison .....	DB170074	03/16/2017
		Special Assistant (7) .....	DB170089	04/07/2017
			DB170087	04/14/2017
			DB170105	04/27/2017
			DB170095	04/28/2017
			DB170111	05/19/2017
			DB160110	07/01/2016
			DB160125	08/31/2016
		Special Projects Manager .....	DB160109	07/01/2016
	Office of the Under Secretary .....	Confidential Assistant .....	DB160115	07/19/2016
		Director of Operations .....	DB160131	09/30/2016

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF ENERGY .....	Office of Assistant Secretary for Congressional and Intergovernmental Affairs.	Advisor for Intergovernmental and External Affairs.	DE170116	03/30/2017
		Legislative Affairs Advisor (3) .....	DE170093	03/10/2017
			DE170092	03/15/2017
			DE170145	05/17/2017
		Senior Advisor for Intergovernmental and External Affairs.	DE160141	07/07/2016
		Special Advisor (3) .....	DE170110	03/29/2017
			DE160165	10/04/2016
			DE170012	10/31/2016
		Special Assistant .....	DE160152	08/29/2016
		Senior Advisor .....	DE170090	05/04/2017
	Office of Assistant Secretary for Electricity Delivery and Energy Reliability.			
		Chief of Strategic Initiatives .....	DE170015	12/20/2016
		Senior Advisor .....	DE170168	06/20/2017
		Senior Advisor for External Affairs	DE170119	04/06/2017
		Special Advisor .....	DE170169	06/15/2017
	Office of Assistant Secretary for Energy Efficiency and Renewable Energy.	Special Advisor for Stakeholder Engagement.	DE170001	10/07/2016
		Senior Advisor .....	DE170131	05/02/2017
		Special Advisor (2) .....	DE170091	03/14/2017
			DE170003	10/26/2016
		Special Advisor .....	DE170120	03/30/2017
	Office of Assistant Secretary for International Affairs.	Senior Advisor .....	DE160143	07/27/2016
		Senior Advisor and Chief of Staff ..	DE170095	03/21/2017
	Office of Assistant Secretary for Nuclear Energy.			
		Senior Advisor—Veterans Relations.	DE170139	05/08/2017
	Office of Associate Under Secretary for Environment, Health, Safety and Security.			
		Special Advisor for Congressional and Intergovernmental Affairs.	DE170032	12/20/2016
	Loan Programs Office .....	Special Assistant .....	DE170117	04/14/2017
	Office of Economic Impact and Diversity.	Director of the Quadrennial Energy Review Secretariat.	DE160166	10/12/2016
		Senior Advisor .....	DE170171	06/09/2017
		Senior Analyst for Energy Policy ...	DE170153	05/08/2017
		Special Advisor (3) .....	DE170111	03/29/2017
			DE170166	05/30/2017
			DE160151	09/08/2016
			DE170124	03/30/2017
	Office of Management .....	Senior Advisor for Special Projects	DE170151	05/11/2017
		Senior Advisor and Director of Special Projects.	DE160159	09/29/2016
		Special Assistant .....	DE160167	10/04/2016
		Special Advisor for Strategic Planning.	DE170010	11/22/2016
	Office of Public Affairs .....	Deputy Director, Office of Public Affairs.	DE170107	03/21/2017
		Digital Strategy Advisor .....	DE170108	03/21/2017
		Press Assistant (2) .....	DE170121	04/04/2017
			DE170125	04/14/2017
		Press Secretary (2) .....	DE170129	04/14/2017
	Office of Scheduling and Advance		DE160145	08/15/2016
		Principal Deputy Press Secretary ..	DE160146	08/05/2016
		Director, Office of Scheduling and Advance.	DE170133	04/14/2017
		Special Advisor .....	DE160158	09/23/2016
		Deputy Chief of Staff .....	DE160138	07/13/2016
	Office of the Chief Information Officer.			
		Special Advisor .....	DE160156	09/23/2016
		Advisor for Operations and Support	DE170011	11/22/2016
		Deputy White House Liaison .....	DE170130	05/12/2017
		Deputy White House Liaison and Leadership Development Director.	DE170009	11/22/2016
		Executive Support Specialist .....	DE170114	03/13/2017
		Policy Advisor and Special Assistant.	DE170163	05/12/2017
		Special Assistant (5) .....	DE170115	03/13/2017
			DE170109	03/29/2017

Agency name	Organization name	Position title	Authorization No.	Effective date
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Secretary of Energy Advisory Board. Office of Public Affairs .....	White House Liaison and Senior Advisor.	DE170118 DE160150 DE160157 DE160169	03/31/2017 08/17/2016 08/31/2016 10/14/2016
		Deputy Director, Office of Secretarial Boards and Councils.	DE170142	05/08/2017
		Deputy Associate Administrator for Public Affairs (3).	EP170048 EP170051 EP160048 EP160052 EP160047 EP160051 EP170049	05/11/2017 05/16/2017 07/01/2016 08/15/2016 07/01/2016 08/15/2016 05/04/2017
		Director of Speechwriting .....	EP160054	08/15/2016
		Press Secretary .....	EP170047	05/11/2017
		Strategic Communications Advisor	EP170006 EP170055	11/17/2016 05/10/2017
		Deputy Associate Administrator for Public Engagement.	EP160058 EP170026 EP160050 EP170067	09/14/2016 03/28/2017 07/08/2016 06/06/2017
		Director of Public Engagement .....	EP170045 EP170054	05/12/2017 05/23/2017
		Deputy White House Liaison (2) ....	EP170053	05/12/2017
		Director of Scheduling and Advance.	EP170001	10/26/2016
EXPORT-IMPORT BANK ..... FEDERAL COMMUNICATIONS COMMISSION.	Office of the Assistant Administrator for Land and Emergency Management. Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Special Assistant .....	EP170060	06/02/2017
		White House Liaison (2) .....	EP170050	05/11/2017
		Senior Advisor for Land and Emergency Management.	EP170066 EB170002	05/23/2017 01/17/2017
		Deputy Associate Administrator for Congressional and Intergovernmental Relations (2).	FC170008	04/13/2017
		Deputy Associate Administrator for Congressional Relations.	FC170010	05/24/2017
		Senior Advisor for Congressional and Intergovernmental Relations.	FC170009	06/22/2017
		Special Assistant for Intergovernmental Relations.	DR160005	07/01/2016
		Senior Deputy Associate Administrator for Policy.	DR160006	07/01/2016
		Policy Assistant .....	GS170020	04/14/2017
		Deputy Chief of Staff .....	GS170027	05/04/2017
FEDERAL ENERGY REGULATORY COMMISSION. GENERAL SERVICES ADMINISTRATION.	Office of the Chairman ..... Office of Media Relations .....	Director .....	GS170002	11/09/2016
		Special Assistant .....	GS160029	08/17/2016
		Public Affairs Specialist .....	GS170038	05/30/2017
		Program Analyst .....	GS170026	05/11/2017
		Confidential Assistant .....	GS170028	05/11/2017
		Policy Advisor .....	GS170023	06/02/2017
		Special Assistant .....	GS170025	05/02/2017
		Congressional Relations Specialist	GS170021	03/31/2017
		Senior Advisor .....	GS170039	05/25/2017
		Senior Advisor .....	GS170016	04/05/2017
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Government-wide Policy .. Office of Small Business Utilization Office of Strategic Communications	Senior Communications Advisor ....	GS170015	03/10/2017
		Press Secretary .....	GS170019	04/17/2017
		Associate Administrator for Strategic Communications.	DH170086 DH160132	03/23/2017 07/07/2016
		Senior Advisor for Administrative Services.	DH170138	03/20/2017
		Senior Advisor for Technology .....	DH170229	05/11/2017
		Special Assistant .....	DH170025	11/09/2016
		White House Liaison .....	DH160166	07/26/2016
		Special Assistant .....	DH160176	08/16/2016
		Special Assistant (National Capital Region).	DH160177	09/01/2016
		Confidential Assistant (2) .....	DH170127	02/21/2017
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Administration for Children and Families.	Policy Advisor .....	DH170190	04/12/2017
		Principal Deputy Director for Office of Refugee Resettlement.		
		Public Affairs Specialist .....		
		Senior Policy Advisor (2) .....		
		Special Advisor .....		
		Special Assistant (2) .....		

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of Administration for Community Living.	Advisor .....	DH170234	04/26/2017
	Office of Centers for Medicare and Medicaid Services.	Senior Advisor .....	DH170172	03/28/2017
		Senior Advisor to the Principal Deputy Administrator.	DH170108	02/27/2017
		Senior Counselor .....	DH170220	05/08/2017
		Special Advisor for Engagement ....	DH160192	09/13/2016
		Special Assistant .....	DH170255	06/16/2017
		Senior Advisor .....	DH170188	03/31/2017
	Office of Food and Drug Administration.			
	Office of Health Resources and Services Administration Office of the Administrator.	Special Assistant .....	DH170278	06/20/2017
	Office of National Institutes of Health.	Chief of Staff and Senior Policy Director.	DH170003	11/03/2016
	Office for Civil Rights .....	Chief of Staff .....	DH170211	05/23/2017
		Senior Advisor for Operations (2) ..	DH170254	06/02/2017
			DH170010	10/27/2016
		Special Advisor (2) .....	DH170217	05/11/2017
			DH170006	10/14/2016
	Office of Global Affairs .....	Senior Advisor .....	DH170103	02/21/2017
		Advisor .....	DH170113	02/21/2017
	Office of Health Reform .....	Policy Advisor .....	DH170139	03/03/2017
		Senior Policy Advisor .....	DH170141	03/03/2017
		Policy Advisor for Health Reform ...	DH170098	03/17/2017
	Office of Intergovernmental and External Affairs.	Director of External Affairs .....	DH170136	02/27/2017
		Director of Intergovernmental Affairs.	DH170133	03/30/2017
		Regional Director, Dallas, Texas, Region VI.	DH170233	05/11/2017
		Special Advisor (2) .....	DH160182	08/30/2016
			DH160183	09/02/2016
		Special Assistant .....	DH170199	04/14/2017
	Office of the Assistant Secretary for Health.	Associate Director for Operations and Engagement.	DH160198	09/29/2016
		Associate Director for Policy .....	DH170094	02/21/2017
		Chief of Staff .....	DH170256	06/02/2017
		Liaison .....	DH170137	03/28/2017
		Special Assistant (2) .....	DH170097	02/21/2017
			DH160196	09/15/2016
	Office of the Assistant Secretary for Legislation.	Special Advisor .....	DH170157	03/30/2017
		Director of Investigations .....	DH170184	04/03/2017
		Special Assistant .....	DH160179	08/25/2016
		Chief of Staff .....	DH160195	09/15/2016
		Policy Advisor .....	DH170027	11/30/2016
		Senior Advisor (2) .....	DH170285	06/27/2017
	Office of the Assistant Secretary for Preparedness and Response.		DH170009	10/18/2016
	Office of the Assistant Secretary for Public Affairs.	Assistant Speechwriter (2) .....	DH170208	04/11/2017
			DH170212	04/19/2017
		Chief Spokesperson .....	DH170216	05/04/2017
		Communications Director for Human Services.	DH160164	07/21/2016
		Deputy Press Secretary .....	DH160160	07/08/2016
		Director of Digital Media .....	DH170267	06/06/2017
		Director of Specialty Communications and Spokesperson.	DH170002	10/13/2016
		Director of Speechwriting .....	DH160163	08/01/2016
		National Press Secretary for Health Care.	DH160157	07/12/2016
		Press Assistant .....	DH170011	10/27/2016
		Press Assistant (Regional Media) ..	DH170175	04/14/2017
		Press Secretary and Special Advisor.	DH170004	10/14/2016
		Special Advisor .....	DH170088	02/21/2017
		Special Assistant (2) .....	DH170134	03/10/2017
			DH170252	05/22/2017
	Office of the Secretary .....	Advisor .....	DH170239	05/12/2017
		Briefing Coordinator .....	DH170218	04/14/2017
		Deputy Scheduler .....	DH170158	03/23/2017
		Director (Office of Documents and Regulations Management).	DH170241	05/01/2017
		Director of Advance .....	DH170169	03/23/2017



Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF HOMELAND SECURITY.	Office of Assistant Secretary for International Affairs—Policy. Office of Federal Emergency Management Agency.	Director of Boards and Commissions.	DH170177	04/28/2017
		Policy Advisor for Health Policy (2)	DH170093	02/21/2017
			DH170262	06/06/2017
		Policy Advisor for Human Services Policy.	DH170238	05/12/2017
		Senior Advisor .....	DH160180	09/01/2016
		Senior Regulatory Advisor .....	DH160197	09/22/2016
		Special Assistant (7) .....	DH170128	02/21/2017
			DH170112	02/22/2017
			DH170180	04/06/2017
			DH170244	05/19/2017
			DH170272	06/13/2017
			DH160178	08/16/2016
			DH160181	09/12/2016
			DH170242	05/12/2017
		Special Assistant for Health Policy and Science.	DH170187	04/14/2017
		Special Assistant, Office of International Affairs.	DM160313	09/12/2016
		Director, Department of Homeland Security Center for Faith-Based and Neighborhood Partnerships.	DM170110	04/13/2017
		Director of Public Affairs .....	DM170136	05/04/2017
		Director of Intergovernmental Affairs.	DM170150	05/25/2017
	Office of Assistant Secretary for Legislative Affairs.	Director of Legislative Affairs .....	DM170168	06/01/2017
		Director .....	DM170159	05/17/2017
		Associate Director, Office of Legislative Affairs.	DM170167	06/05/2017
	Office of Partnership and Engagement.	Confidential Assistant .....	DM170174	06/07/2017
		Senior Business Liaison .....	DM170137	05/04/2017
	Office of the Assistant Secretary for Intergovernmental Affairs. Office of the Assistant Secretary for Policy.	Intergovernmental Affairs Coordinator.	DM170046	12/22/2016
		Advisor (2) .....	DM170104	03/31/2017
			DM170105	03/31/2017
		Confidential Assistant .....	DM170166	05/10/2017
		Policy Analyst (2) .....	DM170205	06/16/2017
			DM170206	06/30/2017
		Special Assistant (4) .....	DM160294	08/17/2016
			DM160300	08/17/2016
			DM160307	09/02/2016
			DM160296	09/15/2016
	Office of the Assistant Secretary for Public Affairs.	Deputy Director for Asia-Pacific .....	DM170021	11/15/2016
		Special Assistant (2) .....	DM170044	12/15/2016
			DM170045	12/15/2016
		Assistant Press Secretary .....	DM160311	09/08/2016
		Communications Director .....	DM170148	06/02/2017
		Coordinator for Strategic Communications.	DM170143	05/17/2017
		Director of Strategic Communications.	DM160305	09/07/2016
		Press Assistant .....	DM160298	08/17/2016
		Press Assistant/Rapid Response Coordinator.	DM170186	06/15/2017
		Senior Director of Content .....	DM170149	06/30/2017
	Office of the Chief of Staff .....	Special Assistant .....	DM170083	03/23/2017
		Advance Representative (2) .....	DM170080	03/15/2017
			DM170133	05/11/2017
		Briefing Book Coordinator .....	DM170155	05/10/2017
		Confidential Assistant (2) .....	DM170139	05/04/2017
			DM170169	05/31/2017
		Counselor .....	DM160315	09/30/2016
		Deputy White House Liaison (2) ....	DM170084	03/15/2017
			DM170183	05/23/2017
		Director of Scheduling and Advance and Chief of Protocol.	DM170170	05/17/2017
		Scheduler .....	DM170209	06/30/2017
		Special Assistant (5) .....	DM170085	03/16/2017
			DM170132	05/02/2017
			DM170211	06/29/2017
			DM160276	07/13/2016

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Executive Secretariat	Briefing Book Coordinator .....	DM170043	12/15/2016
		Counselor .....	DM160310	09/01/2016
	Office of the Secretary .....	Confidential Assistant .....	DM170142	05/02/2017
		Counselor for Export Controls .....	DM160273	07/20/2016
	Office of the Under Secretary for Science and Technology.	Adviser .....	DM160295	08/17/2016
		Special Assistant .....	DM170113	04/24/2017
	Privacy Officer .....	Confidential Assistant .....	DM160306	09/07/2016
		Senior Policy Advisor .....	DM170198	06/16/2017
	Office of United States Citizenship and Immigration Services.	Senior Policy Advisor .....	DM170216	06/30/2017
		Director of Communications .....	DM170144	05/08/2017
	Office of United States Customs and Border Protection.	Senior Advisor .....	DU170128	05/30/2017
		Adviser .....	DU170087	04/03/2017
	Office of United States Immigration and Customs Enforcement.	Congressional Relations Specialist .....	DU170095	03/20/2017
		Congressional Relations Specialist Assistant.	DU160049	09/15/2016
	Office of Community Planning and Development.	Senior Advisor (2) .....	DU170084	04/03/2017
		Adviser .....	DU170118	05/31/2017
	Office of Congressional and Intergovernmental Relations.	Special Assistant (2) .....	DU170124	05/05/2017
		Special Assistant (2) .....	DU170125	05/12/2017
	Office of Field Policy and Management.	Adviser for Single Family Asset Management.	DU170004	11/22/2016
		Director for Strong Cities and Strong Communities.	DU170123	05/01/2017
	Office of Housing .....	Senior Advisor .....	DU170111	04/19/2017
		Assistant Press Secretary .....	DU170122	05/04/2017
	Office of Policy Development and Research.	Deputy Assistant Secretary for Public Affairs (2).	DU160046	08/25/2016
		Deputy Director of Speechwriting ..	DU170090	03/20/2017
	Office of Public Affairs .....	Director of Speechwriting (2) .....	DU160041	08/05/2016
		Press Secretary .....	DU160040	07/20/2016
	Office of Public and Indian Housing	Special Advisor for Digital Strategy	DU170112	04/14/2017
		Speechwriter .....	DU160043	07/26/2016
	Office of the Administration .....	Senior Policy Advisor .....	DU170017	03/23/2017
		Special Advisor (3) .....	DU160039	07/28/2016
	Office of the General Counsel .....	Special Policy Advisor .....	DU170081	03/31/2017
		Advance Coordinator .....	DU160044	08/31/2016
	Office of the Secretary .....	Briefing and Book Coordinator .....	DU170054	03/27/2017
		Deputy Executive Secretary .....	DU170055	03/27/2017
	Office of the Assistant Secretary—Fish and Wildlife and Parks.	Director of Advance .....	DU170001	10/06/2016
		Director of Scheduling .....	DU170113	05/22/2017
	Office of the Assistant Secretary—Indian Affairs.	Director, Office of Executive Scheduling and Operations.	DU170106	04/03/2017
		Special Assistant .....	DU170114	04/07/2017
	Office of the Assistant Secretary—Land and Minerals Management.	Special Assistant and Briefing Book Coordinator.	DU160050	09/29/2016
		Senior Counsel (3) .....	DU170103	04/12/2017
	Office of the Assistant Secretary—Policy, Management and Budget.	Special Assistant .....	DU170116	04/06/2017
		Special Assistant .....	DU170058	03/27/2017
DEPARTMENT OF THE INTERIOR	Office of the Secretary .....	Special Assistant .....	DU170096	03/20/2017
		Chief of Staff/Senior Counsel .....	DU160048	09/07/2016
	Office of the Assistant Secretary—Fish and Wildlife and Parks.	Deputy White House Liaison .....	DU170094	03/23/2017
		Executive Assistant (2) .....	DU170117	05/05/2017
	Office of the Assistant Secretary—Indian Affairs.	Senior Counsel (3) .....	DU170135	05/30/2017
		Special Assistant .....	DU160045	08/22/2016
	Office of the Assistant Secretary—Land and Minerals Management.	Chief of Staff/Senior Counsel .....	DU170003	12/12/2016
		Deputy White House Liaison .....	DU170002	10/18/2016
	Office of the Assistant Secretary—Policy, Management and Budget.	Executive Assistant (2) .....	DU170062	03/02/2017
		Senior Advisor .....	DU170127	05/31/2017
	Office of the Assistant Secretary—Fish and Wildlife and Parks.	White House Liaison .....	DU170100	04/28/2017
		Adviser .....	DU170059	03/02/2017
	Office of the Assistant Secretary—Indian Affairs.	Special Assistant .....	DI170062	05/03/2017
		Special Assistant .....	DI170077	05/04/2017
	Office of the Assistant Secretary—Land and Minerals Management.	Special Assistant .....	DI160093	09/23/2016
		Adviser .....	DI170046	03/16/2017
	Office of the Assistant Secretary—Policy, Management and Budget.	Special Assistant (2) .....	DI170067	05/04/2017
		Adviser .....	DI170081	05/17/2017
	Office of the Assistant Secretary—Policy, Management and Budget.	Senior Advisor .....	DI170065	05/30/2017
		Senior Advisor .....	DI160082	07/29/2016

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF JUSTICE .....	Office of Bureau of Land Management.	Advisor .....	DI160079	07/22/2016
	Office of Bureau of Ocean Energy Management.	Advisor .....	DI160095	10/03/2016
	Office of Congressional and Legislative Affairs.	Deputy Director, Office of Congressional and Legislative Affairs.	DI170042	04/12/2017
		Special Assistant (2) .....	DI170073	05/12/2017
			DI160096	10/14/2016
	Office of the Deputy Secretary .....	Advisor .....	DI160083	08/19/2016
	Office of the Solicitor .....	Advisor (2) .....	DI170064	05/04/2017
			DI170093	06/14/2017
		Counselor .....	DI170096	06/15/2017
	Secretary's Immediate Office .....	Advance Representative (2) .....	DI170066	05/04/2017
			DI170095	06/15/2017
		Advisor .....	DI170080	05/12/2017
		Advisor, Intergovernmental Affairs	DI170082	05/11/2017
		Deputy Communications Director and Press Secretary.	DI160094	09/16/2016
		Deputy Director, Office of External Affairs.	DI170041	05/09/2017
		Deputy Director, Office of Scheduling and Advance.	DI170088	06/07/2017
		Deputy Press Secretary .....	DI170075	05/12/2017
		Director, Office of Scheduling and Advance.	DI170045	03/10/2017
		Senior Advisor for Alaskan Affairs	DI170083	05/16/2017
		Special Assistant (5) .....	DI170048	03/10/2017
			DI170074	05/02/2017
			DI170076	05/30/2017
			DI170085	06/06/2017
			DI170001	10/14/2016
		Special Assistant (Scheduling and Advance) (2).	DI170043	03/10/2017
			DI170044	03/10/2017
		White House Liaison .....	DI170047	03/10/2017
		Writer .....	DI170089	06/27/2017
	Office of Antitrust Division .....	Counsel .....	DJ170081	05/31/2017
	Office of Civil Rights Division .....	Counsel .....	DJ170121	06/02/2017
		Senior Counsel .....	DJ170127	06/23/2017
	Office of Environment and Natural Resources Division.	Counsel .....	DJ170069	05/02/2017
	Office of Legal Policy .....	Special Assistant and Counsel .....	DJ170106	05/22/2017
		Counsel (3) .....	DJ170048	03/30/2017
			DJ170090	05/22/2017
			DJ170087	05/24/2017
	Office of Legislative Affairs .....	Confidential Assistant .....	DJ170074	05/02/2017
		Attorney Advisor (3) .....	DJ170055	05/22/2017
			DJ170077	06/26/2017
			DJ170009	10/26/2016
	Office of Public Affairs .....	Chief Speechwriter .....	DJ170109	05/31/2017
		Confidential Assistant .....	DJ170080	05/31/2017
		Deputy Speechwriter .....	DJ170111	05/31/2017
		Media Affairs Coordinator .....	DJ170093	05/08/2017
		Press Assistant (2) .....	DJ170051	05/08/2017
			DJ170107	05/31/2017
		Principal Deputy Director .....	DJ170037	03/07/2017
		Public Affairs Specialist .....	DJ170102	05/31/2017
		Speechwriter (2) .....	DJ170006	09/23/2016
			DJ170002	12/12/2016
	Office of the Associate Attorney General.	Chief of Staff and Counsel .....	DJ170091	05/22/2017
	Office of the Attorney General .....	Confidential Assistant .....	DJ170083	05/22/2017
		Counselor (2) .....	DJ170088	05/26/2017
			DJ170094	05/31/2017
		Deputy White House Liaison .....	DJ170039	02/23/2017
		Director of Advance .....	DJ170103	05/31/2017
		Director of Scheduling .....	DJ170024	05/22/2017
		Special Assistant .....	DJ170040	03/01/2017
		White House Liaison .....	DJ170084	05/02/2017
	Office of the Deputy Attorney General.	Counsel (6) .....	DJ170062	05/02/2017
			DJ170072	05/02/2017
			DJ170073	05/02/2017
			DJ170089	05/04/2017
			DJ170056	05/22/2017
			DJ170092	05/22/2017

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF LABOR .....	Office of the Legal Counsel .....	Counsel .....	DJ170086	05/08/2017
	Office on Violence Against Women	Advisor .....	DJ160141	07/26/2016
	Office of Employment and Training Administration.	Senior Advisor .....	DL170058	05/30/2017
	Office of Congressional and Intergovernmental Affairs.	Senior Policy Advisor .....	DL170065	06/15/2017
	Senior Legislative Assistant .....	Legislative Assistant .....	DL170066	06/27/2017
		DL160122 .....	08/15/2016	
	Office of Public Affairs .....	Legislative Officer .....	DL170001	10/21/2016
		Speech Writer .....	DL170063	05/31/2017
		Director of Speechwriting .....	DL160124	08/22/2016
		Special Assistant .....	DL160128	10/07/2016
		Press Secretary .....	DL170007	11/09/2016
	Office of the Deputy Secretary .....	Chief of Staff .....	DL160125	08/22/2016
		Policy Advisor .....	DL170005	11/08/2016
	Office of the Secretary .....	Advisor .....	DL160103	07/20/2016
		Counsel .....	DL170059	05/25/2017
		Counselor .....	DL170052	04/28/2017
		Deputy Chief of Staff .....	DL170062	05/30/2017
		Deputy Director of Advance .....	DL170061	05/31/2017
		Deputy Director of Scheduling .....	DL170060	06/12/2017
		Deputy Director, Scheduling and Advance.	DL160114	08/09/2016
		Special Assistant .....	DL160118	08/01/2016
	Office of the Solicitor .....	Attorney Advisor .....	DL170051	04/06/2017
		Counselor .....	DL160104	07/06/2016
	Office of Veterans Employment and Training Service.	Special Assistant .....	DL160133	10/04/2016
	Office of Wage and Hour Division	Policy Advisor .....	DL160119	08/09/2016
		Deputy Chief of Staff .....	DL170004	11/01/2016
	Office of the Administrator .....	White House Liaison .....	NN170039	04/19/2017
	Office of the Chief of Staff .....	Director of Congressional Affairs ...	NA160008	8/17/2016
	Office of the Senior Deputy Chair ..	Confidential Assistant .....	NA170006	03/21/2017
	Office of the Chairman .....	White House Liaison and Chairman's Strategic Scheduler.	NH170001	8/31/2016
	Office of the Board Members .....	Director Congressional and Public Affairs Officer.	NL170012	06/16/2017
	Office of Commissioners .....	Counsel .....	SH170001	12/21/2016
	Office of Communications .....	Press Secretary .....	BO170065	04/19/2017
		Deputy Associate Director for Communications.	BO170074	05/19/2017
		Deputy Press Secretary .....	BO170075	06/22/2017
	Office of Education, Income Maintenance and Labor Programs.	Confidential Assistant .....	BO170073	05/16/2017
	Office of General Counsel .....	Assistant Deputy General Counsel	BO170051	03/31/2017
		Counsel .....	BO170050	04/14/2017
		Confidential Assistant .....	BO170076	05/25/2017
	Office of General Government Programs.	Confidential Assistant .....	BO170061	04/07/2017
	Office of Health Division .....	Confidential Assistant .....	BO170048	03/31/2017
	Office of Legislative Affairs .....	Confidential Assistant .....	BO160049	09/16/2016
		Deputy .....	BO160045	07/12/2016
		Deputy for Legislative Affairs (3) ....	BO170040	03/08/2017
			BO170032	03/10/2017
			BO170070	05/12/2017
		Legislative Analyst (2) .....	BO170056	04/14/2017
			BO160046	08/10/2016
		Special Assistant for Legislative Affairs.	BO170072	05/04/2017
	Office of National Security Programs.	Confidential Assistant .....	BO170068	05/22/2017
	Office of Natural Resource Programs.	Confidential Assistant .....	BO170054	04/14/2017
	Office of E-Government and Information Technology.	Program Analyst .....	BO170001	10/07/2016
	Office of Federal Procurement Policy.	Confidential Assistant .....	BO160050	09/23/2016
	Office of Information and Regulatory Affairs.	Counselor .....	BO170063	04/14/2017
	Office of Management and Budget	Confidential Assistant .....	BO170077	06/08/2017
		Confidential Assistant .....	BO160048	08/15/2016
	Office of the Director .....	Confidential Assistant (3) .....	BO170038	03/31/2017
			BO170062	04/24/2017

Agency name	Organization name	Position title	Authorization No.	Effective date
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of Legislative Affairs .....	Confidential Assistant (Deputy Director).	BO170067	05/05/2017
		Deputy Chief of Staff .....	BO170047	04/12/2017
		Senior Advisor .....	BO170060	04/14/2017
		Special Assistant (2) .....	BO170003	11/02/2016
		Special Assistant (2) .....	BO170057	04/07/2017
		Special Assistant (2) .....	BO170005	11/29/2016
		Senior Legislative and Policy Advisor.	QQ160005	07/20/2016
		Digital Engagement Specialist .....	QQ170002	03/31/2017
		White House Liaison .....	QQ170003	03/09/2017
		Chief Strategist .....	QQ170005	06/06/2017
OFFICE OF PERSONNEL MANAGEMENT.	Office of Communications .....	Speech Writer .....	PM170028	05/04/2017
		Special Assistant (2) .....	PM170032	05/12/2017
		Deputy Chief of Staff .....	PM160028	07/20/2016
		Deputy Chief of Staff .....	PM170037	06/08/2017
OFFICE OF SCIENCE AND TECHNOLOGY POLICY.	Office of Science and Technology Policy.	Confidential Assistant .....	TS170005	03/29/2017
		Assistant Director for Legislative Affairs.	TS170006	06/29/2017
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.	Office of the Ambassador .....	Executive Secretary .....	TN170011	04/19/2017
		Director of Scheduling and Advance.	TN170014	05/19/2017
		Deputy Press Secretary and Director of Press Operations.	TN160008	07/21/2016
		Deputy Residence Manager .....	RV170001	02/09/2017
OFFICIAL RESIDENCE OF THE VICE PRESIDENT. PRESIDENTS COMMISSION ON WHITE HOUSE FELLOWSHIPS.	Official Residence of the Vice President. Presidents Commission on White House Fellowships.	Associate Director .....	WH160003	08/04/2016
		Confidential Assistant .....	WH170007	06/02/2017
		Special Assistant (2) .....	WH170011	06/02/2017
		Special Assistant (2) .....	WH160004	09/01/2016
SECURITIES AND EXCHANGE COMMISSION. SELECTIVE SERVICE SYSTEM .... SMALL BUSINESS ADMINISTRATION.	Office of the Chairman .....	Confidential Assistant .....	SE170001	05/19/2017
		Confidential Assistant .....	SE170001	05/19/2017
	Office of the Director .....	Special Advisor .....	SS170001	06/08/2017
		Senior Advisor .....	SB170036	05/05/2017
		Special Advisor (2) .....	SB170021	03/21/2017
	Office of Administration .....	Special Advisor (2) .....	SB160037	09/23/2016
		Special Advisor (2) .....	SB170009	03/07/2017
		Special Advisor (2) .....	SB170009	03/07/2017
	Office of Communications and Public Liaison.	Assistant Director for Internal Communications and Public Liaison.	SB170038	05/10/2017
		Deputy Press Secretary .....	SB170038	05/10/2017
		Deputy Assistant Administrator .....	SB170015	03/30/2017
	Office of Congressional and Legislative Affairs.	Deputy Assistant Administrator for Congressional and Legislative Affairs.	SB160036	09/16/2016
		Deputy Assistant Administrator for Congressional and Legislative Affairs.	SB170011	03/10/2017
		Deputy Assistant Administrator for Congressional and Legislative Affairs.	SB170027	04/19/2017
	Office of Entrepreneurial Development.	Legislative Assistant (2) .....	SB170020	04/06/2017
		Senior Advisor .....	SB170020	04/06/2017
		Special Advisor .....	SB170041	05/22/2017
	Office of Faith-Based and Community Initiatives.	Director of Faith Based and Community Initiatives.	SB170034	05/16/2017
		Regional Administrator Region IX ..	SB170019	03/24/2017
		Senior Advisor (2) .....	SB170026	04/11/2017
	Office of Field Operations .....	Senior Advisor (2) .....	SB170033	05/12/2017
		Special Assistant .....	SB170043	05/31/2017
		Senior Advisor .....	SB170044	06/06/2017
	Office of the Administrator .....	Assistant Administrator for Intergovernmental Affairs.	SB170012	03/10/2017
		Special Advisor .....	SB170013	03/10/2017
		Senior Advisor .....	SB170022	04/14/2017
SOCIAL SECURITY ADMINISTRATION. DEPARTMENT OF STATE .....	Office of the Commissioner .....	Confidential Assistant .....	SZ170007	06/06/2017
		Confidential Assistant .....	SZ170007	06/06/2017
		Confidential Assistant .....	SZ170007	06/06/2017
	Office of Bureau of Arms Control, Verification, and Compliance.	Public Affairs Specialist .....	DS170008	12/06/2016
		Public Affairs Specialist .....	DS170008	12/06/2016
		Public Affairs Specialist .....	DS170008	12/06/2016
	Office of Bureau of Economic and Business Affairs.	Special Assistant .....	DS160116	07/08/2016
		Special Assistant .....	DS160116	07/08/2016
		Special Assistant .....	DS160116	07/08/2016
	Office of Bureau of Energy Resources.	Senior Advisor .....	DS170154	05/31/2017
		Special Assistant .....	DS170010	12/06/2016
		Deputy Coordinator .....	DS170155	06/09/2017
	Office of Bureau of International Information Programs.	Public Affairs Specialist .....	DS170006	12/08/2016
		Deputy Assistant Secretary .....	DS170168	06/09/2017
		Legislative Management Officer .....	DS160119	07/08/2016
	Office of Bureau of Public Affairs ...	Senior Advisor .....	DS170160	06/09/2017
		Senior Advisor .....	DS170160	06/09/2017
		Special Assistant .....	DS170156	06/09/2017
	Office of Bureau of Western Hemisphere Affairs.	Special Assistant .....	DS170156	06/09/2017
		Special Assistant .....	DS170156	06/09/2017
		Special Assistant .....	DS170156	06/09/2017

Agency name	Organization name	Position title	Authorization No.	Effective date
TRADE AND DEVELOPMENT AGENCY. DEPARTMENT OF TRANSPOR- TATION.	Office of Global Food Security .....	Special Assistant .....	DS160121	07/21/2016
	Office of Global Women's Issues ...	Staff Assistant .....	DS160127	07/29/2016
	Office of Policy Planning .....	Senior Advisor .....	DS170144	05/16/2017
		Special Assistant .....	DS170151	05/23/2017
		Speechwriter (2) .....	DS170145	05/16/2017
			DS170143	05/19/2017
		Staff Assistant .....	DS170174	06/27/2017
	Office of the Chief of Protocol .....	Protocol Officer (Ceremonials) .....	DS170178	06/29/2017
		Protocol Officer (Visits) .....	DS160126	07/27/2016
		Senior Protocol Officer (3) .....	DS170141	05/11/2017
			DS170152	05/25/2017
			DS170177	06/23/2017
		Staff Assistant .....	DS170173	06/15/2017
	Office of the Global Women's Issues.	Senior Advisor .....	DS160120	07/20/2016
	Office of the Secretary .....	Senior Advisor (2) .....	DS170138	05/17/2017
			DS170005	11/21/2016
		Special Advisor (2) .....	DS170147	05/23/2017
			DS170165	06/02/2017
		Special Assistant .....	DS170167	06/09/2017
		Special Assistant (Scheduler) .....	DS170164	06/02/2017
		Staff Assistant (Deputy Scheduler) .....	DS170175	06/20/2017
	Office of the United States Global Aids Coordinator.	Foreign Affairs Officer .....	DS160091	08/09/2016
	Office of the Under Secretary for Arms Control and International Security Affairs.	Special Assistant .....	DS170133	05/12/2017
	Office of the Under Secretary for Civilian Security, Democracy, and Human Rights.	Advisor .....	DS170170	06/09/2017
		Senior Advisor .....	DS170148	05/11/2017
		Staff Assistant (2) .....	DS170146	05/12/2017
			DS170015	12/13/2016
		Senior Advisor .....	DS170157	06/02/2017
	Office of the Under Secretary for Economic Growth, Energy, and the Environment.			
	Office of the Under Secretary for Management.	Special Assistant (2) .....	DS170140	05/22/2017
	Office of the Director .....		DS170134	06/02/2017
		Public Affairs Specialist (2) .....	TD170006	05/26/2017
			TD170008	06/09/2017
	Office of the Administrator .....	Director of Governmental Affairs ....	DT170081	04/14/2017
		Director of Communications .....	DT170101	05/16/2017
		Senior Advisor .....	DT160074	07/21/2016
	Office of Assistant Secretary for Budget and Programs.	Special Assistant (2) .....	DT170065	03/31/2017
	Office of Assistant Secretary for Governmental Affairs.		DT170008	10/31/2016
		Governmental Affairs Officer (2) ....	DT170092	04/14/2017
			DT170115	06/21/2017
		Senior Governmental Affairs Offi- cer.	DT170110	05/30/2017
	Office of Assistant Secretary for Transportation Policy.	Deputy Assistant Secretary for Transportation Policy.	DT170075	04/14/2017
		Senior Advisor .....	DT170096	05/09/2017
		Associate Director for Public En- gagement.	DT160071	07/20/2016
		Deputy Director for Public Engage- ment.	DT160072	07/20/2016
	Office of Executive Secretariat .....	Special Assistant .....	DT170057	03/24/2017
	Immediate Office of the Adminis- trator.	Director of Governmental, Inter- national and Public Affairs (2).	DT170085	04/14/2017
			DT170011	10/28/2016
		Special Assistant .....	DT170022	11/22/2016
	Office of Public Affairs .....	Speechwriter .....	DT170044	03/24/2017
		Deputy Director for Public Affairs ...	DT170055	04/14/2017
		Deputy Press Secretary .....	DT170105	05/12/2017
		Director of Digital Strategy .....	DT170007	10/28/2016
	Office of the Secretary .....	Advisor (2) .....	DT170028	01/06/2017
			DT170029	01/06/2017
		Counselor (2) .....	DT170080	04/12/2017
			DT170108	06/07/2017
		Deputy White House Liaison .....	DT170017	08/19/2016
		Director of Advance .....	DT170027	12/22/2016
		Director of Scheduling .....	DT170023	10/28/2016
		Executive Assistant .....	DT170091	04/14/2017
		Senior Advisor .....	DT170051	04/14/2017
		Senior White House Advisor .....	DT170050	03/14/2017
		Special Advisor .....	DT170043	03/14/2017

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF THE TREASURY.	Office of Small and Disadvantaged Business Utilization. Office of the Assistant Secretary (Economic Policy). Office of the Chief of Staff .....	Special Assistant (2) .....	DT170064 DT170052	03/28/2017 03/30/2017
		Special Assistant for Scheduling and Advance (3).	DT170035 DT170036 DT170106	02/28/2017 02/28/2017 05/12/2017
		White House Liaison .....	DT170048	03/14/2017
		Senior Advisor .....	DT170088	04/04/2017
		Senior Advisor .....	DY160108	07/27/2016
		Advance Representative (2) .....	DY170070 DY170068	03/01/2017 03/06/2017
		White House Liaison .....	DY170102	04/14/2017
		Director, Operations (Scheduling and Advance). Associate Director (2) .....	DY170060 DY170018 DY170019	02/27/2017 11/22/2016 11/22/2016
		Deputy Chief of Staff (2) .....	DY170071 DY170145	03/01/2017 06/28/2017
		Confidential Assistant .....	DY170015	11/21/2016
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary (Legislative Affairs). Office of the Assistant Secretary (Public Affairs).  Office of Terrorism and Financial Intelligence.  Office of the Assistant Secretary for Management. Office of Secretary of the Treasury Office of Tax Policy .....	Director of Scheduling, Advance and Administration. Assistant .....	DY160103 DY170069	07/07/2016 03/10/2017
		Special Advisor .....	DY170001	10/06/2016
		Press Assistant .....	DY170115	05/12/2017
		Spokesperson (3) .....	DY160102 DY160107 DY160125	07/05/2016 07/21/2016 09/14/2016
		Senior Digital Strategy Specialist ... Senior Advisor to the United States for Terrorism and Financial Intelligence.	DY160124 DY170125	09/14/2016 05/23/2017
		Special Assistant (2) .....	DY170012 DY160115	11/15/2016 07/21/2016
		Senior Advisor .....	DY160116	07/26/2016
		Senior Advisor .....	DY170126	05/23/2017
		Special Assistant .....	DY170113	05/04/2017
		Senior Advisor .....	DY170135	06/02/2017
	Office of the Under Secretary for Domestic Finance.  Office of Legislative Affairs .....	Executive Assistant .....	DY160112	07/21/2016
		Special Assistant (2) .....	DY170138 DY170038	06/16/2017 01/04/2017
		Senior Advisor .....	DY170083	03/22/2017
		Senior Advisor for Housing .....	DY170016	11/22/2016
		Senior Advisor (2) .....	DY170020 DY170013	11/22/2016 11/15/2016
		Deputy Executive Secretary .....	DY170105	04/28/2017
		Special Assistant (2) .....	DY170074 DY170111	03/16/2017 04/28/2017
		Personal Aide .....	DY170073	03/23/2017
		Special Advisor .....	DY170021	11/22/2016
		Special Assistant (2) .....	DY170017 DY170119	11/22/2016 05/12/2017
	Office of the Under Secretary for International Affairs. Office of Intergovernmental Affairs Office of Planning and Evaluation .. Office of Public Affairs .....	Senior Advisor .....	DY170065	02/27/2017
		Special Assistant .....	DY160109	07/18/2016
		Special Assistant .....	DV160065	07/22/2016
		Chief Design Officer .....	DV160080	09/20/2016
		Deputy Press Secretary .....	DV160066	07/22/2016
		Special Assistant .....	DV170062	06/27/2017
		Special Advisor .....	DV170047	04/14/2017
		Special Assistant .....	DV170051	05/01/2017
		Press Secretary .....	DV170054	06/06/2017
		Special Assistant/Whitehouse Liaison. Director, Special Projects, Strategic Partnerships.	DV170052 DV160060	06/14/2017 07/06/2016
	Office of the Secretary and Deputy	Special Advisor and White House Liaison.	DV160079	09/20/2016

**Authority:** 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p.218.

Office of Personnel Management.

**Jeff T.H. Pon,**

*Director.*

[FR Doc. 2018–09302 Filed 5–1–18; 8:45 am]

**BILLING CODE 6325–39–P**

## POSTAL SERVICE

### Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* May 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 26, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 34 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2018–147, CP2018–211.

**Elizabeth Reed,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2018–09241 Filed 5–1–18; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83112; File No. SR–CBOE–2018–030]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 24.6, Days and Hours of Business

April 26, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on April 13, 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<sup>3</sup> and Rule 19b–4(f)(6) thereunder.<sup>4</sup> 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 Rule 24.6.

(additions are *italicized*; deletions are [bracketed])

\* \* \* \* \*

Cboe Exchange, Inc.

Rules

\* \* \* \* \*

Chapter XXIV. Index Options

\* \* \* \* \*

Rule 24.6. Days and Hours of Business

(a) (No change).

(b) Transactions in the following index options may be effected on the Exchange during the Regular Trading Hours of 8:30 a.m. Chicago time to 3:00 p.m. Chicago time:

(i)–(xli) (No change)

(xlii) S&P Financial Select Sector Index (SIXM)

(xliii) S&P Energy Select Sector Index (SIXE)

(xliv) S&P Technology Select Sector Index (SIXT)

(xlv) S&P Health Care Select Sector Index (SIXV)

(xlvi) S&P Utilities Select Sector Index (SIXU)

(xlvii) S&P Consumer Staples Select Sector Index (SIXR)

(xlviii) S&P Industrials Select Sector Index (SIXI)

(xlix) S&P Consumer Discretionary Select Sector Index (SIXY)

(xlx) S&P Materials Select Sector Index (SIXB)

(xli) S&P Real Estate Select Sector Index (SIXRE)

. . . *Interpretations and Policies:*

.01–.06 (No change).

\* \* \* \* \*

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

Recently, the Exchange proposed to amend certain rules in connection with the Exchange's plans to list and trade ten S&P Select Sector Index options. Each S&P Select Sector Index (“Sector Index”)<sup>5</sup> represents the performance of stocks that are components of the Standard & Poor's 500 Index (“S&P 500”) within one of the following sectors (each of which is referred to as a “Sector Index”):

Sector	Symbol <sup>6</sup>	Number of components
Financial .....	IXM	66
Energy .....	IXE	32
Technology .....	IXT	72
Health Care .....	IXV	61
Utilities .....	IXU	28
Consumer Staples .....	IXR	35
Industrials .....	IXI	68
Consumer Discretionary .....	IXY	85
Materials .....	IXB	26
Real Estate .....	IXRE	32

Currently, pursuant to Rule 24.6(a), options on the Sector Indexes may trade on the Exchange from 8:30 a.m. until 3:15 p.m. Chicago time. In connection with the listing of options on the Sector Indexes,<sup>7</sup> the Exchange proposes to amend Rule 24.6(b) to add options on

<sup>5</sup> Each Sector Index is a narrow-based index as defined in Rule 24.1(i)(2).

<sup>6</sup> These symbols represent the index. The corresponding option symbols are SIXM, SIXE, SIXT, SIXV, SIXU, SIXR, SIXI, SIXY, SIXB, and SIXRE, respectively.

<sup>7</sup> The Exchange has not yet begun listing options on the Sector Indexes, but expects to begin listing them as early as April 2018.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b–4(f)(6).



the Sector Indexes to the list of index options that may trade on the Exchange from 8:30 a.m. until 3:00 p.m. Chicago time. The Exchange understands that investors who plan to trade options on Sector Indexes would often use the prices of the stock components of Sector Indexes to price options rather than futures on the Sector Indexes (which are often used to price index options, such as options on the S&P 500). Investors similarly use pricing of underlying stocks to price shares of exchange-traded funds (“ETFs”) derived from the Sector Indexes (e.g., Select Sector SPDR ETFs), the components of which are stocks that are components of the Sector Indexes. The underlying stocks end regular trading at 3:00 p.m. Chicago time each day. Closing trading in the Select Sector Index options at the same time the stocks end regular trading<sup>8</sup> will ensure investors have access to robust pricing of the underlying stock components they use to price the options, thus reducing investors’ price risk. Various other index options, including narrow-based index options, may trade from 8:30 a.m. to 3:00 p.m. Chicago time.<sup>9</sup>

## 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.<sup>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> 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)<sup>12</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, closing trading in the Select Sector Index options at the same time the stocks end regular trading will ensure investors have access to robust pricing of the underlying stock components they use to price the options, which protects investors by reducing their price risk. Various other index options, including narrow-based index options, may trade from 8:30 a.m. to 3:00 p.m. Chicago time.<sup>13</sup>

### *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. All market participants will be able to trade options on the Sector Indexes during the same trading hours. Various other index options, including narrow-based index options, may trade from 8:30 a.m. to 3:00 p.m. Chicago time.<sup>14</sup> The Exchange believes the proposed rule change will promote competition, as it brings the trading hours for Sector Index options in line with competitive products trading on other exchanges. Additionally, Sector Index options trade exclusively 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

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<sup>15</sup> and subparagraph (f)(6) Rule 19b–4 thereunder.<sup>16</sup>

A proposed rule change filed under Rule 19b–4(f)(6)<sup>17</sup> normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)<sup>18</sup> 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 requested that the Commission waive the 30-day operative delay to permit the proposed rule change to be operative at the time the Exchange begins listing Sector Index options for trading. 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 to add ten new S&P Select Sector Index options to the existing list of similar index options, including narrow-based index options, that trade until 3:00 p.m. Chicago time does not raise any new or novel issues. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>19</sup>

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:

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

<sup>17</sup> 17 CFR 240.19b–4(f)(6).

<sup>18</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>19</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> While the stocks may continue to trade in an aftermarket trading session on the listing exchanges, there is less liquidity in aftermarket trading, which generally leads to wider spreads and more volatile pricing.

<sup>9</sup> See Rule 24.6(b) (for example, options on the S&P transportation, retail, health care, banking, insurance, and chemical indices, and the Cboe PowerPacks SM bank, biotechnology, gold, internet, iron & steel, oil, oil services, pharmaceuticals, retail, semiconductor, technology, and telecom indices).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> *Id.*

<sup>13</sup> See *supra* note 9.

<sup>14</sup> *Id.*

*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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2018-030 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-2018-030. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2018-030 and should be submitted on or before May 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-09257 Filed 5-1-18; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-83119; File No. SR-ISE-2018-16]

**Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Introduce the ATR Protection for Orders that are Routed to Away Markets**

April 26, 2018.

On February 23, 2018, Nasdaq ISE, LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Exchange Rule 714 regarding the Acceptable Trade Range protection for orders and quotes. The proposed rule change was published for comment in the **Federal Register** on March 14, 2018.<sup>3</sup> On April 20, 2018, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>4</sup> The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether these proposed rule changes should be disapproved. The 45th day for this filing is April 28, 2018.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 82846 (March 9, 2018), 83 FR 11254 ("Notice").

<sup>4</sup> See Letter to Brent J. Fields, Secretary, Commission, from Adrian Griffiths, Senior Associate General Counsel, Nasdaq, Inc., dated April 20, 2018. Amendment No. 1 revises the proposed rule change to: (i) Provide further discussion of the current application of the ATR to orders routed away; (ii) modify the proposed rule text regarding the recalculation of the ATR for orders routed away pursuant to Supplementary Material to Exchange Rule 1901, if the applicable National Best Bid or the National Best Offer price is improved at the time of routing; (iii) expand the discussion and justification for recalculating the ATR for such orders; and (iv) make other amendments to the proposed rule text to improve the understandability of the current ATR calculation. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-ise-2018-16/ise201816-3483594-162248.pdf>.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider and take action on the Exchange's proposed rule change.

Accordingly, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act<sup>6</sup> and for the reasons stated above, the Commission designates June 12, 2018 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-ISE-2018-16).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-09264 Filed 5-1-18; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Investment Company Act Release No. 33076A; 812-14873]

**Redwood Investment Management, LLC and Two Roads Shared Trust**

April 26, 2018.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(f) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies ("Funds") to issue shares redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value ("NAV"); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the

<sup>6</sup> 15 U.S.C. 78s(b)(2)(A)(ii)(I).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

<sup>20</sup> 17 CFR 200.30-3(a)(12).

Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds ("Funds of Funds") to acquire shares of the Funds.

**APPLICANTS:** Redwood Investment Management, LLC (the "Initial Adviser"), a California limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940 and Two Roads Shared Trust (the "Trust"), a Delaware statutory trust registered under the Act as a series open-end management investment company.

**FILING DATE:** The application was filed on January 25, 2018.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief 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:** Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090; Applicants: The Initial Adviser, 1117 S. Robertson Boulevard, Los Angeles, CA 90035; and the Trust, 17605 Wright Street, Omaha, NE 68130.

**FOR FURTHER INFORMATION CONTACT:** Bruce R. MacNeil, Senior Counsel, at (202) 551-6817, 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. Applicants request an order that would allow Funds to operate as index

exchange traded funds ("ETFs").<sup>1</sup> Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an "Authorized Participant," which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act ("Affiliated Person"), or an affiliated person of an Affiliated Person ("Second-Tier Affiliate"), of the Trust or a Fund, of the Adviser, of any sub-adviser or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.<sup>2</sup>

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments ("Deposit Instruments"), and shareholders redeeming their shares will receive specified instruments ("Redemption Instruments"). The Deposit Instruments and the Redemption Instruments will each

<sup>1</sup> Applicants request that the order apply to LeaderShares™ AlphaFactor® Core ETF (the "Initial Fund") and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term "Fund"), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an "Underlying Index"). Each Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity or any successor thereto, an "Adviser") and (b) comply with the terms and conditions of the application. For purposes of the requested order, "successor" is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

<sup>2</sup> The Initial Fund will track the AlphaFactor® Focused Index, which is compiled by Solactive AG. Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii)

excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.<sup>3</sup> The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if 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. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered

investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–09232 Filed 5–1–18; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83116; File No. SR–MRX–2018–08]

### Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Introduce the ATR Protection for Orders That Are Routed to Away Markets

April 26, 2018.

On February 23, 2018, Nasdaq MRX, LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to amend Exchange Rule 714 regarding the Acceptable Trade Range protection for orders and quotes. The proposed rule change was published for comment in the **Federal Register** on March 14, 2018.<sup>3</sup> On April 23, 2018, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>4</sup> The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act <sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 82848 (March 9, 2018), 83 FR 11276 (“Notice”).

<sup>4</sup> See Letter to Brent J. Fields, Secretary, Commission, from Adrian Griffiths, Senior Associate General Counsel, Nasdaq, Inc., dated April 23, 2018. Amendment No. 1 revises the proposed rule change to: (i) Provide further discussion of the current application of the ATR to orders routed away; (ii) modify the proposed rule text regarding the recalculation of the ATR for orders routed away pursuant to Supplementary Material to Exchange Rule 1901, if the applicable National Best Bid or the National Best Offer price is improved at the time of routing; (iii) expand the discussion and justification for recalculating the ATR for such orders; and (iv) make other amendments to the proposed rule text to improve the understandability of the current ATR calculation. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-mrx-2018-08/mrx201808-3492392-162259.pdf>.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether these proposed rule changes should be disapproved. The 45th day for this filing is April 28, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider and take action on the Exchange’s proposed rule change.

Accordingly, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act <sup>6</sup> and for the reasons stated above, the Commission designates June 12, 2018 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–MRX–2018–08).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–09261 Filed 5–1–18; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83118; File No. SR–GEMX–2018–09]

### Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Introduce the ATR Protection for Orders That Are Routed to Away Markets

April 26, 2018.

On February 26, 2018, Nasdaq GEMX, LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to amend Exchange Rule 714 regarding the Acceptable Trade Range protection for orders and quotes. The proposed rule

<sup>6</sup> 15 U.S.C. 78s(b)(2)(A)(ii)(I).

<sup>7</sup> 17 CFR 200.30–3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

change was published for comment in the **Federal Register** on March 14, 2018.<sup>3</sup> On April 23, 2018, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>4</sup> The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether these proposed rule changes should be disapproved. The 45th day for this filing is April 28, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider and take action on the Exchange's proposed rule change.

Accordingly, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act<sup>6</sup> and for the reasons stated above, the Commission designates June 12, 2018 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-GEMX-2018-09).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-09263 Filed 5-1-18; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>3</sup> See Securities Exchange Act Release No. 82847 (March 9, 2018), 83 FR 11259 ("Notice").

<sup>4</sup> See Letter to Brent J. Fields, Secretary, Commission, from Adrian Griffiths, Senior Associate General Counsel, Nasdaq, Inc., dated April 23, 2018. Amendment No. 1 revises the proposed rule change to: (i) Provide further discussion of the current application of the ATR to orders routed away; (ii) modify the proposed rule text regarding the recalculation of the ATR for orders routed away pursuant to Supplementary Material to Exchange Rule 1901, if the applicable National Best Bid or the National Best Offer price is improved at the time of routing; (iii) expand the discussion and justification for recalculating the ATR for such orders; and (iv) make other amendments to the proposed rule text to improve the understandability of the current ATR calculation. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-gemx-2018-09/gemx201809-3490578-162256.pdf>.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(2)(A)(ii)(I).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

#### *Upon Written Request Copies Available*

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

#### *Extension:*

Form 4; SEC File No. 270-126, OMB Control No. 3235-0287

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Under the Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which registered under Section 12 of the Exchange Act (15 U.S.C. 78l), or who is a director or any officer of the issuer of such security (collectively "insider"), must file a statement with the Commission reporting their ownership. Form 4 is a statement to disclose changes in an insider's ownership of securities. The information is used for the purpose of disclosing the equity holdings of insiders of reporting companies. Approximately 338,207 insiders file Form 4 annually and it takes approximately 0.5 hours to prepare for a total of 169,104 annual burden hours.

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 control number.

The public may view the background documentation for this information collection at the following website, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta.Ahmed@omb.eop.gov](mailto:Shagufta.Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: April 26, 2018.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-09272 Filed 5-1-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

#### *Upon Written Request, Copies Available*

From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

#### *Extension:*

Rule 17g-7; SEC File No. 270-600, OMB Control No. 3235-0656

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 17g-7, (17 CFR 240.17g-7), under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*).

Rule 17g-7 requires nationally recognized statistical rating organizations ("NRSROs") to include in any report accompanying a credit rating with respect to an asset-backed security ("ABS") (as that term is defined in Section 3(a)(77) of the Exchange Act) a description of the representations, warranties and enforcement mechanisms available to investors and a description of how they differ from the representations, warranties and enforcement mechanisms in issuances of similar securities. Rule 17g-7 potentially applies to each of the 10 NRSROs currently registered with the Commission.<sup>1</sup>

<sup>1</sup> When the Commission first adopted rules under the Credit Rating Agency Reform Act of 2006, it estimated that approximately 30 credit rating agencies ultimately would be registered as NRSROs. See *Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations*, Release No. 34-55857 (Jun. 5, 2007), 72 FR 33564, 33607 (Jun. 18, 2007). Accordingly, the Commission used 30 respondents for purposes of calculating its PRA burden estimates when it adopted Rule 17g-7. See *Disclosure for Asset-Backed Securities Required by Section 943 of the Dodd-Frank Wall Street Reform and Consumer Protection Act*, Release No. 33-9175; 34-63741 (Jan. 20, 2011), 76 FR 4489, 4506 (Jan. 26, 2011) ("Rule 17g-7 Adopting Release"). Since that time, 10 credit rating agencies have registered with the Commission as NRSROs. This number has remained constant for several years. Consequently, when the Commission last proposed rules regarding the oversight of NRSROs, it stated that it believed it to be more appropriate to use the actual number

Commission staff estimates that the 10 currently-registered NRSROs would each spend an average of approximately 100 hours per year reviewing and updating benchmarks for various types of securities for purposes of comparing representations, warranties, and enforcement mechanisms, resulting in an annual industry-wide reporting burden of 1,000 hours (10 respondents × 100 hours/respondent). On a deal-by-deal basis, Commission staff estimates that it would take each NRSRO an average of approximately: (i) One hour to review each ABS transaction to review the relevant disclosures prepared by an issuer, which an NRSRO would review as part of the rating process, and convert those disclosures into a format suitable for inclusion in any report to be issued by an NRSRO, and (ii) 10 hours per ABS transaction to compare the terms of the current deal to those of similar securities. When the Commission adopted Rule 17g-7, it estimated the average annual number of ABS offerings to be 2,067 and the average number of credit ratings per issuance of ABS to be four, resulting in 8,268 annual responses.<sup>2</sup> Commission staff believes that these estimates continue to be valid and, accordingly, estimates that the total industry-wide annual reporting burden of complying with the disclosure requirements under Rule 17g-7 is 90,948 hours (8,268 responses × 11 hours/response). As a result, Commission staff estimates a total aggregate burden of 91,948 hours per year for complying with the rule (1,000 hours for reviewing and updating benchmarks + 90,948 hours for complying with disclosure requirements).

Compliance with Rule 17g-7 is mandatory. Responses to the information collection will not be kept confidential and there is no mandatory retention period for the collection of information.

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

The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Comments should be

of NRSROs for purposes of the PRA. See *Proposed Rules for Nationally Recognized Statistical Rating Organizations*, Release No. 34-64514 (May 18, 2011), 76 FR 33420, 33499 (Jun. 8, 2011) (stating that “while the Commission expects several more credit rating agencies may become registered as NRSROs over the next few years, the Commission preliminarily believes that the actual number of NRSROs should be used for purposes of the PRA.”).

<sup>2</sup> See Rule 17g-7 Adopting Release, 76 FR at 4508.

directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta.Ahmed@omb.eop.gov](mailto:Shagufta.Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: April 26, 2018.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-09271 Filed 5-1-18; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83120; File No. SR-NYSEArca-2018-04]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt New NYSE Arca Rule 8.900-E and To List and Trade Shares of the Royce Pennsylvania ETF; Royce Premier ETF; and Royce Total Return ETF Under Proposed NYSE Arca Rule 8.900-E

April 26, 2018.

On January 8, 2018, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> a proposed rule change to: (1) Adopt NYSE Arca Rule 8.900-E (Managed Portfolio Shares); and (2) list and trade shares (“Shares”) of the Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF under proposed NYSE Arca Rule 8.900-E. The proposed rule change was published for comment in the **Federal Register** on January 26, 2018.<sup>3</sup> On March 7, 2018, pursuant to Section 19(b)(2) of the Exchange Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 82549 (January 19, 2018), 83 FR 3846 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

whether to disapprove the proposed rule change.<sup>5</sup> The Commission has received five comments on the proposed rule change.<sup>6</sup> This order institutes proceedings under Section 19(b)(2)(B) of the Exchange Act <sup>7</sup> to determine whether to approve or disapprove the proposed rule change.

### I. Summary of the Exchange’s Description of the Proposed Rule Change <sup>8</sup>

The Exchange proposes to adopt new NYSE Arca Rule 8.900-E, which would govern the listing and trading of Managed Portfolio Shares.<sup>9</sup> The Exchange also proposes to list and trade the Shares of the Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF under proposed NYSE Arca Rule 8.900-E (each the “Fund,” and collectively the “Funds”).

#### A. Description of the Funds

The portfolio for each Fund will consist of long and/or short positions in U.S.-listed securities and shares issued

<sup>5</sup> See Securities Exchange Act Release No. 82824, 83 FR 10934 (March 13, 2018). The Commission designated April 26, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

<sup>6</sup> See letters from: (1) Terence W. Norman, Founder, Blue Tractor Group, LLC, dated February 6, 2018 (“Blue Tractor Letter I”); (2) Simon P. Goulet, Co-Founder, Blue Tractor Group, LLC, dated February 13, 2018 (“Blue Tractor Letter II”); (3) Todd J. Broms, Chief Executive Officer, Broms & Company LLC, dated February 16, 2018 (“Broms Letter”); (4) Kevin S. Haeberle, Associate Professor of Law, William & Mary Law School, dated February 16, 2018 (“Haeberle Letter”); and (5) Gary L. Gastineau, President, ETF Consultants.com, Inc., dated March 6, 2018 (“Gastineau Letter”). The comment letters are available at <https://www.sec.gov/comments/sr-nysearca-2018-04/nysearca201804.htm>.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> For a complete description of the Exchange’s proposal, including a description of the Precidian ETF Trust II (“Trust”), see the Notice, *supra* note 3.

<sup>9</sup> Proposed NYSE Arca Rule 8.900-E(c)(1) defines the term “Managed Portfolio Share” as a security that (a) represents an interest in a registered investment company (“Investment Company”) organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies; (b) is issued in a specified aggregate minimum number of shares equal to a Creation Unit (as defined in proposed Rule 8.900-E(c)(3)), or multiples thereof, in return for a designated portfolio of securities (and/or an amount of cash) with a value equal to the next determined net asset value (“NAV”); and (c) when aggregated in the same specified aggregate number of shares equal to a Redemption Unit (as defined in proposed Rule 8.900-E(c)(4)), or multiples thereof, may be redeemed at the request of an authorized participant, which authorized participant will be paid through a confidential account established for its benefit (“Confidential Account”) a portfolio of securities and/or cash with a value equal to the next determined NAV.

by other U.S.-listed exchange-traded funds (“ETFs”).<sup>10</sup> All exchange-listed equity securities in which the Funds will invest will be listed and traded on U.S. national securities exchanges.

#### 1. Royce Pennsylvania ETF

Under normal market conditions,<sup>11</sup> the Royce Pennsylvania ETF will invest at least 65% of its assets in U.S. exchange-listed equity securities of small-cap companies with market capitalizations up to \$3 billion that Royce & Associates, LP (“Royce”), the Fund’s investment sub-adviser, believes are trading below the sub-adviser’s estimate of their current worth. The Fund may invest in U.S. exchange-listed ETFs. The Fund may sell securities to, among other things, secure gains, limit losses, re-deploy assets into what Royce deems to be more promising opportunities, and/or manage cash levels in the Fund’s portfolio.

#### 2. Royce Premier ETF

Under normal market conditions, the Royce Premier ETF will invest at least 80% of its net assets in a limited number of U.S. exchange-listed equity securities of primarily small-cap companies with market capitalizations from \$1 billion to \$3 billion at the time of investment. The Fund may invest in U.S. exchange-listed ETFs. The Fund may sell securities to, among other things, secure gains, limit losses, re-deploy assets into what Royce deems to be more promising opportunities, and/or manage cash levels in the Fund’s portfolio.

#### 3. Royce Total Return ETF

Under normal market conditions, the Royce Total Return ETF will invest at least 65% of its assets in dividend-paying U.S.-listed securities of small-cap companies with market capitalizations up to \$3 billion that Royce believes are trading below its estimate of their current worth. The

Fund may invest in U.S. exchange-listed ETFs. The Fund may sell securities to, among other things, secure gains, limit losses, re-deploy assets into what Royce deems to be more promising opportunities, and/or manage cash levels in the Fund’s portfolio.

#### 4. Other Investments

While each Fund, under normal market conditions, will invest primarily in U.S.-listed equity securities, as described above, each Fund may invest its remaining assets in other securities and financial instruments as follows: (i) U.S. exchange-listed warrants, rights, and options (limited to 5% of total assets); (ii) cash or cash equivalents;<sup>12</sup> and (iii) the securities of other investment companies.

#### 5. Investment Restrictions

The Funds will not invest in futures, forwards, or swaps. Further, each Fund’s investments will be consistent with its investment objective and will not be used to enhance leverage. While the Funds may invest in inverse ETFs, they will not invest in leveraged (e.g., 2X, –2X, 3X or –3X) ETFs. Finally, the equity securities (other than non-exchange-listed investment company securities) and options in which the Funds invest will be listed on a U.S. national securities exchange.

#### B. Key Features of Managed Portfolio Shares

According to the Exchange, while Investment Companies issuing Managed Portfolio Shares would be actively-managed, and in that respect would be similar to those issuing Managed Fund Shares,<sup>13</sup> Managed Portfolio Shares would differ from Managed Fund Shares in the following respects:

- First, issues of Managed Fund Shares are required to disseminate their “Disclosed Portfolio” at least once

daily.<sup>14</sup> By contrast, the portfolio for an issue of Managed Portfolio Shares would be disclosed only quarterly.

- Second, in connection with the creation of shares in “Creation Unit” size or the redemption of shares in “Redemption Unit” size, the delivery or receipt of any portfolio securities in kind would be effected through an agent (“AP Representative”) in a Confidential Account established for the benefit of the creating or redeeming authorized participant without disclosing the identity of the securities to the authorized participant.

- Third, for each series of Managed Portfolio Shares, a Verified Intraday Indicative Value (“VIIV”) would be disseminated by the Reporting Authority (as defined in proposed NYSE Arca Rule 8.900–E(c)(5)) and/or by one or more major market-data vendors every second during the Exchange’s Core Trading Session (normally, 9:30 a.m. to 4:00 p.m., Eastern Time (“E.T.”)).<sup>15</sup> The Exchange states that the dissemination of the VIIV will allow investors to determine the estimated intra-day value of the underlying portfolio of a series of Managed Portfolio Shares and will provide a close estimate of that value throughout the trading day.<sup>16</sup>

#### C. Arbitrage of Managed Portfolio Shares

The Exchange asserts that market makers will be able to make efficient and liquid markets in the Shares priced near the VIIV as long as the VIIV is disseminated every second and market makers employ market making techniques such as “statistical arbitrage,” including correlation hedging, beta hedging, and dispersion trading, which the Exchange represents is currently used throughout the

<sup>10</sup> The Exchange represents that, for purposes of the filing, ETFs include Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depository Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). The ETFs in which the Funds will invest all will be listed and traded on U.S. national securities exchanges. While the Funds may invest in inverse ETFs, the Funds will not invest in leveraged (e.g., 2X, –2X, 3X, or –3X) ETFs.

<sup>11</sup> Proposed Rule 8.900–E(c)(6) defines the term “normal market conditions” as including, but not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (e.g., systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

<sup>12</sup> The Exchange states that, for purposes of the filing, cash equivalents include short-term instruments (instruments with maturities of less than 3 months) of the following types: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers’ acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

<sup>13</sup> Managed Fund Shares are shares of actively-managed Investment Companies listed and traded under NYSE Arca Rule 8.600–E.

<sup>14</sup> NYSE Arca Rule 8.600–E(c)(2) defines the term “Disclosed Portfolio” as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company’s calculation of NAV at the end of the business day. NYSE Arca Rule 8.600–E(d)(2)(B)(i) requires that, for Managed Fund Shares, the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

<sup>15</sup> Proposed NYSE Arca Rule 8.900–E(c)(2) defines the VIIV as the estimated indicative value of a Managed Portfolio Share based on all of the holdings of a series of Managed Portfolio Shares as of the close of business on the prior business day, and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day, priced and disseminated in one second intervals during the Core Trading Session.

<sup>16</sup> According to the Exchange, the VIIV should not be viewed as a “real-time” update of the NAV per Share of each Fund, because the VIIV may not be calculated in the same manner as the NAV, which will be computed once a day.



financial services industry, to make efficient markets in exchange-traded products.<sup>17</sup> According to the Exchange, if an authorized participant believes that the Shares are trading at a price that is higher than the value of the underlying portfolio—for example, if the market price for the Shares is higher than the VIIV—then the authorized participant may sell the Shares short and purchase securities that the authorized participant believes will track the movements of the Shares. When the spread narrows, the authorized participant would execute offsetting orders or enter an order with its AP Representative to create Shares. According to the Exchange, the authorized participant's purchase of the portfolio securities into its Confidential Account, combined with the sale of the Shares, may create downward pressure on the price of the Shares and/or upward pressure on the price of the portfolio securities, bringing the market price of the Shares and the value of a Fund's portfolio securities closer together.

Similarly, according to the Exchange, an authorized participant could buy the Shares and instruct the AP Representative to redeem them and then sell the underlying portfolio securities from its Confidential Account in an attempt to profit when the Shares trade at a discount to the portfolio securities. According to the Exchange, the authorized participant's purchase of the Shares in the secondary market, combined with the sale of the portfolio securities from its Confidential Account, may create upward pressure on the price of the Shares and/or downward pressure on the price of portfolio

securities, driving the market price of the Shares and the value of the Fund's portfolio securities closer together. The Exchange states that, according to Precidian Funds LLC, the investment adviser to the Trust ("Adviser"), this process is identical to how many authorized participants currently arbitrage existing, traditional ETFs, except for the use of the Confidential Account.

#### *D. The Creation and Redemption Procedures*

The Exchange states that, generally, the Shares will be purchased and redeemed on an in-kind basis, so that, except where the purchase or redemption would include cash under the circumstances described in the applicable Fund's registration statement, purchasers will be required to purchase "Creation Units" by making an in-kind deposit of specified instruments ("Deposit Instruments"), and authorized participants redeeming their Shares will receive an in-kind transfer of specified instruments ("Redemption Instruments") in their Confidential Account through an AP Representative. On any given business day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the "Creation Basket."

In the case of a redemption, a Fund's custodian ("Custodian") will typically deliver securities to the Confidential Account on a *pro rata* basis with a value approximately equal to the value of the Shares tendered for redemption at the order cut-off time established by the Fund. The Custodian will make delivery of the securities by appropriate entries on its books and records, transferring ownership of the securities to the authorized participant's Confidential Account, subject to delivery of the Shares redeemed. The AP Representative will in turn liquidate, hedge, or otherwise manage the securities based on instructions from the authorized participant.<sup>18</sup> The AP Representative will pay the liquidation proceeds net of expenses, plus or minus any cash balancing amount, to the

authorized participant through DTC.<sup>19</sup> The redemption securities that the Confidential Account receives are expected to mirror the portfolio holdings of a Fund *pro rata*.

In the case of a creation, the authorized participant will enter into an irrevocable creation order with the Fund and then direct the AP Representative to purchase the necessary basket of portfolio securities. The AP Representative will then purchase the necessary securities in the Confidential Account. Once the necessary basket of securities has been acquired, the purchased securities held in the Confidential Account will be contributed in-kind to the Fund.

The Exchange states that, in purchasing the necessary securities for creation purposes, and, conversely, in selling the portfolio securities for redemption purposes, the AP Representative will be required, by the terms of the Confidential Account agreement, to obfuscate the trades by use of tactics such as breaking the trades into multiple purchases or sales and transacting in multiple marketplaces.

#### *E. Availability of Information*

Each Fund will be required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N-CSR under the 1940 Act, and to file its complete portfolio schedules for the first and third fiscal quarters on Form N-Q under the 1940 Act, within 60 days of the end of the quarter. Form N-Q requires funds to file the same schedules of investments that are required in annual and semi-annual reports to shareholders. The Trust's SAI and each Fund's shareholder reports will be available free upon request from the Trust. These documents and forms may be viewed on-screen or downloaded from the Commission's website at [www.sec.gov](http://www.sec.gov).

In addition, the VIIV will be widely disseminated by the Reporting Authority and/or one or more major market-data vendors at least every second during the Exchange's Core Trading Session. According to the

<sup>17</sup> According to the Exchange, statistical arbitrage enables a trader to construct an accurate proxy for another instrument, allowing it to hedge the other instrument or buy or sell the instrument when it is cheap or expensive in relation to the proxy. The Exchange states that statistical analysis permits traders to discover correlations, based purely on trading data without regard to other fundamental drivers. The Exchange also states that correlations are a function of differentials, over time, between one instrument or group of instruments and one or more other instruments, and that once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. In addition, the Exchange also states that, once a suitable hedging proxy has been identified, a trader can minimize portfolio risk by executing the hedging basket. According to the Exchange, the trader then can monitor the performance of this hedge throughout the trade period, making correction where warranted. The Exchange states that, in the case of correlation hedging, the analysis seeks to find a proxy that matches the pricing behavior of the Fund, and that in the case of beta hedging, the analysis seeks to determine the relationship between the price movement over time of the Fund and that of another stock.

<sup>18</sup> The Exchange represents that an authorized participant will issue execution instructions to the AP Representative and be responsible for all associated profit or losses. Like a traditional ETF, the authorized participant has the ability to sell the basket securities at any point during normal trading hours.

<sup>19</sup> According to the Exchange, under applicable provisions of the Internal Revenue Code, the authorized participant is expected to be deemed a "substantial owner" of the Confidential Account because it receives distributions from the Confidential Account. As a result, the Exchange states, all income, gain, or loss realized by the Confidential Account will be directly attributed to the authorized participant. The Exchange also states that, in a redemption, the authorized participant will have a basis in the distributed securities equal to the fair market value at the time of the distribution, and any gain or loss realized on the sale of those Shares will be taxable income to the authorized participant.



Exchange, the VIIV will include all accrued income and expenses of a Fund, and any extraordinary expenses booked during the day that would be taken into account in calculating the Fund's NAV will also be taken into account in calculating the VIIV.

For purposes of the VIIV, securities held by a Fund will be valued throughout the day based on the mid-point between the disseminated current national best bid and offer. According to the Exchange, by utilizing the mid-point pricing for purposes of VIIV calculation, stale prices are eliminated and a more accurate representation of the real-time value of the underlying securities is provided to the market. Specifically, according to the Exchange, quotations based on the mid-point of bid/ask spreads more accurately reflect current market sentiment by providing real time information on where market participants are willing to buy or sell securities at that point in time. The Exchange also believes that the use of quotations will dampen the impact of any momentary spikes in the price of a portfolio security.

According to the Exchange, each Fund will utilize two separate pricing feeds to provide two separate, independent sources of pricing information. Each Fund will also utilize a "Pricing Verification Agent" and establish a computer-based protocol that will permit the Pricing Verification Agent to continuously compare the two data streams on a real time basis.<sup>20</sup> A single VIIV will be disseminated publicly for each Fund; however, the Pricing Verification Agent will continuously compare the public VIIV against a non-public, alternative intra-day indicative value to which the Pricing Verification Agent has access. Upon notification to the Exchange by the issuer of a series of Managed Portfolio Shares, or its agent, that the public VIIV and non-public, alternative intra-day indicative value differ by more than 25 basis points for 60 seconds, the Exchange will halt trading as soon as practicable in the Shares until the discrepancy is resolved.<sup>21</sup> Each Fund's

board of directors will review the procedures used to calculate the VIIV and maintain its accuracy as appropriate, but not less than annually. The specific methodology for calculating the VIIV will be disclosed on each Fund's website.

#### F. Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.<sup>22</sup>

The Exchange represents that the Adviser will make available daily to FINRA and the Exchange the portfolio holdings of each Fund in order to facilitate the performance of the surveillances referred to above. In addition, the Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.

#### II. Summary of Comment Letters

The Commission has received five comment letters on the proposed rule change, each of which expresses opposition to the proposed rule change.<sup>23</sup> As of the date of this order instituting proceedings, the Exchange

could indicate an error in the feed or in a calculation engine used to calculate the two intraday indicative values. The Exchange states that the Trust reserves the right to change these thresholds to the extent deemed appropriate and approved by the Fund's board of directors.

<sup>22</sup> The Exchange states that these surveillances generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. The Exchange represents that the Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, underlying common stocks, rights, warrants, ETFs, and exchange-listed options with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding such securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, underlying common stocks, rights, warrants, ETFs and exchange-listed options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

<sup>23</sup> See *supra* note 6.

has not submitted a response to the comments.

A. *Blue Tractor Letter I*.<sup>24</sup> The commenter opposes the proposed rule change and raises the following concerns:<sup>25</sup>

- Under the proposal, market participants will not be able to engage in bona fide arbitrage or efficient statistical arbitrage to keep the price of Shares close to a Fund's NAV;<sup>26</sup>
- Funds can be reverse engineered to determine the composition of the portfolio securities, which will make the Funds susceptible to front-running;
- The proposed fund structure will result in asymmetric disclosure of confidential portfolio information to selected parties;
- Details regarding the VIIV generation process, as well as calculation engine verification procedures, are inadequate for market participants and market makers;
- One second dissemination of VIIVs in a high frequency trading environment is inadequate for authorized participants and market makers and not of value to retail investors; and
- Requiring AP Representatives to obfuscate trades for creation and redemption purposes in an effort to keep portfolio composition confidential will delay execution and increase costs for authorized participants.

B. *Blue Tractor Letter II*.<sup>27</sup> The commenter reiterates its concern that the Funds can be reverse engineered to determine their trading strategies and that "predatory traders" can use such information in order to front run the Funds.

<sup>24</sup> The Blue Tractor Letter I is available at <https://www.sec.gov/comments/sr-nysearca-2018-04/nysearca201804-3004003-161880.pdf>.

<sup>25</sup> Although the commenter purports to comment on the Notice, the comments are more directly related to the Trust's December 4, 2017, exemptive application. See Fifth Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812-14405), dated December 4, 2017 ("Exemptive Application"). The commenter also references concerns that it raised in its comment letters to a similar, previous proposal filed by the Exchange to list and trade Managed Portfolio Shares, which the Exchange withdrew. See Securities Exchange Act Release No. 80553 (April 28, 2017), 82 FR 20932 (May 4, 2017) ("Prior Proposal").

<sup>26</sup> The commenter also notes that market makers will not be able to construct optimized tracking portfolios using the proposed fund structure and cites to a comment letter that it filed in response to the Prior Proposal. See Letter from Simon P. Goulet, Co-Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated November 22, 2017. This letter is available at <https://www.sec.gov/comments/sr-nysearca-201736/nysearca201736-2735961-161533.pdf>.

<sup>27</sup> The Blue Tractor Letter II is available at <https://www.sec.gov/comments/sr-nysearca-2018-04/nysearca201804-3053961-161905.pdf>.

<sup>20</sup> The Exchange states that a Fund's Custodian will provide, on a daily basis, the identities and quantities of portfolio securities that will form the basis for the Fund's calculation of NAV at the end of the business day, plus any cash in the portfolio, to the Pricing Verification Agent for purposes of pricing.

<sup>21</sup> According to the Exchange, for the period January 1, 2017, to October 31, 2017, the average bid/ask spread on actively managed equity ETFs (Managed Fund Shares) traded on NYSE Arca, as a percentage, was 38 basis points. For the same period, the spread on all exchange-traded products traded on NYSE Arca, as a percentage, was 54 basis points. A continuous deviation for sixty seconds

C. *Broms Letter*.<sup>28</sup> The commenter opposes the proposed rule change and raises the following concerns:<sup>29</sup>

- Selective disclosure of confidential portfolio information to AP Representatives to trade on behalf of authorized participants violates federal securities policy and facilitates illegal insider trading;

- The portfolio holdings can be reverse engineered and result in harm to the Funds' shareholders; and

- Because authorized participants cannot engage in bona fide arbitrage, the Shares will not trade efficiently.

D. *Haeberle Letter*.<sup>30</sup> The commenter opposes the proposed rule change and raises the following concerns:<sup>31</sup>

- Selective disclosure of portfolio information to AP Representatives, and the use of such information by AP Representatives to engage in creations and redemptions, may violate Section 10(b) of the Exchange Act and Rule 10b-5 thereunder;<sup>32</sup>

- The proposal does not address how the Funds will ensure that AP Representatives comply with representations and contractual agreements to keep the Funds' portfolio securities confidential;

- Because AP Representatives will be required to obfuscate the sale and purchase of portfolio securities for creations and redemptions, they will be less likely to uphold their best execution obligations to authorized participants;

- Any failure of best execution will frustrate efficient market-making and arbitrage, leading to reduced liquidity in the Shares; and

- AP Representative services will likely be costly and, due to compliance constraints, few may offer such services, which will lead to higher expenses for

the Funds and reduced liquidity for the Shares.

E. *Gastineau Letter*.<sup>33</sup> The commenter opposes the proposed rule change and raises the following concerns:

- The filing and other related documents are "riddled with demonstrably false statements of fact, unsubstantiated and misleading expressions of opinion, and omissions of critical analysis and disclosure."

...";<sup>34</sup>

- The portfolio holdings information can be uncovered by (1) time-series analysis of the VIIV or other publicly disseminated Fund information (reverse engineering), (2) observations of Confidential Account trading, (3) misuse or misappropriation of Fund holdings information communicated to AP Representatives, or (4) loss or theft of confidential Fund holdings information communicated to AP Representatives;

- By not assuring the protection of the Funds' proprietary investment strategies, the proposal<sup>35</sup> fails to demonstrate a public purpose or to offer investors advantages over currently approved structures;

- The proposal violates the requirements for selective disclosure in the 2004 adopting release to the N1-A Amendments and as well as the principles of Regulation FD;<sup>36</sup>

- The proposed disclosure of the Funds' portfolio holdings on a daily basis to AP Representatives, Fund service providers, and oversight authorities, and the lack of a surveillance or monitoring program to ensure that the Funds' confidential information is protected and not misused, facilitate illegal insider trading in the Funds' portfolio securities to the detriment of the Funds' shareholders;

- The proposed Fund structure raises impediments to the successful arbitrage of, and market making in, the Shares, especially during volatile or stressed markets, because of: (1) The deficiencies of VIIVs as intraday price signals, (2) market makers' forced reliance on statistical arbitrage and related correlation-based hedging techniques to manage their intraday exposures, and (3) the higher costs and loss of execution control over transactions in Creation Basket securities effected through the Confidential Accounts;

- The Shares will be more susceptible to trading halts because even a minimal level of quote disruption in the portfolio holdings will halt the Shares, which in turn will harm the Shares' liquidity and trading efficiency;

- Fund shareholders will incur significant new costs, liabilities, and risks in connection with the calculation and public dissemination of the VIIVs and the selective private disclosure of the Funds' confidential portfolio holdings information;

- The Shares will not trade efficiently because the Funds will invest in small-cap stocks, illiquid assets, and ETFs potentially holding foreign equities and/or less-liquid fixed income instruments;

- Information to investors is inadequate, and the Funds should provide publicly available, enhanced real-time VIIVs, daily closing market price and premium/discount based on the NAV, daily intraday estimated premiums/discounts, and daily purchase and redemption transaction fees; and

- (1) Widespread dissemination of the Funds' confidential portfolio holdings on a daily basis and "the absence of a discernible program" to protect the Funds' confidential information, and (2) the "high likelihood" that the Shares will trade at wider bid-ask spreads and more variable premiums/discounts than existing active ETFs, render the proposal inconsistent with the Section 6(b)(5) requirements that Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, protect investors and the public interest, and not to permit unfair discrimination among customers, issuers, brokers and dealers.<sup>37</sup>

<sup>28</sup> The Broms Letter is available at <https://www.sec.gov/comments/sr-nysearca-2018-04/nysearca201804-3110868-161910.pdf>.

<sup>29</sup> The commenter also generally references concerns that it raised in its comment letters related to the Prior Proposal. See Letter from Todd J. Broms, Chief Executive Officer, Broms & Company LLC, to Brent J. Fields, Secretary, Commission, dated May 25, 2017, available at <https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736.htm>. See also Letter from Todd J. Broms, Chief Executive Officer, Broms & Company LLC, to Brent J. Fields, Secretary, Commission, dated June 27, 2016, available at <https://www.sec.gov/comments/sr-nysearca-2016-08/nysearca201608-10.pdf>.

<sup>30</sup> The Haeberle Letter is available at <https://www.sec.gov/comments/sr-nysearca-2018-04/nysearca201804-3110867-161909.pdf>.

<sup>31</sup> The commenter also summarizes the main points of its letter regarding the Prior Proposal. See Letter from Kevin S. Haeberle, Associate Professor of Law, William & Mary Law School, to Brent J. Fields, Secretary, Commission, dated December 15, 2017, available at <https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736.htm>.

<sup>32</sup> 15 U.S.C. 78j; 17 CFR 240.10b-5.

<sup>33</sup> The Gastineau Letter is available at <https://www.sec.gov/comments/sr-nysearca-2018-04/nysearca201804-3201927-162011.pdf>.

<sup>34</sup> See Gastineau Letter, *supra* note 6, at 7.

<sup>35</sup> In his comment letter, the commenter defines the "proposal" as the Notice, the Exemptive Application, the registration statement that the Trust filed on Form N-1A with respect to the Funds (Registration Statement on Form N-1A for the Trust, File Nos. 333-217142 and 811-23246, as filed on April 5, 2017), and certain comments on the Prior Proposal (see Letter from Mark Criscitello, Chairman, Precidian Funds LLC, to Brent J. Fields, Secretary, Commission, dated October 11, 2017; Letter from Daniel J. McCabe, Chief Executive, Precidian Investments, to Brent J. Fields, Secretary, Commission, dated October 12, 2017; and Letter from Joseph A. Sullivan, Chairman and Chief Executive Officer, Legg Mason, Inc., to Brent J. Fields, Secretary, Commission, dated October 12, 2017, which are available at <https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736.htm>). Accordingly, the term "proposal" as used to describe the commenter's comment letter refers to the same.

<sup>36</sup> 17 CFR 243.100 *et seq.*

<sup>37</sup> In addition, the commenter believes that the proposal fails to meet the statutory standards for exemptive relief pursuant to Section 6(c) of the 1940 Act and asserts that the normal tax benefits of ETF investing will likely not apply to the Funds.

### III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2018–04 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act<sup>38</sup> 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 Exchange Act,<sup>39</sup> 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 Exchange 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, . . . 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."<sup>40</sup>

### IV. 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 Exchange 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.<sup>41</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 23, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 6, 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,<sup>42</sup> the issues raised by the commenters, and any other issues raised by the proposed rule change under the Exchange Act. In particular, the Commission seeks commenters' views regarding the concerns raised with respect to selective disclosure of confidential portfolio information, namely, whether such disclosure is consistent with the requirement of Section 6(b)(5) that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices. The Commission also seeks commenters' views regarding the various concerns raised about how the Shares may trade in the secondary market, including the potential for frequent trading halts and poor trading performance during times of market volatility and stress. In this regard, the Commission specifically seeks commenters' views on whether the proposal is consistent with the maintenance of a fair and orderly market.

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](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2018–04 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 Numbers SR–NYSEArca–2018–04. This

<sup>41</sup> Section 19(b)(2) of the Exchange 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).

<sup>42</sup> See *supra* note 3.

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 these filings 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–2018–04 and should be submitted on or before May 23, 2018. Rebuttal comments should be submitted by June 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>43</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018–09265 Filed 5–1–18; 8:45 am]

BILLING CODE 8011–01–P

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83113; File No. SR–NYSE–2018–15]

#### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Transaction Fees In Connection with the Exchange's Trading of UTP Securities on Pillar

April 26, 2018.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the

<sup>43</sup> 17 CFR 200.30–3(a)(57).

<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>38</sup> 15 U.S.C. 78s(b)(2)(B).

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

<sup>40</sup> 15 U.S.C. 78f(b)(5).

“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 17, 2018, New York Stock Exchange LLC (“NYSE” or the “Exchange”) 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### **I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to adopt transaction fees in connection with the Exchange’s trading of UTP Securities on Pillar, the Exchange’s new trading technology platform. The Exchange proposes to implement these changes to its Price List effective April 17, 2018.<sup>4</sup> The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

### **II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### **A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**

##### **1. Purpose**

On April 9, 2018, the Exchange will introduce trading of UTP Securities on the Exchange on the Pillar trading platform.<sup>5</sup> As described in the UTP Trading Rules Filing, with Pillar, the

Exchange will continue to trade NYSE-listed securities on its current trading platform without any changes.<sup>6</sup>

In connection with the offering of trading in UTP Securities, the Exchange proposes to amend its Price List to adopt a new pricing for trading UTP Securities on the Pillar platform.

The proposed changes would apply to transactions executed in securities priced at or above and below \$1.00.

The Exchange proposes to implement these changes effective April 17, 2018.

##### **Proposed Rule Change**

The Exchange proposes the following transaction fees for UTP trading on its Pillar trading platform.

The Exchange proposes to add the following heading immediately after the crossing session fees and credits in the current fee schedule: “Transaction Fees and Credits For Securities Traded Pursuant to Unlisted Trading Privileges (Tapes B and C) on the Pillar Trading Platform.” The Exchange believes that the proposed legend would clarify which fees and credits in the current fee schedule would be applicable to trading UTP Securities on the Pillar platform, and thus add clarity and promote transparency.

Immediately below this proposed heading, the Exchange proposes a second heading titled “Fees and Credits applicable to Market Participants.”

##### **General Information Applicable to the Price List**

The Exchange proposes to summarize general information applicable to fees for trading UTP Securities on the Pillar trading platform in two bullets under the second heading in the proposed Price List.

The first bullet would provide that rebates are indicated by parentheses.

The second bullet would provide that, for purposes of determining transaction fees and credits based on requirements based on quoting levels, average daily volume (“ADV”), and consolidated ADV (“CADV”), the Exchange may exclude shares traded any day that (1) the Exchange is not open for the entire trading day and/or (2) a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours. The second proposed bullet would reproduce the language in footnote 6 of the current Price List.

##### **Transaction Fees**

The Exchange proposes the following fees and credits for all transactions in UTP Securities:

##### **Liquidity Adding Non-Displayed Order Fees**

The Exchange does not propose to charge a fee for UTP executions on the Exchange of non-displayed orders<sup>7</sup> that add liquidity to the Exchange in securities priced at or above \$1.00.

The Exchange also does not propose to charge a fee for UTP executions on the Exchange of non-displayed orders that add liquidity to the Exchange in securities priced below \$1.00.

##### **Liquidity Adding Displayed Order Credits and Fees**

For securities priced at or above \$1.00, the Exchange proposes a rebate of \$0.0020 per share for UTP executions on the Exchange of displayed orders that add liquidity to the Exchange.

For UTP executions on the Exchange of displayed orders that add liquidity to the Exchange by Floor brokers, the Exchange proposes a rebate of \$0.0026 per share.

The Exchange does not propose to charge a fee for UTP executions on the Exchange of displayed orders that add liquidity to the Exchange in securities priced below \$1.00.

For securities priced at or above \$1.00, the Exchange proposes a credit of \$0.0010 per share for UTP executions in each tape for MPL orders that add liquidity to the Exchange, unless a specific credit for SLP Provide Tiers or Adding Tiers applies.

For securities priced at or above \$1.00, the Exchange proposes a rebate of \$0.0006 per share for cross trades<sup>8</sup> in UTP Securities that add liquidity to the Exchange.

##### **Liquidity Removing Order Fees**

For UTP executions on the Exchange that remove liquidity from the Exchange, the Exchange proposes to charge \$0.0030 per share for securities priced at or above \$1.00, including MPL Orders, unless the Floor broker fee applies, and to charge 0.3% of the total dollar value of the transaction for securities priced below \$1.00.

For Floor broker UTP executions that remove liquidity from the Exchange, the Exchange proposes a fee \$0.0026 per share for securities priced at or above \$1.00.

<sup>7</sup> These rates are client rates. The Exchange proposes separate provide rates for non-displayed orders by SLPs, discussed below.

<sup>8</sup> For purposes of the Price List, cross trades are trades where a Floor broker executes customer orders to buy and sell an equivalent amount of the same security pursuant to Rule 76.

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> The Exchange originally filed to amend the Price List on April 9, 2018 (SR-NYSE-2018-13) and withdrew such filing on April 17, 2018.

<sup>5</sup> See Securities Exchange Act Release No.82945 (March 26, 2018), 83 FR 13553 (March 29, 2018) (SR-NYSE-2017-36) (the “UTP Trading Rules Filing”). The term “UTP Security” means a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. See Rule 1.1(ii).

<sup>6</sup> See UTP Trading Rules Filing, 83 FR at 13554, n.17.

### Adding and Remove Tiers for Securities at or Above \$1.00

The Exchange proposes tiered adding requirements for displayed orders in securities priced at or above \$1.00, as follows.

Under the proposed Tier 1 Adding Credit, the Exchange would offer a per tape credit of \$0.0026 per share (\$0.0025 if an MPL order) on a per tape basis for transactions in stocks with a per share price of \$1.00 or more when adding liquidity to the Exchange if the member organization has at least 0.05% of Adding CADV in Tape B or C. For purposes of qualifying for this tier, the 0.05% of Adding CADV could include shares of both an SLP-Prop and an SLMM<sup>9</sup> of the same or an affiliated member organization. The Exchange also proposes to waive the Tier 1 *add and remove tier* requirements until June 1, 2018, which would be reflected in footnote \*.

Under the proposed Tier 2 Adding Credit, the Exchange would offer a per tape credit of \$0.0023 per share for transactions in stocks with a per share price of \$1.00 or more when adding liquidity to the Exchange if the member organization has at least 0.01% of Adding CADV in Tape B or C. For purposes of qualifying for this tier, the 0.01% of Adding CADV could include shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization.

Finally, for UTP Securities, the Exchange proposes to charge a per tape fee of \$0.0028 per share to remove liquidity from the Exchange for member organizations with an Adding ADV<sup>10</sup> of at least 50,000 shares for that respective tape.

### SLP Provide Tiers

The Exchange proposes tiered and non-tiered rates for displayed and non-displayed orders by SLPs that add liquidity to the Exchange in UTP Securities priced at or above \$1.00, as follows:

<sup>9</sup> Under Rule 107B, a Supplemental Liquidity Provider ("SLP") can be either a proprietary trading unit of a member organization ("SLP-Prop") or a registered market maker at the Exchange ("SLMM"). For purposes of the 10% average or more quoting requirement in assigned securities pursuant to Rule 107B, quotes of an SLP-Prop and an SLMM of the same member organization are not aggregated. However, for purposes of adding liquidity for assigned SLP securities in the aggregate, shares of both an SLP-Prop and an SLMM of the same member organization are included.

<sup>10</sup> The phrase "Adding ADV" in the proposed tier would have a citation to footnote 4 in the current Price List, which provides "For purposes of transaction fees and Supplemental Liquidity Provider liquidity credits, ADV calculations exclude early closing days." The text of current footnote 4 would remain unchanged.

### Non-Tiered Rates

For displayed orders in UTP Securities that add liquidity to the Exchange, the Exchange proposes a non-tiered credit of \$0.0026 per share per tape in an assigned UTP Security where the SLP meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B.<sup>11</sup> For non-displayed orders in UTP Securities that add liquidity to the Exchange, the Exchange proposes a non-tiered credit of \$0.0008 per share per tape in an assigned UTP Security if the SLP meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B.

### Tier 2

Proposed Tier 2 would provide a \$0.0029 per share credit per tape in an assigned UTP Security for SLPs adding displayed liquidity to the Exchange if the SLP (1) adds liquidity for all assigned UTP Securities in the aggregate of an CADV of at least 0.01% per tape, and meets the 10% average or more quoting requirement in 250 or more assigned UTP Securities in Tapes B and C combined pursuant to Rule 107B, and (2) meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

Proposed Tier 2 would provide a \$0.0011 per share credit per tape in an assigned UTP Security for SLPs adding non-displayed liquidity to the Exchange if the SLP meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

### Tier 1

Proposed Tier 1 would provide a \$0.0032 per share credit per tape in an assigned UTP Security for SLPs adding displayed liquidity to the Exchange if the SLP (1) adds liquidity for all assigned UTP Securities in the aggregate of an CADV of at least 0.05% per tape, and (2) meets the 10% average or more quoting requirement in 500 or more assigned UTP Securities in Tapes B and C combined pursuant to Rule 107B, and (2) meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

Proposed Tier 1 would provide a \$0.0014 per share credit per tape for SLPs adding non-displayed liquidity to the Exchange, and a \$0.0025 per share credit for MPL Orders adding liquidity, in an assigned UTP Security if the SLP meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

<sup>11</sup> See note 9, *supra*.

### Tape A Tier

The proposed Tape A Tier would provide a \$0.00005 per share in an assigned UTP Security in addition to the Tape A SLP credit in Tape A assigned securities for SLPs adding displayed liquidity to the Exchange if the SLP (1) qualifies for the SLP Tier 1 provide rate in both Tape B and C or quotes in excess of the 10% average quoting requirement in 300 or more assigned securities separately in Tapes B and Tape C pursuant to Rule 107B, and (2) where the SLP meets the 10% average quoting requirement pursuant to Rule 107B.

Finally, the Exchange proposes to waive the provide volume component of the SLP Tier requirements until June 1, 2018, which would be reflected in footnote \*\*.

### Routing Fees

Under a new heading titled "Routing Fees," the Exchange proposes the following fees for routing, which would be applicable to all orders in UTP Securities that are routed.

For executions in securities with a price at or above \$1.00 that route to and execute in an auction on the Exchange's affiliate NYSE American, the Exchange proposes to charge a fee of \$0.0005 per share. For executions in securities with a price at or above \$1.00 that route to and execute in an auction on an Away Market<sup>12</sup> other than NYSE American, the Exchange proposes to charge a fee of \$0.0010 per share, and a fee of \$0.0030 per share for all other executions.

For securities priced below \$1.00 that route to and execute on an Away Market, the Exchange proposes to charge a fee of 0.30% of the total dollar value of the transaction for executions in an Away Market auction as well as all other executions.

\* \* \* \* \*

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>14</sup> in particular, because it provides for the

<sup>12</sup> The term "Away Market" is defined in Rule 1.1(ff) to mean any exchange, alternative trading system ("ATS") or other broker-dealer (1) with which the Exchange maintains an electronic linkage, and (2) that provides instantaneous responses to orders routed from the Exchange.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4) & (5).

equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

#### Adding Liquidity Credits and Fees

##### Liquidity Adding Non-Displayed Order Fees

The Exchange believes that not charging a fee for liquidity adding non-displayed orders in UTP Securities is reasonable, equitable and not unfairly discriminatory because it is designed to facilitate execution of, and enhance trading opportunities for, non-displayable orders, thereby further incentivizing entry of non-displayed orders on the Exchange. The Exchange notes that other markets charge fees for non-displayed orders.<sup>15</sup>

##### Liquidity Adding Displayed Order Credits and Fees

The Exchange believes that rebates of \$0.0020 per share for UTP executions on the Exchange of displayed orders that add liquidity to the Exchange (unless another credit applies) and \$0.0026 per share for UTP executions on the Exchange of displayed orders that add liquidity to the Exchange by Floor brokers are reasonable, equitable and not unfairly discriminatory because it will encourage submission of additional displayed liquidity to a public exchange, thereby promoting price discovery and transparency.

The Exchange further believes the proposed rebate for Floor brokers is equitable and not unfairly discriminatory because it would continue to encourage member organizations to send orders to the trading Floor for execution, thereby contributing to robust levels of liquidity on the trading Floor, which benefits all market participants. Further, the proposed Floor broker credit is also equitable and not unfairly discriminatory because those member organizations that make significant contributions to market quality and that contribute to price discovery by providing higher volumes of liquidity would be allocated a higher credit. The Exchange believes that any member organizations that would qualify for the proposed \$0.0020 per share for UTP executions that add liquidity could

qualify for the higher rate based on the levels of activity sent to Floor brokers. For the same reasons, the Exchange believes the proposed credits for MPL orders and cross trades in UTP Securities that add liquidity to the Exchange are reasonable and not unfairly discriminatory.

The Exchange believes that not charging UTP executions on the Exchange of displayed orders that add liquidity to the Exchange in securities priced below \$1.00 would encourage price discovery and enhance market quality by encouraging more competitive pricing of displayed orders in low-priced UTP Securities. The Exchange believes that not charging a fee for liquidity adding displayed orders is equitable and not unfairly discriminatory because it is designed to facilitate execution of, and enhance trading opportunities for, displayable orders, thereby further incentivizing entry of displayed orders on the Exchange.

##### Liquidity Removing Fees

The Exchange believes that charging \$0.0030 per share for securities priced at or above \$1.00, including MPL Orders unless the Floor broker fee applies, and 0.3% of the total dollar value of the transaction for securities priced below \$1.00 for executions on the Exchange in UTP Securities that remove liquidity is reasonable and consistent with the Act. The Exchange notes that the proposed fees are in line with the fees the Exchange currently charges for removing liquidity from the Exchange in Tape A securities.<sup>16</sup>

##### Adding Tier Credits and Remove Tier Fees

The Exchange believes that the proposed tiered adding requirements for displayed orders in securities priced at or above \$1.00 are reasonable, equitable and not unfairly discriminatory, as follows.

The proposed Tier 1 (\$0.0026 per share, \$0.0025 if an MPL order) and Tier 2 (\$0.0023 per share) Adding Credits per share for transactions in UTP Securities with a per share stock price of \$1.00 or more when adding liquidity are reasonable because it would further contribute to incenting member organizations to provide additional amounts of liquidity on the Exchange. The Exchange believes that the proposed Tier 1 and Tier 2 Adding Credits are reasonable, equitable and not unfairly discriminatory because all

member organizations would benefit from such increased levels of liquidity. In addition, the Tier 1 and Tier 2 Adding Credits would provide a higher credit to member organizations that is reasonably related to the value to the Exchange's market quality associated with higher volumes of liquidity. In addition, the Exchange believes that the proposed Tier 1 and Tier 2 Adding Credits are equitable and not unfairly discriminatory as all similarly situated market participants will be subject to the same credits on an equal and non-discriminatory basis.

Further, the Exchange believes that proposed Tier 1 charge of \$0.0028 per share in UTP Securities for member organizations with an Adding ADV of at least 50,000 shares that removes liquidity from the Exchange is reasonable, equitable and not unfairly discriminatory because the proposed fees are in line with the fees the Exchange currently charges for removing liquidity from the Exchange in Tape A securities.<sup>17</sup>

Finally, the Exchange believes it is reasonable and not unfairly discriminatory to waive the Tier 1 requirements until June 1, 2018, because the proposed credits and fees will apply to all similarly situated member organizations.

##### SLP Provide Tiers

The Exchange believes that higher rebates for SLPs discussed below are reasonable, equitable and not unfairly discriminatory because SLPs have monthly quoting requirements that non-SLP market participants do not have. As discussed below, the Exchange believes that the proposed rebates for SLPs are commensurate with the SLP's quoting requirement, are consistent with rebates charged on other markets, and will encourage the SLPs to add liquidity to the market in UTP Securities, thereby providing customers with a higher quality venue for price discovery, liquidity, competitive quotes and price improvement.

##### Non-Tiered Credits

The Exchange believes that the proposed non-tiered credit of \$0.0026 per share for displayed orders, and the proposed non-tiered credit of \$0.0008 per share for non-displayed orders, for SLPs that add liquidity to the Exchange are reasonable, equitable and not unfairly discriminatory because, although slightly higher than the non-tiered SLP rates applicable to Tape A securities, would encourage submission of additional liquidity to a public

<sup>15</sup> IEX, for instance, charges a fee of \$0.0009 per share for providing non-displayed liquidity for securities priced at or above \$1.00 and 0.30% of TDVT (i.e., the total dollar value of the transaction calculated as the execution price) for securities below \$1.00. See Investors Exchange Fee Schedule 2017, available at <https://www.iextrading.com/trading/fees/>.

<sup>16</sup> See page 5 of the current NYSE Price List, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE\\_Price\\_List.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf).

<sup>17</sup> See *id.*

exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations.

#### Tiers 1 and 2

The Exchange believes the proposed credits for SLPs adding displayed liquidity to the Exchange (proposed Tier 2 credit of \$0.0029 per share and Tier 1 credit of \$0.0032 per share) and non-displayed liquidity to the Exchange (proposed Tier 2 credit of \$0.0011 per share, Tier 1 credit of \$0.0014 per share credit, and \$0.0025 per share credit for MPL Orders), are reasonable, equitable and not unfairly discriminatory because the proposed credits are in line with the fees the Exchange currently charges SLPs for adding displayed and non-displayed liquidity in Tape A securities.<sup>18</sup>

#### Tape A Tier

The Exchange believes that proposed SLP Tier A Tier is reasonable because it would provide SLPs with an additional way to qualify for a rebate, thereby providing SLPs with greater flexibility and creating an added incentive for SLPs to bring additional order flow to a public market in UTP Securities.

Finally, the Exchange believes it is reasonable and not unfairly discriminatory to waive the provide volume component of the SLP Tier requirements until June 1, 2018, because the proposed credits and fees will apply to all similarly situated SLPs.

#### Routing Fees

The Exchange believes that its proposed routing fees are a reasonable, equitable and not an unfairly discriminatory allocation of fees because the fee would be applicable to all member organizations in an equivalent manner. Moreover, the proposed fees for routing shares are also reasonable, equitable and not unfairly discriminatory because they are consistent with fees charged on other exchanges. In particular, the Exchange's proposal to charge a fee of \$0.0005 per share for executions that route to and execute on an NYSE American auction in securities priced at or above \$1.00 is the same as the fee charged by the Exchange's affiliate NYSE Arca, Inc. ("NYSE Arca"), to route orders to NYSE American auctions.<sup>19</sup> Moreover, the Exchange believes that the proposed

\$0.0005 per share routing fee is reasonable and not unfairly discriminatory because it is the same as NYSE American's fee for executions in the opening and closing auctions.<sup>20</sup> The Exchange notes that the proposed \$0.0005 routing fee is at least half the base rate charged for auction orders on most other markets, including the NYSE.<sup>21</sup>

The proposal to charge \$0.0010 per share for executions that route to and execute on Away Market auctions other than NYSE American in securities priced at or above \$1.00 is reasonable and not unfairly discriminatory because it is consistent with fees charged on other exchanges. The Exchange notes that the proposed fee is the same, and in some cases lower than, the fees charged on other exchanges.<sup>22</sup>

The proposal to charge \$0.0030 for all other executions in securities priced at or above \$1.00 that route to and execute on Away Market auctions is reasonable, equitable and not unfairly discriminatory because it is consistent with fees charged on other exchanges.<sup>23</sup>

Further, the proposal to charge a fee of 0.30% of total dollar value for transactions in securities with a price under \$1.00 are reasonable, equitable and not unfairly discriminatory because it is consistent with fees charged on other exchanges.<sup>24</sup>

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free

to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>25</sup> the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution. The Exchange believes that providing higher rebates and credits to SLPs and Floor brokers could similarly promote competition because the higher rates would encourage submission of additional liquidity by member organizations with enhanced quoting obligations (SLPs) and those that make significant contributions to market quality and contribute to price discovery by providing higher volumes of liquidity (Floor brokers).

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in

<sup>18</sup> See page 5 of the current NYSE Price List, available at <https://www.nyse.com/publicdocs/nyse/markets/nyse-price-list.pdf>.

<sup>19</sup> See page 4 of the NYSE Arca, Inc., Schedule of Fees and Charges, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE\\_Arca\\_Marketplace\\_Fees.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf).

<sup>20</sup> See page 1 of NYSE American's Price List, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE\\_America\\_Equities\\_Price\\_List.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf).

<sup>21</sup> The NYSE's base rate is \$0.0010. See note 18, *supra*. The NASDAQ Stock Market's ("NASDAQ") base rate, in contrast, is \$0.0016. See note 22, *infra*.

<sup>22</sup> For example, NASDAQ charges a rate of \$0.0016 per executed share for Tier F. See NASDAQ Fee Schedule at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

<sup>23</sup> For example, NASDAQ charges a rate of \$0.0030 to remove liquidity for shares executed at or above \$1.00. See NASDAQ Fee Schedule at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

<sup>24</sup> NASDAQ, for example, charges a fee of 0.30% (i.e. 30 basis points) of total dollar volume to remove liquidity for shares executed below \$1.00. See NASDAQ Fee Schedule at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

<sup>25</sup> 15 U.S.C. 78f(b)(8).



response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>26</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>27</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>28</sup> of the Act 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2018-15 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSE-2018-15. 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-NYSE-2018-15 and should be submitted on or before May 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-09258 Filed 5-1-18; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**Proposed Collection; Comment Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

*Extension:*

<sup>29</sup> 17 CFR 200.30-3(a)(12).

Rule 17a-5(c), SEC File No. 270-199, OMB Control No. 3235-0199

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 17a-5(c) (17 CFR 240.17a-5(c)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 17a-5(c) generally requires broker-dealers who carry customer accounts to provide statements of the broker-dealer's financial condition to their customers. Paragraph (c)(5) of Rule 17a-5 provides a conditional exemption from this requirement. A broker-dealer that elects to take advantage of the exemption must publish its statements on its website in a prescribed manner, and must maintain a toll-free number that customers can call to request a copy of the statements.

The purpose of the Rule is to ensure that customers of broker-dealers are provided with information concerning the financial condition of the firm that may be holding the customers' cash and securities. The Commission, when adopting the Rule in 1972, stated that the goal was to "directly" send a customer essential information so that the customer could "judge whether his broker or dealer is financially sound." The Commission adopted the Rule in response to the failure of several broker-dealers holding customer funds and securities in the period between 1968 and 1971.

The Commission estimates that approximately 162 broker-dealer respondents carrying approximately 132 million public customer accounts incur a burden of approximately 161,037 hours per year to comply with the Rule.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in

<sup>26</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>27</sup> 17 CFR 240.19b-4(f)(2).

<sup>28</sup> 15 U.S.C. 78s(b)(2)(B).



writing within 60 days of this publication.

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

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: April 24, 2018.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018-09093 Filed 5-1-18; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83117; File No. SR-NYSE-2018-14]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 902.11 of the Exchange's Listed Company Manual Concerning Fees Applicable to Acquisition Companies for Shares Issued Contingent on the Consummation of a Business Combination

April 26, 2018.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder, <sup>3</sup> notice is hereby given that, on April 16, 2018, New York Stock Exchange LLC ("NYSE" or the "Exchange") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 902.11. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Section 102.06 of the Manual provides for the listing of companies ("Acquisition Companies" or "ACs") with no prior operating history that conduct an initial public offering of which at least 90% of the proceeds, together with the proceeds of any other concurrent sales of the AC's equity securities, will be held in a trust account controlled by an independent custodian until consummation of a business combination. The business combination can be in the form of a merger, capital stock exchange, asset acquisition, stock purchase, reorganization, or similar business combination with one or more operating businesses or assets (a "Business Combination") with a fair market value equal to at least 80% of the net assets held in trust (net of amounts disbursed to management for working capital purposes and excluding the amount of any deferred underwriting discount held in trust). A listed AC may remain listed upon consummation of its Business Combination, provided it meets the criteria specified in Section 802.01B of the Manual.

In the experience of the Exchange, an AC will frequently reconsider its listing venue in connection with the consummation of its Business Combination.<sup>4</sup> The Business Combination is a transformative event in the life cycle of an AC, when it becomes an operating company instead of a blank check company. In connection with that transformation, an AC will frequently put in place a new

management team and significantly change its board of directors and it will often have a significantly different shareholder base after the Business Combination than it had as an AC. In effect, an AC after its Business Combination is a completely different company and it is for this reason that the board and management of the company after the transaction would want to reconsider the positioning of the company in many respects, including its listing venue.

The market for the retention or transfer to another exchange of these companies is very competitive and a number of transfers to a new listing venue have occurred in recent times in connection with the completion of an AC's Business Combination. The listing rules of the Exchange,<sup>5</sup> NYSE American<sup>6</sup> and NASDAQ Stock Market<sup>7</sup> all provide for a waiver of all initial listing fees in connection with a transfer from another national securities exchange, so an AC moving its listing upon consummation of its Business Combination never has to pay any listing fees in connection with such transfer or the issuance of any new shares at the time of its Business Combination. However, until a recent amendment to Section 902.11 of the Manual,<sup>8</sup> an AC remaining listed on the Exchange upon consummation of its Business Combination had to pay additional listing fees in relation to any additional shares issued in connection with the Business Combination. In such instances, the AC was faced with the anomalous situation where there would be no listing fee burden associated with a transfer to another exchange but it would be required to pay significant additional listing fees if it remained on its incumbent exchange. Consequently, to eliminate this disparate treatment of companies listing after a Business Combination, the Exchange amended Section 902.11 of the Manual to provide that any AC remaining listed on the Exchange upon consummation of its Business Combination would no longer be subject to any additional listing fees with respect to any shares issued in connection with such Business Combination.

The Exchange has identified another anomaly in the fees payable by an AC if it chooses to remain on the NYSE at the time of its Business Combination rather than transfer to another exchange.

<sup>5</sup> See Section 902.02 of the Manual.

<sup>6</sup> See Section 140 of the NYSE American Company Guide.

<sup>7</sup> See NASDAQ Marketplace Rule 5910(7) [sic].

<sup>8</sup> See Securities Exchange Act Release No. 82731 (February 16, 2018), 83 FR 8140 (February 23, 2018) (SR-NYSE-2018-06).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> The Exchange began to list ACs on a regular basis in the last year, so the practice of ACs changing listing venue at the time of their Business Combination has not yet involved any companies transferring away from the NYSE in those circumstances.

The Exchange has observed that it is not uncommon for an AC to seek to raise capital by selling shares in a private placement in conjunction with the consummation of its Business Combination. This additional capital is needed to provide sufficient liquidity for the AC to successfully operate its new business after the Business Combination. The private placement generally closes at the same time as the consummation of the Business Combination and the closing of the private placement is contractually conditioned on such consummation. Under current Exchange rules, the AC would be required to pay listing fees with respect to the shares issued in any such private placement. By contrast, if the AC chose to transfer to another listing venue at the time of consummation of its Business Combination, the other market would charge no listing fees on those shares as they would be subject to the listing fee exemption all of the markets apply to any shares outstanding at the time of transfer. As this anomaly would impose a cost on the AC if it remained on the NYSE where none would be incurred if the company chose to transfer, the Exchange proposes to amend Section 902.11 to provide that ACs remaining listed after consummation of their Business Combination will not be required to pay listing fees in relation to the issuance of any additional shares in a transaction which is occurring at the same time as the Business Combination with a closing contractually contingent on the consummation of the Business Combination.<sup>9</sup>

The Exchange does not expect the revenues it forgoes as a result of the proposed waiver to negatively affect its ability to conduct its regulatory program.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Sections 6(b)(4)<sup>11</sup> of the Act, in particular, in that it is designed to provide for the

equitable allocation of reasonable dues, fees, and other charges and is not designed to permit unfair discrimination among its members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act, in particular in that it is designed 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 believes that the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act in that it represents an equitable allocation of fees and does not unfairly discriminate among listed companies. In particular, the Exchange notes that the proposed amendment is not unfairly discriminatory as it will result in an AC that remains listed on the Exchange after its Business Combination being treated the same as an AC that transfers to the Exchange from another listing venue. The Exchange also believes the proposed rule change is not discriminatory with respect to listed operating companies, as operating companies generally do not have an event in their life cycle parallel to the Business Combination for an AC which would normally give rise to a reconsideration of the company's listing venue.

### *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 purpose of the Act. The proposed rule change does not impose any burden on competition, as it will have the effect of treating an AC that remains listed on the Exchange after its Business Combination the same for fee purposes as an AC that transfers to the Exchange from another listing venue or transfers to another listing venue at that time.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>12</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>13</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>14</sup> of the Act 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2018-14 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-NYSE-2018-14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

<sup>9</sup> The Exchange believes that it is appropriate to provide this waiver to an AC at the time of its Business Combination and not to an operating company that would also be subject to additional listing fees in connection with a share issuance subsequent to listing. In the Exchange's experience, there is generally no parallel to the Business Combination in the life cycle of an operating company that would cause it to reconsider its listing venue at the time it issued additional shares, so the anomaly the Exchange seeks to address in relation to ACs is not relevant to operating companies.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

<sup>14</sup> 15 U.S.C. 78s(b)(2)(B).

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 such 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-NYSE-2018-14, and should be submitted on or before May 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018-09262 Filed 5-1-18; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83115; File No. SR-NASDAQ-2018-030]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain Rules of the Rule 7000A Series To Make Conforming and Technical Changes

**DATES:** April 26, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 17, 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, 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 certain rules of the Rule 7000A Series concerning the Order Audit Trail System to make conforming and technical changes.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 is proposing to make the following three changes to the Rule 7000A Order Audit Trail Series: (1) Amend Rule 7410A(o)(1)(A) to harmonize the rule with FINRA Rule 7410(o)(1)(A); (2) correct rule citations in Rules 7430A and 7450A; and (3) delete the rule text under Rule 7470A, which lapsed in 2015.

The Exchange's Rule 7000A Series imposes an obligation on Exchange members to record in electronic form and report to FINRA on a daily basis certain information with respect to orders originated, received, transmitted, modified, canceled, or executed by members in Nasdaq-listed stocks. FINRA's Order Audit Trail System ("OATS") captures this order information and integrates it with quote and transaction information to create a time-sequenced record of orders, quotes, and transactions. This information is used by FINRA staff to conduct surveillance and investigations of members for potential violation of Exchange rules, federal securities laws, and FINRA rules.

The Exchange adopted the Rule 7000A Series to copy FINRA OATS rules, where appropriate. As a general

principle, the Exchange endeavors to keep its rules corresponding to FINRA rules as closely worded and structured as possible to the FINRA rules on which they are based. In certain instances, such as FINRA Rule 7410(o)(2), which concerns an exception to the definition of a Reporting Member relating to members operating on equities floors, the Exchange has not copied those inapplicable FINRA rules. Generally, the Exchange seeks to keep the Rule 7000 Series consistent with the applicable portions FINRA Rule 7040 Series. The proposed changes will harmonize Nasdaq rules with analogous FINRA rules, which have changed since the Exchange first adopted its rules.

###### First Change

The Exchange is proposing to amend Rule 7410A(o)(1)(A) to harmonize the rule with FINRA Rule 7410(o)(1)(A). Rule 7410A(o) provides the definition of "Reporting Member," which means a member that receives or originates an order and has an obligation to record and report information under Rules 7440A and 7450A. Rule 7410A(o)(1) provides an exception to the general definition if the member meets four conditions. The first condition the member must meet is that the member engages in a non-discretionary order routing process, pursuant to which it immediately routes, by electronic or other means, all of its orders to a *single* receiving Reporting Member. On May 12, 2014, FINRA amended FINRA Rule 7410(o)(1)(A) to allow a member to route its orders to *two* receiving Reporting Members, if two conditions were met.<sup>3</sup> First, the orders are routed by the member to each receiving Reporting Member on a pre-determined schedule approved by FINRA. Second, the FINRA member's orders are routed to two receiving Reporting Members pursuant to the schedule for a time period not to exceed one year. The rule change permits FINRA members to continue to rely on the exception from the definition of Reporting Member if, for a limited time, the member routes orders to two different Reporting Members, provided the criteria are met. FINRA noted in adopting the change that the rule was intended to accommodate introducing firms that transition to a different clearing firm over time and, during the transition, route their orders two different clearing firms, both of which report the introducing firm's information to OATS

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 72191 (May 20, 2014), 79 FR 30219 (May 27, 2014) (SR-FINRA-2014-024).

during the transition time.<sup>4</sup> The Exchange believes that this additional limited exception is appropriate for its members, which likewise may encounter a transition to a clearing firm whereby it [sic] would no longer be eligible for the exception to the definition of Reporting Member. Accordingly, the Exchange is proposing to adopt the FINRA rule text under Rule 7410A(o)(1)(A)(ii).

#### Second Change

The Exchange is also proposing to correct rule citations in Rules 7430A and 7450A. Rule 7430A “Synchronization of Member Business Clocks” provides the requirements for synchronizing member business clocks, and states that Nasdaq members shall comply with FINRA Rule 7430 as if such Rule were part of Nasdaq’s rules. There is no FINRA Rule 7430, but rather the appropriate FINRA rule to cite to is FINRA Rule 4590 “Synchronization of Member Business Clocks.” Accordingly, the Exchange is correcting the erroneous citation in Rule 7430A.

Rule 7450A “Order Data Transmission Requirements” provides the requirements for order data transmission, and states that, except as provided in paragraph (b), Nasdaq members and persons associated with a member shall comply with FINRA Rule 7450A as if such Rule were part of Nasdaq’s rules. There is no FINRA Rule 7450A and FINRA Rule 7450 “Order Data Transmission Requirements” is the appropriate FINRA rule to cite. Accordingly, the Exchange is deleting the erroneous “A” from the citation.

#### Third Change

The Exchange is proposing to delete the rule text under Rule 7470A in its entirety, which lapsed in 2015, and to hold the rule [sic] in reserve. Rule 7470A provided an exemption from the order recording and data transmission requirements of Rules 7440A and 7450A OATS rules applicable to manual orders. To qualify for the exemption, a member must have met the following criteria: (1) The member and current control affiliates and associated persons of the member have not been subject within the last five years to any final disciplinary action, and within the last ten years to any disciplinary action involving fraud; (2) the member has annual revenues of less than \$2 million; (3) the member does not conduct any market making activities in Nasdaq Stock Market equity securities; (4) the member does not execute principal transactions with its customers (with

limited exception for principal transactions executed pursuant to error corrections); and (5) the member does not conduct clearing or carrying activities for other firms. The exemption was limited to a maximum time of two years although a member was able to request an additional exemption prior to the expiration of a grant of existing exemptive relief. The exemptive authority provided by the rule permitted the Exchange to grant relief to members that meet certain criteria in situations where, for example, the reporting of order information would be unduly burdensome for the member or where temporary relief from the OATS Rules, in the form of additional time to achieve compliance, would permit the members to avoid unnecessary expense or hardship. The exemption has not been requested by any Nasdaq member to date and the Exchange does not believe that Nasdaq members are likely to need the exemption, since the vast majority of such members to which the rule applies are electronic proprietary trading firms that would not qualify for the exemption. Thus, the Exchange is proposing to eliminate the rule text under Rule 7470A from its rule book, and to hold the rule [sic] in reserve.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> 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, by harmonizing the Exchange’s OATS rules with those of FINRA, on which they are based. Consequently, the proposed changes will conform Exchange Rules to changes made to corresponding FINRA rules, thus promoting application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to its regulatory services agreement with the Exchange. With respect to the proposed amendment to Rule 7410A(o)(1)(A), the exemption will provide Exchange members the same flexibility to transition to a new clearing firm that FINRA members enjoy. The rule is intended to accommodate introducing firms that transition to a different clearing firm over time and, during the transition, route their orders to two different clearing firms, both of which report the introducing firm’s

information to OATS during the transition time. With respect to the proposed amendment to Rule 7470A to eliminate the expired exemption from the rule book, the Exchange believes that it is consistent with the Act because the exemption has never been requested by a Nasdaq member. Moreover, the Exchange does not believe that the vast majority of its members would qualify for the exemption, since such most Nasdaq members that are subject to the rule conduct an electronic proprietary trading business and the exemption applies to manual orders. Adopting the amended rule text under Rules 7410A will also align the Exchange rulebook with FINRA’s, thereby eliminating complexity from FINRA’s work under a regulatory services agreement with the Exchange. With respect to the technical corrections to Rules 7430A and 7450A, the Exchange believes that these changes are consistent with the Act because they will prevent investor confusion that may be caused by incorrect rule citations in 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 changes align the Exchange’s rules with those of FINRA, which will assist it in its oversight work done pursuant to a regulatory services agreement, and makes technical corrections to the rules. Consequently, the Exchange does not believe that the proposed changes implicate competition at all.

#### *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)(iii) of the Act<sup>7</sup> and

<sup>4</sup> *Id.* at 30220.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2018-030 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-2018-030. 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-2018-030, and should be submitted on or before May 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-09260 Filed 5-1-18; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

##### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

##### *Extension:*

Rule 17g-10 Form ABS Due Diligence-15; SEC File No. 270-597, OMB Control No. 3235-0694

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 17g-10 and Form ABS Due Diligence-15E under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).<sup>1</sup>

Rule 17g-10 contains certain certification requirements for third-party due diligence service providers that are employed by an NRSRO, an issuer, or an underwriter, which must be made on Form ABS Due Diligence-15E. The Commission estimates that the total burden for respondents to comply with Rule 17g-10 is 238 hours.

The Commission may not conduct or sponsor a collection of information

unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

Background documentation for this information collection may be viewed at the following website: [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta.Ahmed@omb.eop.gov](mailto:Shagufta.Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: April 26, 2018.

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-09270 Filed 5-1-18; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

##### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

##### *Extension:*

Rule 12f-1, SEC File No. 270-139, OMB Control No. 3235-0128

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 12f-1 (17 CFR 240.12f-1) under the Securities Exchange Act of 1934 ("Act") (15 U.S.C. 78a *et seq.*).

Rule 12f-1 ("Rule"), originally adopted in 1979 pursuant to Sections 12(f) and 23(a) of the Act, and as further modified in 1995 and 2005, sets forth the requirements for filing an exchange application to reinstate unlisted trading privileges ("UTP") in a security in which UTP has been suspended by the Commission pursuant to Section

<sup>8</sup> 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.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> See 17 CFR 240.17g-1 and 17 CFR 249b.300.

12(f)(2)(A) of the Act. Under Rule 12f-1, an exchange must submit one copy of an application for reinstatement of UTP to the Commission that contains specified information, as set forth in the Rule. The application for reinstatement, pursuant to the Rule, must provide the name of the issuer, the title of the security, the name of each national securities exchange, if any, on which the security is listed or admitted to unlisted trading privileges, whether transaction information concerning the security is reported pursuant to an effective transaction reporting plan contemplated by Rule 601 of Regulation NMS, the date of the Commission's suspension of unlisted trading privileges in the security on the exchange, and any other pertinent information related to whether the reinstatement of UTP in the subject security is consistent with the maintenance of fair and orderly markets and the protection of investors. Rule 12f-1 further requires a national securities exchange seeking to reinstate its ability to extend unlisted trading privileges in a security to indicate that it has provided a copy of such application to the issuer of the security, as well as to any other national securities exchange on which the security is listed or admitted to unlisted trading privileges.

The information required by Rule 12f-1 enables the Commission to make the necessary findings under the Act prior to granting applications to reinstate unlisted trading privileges. This information is also made available to members of the public who may wish to comment upon the applications. Without the Rule, the Commission would be unable to fulfill these statutory responsibilities.

There are currently 21 national securities exchanges subject to Rule 12f-1. The burden of complying with Rule 12f-1 arises when a potential respondent seeks to reinstate its ability to extend unlisted trading privileges to any security for which unlisted trading privileges have been suspended by the Commission, pursuant to Section 12(f)(2)(A) of the Act. The staff estimates that each application would require approximately one hour to complete. Thus each potential respondent would incur on average one burden hour in complying with the Rule.

The Commission staff estimates that there could be as many as 21 responses annually for an aggregate hour burden for all respondents of 21 hours (21 responses × 1 hour per response). Each respondent's related internal cost of compliance for Rule 12f-1 would be \$221.00, or, the cost of one hour of

professional work of a paralegal needed to complete the application. The total annual cost of compliance for all potential respondents, therefore, is \$4,641 (21 responses × \$221.00 per response).

Compliance with Rule 12f-1 is mandatory. Rule 12f-1 does not have a record retention requirement *per se*. However, responses made pursuant to Rule 12f-1 are subject to the recordkeeping requirements of Rules 17a-3 and 17a-4 of the Act. Information received in response to Rule 12f-1 shall not be kept confidential; the information collected is public information.

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

The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta.Ahmed@omb.eop.gov](mailto:Shagufta.Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: April 27, 2018.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-09278 Filed 5-1-18; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83114; File No. SR-CboeBZX-2018-005]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of the Cboe Vest S&P 500® Premium Income ETF Under Rule 14.11(c)(4)

April 26, 2018.

#### I. Introduction

On January 10, 2018, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange

Commission ("Commission"), pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> a proposed rule change to list and trade shares of the Cboe Vest S&P 500® Premium Income ETF, a series of ETF Series Solutions (the "Trust"). The proposed rule change was published for comment in the **Federal Register** on January 26, 2018.<sup>4</sup> On March 8, 2018, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.<sup>5</sup> On April 18, 2018, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.<sup>6</sup> The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### II. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 1

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 parts 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 list and trade shares ("Shares") of Cboe Vest S&P 500® Premium Income ETF (the "Fund") under Rule 14.11(c)(4), which governs the listing and trading of Index Fund Shares based on fixed income

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 82538 (January 19, 2018), 83 FR 3807.

<sup>5</sup> See Securities Exchange Act Release No. 82832, 82 FR 11269 (March 14, 2018) (extending the time period to April 26, 2018).

<sup>6</sup> Amendment No. 1 to the proposed rule change is available at: <https://www.sec.gov/comments/sr-cboebzx-2017-005/cboebzx2017005-3458514-162203.pdf>.

securities indexes on the Exchange. The Fund will be an index-based exchange traded fund (“ETF”). The Fund will track the Cboe S&P 500® Volatility Risk Premia Index (the “Index”).<sup>7</sup>

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on February 9, 2012. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N-1A (“Registration Statement”) with the Commission.<sup>8</sup> The Fund’s adviser, Cboe Vest Financial, LLC (the “Adviser”), and index provider, Cboe Exchange, Inc. (“Cboe Options” or the “Index Provider”), are affiliates and have implemented and will maintain a “fire wall” with respect to their respective personnel regarding access to information concerning the composition and/or changes to the underlying index or portfolio, as applicable. The Adviser and the Index Provider are not registered as broker-dealers, but are affiliated with a broker-dealer. The Index Provider has implemented and will maintain a “fire wall” with respect to such broker-dealer and its personnel regarding access to information concerning the composition and/or changes to the Index. In addition, Index Provider personnel who make decisions regarding the Index composition or methodology are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Index, pursuant to Rule 14.11(c)(4)(C)(iii). The Adviser has also implemented and will maintain a “fire wall” with respect to such broker-dealer and its personnel regarding access to information concerning the composition and/or changes to the portfolio. In addition, Adviser personnel who make decisions regarding the Fund’s portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund’s portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with another broker-dealer; or

(b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer; it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. Similarly, in the event that the Index Provider becomes registered as a broker-dealer or newly affiliated with another broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Exchange also notes that the Adviser is a BZX Affiliate as defined in Rule 14.3(e)(1)(A),<sup>9</sup> but the Fund is not an Affiliate Security, as defined in Rule 14.11(e)(1)(B),<sup>10</sup> and is therefore not subject to the additional requirements applicable to Affiliate Securities because such definition explicitly excludes Index Fund Shares. The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet the listing requirements of Rule 14.11(c)(4) applicable to an index that consists of Fixed Income Securities,<sup>11</sup> which requires that the fixed income component securities in an index or

portfolio meet the criteria set forth in Rule 14.11(c)(4). As further described below, the Index consists of options on an index that consists of “U.S. Component Stocks” as defined in Rule 14.11(c)(1)(D),<sup>12</sup> and Fixed Income Securities. The Fixed Income Security portion of the Index, which consists of only Treasury bills, meets the “generic” listing requirements of Rule 14.11(c)(4). However, because the Index consists partially of options and Rule 14.11(c)(4) does not provide generic listing criteria for an index or portfolio that includes options, the Index does not meet the criteria set forth in Rule 14.11(c)(4).

#### Cboe S&P 500® Volatility Risk Premia Index

The Index is a rules-based options index created by the Index Provider, an affiliate of the Adviser, and designed to capture the “volatility risk premium” in standardized options on the S&P 500 Index (“SPX Options”). The “volatility risk premium” in SPX Options is based on the premise that the expected level of volatility of the S&P 500 Index priced into such options (the options’ “implied volatility”) is, on average, higher than the volatility actually experienced by the S&P 500 Index (the “realized volatility”).

On the last trading day of each month, the Index (i) writes (sells)<sup>13</sup> call and put SPX Options (“Sold SPX Options”) with a delta<sup>14</sup> of approximately  $\pm 0.10$  and an expiration date of the last trading day of the following month, (ii) buys call and put SPX Options (“Bought SPX Options”) with an expiration date of the last trading day of the following month and strike prices such that the maximum one-month loss to the Index is equal to the value of the Index, and (iii) buys one- and three-month U.S. Treasury securities equal in value to the net premiums earned from writing the Sold SPX Options, less the premiums

<sup>7</sup> This filing was originally submitted on January 10, 2018 as SR-CboeBZX-2018-004. SR-CboeBZX-2018-004 was subsequently withdrawn on January 10, 2018 and replaced by this filing.

<sup>8</sup> See Registration Statement on Form N-1A for the Trust, dated September 28, 2017 (File Nos. 333-179562 and 811-22668). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has not yet issued an order granting exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) applicable to the activities of the Fund, but the Fund will not be listed on the Exchange until such an order is issued and any conditions contained therein are satisfied.

<sup>9</sup> As defined in Rule 14.3(e)(1)(A), the term “BZX Affiliate” means the Exchange and any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Exchange, where “control” means that one entity possesses, directly or indirectly, voting control of the other entity either through ownership of capital stock or other equity securities or through majority representation on the board of directors or other management body of such entity.

<sup>10</sup> As defined in Rule 14.3(e)(1)(B), the term “Affiliate Security” means any security issued by a BZX Affiliate or any Exchange-listed option on any such security, with the exception of Portfolio Depositary Receipts as defined in Rule 14.11(b) and Index Fund Shares as defined in Rule 14.11(c).

<sup>11</sup> As defined in Rule 14.11(c)(4), the term “Fixed Income Security” shall mean debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, Treasury bills, government-sponsored entity securities (“GSE Securities”), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or subdivision thereof.

<sup>12</sup> As defined in Rule 14.11(c)(1)(D), the term “U.S. Component Stock” shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depositary receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

<sup>13</sup> For purposes of this filing, when describing the Index, the terms “buy,” “sell,” “write,” “hold,” or any other term related to the acquisition, disposition, or issuance of an asset are intended to describe a theoretical transaction conducted by the Index that will be reflected in the Index constituents, rather than to imply that the Index is actually transacting.

<sup>14</sup> “Delta” is a measure of an option’s sensitivity to changes in the price of the underlying asset (e.g., a call option with a delta of 0.10 is expected to increase \$0.10 for each \$1.00 increase in the price of the underlying asset) and reflects the volatility expected by the market. The strike price of a call option with a delta of 0.10 will be higher when the market expects significant volatility and lower when the market expects relatively stable prices.



incurred of the Bought SPX Options, and sufficient to cover the maximum potential one-month loss of the Index.

If the S&P 500 Index at the end of the following month is within the range of the strike prices of the Sold SPX Options, the Sold SPX Options expire worthless and the Index's value will have increased for the month by the amount of the premiums from writing such options. If the S&P 500 Index at the end of the month is outside the range of the strike prices of the Sold SPX Options, positively or negatively, the Index will incur a loss proportional to the magnitude by which the S&P 500 Index is outside such range, less the premiums from writing such options. In other words, the Index incurs losses when increases or decreases in the level of the S&P 500 Index during a month exceed those implicitly anticipated by the options market.

The Index will only include SPX Options and Treasury bills. The strike prices for the Sold SPX Options will be "out-of-the-money" (*i.e.*, the strike price of the sold put options will be less than the level of S&P 500 Index and the strike price of the sold call options will be more than the level of the S&P 500 Index). The strike prices for the Bought SPX Options will be higher and lower, respectively, than the strike prices for the Sold SPX Options, which offsets some of the Index's risk from the Sold SPX Options. The difference between the strike prices of the Sold SPX Options and the Bought SPX Options represents the net liability for the Index, and the Index maintains an allocation to one- and three-month Treasury bills at least equal to such net liability. The Index receives premiums from the sale of the Sold SPX Options and pays premiums to buy the Bought SPX Options. The Index invests the net premium difference between the Sold SPX Options and the Bought SPX Options in one- and three-month Treasury bills. The Index holds each option until its expiration.

If the value of the S&P 500 Index rises above the strike price of the put S&P 500 Index Options (the "SPX Puts") or falls below the strike price of the call S&P 500 Index Options (the "SPX Calls") sold by the Index, the Sold SPX Options will not be exercised and will expire worthless, resulting in a gain to the Index equal to the premiums received from the Sold SPX Options. If the value of the S&P 500 Index falls below the strike price of the SPX Puts or rises above the strike price of the SPX Calls sold by the Index, the Sold SPX Options will finish "in-the-money" and the Index incurs a loss equal to the difference between the Sold SPX

Options' strike price and the value of the S&P 500 Index, less the value of the premiums received from the Sold SPX Options.

If the value of the S&P 500 Index rises above the strike price of the SPX Puts or falls below the strike price of the SPX Calls bought by the Index, the Bought SPX Options will not be exercised and will expire worthless, resulting in a loss to the Index equal to the premiums paid for the Bought SPX Options. If the value of the S&P 500 Index falls below the strike price of the SPX Puts or rises above the strike price of the SPX Calls sold by the Index, the Bought SPX Options will finish "in-the-money" and the Index receives a gain equal to the difference between the Bought SPX Options' strike price and the value of the S&P 500 Index, less the value of the premiums paid for the Bought SPX Options.

The strike prices of the SPX Puts and SPX Calls are calculated such that the Index is equity-market-neutral, meaning that it seeks to earn a total return in most equity market conditions regardless of general market direction as measured by the move in value of the S&P 500 Index. The cash and net option premium proceeds will be invested in short-term Treasury bills which will be rolled at maturity. This makes the Index bond-market-neutral, meaning that as interest rates and the yield for Treasury bills go up or down, the short duration of the Treasury bills will result in minimal effect on the Index.

#### Fund Holdings

Under Normal Market Conditions,<sup>15</sup> the Fund will invest all, or substantially all, of its assets in the SPX Options that make up the Index, as well as the Treasury bills included in the Index. Under Normal Market Conditions, at least 80% of the Fund's total assets (exclusive of any collateral held from securities lending) will be invested in the SPX Options or Treasury bills that make up the Index. In addition to the SPX Options and Treasury bills that make up the Index, the Fund may invest up to 20% of its total assets in U.S. exchange-listed options based on one or more ETFs that track the performance of the S&P 500 Index ("Comparable ETF Options"). The Fund will hold only SPX Options, Comparable ETF Options,

<sup>15</sup> The term "Normal Market Conditions" includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

Treasury bills included in the Index, and other cash and cash equivalents.<sup>16</sup>

#### Additional Discussion

The Exchange believes that sufficient protections are in place to protect against market manipulation of the Fund's Shares and SPX Options and Comparable ETF Options for the following reasons: (i) The diversity, liquidity, and market cap of the securities underlying the S&P 500 Index;<sup>17</sup> (ii) the liquidity of the SPX Options;<sup>18</sup> and (iii) surveillance by the Exchange, Cboe Options and the Financial Industry Regulatory Authority ("FINRA") designed to detect violations of the federal securities laws and self-regulatory organization ("SRO") rules.

Trading in the Shares and the underlying investments will be subject to the federal securities laws and Exchange, Cboe Options, FINRA, and, with respect to the Comparable ETF Options, other U.S. options exchanges' rules and surveillance programs.<sup>19</sup>

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the

<sup>16</sup> For purposes of this filing, cash equivalents are short-term instruments with maturities of less than three months, including: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

<sup>17</sup> The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

<sup>18</sup> The market for SPX Options traded on Cboe Options is among the most liquid markets in the world. In 2017, approximately 1.2 million options contracts on the S&P 500 Index were traded per day on Cboe Options, which is more than \$300 billion in notional volume traded on a daily basis.

<sup>19</sup> The Exchange notes that Cboe Options is a member of the Option Price Regulatory Surveillance Authority, which was established in 2006, to provide efficiencies in looking for insider trading and serves as a central organization to facilitate collaboration in insider trading and investigations for the U.S. options exchanges. For more information, see <http://www.cboe.com/aboutcboe/legal/departments/orsareg.aspx>.



Exchange's surveillance procedures for derivative products, including Index Fund Shares. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

All statements and representations made in this filing regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. The Trust has represented to the Exchange that it will advise the Exchange of any failure by the Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG")<sup>20</sup> and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. The Exchange is also able to access, as needed, trade information for certain fixed income instruments, including treasuries, reported to FINRA's Trade Reporting and Compliance Engine ("TRACE"). In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material,

non-public information by its employees.

As noted above, SPX Options are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, SPX Options, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the price of the Shares. The Exchange also believes that such liquidity are sufficient to support the creation and redemption mechanism. Coupled with the surveillance programs of the SROs described above, the Exchange does not believe that trading in the Fund's Shares would present manipulation concerns. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).<sup>21</sup> The Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.*,  $2 \times$  or  $-2 \times$ ) of the Index. The Fund's use of derivative instruments will be collateralized.

The Exchange represents that, except as described above, the Fund will meet each of the initial and continued listing criteria in BZX Rule 14.11(c)(4) except as it relates to the portion of the Index that consists of SPX Options because Rule 14.11(c)(4) does not provide generic listing criteria for an index or portfolio that includes options. Further to this point, the three-month Treasury bills that compose the entirety of the

fixed income portion of the Index will satisfy all requirements of Rule 14.11(c)(4). The Trust is required to comply with Rule 10A-3 under the Act for the initial and continued listing of the Shares of the Fund. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. In addition, the Exchange represents that the Shares of the Fund will comply with all other requirements applicable to Index Fund Shares, which includes requirements relating to the dissemination of key information such as the Net Asset Value, Index value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, firewalls for the Index Provider and Adviser, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules.

Quotation and last sale information for SPX Options and Comparable ETF Options will be available via the Options Price Reporting Authority. The intra-day, closing and settlement prices of exchange-traded options will be readily available from the options exchanges, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information on Treasury bills and other cash equivalents is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act<sup>22</sup> in general and Section 6(b)(5) of the Act<sup>23</sup> 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, 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 believes that the proposed rule change 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

<sup>20</sup> All exchange-listed securities that the Fund may hold will trade on a market that is a member of the ISG and the Fund will not hold any non-exchange-listed options, however, not all of the components of the portfolio for the Fund may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org).

<sup>21</sup> The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or earmark liquid assets or otherwise cover the transactions that give rise to such risk. See 15 U.S.C. 80a-18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing*, Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.*, Commission No-Action Letter (July 2, 1996).

<sup>22</sup> 15 U.S.C. 78f.

<sup>23</sup> 15 U.S.C. 78f(b)(5).

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 in that the Shares of the Fund will meet each of the initial and continued listing criteria required by BZX Rule 14.11(c)(4), which includes the listing requirements for an index of Fixed Income Securities, except as it relates to the portion of the Index that consists of SPX Options because Rule 14.11(c)(4) does not provide generic listing criteria for an index or portfolio that includes options. Specifically, because the Index consists partially of options and Rule 14.11(c)(4) does not provide generic listing criteria for an index or portfolio that includes options, the Index does not meet the criteria set forth in Rule 14.11(c)(4). Nevertheless, the Exchange believes that the concerns that sufficient protections are in place to protect against market manipulation of the Fund's Shares and S&P 500 Index Options and Comparable ETF Options for the following reasons: (i) The diversity, liquidity, and market cap of the securities underlying the S&P 500 Index;<sup>24</sup> (ii) the liquidity of the S&P 500 Index Options;<sup>25</sup> and (iii) surveillance by the Exchange, Cboe Options and FINRA designed to detect violations of the federal securities laws and self-regulatory organization ("SRO") rules.

The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in the Fund's portfolio, which are comprised primarily of S&P 500 Index Options, will be acquired in extremely liquid and highly regulated markets, the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. All statements and representations made in this filing regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. The Trust has represented to the Exchange that it will advise the Exchange of any failure by the Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. The Exchange is also able to access, as needed, trade information for certain fixed income instruments reported to TRACE. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, SPX Options are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index

components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, SPX Options, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the price of the Shares. The Exchange also believes that such efficiency and liquidity are sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Fund's Shares would present manipulation concerns.

The Exchange represents that, except as it relates to the options portion of the Index described above, the Fund will meet and be subject to all other requirements of Rule 14.11(c)(4) related to generic listing standards of the Index and other applicable requirements for such a series of Index Fund Shares under Rule 14.11(c) on an initial and continued listing basis, including those requirements regarding the dissemination of key information such as the Net Asset Value, the Index, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules. The Trust is required to comply with Rule 10A-3 under the Act for the initial and continued listing of the Shares of the Fund. Moreover, all of the options contracts held by the Fund will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

#### *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

<sup>24</sup> The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

<sup>25</sup> The market for SPX Options traded on Cboe Options is among the most liquid markets in the world. In 2017, approximately 1.2 million options contracts on the S&P 500 Index were traded per day on Cboe Options, which is more than \$300 billion in notional volume traded on a daily basis. See *supra* note 18.

of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of Index Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

### III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>26</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>27</sup> which requires, among other things, that the Exchange's rules be 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 Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,<sup>28</sup> which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities.

According to the Exchange, quotation and last-sale information for SPX Options and Comparable ETF Options will be available via the Options Price Reporting Authority.<sup>29</sup> The intra-day, closing and settlement prices of exchange-traded options will be readily available from the options exchanges, automated quotation systems, published or other public sources, or online information services.<sup>30</sup> In addition, price information on Treasury bills and other cash equivalents will be available

from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services.<sup>31</sup>

The Commission also believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. Under BZX Rule 14.11(c)(1)(B)(iv), if the Exchange becomes aware that the NAV or the Disclosed Portfolio is not disseminated to all market participants at the same time, the Exchange is required to halt trading in such series of Index Fund Shares. In addition, the Exchange represents that if the Fund or the related Shares are not in compliance with the applicable listing requirements for Index Fund Shares under BZX Rule 14.11(c)(4), the Exchange will commence delisting procedures under BZX Rule 14.12 (Failure to Meet Listing Standards).<sup>32</sup> The Exchange also states that it has a general policy prohibiting the distribution of material, non-public information by its employees.<sup>33</sup>

The Shares do not qualify for generic listing because the Index includes SPX Options. The Commission has previously approved listing rules for issues of Index Fund Shares that tracked indexes that included listed options.<sup>34</sup> The Commission believes that the price of the Shares will not be susceptible to manipulation. Options on the S&P 500 Index are among the most liquid options in the world,<sup>35</sup> and derive their value from the actively traded index components. Additionally, all of the options held by the Fund will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In support of this proposal, the Exchange represents that:

(1) The Fund will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(c), except as described above.

(2) The Shares will comply with all requirements applicable to Index Fund Shares under BZX Rule 14.11(c) including, but not limited to the requirements relating to the dissemination of key information such as the NAV, the Index, and the Intraday Indicative Value, rules governing the trading of equities securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules.

(3) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by Cboe Options and FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.

(4) For initial and continued listing, the Fund will be in compliance with Rule 10A-3 under the Act.<sup>36</sup>

(5) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.<sup>37</sup>

This approval order is based on all of the Exchange's statements and representations, including those set forth above and in Amendment No. 1.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1 thereto, is consistent with Section 6(b)(5) of the Act<sup>38</sup> and the rules and regulations thereunder applicable to a national securities exchange.

### IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written views, data, and arguments concerning whether Amendment No. 1 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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2018-005 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-CboeBZX-2018-005. This

<sup>26</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>27</sup> 15 U.S.C. 78f(b)(5).

<sup>28</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

<sup>29</sup> See Amendment No. 1, *supra* note 6, at 15.

<sup>30</sup> See *id.*

<sup>31</sup> See *id.*

<sup>32</sup> See *id.* at 12. See also BZX Rule 14.11(c)(4).

<sup>33</sup> See Amendment No. 1, *supra* note 6, at 13.

<sup>34</sup> See, e.g., Securities Exchange Act Release No. 79402 (November 25, 2016), 81 FR 86760 (December 1, 2016) (SR-NYSEArca-2016-131) (approving the listing and trading of shares of the Virtus Enhanced U.S. Equity ETF); No. 74675 (April 8, 2015), 80 FR 20038 (April 14, 2015) (SR-NYSEArca-2015-05) (approving the listing and trading of shares of the WisdomTree Put Write Strategy Fund).

<sup>35</sup> See *supra* note 18.

<sup>36</sup> 17 CFR 240.10A-3.

<sup>37</sup> See Amendment No. 1, *supra* note 6, at 15.

<sup>38</sup> 15 U.S.C. 78f(b)(5).

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-CboeBZX-2018-005 and should be submitted on or before May 23, 2018.

#### V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 supplements the proposal by, among other things: (1) Providing additional information regarding the Index; and (2) making additional representations regarding the Adviser and Index Provider implementing and maintaining a fire wall. The changes assisted the Commission in evaluating the Exchange's proposal and in determining that the listing and trading of the Shares is consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>39</sup> to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>40</sup> that the proposed rule change (SR-CboeBZX-2018-005), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>41</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-09259 Filed 5-1-18; 8:45 am]

**BILLING CODE 8011-01-P**

#### DEPARTMENT OF STATE

[Public Notice: 10403]

#### Determination Pursuant to the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State under the Foreign Missions Act, 22 U.S.C. 4301 *et seq.* ("the Act"), I hereby determine it is reasonably necessary to achieve one or more of the purposes set forth in section 204(b) of the Act (22 U.S.C. 4304(b)) to designate 3726 East Madison Street, Seattle, Washington, as a location and facilities for which entry or access is strictly prohibited by all individuals, including but not limited to representatives or employees of the Russian government and their dependents, without first obtaining written permission from the Department of State's Office of Foreign Missions. Such prohibitions will take effect as of 11:59 p.m. Pacific Daylight Time on April 24, 2018.

As a result, all persons on the said property are required to depart the premises no later than the date and time stated above.

For purposes of this Determination, 3726 East Madison Street, Seattle, Washington, includes any buildings and/or improvements thereon and the land ancillary thereto.

Access to the property will be subject to terms and conditions set forth by the Office of Foreign Missions.

Dated: April 19, 2018.

**John J. Sullivan,**  
*Acting Secretary of State.*

[FR Doc. 2018-09286 Filed 5-1-18; 8:45 am]

**BILLING CODE 4710-43-P**

<sup>39</sup> 15 U.S.C. 78s(b)(2).

<sup>41</sup> 17 CFR 200.30-3(a)(12).

#### DEPARTMENT OF TRANSPORTATION

#### Federal Highway Administration

[FHWA Docket No. FHWA-2018-0003]

#### Indefinite Delivery and Indefinite Quantity Contracts for Federal-Aid Construction

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

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

**SUMMARY:** The FHWA is announcing that the Indefinite Delivery and Indefinite Quantity (ID/IQ) method of contracting (including Job Order Contracts) for low-cost construction contracts in the Federal-aid highway program will be allowed, without prior FHWA approval, under certain circumstances.

**DATES:** Comments must be received on or before June 1, 2018. Late comments will be considered to the extent practicable.

**ADDRESSES:** You may submit comments, identified by the document number at the top of this document, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12-140, Washington, DC 20590.
- **Hand Delivery/Courier:** West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.

**Instructions:** All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received, go to [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Mr. John Hoyer, FHWA Office of Program Administration, (202) 366-1562, or via email at [John.Hoyer@dot.gov](mailto:John.Hoyer@dot.gov). For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, 202-366-1373, or via email at [Jomar.Maldonado@dot.gov](mailto:Jomar.Maldonado@dot.gov). Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., E.T.,

Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** This notice announces that contracting agencies no longer need to submit individual requests and work plans pursuant to Special Experimental Project No. 14 (SEP-14) for low-cost contracts that are awarded to the lowest responsive bidder based on an invitation for bids. However, this contracting technique continues to be authorized on an experimental basis while FHWA explores rulemaking to revise FHWA's regulations to accommodate this contracting technique.

### Background

The ID/IQ contracts are a method of contracting that allows an indefinite quantity of services for a fixed time. They are used in the Federal Government when agencies cannot determine, above a specified minimum, the precise quantities of supplies or services that the Government will require during the contract period. For construction ID/IQ contracts, contractors bid unit prices for estimated quantities of standard work items and task orders are used to define the location and quantities for specific work. The ID/IQ contracts may be awarded to the lowest responsive bidder based on an invitation for bids or the best-value proposer based on responses to Requests for Proposals. Contracting agencies use other names for these types of contracts including on-call contracts, area-wide contracts, continuing contracts, push-button contracts, and task order contracts. Job Order Contracts (JOCs) are a form of ID/IQ contracts that utilize a construction task catalogue with pre-priced work item descriptions and where contractors bid "mark-up rates." The contract is awarded to the lowest responsive bidder determined by their rates.

Although ID/IQ contracts have been specifically authorized in the Federal procurement process (48 CFR 16.5) and for the contracting of architecture and engineering (A/E) services in the Federal-aid highway program (FAHP) (23 CFR part 172), the FAHP authorization and procurement laws for construction do not address the possible use of ID/IQ contracts. The FAHP construction procurement statute, 23 U.S.C. 112(b)(1), requires contracts to be awarded by a competitive bidding process to the lowest responsive bidder (traditional design-bid-build project delivery method based upon the premise of a 100 percent-complete design and a well-defined scope of

work). The ID/IQ contracts are awarded based upon a general, but not completely defined, scope of work for a geographic area and limited time period (but not specific locations, designs, or quantities) and are often awarded based upon specific evaluation criteria.

#### *A. Experience Under Special Experimental Project Number 14 (SEP-14)*

The FHWA has used its authority in 23 U.S.C. 502(b)(1) to test the use of ID/IQ contracts for the construction of FAHP projects through the SEP-14 Program for innovative contracting techniques. Under the SEP-14 Program, contracting agencies interested in testing an innovative contracting technique submit project-specific (or programmatic) work plans for their implementation. The FHWA Division Office evaluates the work plan, coordinates with FHWA Headquarters, and, if it finds the work plan to be acceptable, FHWA approves the use of the technique on a temporary basis for a project or group of pilot projects. Over time, FHWA Headquarters staff assess the initiative to determine if it is a technique that should be operationalized for the FAHP on a permanent basis without the need for individual requests, work plans, and evaluation reports. Operationalizing SEP-14 experiments has taken different paths in the past based on the source of the policy warranting innovation and FHWA's risk assessment, such as FHWA-initiated memoranda (for example, cost plus time bidding and lane rental), FHWA-initiated rulemaking (for example, warranty clauses at 23 CFR 635.413), and congressionally initiated statutory amendments (for example, design-build and contractor manager/general contractor under 23 U.S.C. 112(b)(3)-(4)). More information on SEP-14 can be found at <https://www.fhwa.dot.gov/construction/cqit/sep14.cfm>.

Having evaluated the use of JOCs and ID/IQ contracts for construction in the FAHP for over a decade, FHWA has now determined that they are suitable for operationalization. For more than 10 years, FHWA and State departments of transportation (State DOTs) have experimented with the use of ID/IQ contracts and JOCs for construction. FHWA has approved the use of these contracts under SEP-14 for 16 different State DOTs and 6 local public agencies. Evaluation reports indicate that JOCs and ID/IQ contracts allow for cost-effective contracting for small value contracts and preventive maintenance programs. These evaluation reports can be found at <https://www.fhwa.dot.gov/>

[programadmin/contracts/sep14list.cfm](https://www.fhwa.dot.gov/construction/sep14list.cfm). Specifically, the reports indicate that these contracts eliminate the need for contracting agencies to advertise and award numerous small contracts and provide contracting agencies with wide flexibility in programming and addressing preventive maintenance needs.

The FHWA's determination that this contracting technique is suitable for operationalization is consistent with requests in Senate reports for fiscal year 2017 and 2018 appropriations to operationalize JOCs. S. Rept. No. 114-243, 43 (April 21, 2016); S. Rept. No. 115-138, 52 (July 27, 2017).

#### *B. Steps for Operationalizing ID/IQs and JOCs for Construction in the FAHP*

The FHWA is proceeding with two phases to operationalize ID/IQ contracts and JOCs for construction in the FAHP. The first phase is the issuance of this Notice, and the second phase is the initiation of a rulemaking.

##### 1. Notice To Allow ID/IQ and JOCs for Low-Cost Construction Contracts

The first phase is the issuance of this Notice describing when contracting agencies may use ID/IQ contracts and JOCs for construction without the need for project-specific work plans from contracting agencies.

The FHWA considers "low-cost contracts" to be 1- or 2-year contracts awarded to the lowest responsive bidder for construction of projects that qualify for FHWA categorical exclusions (CE) under the National Environmental Policy Act (NEPA) of 1969 (23 CFR 771.117) and where the total value of task or work orders does not exceed \$2,000,000 per year. Contracting agencies should continue to following existing procedures for contract extensions. The FHWA may allow contract extensions, but the maximum length of the contract period with extensions may not exceed 5 years.

Contracting agencies interested in this contracting method should provide assurances to FHWA, including assurances that the total value of task or work orders will not exceed \$2,000,000 per year, that the actions covered will be for projects that qualify for a CE, that the work will comply with applicable Title 23 requirements, and that the contracting agency will comply with applicable Disadvantaged Business Enterprise requirements.

Individual tasks must undergo a complete environmental review prior to their approval (23 CFR 771.113(a)). The FHWA Division Office should determine how individual task orders will be approved. In addition, there are

requirements in 23 CFR part 635 that may not apply to ID/IQs (for example, standard change conditions clauses in 23 CFR 635.109 and self-performance requirements in 23 CFR 635.113), but FHWA will encourage contracting agencies to use similar requirements consistent with State or local government policy.

This contracting technique will continue to be experimental under FHWA's SEP-14 authority because FHWA's regulations and procedures do not accommodate this type of contracting technique; however, contracting agencies will not need to submit individual SEP-14 requests and work plans for low-cost contracts under these conditions. The FHWA would expect contracting agencies to continue to request specific SEP-14 approval for best value awards, multiple-award ID/IQ contracts and JOCs, and contracts that exceed the low-cost threshold or are not otherwise within the limitations of this notice. The FHWA will request its division offices to report annually on different metrics to assess the contracting technique's impact on competition. The FHWA seeks public comments on this approach.

## 2. Step Two: Rulemaking Initiation

Under the second phase, FHWA intends to initiate rulemaking to address the construction and approval regulations that need amendments in order to allow the contracting technique on a permanent basis. This rulemaking would be published in the **Federal Register** and provide an opportunity for the public to comment on the use of ID/IQ contracts or JOC for construction in the FAHP.

**Authority:** 23 U.S.C. 112 and 502; 23 CFR 635.

Issued on: April 25, 2018.

**Brandye L. Hendrickson,**  
*Acting Administrator, Federal Highway Administration.*

[FR Doc. 2018-09276 Filed 5-1-18; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2018-0014]

#### Application From the State of California To Participate in the Surface Transportation Project Delivery Program for Certain Railroad Projects

**AGENCY:** Federal Railroad Administration (FRA), U.S. Department of Transportation (USDOT).

**ACTION:** Notice of receipt of application and request for comments.

**SUMMARY:** This notice announces that FRA has received and reviewed an application from the State of California (State) acting through its California State Transportation Agency (CalSTA) and California High-Speed Rail Authority (Authority) requesting participation in the Surface Transportation Project Delivery Program (Program). Under the Program, FRA may assign, and the State may assume, responsibilities under the National Environmental Policy Act of 1969 (NEPA), and all or part of FRA's responsibilities for environmental review, consultation, or other actions required under Federal environmental laws with respect to one or more railroad projects within the State. FRA invites the public to comment on the State's request, including its application and the draft Memorandum of Understanding (MOU), which outlines how the State would implement the Program, with FRA oversight. The State's application and the draft MOU are available for public inspection in the docket. FRA will use the public comments to inform its decision on whether to approve or deny the State's application.

**DATES:** Please submit comments by June 1, 2018.

**ADDRESSES:** You may submit comments, identified by Docket Number FRA-2018-0014, 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 Ave. 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:** You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stephanie Perez, Environmental Protection Specialist, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone: (202) 493-0388, email: [stephanie.perez@dot.gov](mailto:stephanie.perez@dot.gov).

## SUPPLEMENTARY INFORMATION:

### Electronic Access

An electronic copy of this notice may be downloaded from the **Federal Register's** home page at <http://www.archives.gov/federal-register>. An electronic version of the application materials and proposed MOU may be downloaded by accessing the USDOT docket, as described above, at <http://www.regulations.gov/>.

### Privacy Act Statement

Anyone can search the electronic form of all comments received into any of DOT's 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 in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <https://www.regulations.gov/privacyNotice>.

### Background

Section 327 of title 23, United States Code (23 U.S.C. 327), allows the Secretary of the U.S. Department of Transportation (Secretary) to assign, and a State to assume, responsibility for all or part of the Secretary's responsibilities for environmental review, consultation, or other actions required under NEPA (42 U.S.C. 4321 *et seq.*) and any Federal environmental law with respect to one or more highway projects within the State, as well as one or more railroad, public transportation, and/or multimodal projects.<sup>1</sup> The FRA is authorized to act on behalf of the Secretary with respect to these matters for railroad projects.

Under the draft MOU, FRA would assign to the State, acting through CalSTA or the Authority, the responsibility for making decisions under NEPA for railroad projects proposed as part of the California High-Speed Rail system, as further described in the State's application and the draft MOU, with the exception of the following:

(1) Projects that cross state boundaries or that cross or are adjacent to international boundaries are excluded from the railroad projects for which FRA environmental review responsibilities are being assumed by the State. For purposes of the State's application and draft MOU, a project is considered "adjacent to international boundaries" if it requires the issuance of

<sup>1</sup> The Secretary may not assign its responsibility for making any conformity determination required under section 176 of the Clean Air Act.

a new, or modification of an existing, Presidential Permit by the U.S. Department of State.

(2) As provided at 23 U.S.C. 327(a)(2)(D), any railroad project that is not assumed by the State as identified in the State's application and the draft MOU remains the responsibility of the FRA.

Under the draft MOU, the State would also assume the responsibility to conduct the following environmental review, consultation, and other related activities for project delivery:

#### *Environmental Review Process*

- Efficient environmental reviews for project decisionmaking, 23 U.S.C. 139
- Efficient environmental reviews, 49 U.S.C. 24201

#### *Air Quality*

- Clean Air Act (CAA), 42 U.S.C. 7401–7671q, except to the extent 23 U.S.C. 327 requires FRA to retain responsibility for conformity determinations

#### *Noise*

- Noise Control Act of 1972, 42 U.S.C. 4901–4918

#### *Wildlife*

- Endangered Species Act of 1973 (ESA), 16 U.S.C. 1531–1544
- Marine Mammal Protection Act, 16 U.S.C. 1361–1423h
- Anadromous Fish Conservation Act, 16 U.S.C. 757a–757f
- Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d
- Migratory Bird Treaty Act, 16 U.S.C. 703–712
- Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801–1891d

#### *Hazardous Materials Management*

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675
- Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. 9671–9675
- Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k

#### *Historic and Cultural Resources*

- National Historic Preservation Act of 1966, as amended, 54 U.S.C. 306101, *et seq.*, except to the extent 23 CFR part 773 requires FRA to retain responsibility for Government-to-Government consultation with Indian tribes
- Archeological Resources Protection Act, 16 U.S.C. 470aa–479mm

- Title 54, Chapter 3125—Preservation of Historical and Archeological Data, 54 U.S.C. 312501–312508
- Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001–3013; 18 U.S.C. 1170

#### *Social and Economic Impacts*

- American Indian Religious Freedom Act, 42 U.S.C. 1996
- Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201–4209

#### *Water Resources and Wetlands*

- Clean Water Act, 33 U.S.C. 1251–1387 (Sections 401, 402, 404, 408, and Section 319)
- Safe Drinking Water Act (SDWA), 42 U.S.C. 300f–300j–26
- Rivers and Harbors Act of 1899, 33 U.S.C. 403
- Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287
- Emergency Wetlands Resources Act, 16 U.S.C. 3901 and 3921
- Flood Disaster Protection Act, 42 U.S.C. 4001–4130
- General Bridge Act of 1946, 33 U.S.C. 525–533
- Coastal Barrier Resources Act, 16 U.S.C. 3501–3510
- Coastal Zone Management Act, 16 U.S.C. 1451–1466

#### *Parklands and Other Special Land Uses*

- 49 U.S.C. 303 (Section 4(f))
- Land and Water Conservation Fund (LWCF) Act, 54 U.S.C. 200302–200310

#### *Executive Orders*

- E.O. 11990, Protection of Wetlands
- E.O. 11988, Floodplain Management
- E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations
- E.O. 13112, Invasive Species
- E.O. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure

The draft MOU would allow the State to act in the place of FRA in carrying out the environmental review-related functions described above, except with respect to Government-to-Government consultations with Federally-recognized Indian tribes. The FRA would retain responsibility for conducting formal Government-to-Government consultation with Federally-recognized Indian tribes. The Authority would continue to handle routine consultations with the tribes and understands that a tribe has the right to direct consultation with the FRA upon request. The Authority would also be able to assist FRA with formal

consultations, with consent of a tribe, but FRA would remain responsible for the consultation.

In addition, the State would not assume FRA's responsibilities for conformity determinations required under Section 176 of the CAA (42 U.S.C. 7506), or any responsibility under 23 U.S.C. 134 or 135, or under 49 U.S.C. 5303 or 5304.

A copy of the State's application and draft MOU are in the USDOT docket or may be obtained by contacting FRA at the address provided above. A copy also may be viewed on the Authority's website at: [http://www.hsr.ca.gov/Programs/Environmental\\_Planning/nepa\\_assignment.html](http://www.hsr.ca.gov/Programs/Environmental_Planning/nepa_assignment.html).

The FRA will consider all substantive comments submitted when making its decision on the State's request. Any final MOU approved by FRA may include changes based on comments and consultations and will be made publicly available.

**Authority:** 23 U.S.C. 327; 42 U.S.C. 4331, 4332; 23 CFR 773.109–111; 40 CFR 1507.3; and 49 CFR 264.101.

**Jamie Rennert,**

*Director, Office of Program Delivery, Federal Railroad Administration.*

[FR Doc. 2018–09290 Filed 5–1–18; 8:45 am]

**BILLING CODE 4910–06–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Maritime Administration**

**[Docket No. MARAD–2018–0065]**

### **Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CHAINED UP; Invitation for Public Comments**

**AGENCY:** Maritime Administration, DOT.  
**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD–2018–0065. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE,



Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel CHAINED UP is:

—*Intended Commercial Use of Vessel:* “Sport Fishing”

—*Geographic Region:* “Maryland, Delaware, Virginia”

The complete application is given in DOT docket MARAD-2018-0065 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide

comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

By Order of the Maritime Administrator.

Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018-09221 Filed 5-1-18; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

[Docket No. MARAD-2018-0059]

**Requested Administrative Waiver of the Coastwise Trade Laws: Vessel METANI; Invitation for Public Comments**

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2018-0059. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel METANI is:

—*Intended Commercial Use of Vessel:*

“Metani’s intended commercial use is to take passengers for hire on day sails within the Charleston Harbor area and neighboring islands, within a fifty-mile radius. Metani will not be used for carrying cargo or for any kind of commercial fishing.”

—*Geographic Region:* “South Carolina”

The complete application is given in DOT docket MARAD-2018-0059 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

By Order of the Maritime Administrator.

Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018-09225 Filed 5-1-18; 8:45 am]

**BILLING CODE 4910-81-P**



**DEPARTMENT OF TRANSPORTATION****Maritime Administration****[Docket No. MARAD–2018–0061]****Requested Administrative Waiver of the Coastwise Trade Laws: Vessel DULCINEA; Invitation for Public Comments****AGENCY:** Maritime Administration, DOT.  
**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD–2018–0061. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel DULCINEA is:

**—Intended Commercial Use of Vessel:**

“We will be taking passengers out on charter sails, on the east coast of the united states. We will not be taking more than 12 people at a time, and will mainly be doing day sails of between 2–8 hours.”

**—Geographic Region:** “Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding New York Harbor), New Jersey, North Carolina, South Carolina, Georgia, and Florida.”

The complete application is given in DOT docket MARAD–2018–0061 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL–14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

By Order of the Maritime Administrator.

Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018–09222 Filed 5–1–18; 8:45 am]

**BILLING CODE 4910–81–P**

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD–2018–0067. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel LUCKY BASTARD is:

**—Intended Commercial Use of Vessel:**

“Sport Fishing Charters”

**—Geographic Region:** “Massachusetts, Maine, New Hampshire, Rhode Island and Florida”

The complete application is given in DOT docket MARAD–2018–0067 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****[Docket No. MARAD–2018–0067]****Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LUCKY BASTARD; Invitation for Public Comments****AGENCY:** Maritime Administration, DOT.

the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

By Order of the Maritime Administrator.  
Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018-09224 Filed 5-1-18; 8:45 am]

BILLING CODE 4910-81-P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2018-0060]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BLUE ISLAND DREAMER; Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.  
**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2018-0060. Written comments may be submitted by hand or by mail to the Docket Clerk,

U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel BLUE ISLAND DREAMER is:

—*Intended Commercial Use of Vessel:*  
“Use in a sailing charter operation. 6 passengers or less.”

—*Geographic Region:* “Michigan”

The complete application is given in DOT docket MARAD-2018-0060 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their

organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \*

By Order of the Maritime Administrator.  
Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018-09220 Filed 5-1-18; 8:45 am]

BILLING CODE 4910-81-P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2018-0063]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LIMERICK; Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.  
**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2018-0063. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**  
Bianca Carr, U.S. Department of

Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel LIMERICK is:

—*Intended Commercial Use of Vessel:* “sightseeing day sails on Lake Michigan, departing from and returning to South Haven MI”

—*Geographic Region:* “Michigan”

The complete application is given in DOT docket MARAD-2018-0063 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

By Order of the Maritime Administrator.

Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018-09223 Filed 5-1-18; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2018-0064]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WIND; Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2018-0064. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel WIND is:

—*Intended Commercial Use of Vessel:* “I own a charter sailboat company and intend on doing day charters out of Vieques, PR. I will not be transporting any passenger from point A to point B, they will always return to point A. I will only have a

maximum of 6 paying customers on board at a time, with one crew member and captain (myself).”

—*Geographic Region:* “Puerto Rico”

The complete application is given in DOT docket MARAD-2018-0064 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121) \* \* \*

By Order of the Maritime Administrator.

Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018-09228 Filed 5-1-18; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****[Docket No. MARAD-2018-0066]****Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NEGOSEATOR; Invitation for Public Comments****AGENCY:** Maritime Administration, DOT.  
**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2018-0066. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel NEGOSEATOR is:

—*Intended Commercial Use of Vessel:* “4, 6, 8 hour charters around South Florida”

—*Geographic Region:* “Florida”

The complete application is given in DOT docket MARAD-2018-0066 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part

388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

By Order of the Maritime Administrator.

Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018-09226 Filed 5-1-18; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****[Docket No. MARAD-2018-0062]****Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WILDCAT TOO; Invitation for Public Comments****AGENCY:** Maritime Administration, DOT.  
**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by

MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 1, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2018-0062. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel WILDCAT TOO is:

—*Intended Commercial Use of Vessel:*

“Luxury style Day charters and Sunset cruises, it will include snorkeling, paddle boarding and sea kayaks for entertainment. No fishing, no diving.”

—*Geographic Region:* “Puerto Rico”

The complete application is given in DOT docket MARAD-2018-0062 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121) \* \* \*

By Order of the Maritime Administrator.  
Dated: April 26, 2018.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2018-09227 Filed 5-1-18; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF THE TREASURY****Community Development Financial Institutions Fund****Notice of Information Collection and Request for Public Comment**

**ACTION:** Notice and request for public comment.

**SUMMARY:** The Department of the Treasury, 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. Currently, the Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is soliciting comments concerning the Community Development Financial Institution CDFI Program (CDFI Program) and Native American CDFI Assistance Program (NACA Program) Annual Compliance Reports. These include the Performance Progress Report, Financial Statement Audit Report (if applicable), and A-133 Audit Report (if applicable), which will be submitted through the Awards Management Information System (AMIS).

**DATES:** Written comments must be received on or before July 2, 2018 to be assured of consideration.

**ADDRESSES:** Submit your comments via email to Tanya McInnis, Acting Program Manager for the Office of Certification, Compliance Monitoring and Evaluation, CDFI Fund, at [ccme@cdfi.treas.gov](mailto:ccme@cdfi.treas.gov).

**FOR FURTHER INFORMATION CONTACT:**

Tanya McInnis, Acting Program Manager for the Office of Certification, Compliance Monitoring and Evaluation, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington DC 20220 or by phone at (202) 653-0300. Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's website at <http://www.cdfifund.gov>.

**SUPPLEMENTARY INFORMATION:**

*Title:* CDFI Program Annual Compliance Reports.

*OMB Number:* 1559-NEW.

*Type of Review:* Regular Review.

*Abstract:* This collection captures quantitative information from CDFI Program and NACA Program recipients. This information is used to assess: (1) The recipient's activities as detailed in its application materials; (2) the recipient's approved use of the assistance; (3) the recipient's financial condition; and (4) overall compliance with the terms and conditions of the assistance agreement entered into by the CDFI Fund and the recipient.

A CDFI Program or NACA Program recipient must submit Annual Compliance Reports. The specific components that comprise a recipient's Annual Compliance Reports are set forth in the assistance agreement that the recipient enters into with the CDFI Fund in order to receive a CDFI Program or a NACA Program award. The three reports being published for public comment are the: (i) Performance Progress Report (PPR); (ii) Financial Statement Audit Report (if applicable); and (iii) A-133 Audit Report (if applicable). These reporting requirements can be found in the assistance agreement templates located on the CDFI Fund website at [www.cdfifund.gov](http://www.cdfifund.gov). The CDFI Fund seeks to consolidate data reporting and anticipates that the burden estimates will decrease with the build out of AMIS.

*Affected Public:* Businesses or other for-profit institutions, non-profit entities, and State, local and Tribal entities participating in CDFI Fund programs.

*Estimated Number of Respondents:* CDFI Annual PPR: 855.

*CDFI Annual Financial Statement Audit Report (if applicable):* 428.  
*CDFI Annual A-133 Audit Report (if applicable):* 428.

*Estimated Annual Time Per Respondent:*

*CDFI Annual PPR:* 30.

*CDFI Annual Financial Statement Audit Report (if applicable):* 30.

*CDFI Annual A-133 Audit Report (if applicable):* 30.

*Estimated Total Annual Burden Hours:* 51,330.

*CDFI Annual PPR:* 25,650.

*CDFI Annual Financial Statement Audit Report:* 12,840.

*CDFI Annual A-133 Audit Report:* 12,840.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on all aspects of the information collections, but commentators may wish to focus particular attention on: (a) The cost for CDFIs to operate and maintain the services/systems required to provide the required information; (b) ways to enhance the quality, utility, and clarity of the information to be collected; (c) whether the collection of information is necessary for the proper evaluation of the effectiveness and impact of the CDFI Fund's programs, including whether the information has practical utility; (d) the accuracy of the CDFI Fund's estimate of the burden of the collection of information, and; (e) ways to minimize the burden of the collection of information including through the use of technology.

**Authority:** 12 U.S.C. 4707 *et seq.*; 26 U.S.C. 45D; 12 CFR part 1805.

**Mary Ann Donovan,**

*Director, Community Development Financial Institutions Fund.*

[FR Doc. 2018-09273 Filed 5-1-18; 8:45 am]

**BILLING CODE 4810-70-P**

**DEPARTMENT OF THE TREASURY****Financial Crimes Enforcement Network**

**Agency Information Collection Activities; Comment Requested; Renewal Without Change to the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 Reporting Requirements Under Section 104(e)**

**AGENCY:** Financial Crimes Enforcement Network ("FinCEN"), U.S. Department of the Treasury.

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

**SUMMARY:** FinCEN, a bureau of the U.S. Department of the Treasury (“Treasury”), invites all interested parties to comment on the Bank Secrecy Act (“BSA”) regulations implemented pursuant to section 104(e) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (“CISADA”) and consistent with its statutory mission under 31 U.S.C. 310. FinCEN is proposing to renew this information collection without change. The rule requires a U.S. bank that maintains a correspondent account for a foreign bank to inquire of the foreign bank, and report to FinCEN upon written request, certain information with respect to transactions or other financial services provided by that foreign bank.

**DATES:** Written comments should be received on or before July 2, 2018 to be assured of consideration.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2018–0002 and the OMB control number 1506–0066.

- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2018–0002 and the OMB control number 1506–0066. Please submit comments by one method only (electronically preferred). All comments submitted in response to this notice will become a matter of public record. Comments will also be incorporated to FinCEN’s retrospective regulatory review process, as mandated by E.O. 12866 and 13563. Therefore, you should submit only information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center at 800–767–2825 or electronically at [frc@fincen.gov](mailto:frc@fincen.gov).

**SUPPLEMENTARY INFORMATION:** The BSA, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951–1959, and 31 U.S.C. *et seq.*, authorizes the Secretary of the Treasury (“the Secretary”), *inter alia*, to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters. Title III of the U.S.A. PATRIOT Act of 2001, Public Law 107–56, included certain amendments to the anti-money laundering provisions of Title II of the BSA, 31 U.S.C. 5311 *et seq.*, which are intended to aid in the prevention, detection, and prosecution of international money laundering and

terrorist financing. Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The Secretary’s authority to administer Title II of the BSA has been delegated to the Director of FinCEN. The information collected and retained under the regulation addressed in this notice assists Federal, state, and local law enforcement, as well as regulatory authorities in the identification, investigation, and prosecution of money laundering and other matters.

*Title:* CISADA Reporting Requirements—31 CFR 1060.300.  
*OMB Number:* 1506–0066.

*Current Action:* Renewal without change to the existing regulations.

*Type of Review:* Extension of currently approved reporting requirements.

*Affected Public:* Banks as defined in 31 CFR 1010.100(d).

*Frequency:* As required.

*Estimated Number of Respondents:*

There are approximately 350 potential respondents. It is estimated that, if contacted, 250 of these respondents will respond indicating they maintain no accounts subject to reporting pursuant to the CISADA requirements.<sup>1</sup>

*Estimated Time per Respondent:*

Response by the 250 banks is estimated to require 30 minutes per response for a total of 125 hours. It is estimated that the remaining 100 banks will provide approximately 900 responses, each response requiring 3 hours for a total of 2700 hours.

*Estimated Total Annual Burden*

*Hours:* 2825 hours.

The following paragraph applies to the recordkeeping requirements addressed in this notice. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

**Jamal El Hindi,**

*Deputy Director, Financial Crimes Enforcement Network.*

[FR Doc. 2018–09267 Filed 5–1–18; 8:45 am]

**BILLING CODE 4810–02–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing the names of persons that have been placed on OFAC’s Specially Designated Nationals and Blocked Persons List based on OFAC’s determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section.

#### FOR FURTHER INFORMATION CONTACT:

*OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury’s Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Availability

The list of Specially Designated Nationals and Blocked Persons (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC’s website (<http://www.treasury.gov/ofac>).

<sup>1</sup> Please note that U.S. banks are only required to report this information to FinCEN upon receiving a specific written request from FinCEN.

**Notice of OFAC Actions**

On April 27, 2018, OFAC determined that the property and interests in

property of the following persons are blocked under the relevant sanctions authority listed below.

**Individuals**

BILLING CODE 4801-AL-P

1. ZHANG, Jian (Chinese Simplified: 张建; Chinese Traditional: 張建), No. 100, North Hengfeng Road, Shanghai, China; Dezhou, Shandong, China (Chinese Simplified: 德州市, 山东, China; Chinese Traditional: 德州市, 山東, China); DOB 22 Nov 1978; nationality China; Gender Male; Chinese Commercial Code 1728 1696; Citizen's Card Number 372426197811220350 (China) (individual) [SDNTK] (Linked To: ZARON BIO-TECH (ASIA) LIMITED). Designated pursuant to section 805(b)(1) of the Kingpin Act, 21 U.S.C. section 1904(b)(1), for playing a significant role in international narcotics trafficking.
2. CHU, Na (Chinese Simplified: 初娜; Chinese Traditional: 初娜), Pulandian, Liaoning, China (Chinese Simplified: 普兰店市, 辽宁, China; Chinese Traditional: 普蘭店市, 遼寧, China); DOB 09 Nov 1980; Gender Female; Chinese Commercial Code 0443 1226; Citizen's Card Number 210222198011096648 (China) (individual) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. section 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, Jian ZHANG.
3. CHU, Yeyou (Chinese Simplified: 初业有; Chinese Traditional: 初業有), Dalian, Liaoning, China (Chinese Simplified: 大连市, 辽宁, China; Chinese Traditional: 大連市, 遼寧, China); DOB 01 Feb 1982; Gender Male; Chinese Commercial Code 0443 2814 2589; Citizen's Card Number 210222198202016639 (China) (individual) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. section 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, Jian ZHANG.

4. LIU, Cuiying (Chinese Simplified: 刘翠英; Chinese Traditional: 劉翠英), Dezhou, Shandong, China (Chinese Simplified: 德州市, 山东, China; Chinese Traditional: 德州市, 山東, China); DOB 12 Dec 1955; Gender Female; Chinese Commercial Code 0491 5050 5391; Citizen's Card Number 371482195512120326 (China) (individual) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. section 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, Jian ZHANG.
5. ZHANG, Keping (Chinese Simplified: 张克平; Chinese Traditional: 張克平), Dezhou, Shandong, China (Chinese Simplified: 德州市, 山东, China; Chinese Traditional: 德州市, 山東, China); DOB 22 Oct 1955; Gender Male; Chinese Commercial Code 1728 0344 1627; Citizen's Card Number 372426195510220331 (China) (individual) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. section 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, Jian ZHANG.

**Entity**

1. ZARON BIO-TECH (ASIA) LIMITED, 20A, Kiu Fu Commercial Building, 300 Lockhart Road, Wan Chai, Hong Kong, Hong Kong; Business Registration Document # 52153976 (Hong Kong); Company Number 1448837 (Hong Kong) [SDNTK] (Linked To: ZHANG, Jian). Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, Jian ZHANG.

Dated: April 27, 2018.

**John E. Smith,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2018-09300 Filed 5-1-18; 8:45 am]

**BILLING CODE 4810-AL-C**

**DEPARTMENT OF THE TREASURY****Proposed Collections; Comment Requests**

**AGENCY:** Departmental Offices, Department of the Treasury.

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on the revision of an information collection that is proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form D, Report of Holdings of, and Transactions in, Financial Derivatives Contracts with Foreign Residents.

**DATES:** Written comments should be received on or before July 2, 2018 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue NW, Washington DC 20220. In view of

possible delays in mail delivery, please also notify Mr. Wolkow by email ([comments2TIC@treasury.gov](mailto:comments2TIC@treasury.gov)), FAX (202-622-2009) or telephone (202-622-1276).

**FOR FURTHER INFORMATION CONTACT:**

Copies of the proposed forms and instructions are available on the Treasury's TIC Forms webpage, <http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx>. Requests for additional information should be directed to Mr. Wolkow at (202) 622-1276.

**SUPPLEMENTARY INFORMATION:**

*Title:* Treasury International Capital Form D, Report of Holdings of, and Transactions in, Financial Derivatives Contracts With Foreign Residents.

*OMB Control Number:* 1505-0199.

*Abstract:* Form D is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) for the purpose of providing timely information on international capital movements other



than direct investment by U.S. persons. Form D is a quarterly report used to cover holdings and transactions in derivatives contracts undertaken between foreign resident counterparties and major U.S.-resident participants in derivatives markets. This information is necessary for compiling the U.S. balance of payments accounts and international investment position, and for formulating U.S. international financial and monetary policies.

*Current Actions:* No changes in the form are being proposed at this time. The proposed changes in the instructions are:

(1) The section I.C “Who Must Report” and sub-section “Consolidation” of the instructions are updated to list out separately Intermediate Holding Companies (IHCs), as defined by Regulation YY, 12 CFR 252, and to clarify that IHCs should follow the same consolidation rules that are applicable to Bank Holding Companies (BHCs), Financial Holding Companies (FHCs), and Savings and Loan Holding Companies. Regulation YY was effective by January 1, 2015, and IHCs are filing TIC reports; this

update will formalize their reporting requirements.

(2) The glossaries for all Treasury International Capital (“TIC”) reports are consolidated into a single document which will provide more consistency across the TIC system. As a result, the TIC D reporting instructions will not include a glossary but will point to the separate consolidated TIC Glossary document on the Treasury website. See the March 2018 version and later versions.

(3) Some other clarifications and format changes may be made to improve the instructions.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Business or other for profit organizations.

Form D (1505–0199).

*Estimated Number of Respondents:* 35.

*Estimated Average Time per Respondent:* Thirty (30) hours per respondent per filing. Estimated Total Annual Burden Hours: 4,200 hours, based on 4 reporting periods per year.

*Request For Comments:* Comments submitted in response to this notice will

be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form D is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

**Dwight Wolkow,**

*Administrator, International Portfolio Investment Data Systems.*

[FR Doc. 2018–09283 Filed 5–1–18; 8:45 am]

**BILLING CODE 4810–25–P**



# FEDERAL REGISTER

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## Part II

### National Commission on Military, National, and Public Service

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1 CFR Part 426

Privacy Act Regulations; Interim Final Rule

# **NATIONAL COMMISSION ON MILITARY, NATIONAL, AND PUBLIC SERVICE**

## **1 CFR Part 426**

**RIN 3262-AA01**

### **Privacy Act Regulations**

**AGENCY:** National Commission on Military, National, and Public Service.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This rule provides guidance and assigns responsibility for the privacy program of the National Commission on Military, National, and Public Service (the “Commission”) pursuant to the Privacy Act of 1974 and applicable Office of Management Budget (OMB) guidance.

**DATES:** This interim final rule is effective on May 2, 2018. Written comments on the interim final rule should be received on or before June 1, 2018.

**ADDRESSES:** You may send comments, identified by Regulatory Information Number (RIN) number, by any of the following methods:

- *Email:* Please send comments to [legal@inspire2serve.gov](mailto:legal@inspire2serve.gov) and include the RIN in the subject line of the message.

- *Website:* <http://www.inspire2serve.gov/content/share-your-thoughts>. Follow the instructions on the page to submit a comment and include the docket number in the comment.

- *Mail:* National Commission on Military, National, and Public Service, Attn: Rulemaking—RIN 3262-AA01, 2530 Crystal Drive, Suite 1000, Box No. 63, Arlington, VA 22202.

All submissions received should include the RIN for this rulemaking. If the Commission cannot read your comment due to technical difficulties and cannot contact you for clarification, the Commission may not be able to consider your comment.

**FOR FURTHER INFORMATION CONTACT:** For general inquiries, submission process questions, or any additional information about this interim final regulation, please contact Rachel Rikleen, at (703) 571-3760 or by email at [rachel.l.rikleen@inspire2serve.gov](mailto:rachel.l.rikleen@inspire2serve.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On December 23, 2016, the President signed into law the National Defense Authorization Act for Fiscal Year 2017, Public Law 114–328, 130 Stat. 2000 (2016), which created the National Commission on Military, National, and

Public Service (the “Commission”). Public Law 114–328, Subtitle F, 130 Stat. at 2130. To establish procedures to facilitate public interaction with the Commission, the agency is issuing interim final regulations under the Privacy Act of 1974.

##### **II. Summary of Interim Final Rule**

The authority for this rulemaking is 5 U.S.C. 552a, the Privacy Act of 1974, as amended (the Privacy Act), which requires implementation by Federal agencies. This action ensures that the Commission’s collection, use, maintenance, or dissemination of information about individuals for purposes of discharging its statutory responsibilities will be performed in accordance with the Privacy Act and applicable guidance from the Office of Management and Budget (OMB). This rule:

- Establishes rules of conduct for the Commission personnel and contractors involved in the design, development, operation, or maintenance of any system of records.

- Establishes appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual about whom information is maintained.

- Establishes procedures for inquiring about implementation of the Privacy Act of 1974, acquiring access to records, amending or correcting an individual’s record, and appealing a refusal to amend or correct a record.

- Ensures that laws, policies, procedures, and systems for protecting individual privacy rights are implemented throughout the Commission.

##### **III. Procedural Requirements**

###### *Administrative Procedure Act*

This interim final rule parallels the procedures currently used by other agencies to implement the Privacy Act. The Commission has determined that good cause exists under 5 U.S.C. 553(b) and 5 U.S.C. 553(d)(3) to waive the notice and comment and delayed effective requirements of the Administrative Procedure Act to publish this regulation as an interim final rule with a request for comments. The Commission is a temporary, independent establishment with statutorily-defined deadlines and a limited existence. It is the intent of the agency to protect private information. In

light of this agency’s limited duration, as set forth in its enabling legislation, and the need for timely access, the Commission has decided that full notice and comment rulemaking is impracticable and contrary to public policy. Additionally, the Commission has determined that full notice and comment rulemaking is not necessary as this rule constitutes a rule of agency procedure under 5 U.S.C. 553(b). This is because the rule generally establishes procedures to facilitate requests under the Privacy Act. It does not change the substantive standards by which the agency evaluates such requests. Finally, the Commission has determined that this interim final rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3). The 30-day delay in effective date typically allows regulated entities time to revise their policies in light of a regulation that governs those entities’ conduct. Here, such a delay is unnecessary because the regulation facilitates requests under the Privacy Act.

###### *Executive Orders 12866 and 13771*

This rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required. It is also not subject to the requirements found in Executive Order 13771.

###### *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require State, local, or tribal governments to spend more than \$100 million in one year. This rule will not mandate any requirements for State, local or tribal governments, nor will it affect private sector costs.

###### *Regulatory Flexibility Act*

The Commission certifies this interim rule is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it will not have a significant economic impact on a substantial number of small entities.

###### *Paperwork Reduction Act*

It has been determined that this rule does not impose reporting or record keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

###### **List of Subjects in 1 CFR Part 426**

Administrative practice and procedure, Privacy, Reporting and recordkeeping requirements.

■ Therefore, for reasons discussed in the preamble, the National Commission on Military, National, and Public Service amends title 1, chapter IV of the Code of Federal Regulations by adding part 426 to read as follows:

## **PART 426—NATIONAL COMMISSION ON MILITARY, NATIONAL, AND PUBLIC SERVICE**

### **Subpart A—Implementation of the Privacy Act of 1974**

Sec.

- 426.101 Purpose and scope.
- 426.102 Definitions.
- 426.103 Inquiries about systems of records or implementation of the Privacy Act.
- 426.104 Procedures for accessing records pertaining to an individual.
- 426.105 Identification required when requesting access to records pertaining to an individual.
- 426.106 Procedures for amending or correcting an individual's record.
- 426.107 Procedures for appealing a refusal to amend or correct a record.
- 426.108 Fees charged to locate, review, or copy records.
- 426.109 Procedures for maintaining accounts of disclosures.

### **Subpart B—Reserved]**

Authority: 5 U.S.C. 552a(f).

### **Subpart A—Implementation of the Privacy Act of 1974**

#### **§ 426.101 Purpose and scope.**

The regulations in this part set forth the Commission's procedures under the Privacy Act, as required by 5 U.S.C. 552a(f), with respect to systems of records maintained by the Commission. The rules in this part apply to all records maintained by the Commission that are retrieved by an individual's name or by some identifying number, symbol, or other identifying particular assigned to the individual. These regulations establish procedures by which an individual may exercise the rights granted by the Privacy Act to determine whether a Commission system of records contains a record pertaining to him or her; to gain access to such records; and to request correction or amendment of such records. These rules should be read together with the Privacy Act, which provides additional information about records maintained on individuals.

#### **§ 426.102 Definitions.**

The definitions in subsection (a) of the Privacy Act (5 U.S.C. 552a(a)) apply to this part. In addition, as used in this part:

*Business day* means a calendar day, excluding Saturdays, Sundays, and legal public holidays.

*Chair* means the Chair of the Commission, or his or her designee;

*Commission* means the National Commission on Military, National, and Public Service;

*Commission system* means a system of records maintained by the Commission;

*General Counsel* means the General Counsel of the Commission, or his or her designee.

*Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

*Privacy Act* or *Act* means the Privacy Act of 1974, as amended (5 U.S.C. 552a);

*You, your*, or other references to the reader of the regulations in this part are meant to apply to the individual to whom a record pertains.

#### **§ 426.103 Inquiries about systems of records or implementation of the Privacy Act.**

Inquiries about the Commission's systems of records or implementation of the Privacy Act should be sent to the following address: National Commission on Military, National, and Public Service, Office of the General Counsel, 2530 Crystal Drive, Suite 1000, Box No. 63, Arlington, VA 22202.

#### **§ 426.104 Procedures for accessing records pertaining to an individual.**

The following procedures apply to records that are contained in a Commission system:

(a) You may request to be notified if a system of records that you name contains records pertaining to you, and to review any such records, by writing to the Office of the General Counsel (see § 426.103). You also may call the Office of the General Counsel at 703-571-3742 on business days, between the hours of 9 a.m. and 5 p.m., to schedule an appointment to make such a request in person. A request for records should be presented in writing and should identify specifically the Commission system(s) involved. Your request to access records pertaining to you will be treated as a request under both the Privacy Act, as implemented by this part, and the Freedom of Information Act (5 U.S.C. 552), as implemented by subpart B of this part.

(b) Access to the records, or to any other information pertaining to you that is contained in the system, shall be provided if the identification requirements of § 426.105 are satisfied and the records are determined otherwise to be releasable under the Privacy Act and these regulations. The Commission shall provide you an opportunity to have a copy made of any such records about you. Only one copy

of each requested record will be supplied, based on the fee schedule in § 426.108.

(c) The Commission will comply promptly with requests made in person at scheduled appointments, if the requirements of this section are met and the records sought are immediately available. The Commission will acknowledge, within 10 business days, mailed requests or personal requests for records that are not immediately available, and the information requested will be provided promptly thereafter.

(d) If you make your request in person at a scheduled appointment, you may, upon your request, be accompanied by a person of your choice to review your records. The Commission may require that you furnish a written statement authorizing discussion of your records in the accompanying person's presence. A record may be disclosed to a representative chosen by you upon your proper written consent.

(e) Medical or psychological records pertaining to you shall be disclosed to you unless, in the judgment of the Commission, access to such records might have an adverse effect upon you. When such a determination has been made, the Commission may refuse to disclose such information directly to you. The Commission will, however, disclose this information to you through a licensed physician designated by you in writing.

(f) If you are unsatisfied with an adverse determination on your request to access records pertaining to you, you may appeal that determination using the procedures set forth in § 426.107(a).

#### **§ 426.105 Identification required when requesting access to records pertaining to an individual.**

The Commission will require reasonable identification of all individuals who request access to records in a Commission system to ensure that records are disclosed to the proper person.

(a) The amount of personal identification required will of necessity vary with the sensitivity of the record involved. In general, if you request disclosure in person, you will be required to show an identification card, such as a driver's license, containing your photograph and sample signature. However, with regard to records in Commission systems that contain particularly sensitive and/or detailed personal information, the Commission reserves the right to require additional means of identification as are appropriate under the circumstances. These means include, but are not limited to, requiring you to sign a

statement under oath as to your identity, acknowledging that you are aware of the criminal penalties for requesting or obtaining records under false pretenses or falsifying information (see 5 U.S.C. 552a(i)(3); 18 U.S.C. 1001).

(b) If you request disclosure by mail, the Commission will request such information as may be necessary to ensure that you are properly identified and for a response to be sent. Authorized means to achieve this goal include, but are not limited to, requiring that a mail request include a signed, notarized statement asserting your identity or a statement signed under oath as described in subsection (a) of this section.

**§ 426.106 Procedures for amending or correcting an individual's record.**

(a) You are entitled to request amendments to or corrections of records pertaining to you that you believe are not accurate, relevant, timely, or complete, pursuant to the provisions of the Privacy Act, including 5 U.S.C. 552a(d)(2). Such a request should be made in writing and addressed to the Office of the General Counsel (see § 426.103).

(b) Your request for amendments or corrections should specify the following:

- (1) The particular record that you are seeking to amend or correct;
- (2) The Commission system from which the record was retrieved;
- (3) The precise correction or amendment you desire, preferably in the form of an edited copy of the record reflecting the desired modification; and
- (4) Your reasons for requesting amendment or correction of the record.

(c) The Commission will acknowledge a request for amendment or correction of a record within 10 business days of its receipt, unless the request can be processed and the individual informed of the General Counsel's decision on the request within that 10-day period.

(d) If after receiving and investigating your request, the General Counsel agrees that the record is not accurate, timely, or complete, based on a preponderance of the evidence, then the record will be corrected or amended promptly. The record will be deleted without regard to its accuracy, if the record is not relevant or necessary to accomplish the Commission's function for which the record was provided or is maintained. In either case, you will be informed in writing of the amendment, correction, or deletion. In addition, if accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(e) If after receiving and investigating your request, the General Counsel does not agree that the record should be amended or corrected, you will be informed promptly in writing of the refusal to amend or correct the record and the reason for this decision. You also will be informed that you may appeal this refusal in accordance with § 426.107.

(f) Requests to amend or correct a record governed by the regulations of another agency will be forwarded to such agency for processing, and you will be informed in writing of this referral.

**§ 426.107 Procedures for appealing a refusal to amend or correct a record.**

(a) You may appeal a refusal to amend or correct a record to the Chair of the Commission. Such appeal must be made in writing within 30 business days of your receipt of the initial refusal to amend or correct your record. Your appeal should be sent to the Office of the General Counsel (see § 426.103), should indicate that it is an appeal, and should include the basis for the appeal.

(b) The Chair will review your request to amend or correct the record, the General Counsel's refusal, and any other pertinent material relating to the appeal. No hearing will be held.

(c) The Chair shall render his or her decision on your appeal within 30 business days of its receipt by the Commission, unless the Chair, for good cause shown, extends the 30-day period. Should the Chair extend the appeal period, you will be informed in writing of the extension and the circumstances of the delay.

(d) If the Chair determines that the record that is the subject of the appeal should be amended or corrected, the record will be so modified, and you will be informed in writing of the amendment or correction. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(e) If your appeal is denied, you will be informed in writing of the following:

- (1) The denial and the reasons for the denial;

- (2) That you may submit to the Commission a concise statement setting forth the reasons for your disagreement as to the disputed record. Under the procedures set forth in paragraph (f) of this section, your statement will be disclosed whenever the disputed record is disclosed; and

- (3) That you may seek judicial review of the Chair's determination under 5 U.S.C. 552a(g)(1).

(f) Whenever you submit a statement of disagreement to the Commission in accordance with paragraph (e)(2) of this section, the record will be annotated to indicate that it is disputed. In any subsequent disclosure, a copy of your statement of disagreement will be disclosed with the record. If the Commission deems it appropriate, a concise statement of the Chair's reasons for denying your appeal also may be disclosed with the record. While you will have access to this statement of the Chair's reasons for denying your appeal, such statement will not be subject to correction or amendment. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be provided a copy of your statement of disagreement, as well as any statement of the Chair's reasons for denying your appeal deemed appropriate.

**§ 426.108 Fees charged to locate, review, or copy records.**

(a) The Commission will charge no fees for search time or for any other time expended by the Commission to review a record. However, the Commission may charge fees where you request that a copy be made of a record to which you have been granted access. Where a copy of the record must be made in order to provide access to the record (e.g., computer printout where no screen reading is available), the copy will be made available to you without cost.

(b) Copies of records made by photocopy or similar process will be charged to you at the rate of \$0.12 per page. Where records are not susceptible to photocopying (e.g., punch cards, magnetic tapes, or oversize materials), you will be charged actual cost as determined on a case-by-case basis. Copying fees will not be charged if the cost of collecting a fee would be equal to or greater than the fee itself. Copying fees for contemporaneous requests by the same individual shall be aggregated to determine the total fee.

(c) Special and additional services provided at your request, such as certification or authentication, postal insurance, and special mailing arrangement costs, will be charged to you at the market rate.

(d) You may request that a copying fee not be charged or, alternatively, be reduced, by submitting a written petition to the Commission's General Counsel (see § 426.103) asserting that you are indigent. If the General Counsel determines, based on the petition, that you are indigent and that the Commission's resources permit a waiver of all or part of the fee, the General

Counsel may, in his or her discretion, waive or reduce the copying fee.

(e) All fees shall be paid before any copying request is undertaken.

**§ 426.109 Procedures for maintaining accounts of disclosures.**

(a) The Office of the General Counsel shall maintain a log containing the date, nature, and purpose of each disclosure of a record to any person or to another agency. Such accounting also shall contain the name and address of the person or agency to whom each

disclosure was made. This log need not include disclosures made to the Commission's employees in the course of their official duties, or pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552).

(b) The Commission will retain the accounting of each disclosure for at least five years after the disclosure or for the life of the record that was disclosed.

(c) The Commission will make the accounting of disclosures of a record pertaining to you available to you at your request. Such a request should be

made in accordance with the procedures set forth in § 426.104. This paragraph (c) does not apply to disclosures made for law enforcement purposes under 5 U.S.C. 552a(b)(7).

**Subpart B—[Reserved]**

Dated: April 20, 2018.

**Joseph Heck,**  
*Chairman.*

[FR Doc. 2018-09209 Filed 5-1-18; 8:45 am]

**BILLING CODE 3610-YE-P**



# FEDERAL REGISTER

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Vol. 83

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## Part III

### National Commission on Military, National, and Public Service

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1 CFR Part 426

Freedom of Information Act Regulations; Interim Final Rule

# **NATIONAL COMMISSION ON MILITARY, NATIONAL, AND PUBLIC SERVICE**

## **1 CFR Part 426**

**RIN 3262-AA00**

### **Freedom of Information Act Regulations**

**AGENCY:** National Commission on Military, National, and Public Service.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The National Commission on Military, National, and Public Service (the “Commission”) is issuing an interim final rule, establishing procedure for the public to obtain information from the Commission under the Freedom of Information Act (FOIA).

**DATES:** This interim final rule is effective on May 2, 2018. Written comments on the interim final rule should be received on or before June 1, 2018.

**ADDRESSES:** You may send comments, identified by Regulatory Information Number (RIN), by any of the following methods:

- *Email:* Please send comments to [FOIA@inspire2serve.gov](mailto:FOIA@inspire2serve.gov) and include the RIN in the subject line of the message.
- *Website:* <http://www.inspire2serve.gov/content/share-your-thoughts>. Follow the instructions on the page to submit a comment and include the RIN in the comment.

• *Mail:* National Commission on Military, National, and Public Service, Attn: Rulemaking—RIN 3262 AA00, 2530 Crystal Drive, Suite 1000, Box No. 63, Arlington, VA 22202.

All submissions received must include the RIN for this rulemaking. If the Commission cannot read your comment due to technical difficulties and cannot contact you for clarification, the Commission may not be able to consider your comment.

**FOR FURTHER INFORMATION CONTACT:** For general inquiries, submission process questions, or any additional information about this interim final regulation, please contact Rachel Rikleen, at (703) 571-3760 or by email at [rachel.l.rikleen@inspire2serve.gov](mailto:rachel.l.rikleen@inspire2serve.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

On December 23, 2016, the President signed into law the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000 (2016), which created the National Commission on Military, National, and Public Service (the “Commission”).

Public Law 114-328, Subtitle F, 130 Stat. at 2130. To establish procedures to facilitate public interaction with the Commission, the agency is issuing interim final regulations under the Freedom of Information Act (FOIA).

#### **II. Summary of Interim Final Rule**

This interim final rule establishes procedures for the Commission necessary to implement the Freedom of Information Act (FOIA), which provides for the disclosure of agency records and information to the public, unless that information is exempted under statutory exemptions or exclusions. The procedures established herein are intended to ensure that the Commission fully satisfies its responsibility to the public. The authority for this rulemaking is 5 U.S.C. 552(a), which was amended by the FOIA Improvement Act of 2016, Public Law 114-185, 130 Stat. 538 (2016). It also complies with the policy directives set out in Presidential Memoranda dated January 21, 2009, entitled “Freedom of Information Act” (74 FR 4683, January 26, 2009) and “Transparency and Openness” (74 FR 4685, January 26, 2009), which encourage federal agencies to apply a presumption of disclosure in FOIA decision making.

#### **III. Procedural Requirements**

##### *Administrative Procedure Act*

This interim final rule parallels the procedures currently used by other agencies to implement FOIA. The Commission has determined that good cause exists under 5 U.S.C. 553(b) and 5 U.S.C. 553(d)(3) to waive the notice and comment and delayed effective requirements of the Administrative Procedure Act to publish this regulation as an interim final rule with a request for comments. The Commission is a temporary, independent establishment with statutorily-defined deadlines and a limited existence. It is the intent of the agency to be as transparent as practicable in making information available to the public. This regulation establishes procedures to facilitate the Commission’s interactions with the public and the public’s access to information about the Commission. In light of this agency’s limited duration, as set forth in its enabling legislation, and the need for timely access, the Commission has decided that full notice and comment rulemaking is impracticable and contrary to public policy as the absence of FOIA regulations could impair the public’s ability to access information. Additionally, the Commission has determined that full notice and

comment rulemaking is not necessary as this regulation constitutes a rule of agency procedure under 5 U.S.C. 553(b). This is because the rule merely establishes procedural requirements for accessing information under FOIA from the Commission. In other words, it outlines *how* the public may access information available under FOIA. It does not change the substantive standards by which the agency evaluates applications under FOIA. Finally, the Commission has determined that this interim final rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3). The 30-day delay in effective date typically allows regulated entities time to revise their policies in light of a regulation that governs those entities’ conduct. Here, such a delay is unnecessary because the regulation facilitates the accessibility of information under FOIA.

##### *Executive Orders 12866 and 13771*

This rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required. It is also not subject to the requirements found in Executive Order 13771.

##### *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require State, local, or tribal governments to spend more than \$100 million in one year. This rule will not mandate any requirements for State, local or tribal governments, nor will it affect private sector costs.

##### *Regulatory Flexibility Act*

The Commission certifies this interim rule is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it will not have a significant economic impact on a substantial number of small entities and it is not issuing a notice of proposed rulemaking.

##### *Paperwork Reduction Act*

It has been determined that this rule does not impose reporting or record keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

#### **List of Subjects in 1 CFR Part 426**

Administrative practice and procedure, Reporting and recordkeeping requirements.

Therefore, for reasons discussed in the preamble, the National Commission on Military, National, and Public



Service amends 1 CFR part 426 as follows:

**PART 426—NATIONAL COMMISSION ON MILITARY, NATIONAL, AND PUBLIC SERVICE**

■ 1. The authority citation for part 426 continues to read as follows:

**Authority:** 5 U.S.C. 552(a)

■ 2. Add subpart B, consisting of §§ 426.201 through 426.211, to read as follows:

**Subpart B—Disclosure of Records and Information Under the Freedom of Information Act**

Sec.	
426.201	General.
426.202	Proactive disclosures.
426.203	Requirements for making requests.
426.204	Responsibility for responding to requests.
426.205	Timing of responses to requests.
426.206	Response to requests.
426.207	Confidential commercial information.
426.208	Appeals.
426.209	Preservation of records.
426.210	Fees.
426.211	Other rights and services.

**Subpart B—Disclosure of Records and Information Under the Freedom of Information Act**

**§ 426.201 General.**

This subpart contains the regulations of the National Commission on Military, National, and Public Service (the “Commission”) implementing the Freedom of Information Act (“FOIA”), 5 U.S.C. 552, as amended. These regulations set forth procedures for requesting access to records maintained by the Commission. These regulations should be read together with the text of the FOIA, and the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget (“OMB Guidelines”). Requests made by individuals for records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, are processed in accordance with the Commission’s Privacy Act regulations as well as under this subpart.

**§ 426.202 Proactive disclosures.**

(a) Records that FOIA requires agencies to make available for public inspection in an electronic format may be accessed through the Commission’s website at [www.inspire2serve.gov](http://www.inspire2serve.gov). The Commission will ensure that its website of posted records and indices is reviewed and updated on an ongoing basis. The Commission has a FOIA Public Liaison who can assist individuals in locating records

particular to the Commission. A list of agency FOIA Public Liaisons is available at <http://www.foia.gov/report-makerequest.html>.

(b) The following types of records shall be available routinely on the website, without resort to formal FOIA request procedures, unless such records fall within one of the exemptions listed at 5 U.S.C. 552(b) of the Act:

(1) Any formal report issued by the Commission;

(2) Testimonies and presentations submitted to the Commission;

(3) Schedules for public meetings and hearings of the Commission along with transcripts or notes of such public meetings and hearings;

(4) Press statements;

(5) Substantive rules of general applicability adopted by the Commission, procedural rules governing the Commission’s general operations that may affect the public, and statements of general policy or interpretation of general applicability formulated and adopted by the Commission; and

(6) Copies of all records, regardless of form or format, that have been released previously to any person under 5 U.S.C. 552(a)(3), and that the Commission determines have become or are likely to become the subject of subsequent requests for substantially the same records. When the Commission receives three or more requests for substantially the same records, then the Commission shall make the released records available in the Commission’s reading room and on the Commission’s website.

(c) The Commission shall also maintain a public reading room, at the Commission’s offices, containing records available for public inspection that cannot be produced in electronic form. The reading room shall be available for use on workdays during the hours of 9 a.m. to 4 p.m. Requests for appointments to review the materials in the public reading room should be directed to the FOIA Public Liaison.

(d) Based upon applicable exemptions in 5 U.S.C. 552(b), the Commission may redact certain information contained in any matter described in this section before making such information available for inspection or publishing it. The justification for the redaction shall be explained in writing, and the extent of such redaction shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemptions under which the redaction is made. The location of the information deleted must also be indicated on the record, if technically feasible.

**§ 426.203 Requirements for making requests.**

(a) *In general.* Many documents are available on the Commission’s website and the Commission encourages requesters to visit the website before making a request for records pursuant to this subpart. Except for records already available on the website or subject to the FOIA exemptions and exclusions, the Commission shall promptly provide records to any person in response to a request that conforms to the rules and procedures of this section. Requesters may contact the agency’s FOIA Public Liaison to discuss the records they seek and to receive assistance in describing the records.

(b) *Form of request.* For records not available on the website, requesters wishing to obtain information from the Commission should submit a written request to the Commission. It may be submitted by mail or via the internet (website or email). A request by mail must be addressed to: FOIA Request, National Commission on Military, National, and Public Service, 2530 Crystal Drive, Suite 1000, Box No. 63, Arlington, VA 22202. As there may be delays in mail delivery, it is advisable to send the request via email to [FOIA@inspire2serve.gov](mailto:FOIA@inspire2serve.gov). The Commission will communicate with the requester by email unless he or she specifies otherwise. Requesters may specify the preferred form or format for the records sought, and the Commission will accommodate the request if the record is readily reproducible in that form or format.

(c) *Contents of request.* Requests must include the following:

(1) The requester’s full name, mailing address, a telephone number at which the requester can be reached during normal business hours, and an email address for the requester, if the requester has one;

(2) A description of the records sought in enough detail to allow the records to be located with a reasonable amount of effort. To the extent possible, requesters should include specific information, such as the date, title or name, author, recipient, and subject matter of the records sought. If known, the requester must include any file designations or descriptions for the records requested;

(3) If submitting the request as an educational institution, a non-commercial scientific institution, or a representative of the news media, information to support being placed in that category of requester as they are defined in § 426.210(b);

(4) A fee waiver request, if applicable (see § 426.210(f));

(5) A statement explaining why expedited processing is necessary, if it is being requested (see § 426.205(c)); and

(6) Where the request is making a request for records about himself or herself, verification of the individual's identity (please see the Commission's Privacy Act regulations at 1 CFR, chapter IV, part 426, subpart A).

(d) *Date received.* The Commission shall deem itself to have received a request on the date that it receives a request containing the information required by paragraph (c) of this section. If after receiving a request, the Commission determines that it does not reasonably describe the records sought, the agency must inform the requester what additional information is needed or why the request is otherwise insufficient. Requesters who are attempting to reformulate or modify such a request may discuss their request with the FOIA Public Liaison.

#### **§ 426.204 Responsibility for responding to requests.**

(a) *In general.* In determining which records are responsive to a request, an agency ordinarily will include only records in its possession as of the date that it begins its search. If any other date is used, the agency must inform the requester of that date. A record that is excluded from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), is not considered responsive to a request.

(b) *Authority to grant or deny requests.* The Chief FOIA Officer or designee is authorized to grant or to deny any requests for records.

(c) *Consultation, referral, and coordination.* When reviewing records in response to a request, the Commission will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA. As to any such record, the Commission will proceed in one of the following ways:

(1) *Consultation.* When records originated within the Commission, but contain within them information of interest to another agency or other Federal Government office, the Commission will typically consult with that other entity prior to making a release determination.

(2) *Referral.* When the Commission believes that a different agency is best able to determine whether to disclose the record, the Commission typically should refer the responsibility for responding to the request regarding that record to that agency. Ordinarily, the agency that originated the record is presumed to be the best agency to make

the disclosure determination. Whenever an agency refers any part of the responsibility for responding to a request to another agency, it must document the referral, maintain a copy of the record that it refers, and notify the requester of the referral, the name of the agency, and the FOIA agency contact.

(3) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests. In such instances, in order to avoid harm to an interest protected by an applicable exemption, the agency that received the request should coordinate with the originating agency to seek its views on the disclosability of the record. The release determination for the record that is the subject of the coordination should then be conveyed to the requester by the agency that originally received the request.

(d) *Timing of response to consultations and referrals.* All consultations and referrals received by the Commission will be handled according to the date that the first agency received the perfected FOIA request.

#### **§ 426.205 Timing of responses to requests.**

(a) *In general.* The Commission ordinarily will respond to requests according to their order of receipt. The following timing and steps are the normal process:

(1) *Acknowledgment.* The Commission will provide an acknowledgment notice with an individualized tracking number, the date of receipt of the request, a confirmation of a waiver or reduction of fees (if requested), and a summary of the records requested to each requester within 10 working days after receiving a request that has all of the requisite information.

(2) *Response time.* Ordinarily, the Commission shall have 20 work days from when a request is received to determine whether to grant or deny a request for records. The 20-day time period shall not be tolled by the Commission except that the Commission may:

(i) Make one reasonable demand to the requester for clarifying information about the request and toll the 20-day time period while awaiting the clarifying information; or

(ii) Notify the requester of the fee assessment for the request and toll the

20-day time period while awaiting the requester's response.

(3) *Appeal.* The Commission will make a decision with respect to an appeal of a full or partial denial of a request for records within 20 work days after receipt of the appeal.

(b) *Multi-Track processing.* The Commission uses a multi-track system to process FOIA requests, so that a FOIA request is processed based on its complexity. Each request will be assigned to the Standard, Complex, or Expedited track.

(1) *Standard Track.* Requests that are routine and require little search time, review, or analysis are assigned to the Standard Track. The Commission will respond to these requests in the order in which they are received and make every effort to respond no later than 20 working days after receipt of the request.

(2) *Complex Track.* Requests that are non-routine are assigned to the Complex Track if the response may be voluminous; requires an unusually high level of effort for search, review, or duplication; or causes an undue disruption to the day-to-day activities of the Commission in carrying out its statutory responsibilities. The requester will be notified if the request is assigned to the Complex Track and will be given an estimate of the time for response. The Commission will respond to Complex Track requests as soon as practicable, and may discuss with the requester the possibility of reformulating the request to reduce processing time.

(3) *Expedited Track.* Requests for expedited processing that meet the standards set forth in paragraph (c) of this section, will be assigned to the Expedited track. In such cases, the process described in paragraph (c) will be followed.

(c) *Expedited processing.* A request for expedited processing must accompany the initial request for records, and the request should be clearly marked "Expedited Processing Requested." It must be a certified, written statement of compelling need for expedited processing, stating that the facts are true and correct. The Commission shall decide whether to grant the request within 10 calendar days of its receipt, and shall notify the requester in writing. If the Commission grants this request, then the Commission will give the expedited request priority over non-expedited requests and shall process it as soon as practicable. Denials of expedited processing requests can be appealed using the same procedures as denials of other FOIA requests. In determining whether processing should be

expedited, the Chief FOIA Officer may consider whether:

(1) Failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to a person's life or physical safety;

(2) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public about actual or alleged Federal Government activity; or

(3) A reasonable expectation of an imminent loss of a substantial due process right.

(d) *Unusual circumstances.* If the Commission determines that "unusual circumstances" exist, as that term is defined in the FOIA, the time limits for responding to requests and appeals may be extended by no more than 10 work days by providing written notice of the extension to the requester. The requester will be given an opportunity to limit the scope of the request or to arrange with the Commission an alternative time frame for processing the request. A FOIA Officer shall include with the notice of extension a brief statement of the reason for the extension, the date the FOIA Officer expects to make a determination, and the availability of the FOIA Public Liaison to assist the requester, and the requester's right to seek dispute resolution services from the Office of Government Information Services (OGIS) of the National Archives and Records Administration.

#### **§ 426.206 Response to requests.**

(a) *Acknowledgements of requests.* The Commission will send an acknowledgement of the request in writing and assign it an individualized tracking number if it will take longer than 10 working days to process. Upon request, the Commission will provide an estimated date by which the Commission expects to provide a response to the requester. If a request involves a voluminous amount of material, or searches in multiple locations, the agency may provide interim responses, releasing the records on a rolling basis.

(b) *Grant of request.* If a FOIA Officer grants a request, in full or in part, the Commission shall promptly provide the requester written notice of the decision, what fees apply under section 10 of this subpart, and the availability of its FOIA Public Liaison to offer assistance. The requester will be notified whether the request has been assigned to the Standard, Complex, or Expedited track, pursuant to § 426.205(b).

(c) *Request denial.* If the Chief FOIA Officer denies a request in any respect,

the Commission will notify the requester of that determination in writing. A denial of request includes decisions that: Fees will not be waived, no expedited processing will be done, there are no responsive records subject to FOIA, the requested record does not exist or has been destroyed, the requested record is exempt in whole or in part, or the request does not reasonably describe the records sought. The written notice will include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reasons for the denial, including any FOIA exemption applied by the agency in denying the request;

(3) A description of the material withheld, such as the approximate number of pages or some other reasonable form of estimation;

(4) A statement that the denial may be appealed under section 8(a) of this subpart, and a description of the appeal requirements; and

(5) A statement notifying the requester of the assistance available from the agency's FOIA Public Liaison and the dispute resolution services offered by OGIS.

(d) *Redactions.* When a portion of a record is withheld, the amount of information redacted and the claimed exemption will be noted at the place in the record where the redaction was made.

#### **§ 426.207 Confidential commercial information.**

(a) *Definitions.*

*Confidential commercial information* means commercial or financial information obtained by the Commission from a submitter that may be protected from disclosure under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

*Submitter* means any person or entity, including a corporation, State, or foreign government, but not including another Federal Government entity, that provides confidential commercial information, either directly or indirectly to the Federal Government.

(b) *Designation of confidential commercial information.* A submitter of confidential commercial information must use good faith efforts to designate by appropriate markings, at the time of submission, any portion of its submission that it considers to be protected from disclosure under Exemption 4. These designations expire 10 years after the date of the submission unless the submitter requests and provides justification for a longer designation period.

(c) *When notice to submitters is required.* (1) The Commission must promptly provide written notice to the submitter of confidential commercial information whenever records containing such information are requested under the FOIA if the agency determines that it may be required to disclose the records, provided the requested information has been designated in good faith by the submitter or the Commission has a reason to believe that the requested information may be protected from disclosure under Exemption 4.

(2) The notice must either describe the commercial information requested or include a copy of the requested records or portions of records containing the information. In cases involving a voluminous number of submitters, the Commission may post or publish a notice in a place or manner reasonably likely to inform the submitters of the proposed disclosure, instead of sending individual notifications.

(d) *Exceptions to submitter notice requirements.* The notice requirements of this section do not apply if:

(1) The Commission determines that the information is exempt under the FOIA, and therefore will not be disclosed;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by a statute other than the FOIA or by a regulation issued in accordance with the requirements of Executive Order 12,600 of June 23, 1987; or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous. In such case, the Commission must give the submitter written notice of any final decision to disclose the information within a reasonable number of days prior to a specified disclosure date.

(e) *Opportunity to object to disclosure.*

(1) The Commission must specify a reasonable time period within which the submitter must respond to the notice referenced above.

(2) If a submitter has any objections to disclosure, it should provide the Commission a detailed written statement that specifies all grounds for withholding the particular information under any exemption of the FOIA. In order to rely on Exemption 4 as basis for nondisclosure, the submitter must explain why the information constitutes a trade secret or commercial or financial information that is confidential.

(3) A submitter who fails to respond within the time period specified in the

notice will be considered to have no objection to disclosure of the information. The Commission is not required to consider any information received after the date of any disclosure decision. Any information provided by a submitter under this subpart may itself be subject to disclosure under the FOIA.

(4) The Commission must consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose the requested information.

(f) *Notice of intent to disclose.*

Whenever the Commission decides to disclose information over the objection of a submitter, the agency must provide the submitter written notice, which must include:

(1) A statement of the reasons why each of the submitter's disclosure objections was not sustained;

(2) A description of the information to be disclosed or copies of the records as the Commission intends to release them; and

(3) A specified disclosure date, which must be a reasonable time after the notice.

(g) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of confidential commercial information, the Commission must promptly notify the submitter.

(h) *Requester notification.* The Commission must notify the requester whenever it provides the submitter with notice and an opportunity to object to disclosure; whenever it notifies the submitter of its intent to disclose the requested information; and whenever a submitter files a lawsuit to prevent the disclosure of the information.

#### **§ 426.208 Appeals.**

(a) *Grounds for administrative appeals.* A requester may appeal an initial determination of the Commission, including but not limited to a determination:

(1) To deny access to records in whole or in part (as provided in § 426.206(c));

(2) To assign a particular fee category to the requester (as provided in § 426.209(d));

(3) To deny a request for a reduction or waiver of fees (as provided in § 426.209(f));

(4) That no records could be located that are responsive to the request (as provided in § 426.206(c)); or

(5) To deny a request for expedited processing (as provided in § 426.205(c)).

(b) *Initiating appeals.* Requesters not satisfied with the FOIA Officer's decision may make a written request appealing the decision within 90 days of the date of the FOIA Officer's decision.

Any appeal requests should be clearly marked with the words "Freedom of Information Act Appeal." Appeals may be made through the Commission's email, [FOIA@inspire2serve.gov](mailto:FOIA@inspire2serve.gov); website, [www.inspire2serve.gov](http://www.inspire2serve.gov), or through the mail, and may be addressed to: FOIA Appeals, National Commission on Military, National, and Public Service, 2530 Crystal Drive, Suite 1000, Box No. 63, Arlington, VA 22202. As there may be delays in mail delivery, it is advisable to send the request via email.

The request should set out the name and contact information of the requester, specify the date of the initial request and the initial determination, and set forth why the appeal should be granted.

(c) *Adjudication of appeals.* Appeals will be processed in the order of their receipt. An appeal ordinarily will not be adjudicated if the request become a matter of FOIA litigation. Before seeking review by a court of an agency's adverse determination, a requester generally must first submit a timely administrative appeal.

(d) *Appeal decisions.* The Commission's Chair or his designee shall decide whether to affirm or reverse the initial determination (in whole or in part), and shall notify the requester of this decision in writing within 20 work days, pursuant to § 426.205(c). If the appeal is denied (in whole or in part), the Commission will notify the requester in writing of the decision, the reasons for the denial (including the FOIA exemptions relied upon), the name and title of the official responsible for the determination on appeal, and the provisions for judicial review and dispute resolution services offered by the OGIS. If the appeal is granted in full or in part, the Chief FOIA Officer will notify the requester in writing and promptly process the request.

(e) *Dispute resolution.* Dispute resolution is a voluntary process. If the Commission agrees to participate in the dispute resolution services provided by OGIS, it will actively engage as a partner to the process in an attempt to resolve the dispute. Requesters may seek dispute resolution by contacting the FOIA Public Liaison or OGIS at: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, OGIS, College Park, MD 20740; email: [ogis@nara.gov](mailto:ogis@nara.gov); telephone: (202) 741-5770; facsimile: (202) 741-5769; toll free telephone: (877) 684-6448.

#### **§ 426.209 Preservation of records.**

The Commission will preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all

requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration. The Commission will not dispose of or destroy records while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

#### **§ 426.210 Fees.**

(a) *In general.* The Commission shall charge the requester for processing a request under the FOIA in accordance with the provisions of this section and with the OMB Guidelines. For purposes of assessing fees, the FOIA establishes three categories of requesters:

Commercial use requesters, non-commercial scientific or educational institutions or news media requesters, and all other requesters. Different fees are assessed depending on the category. Requesters may seek a fee waiver, and the Commission will consider fee waiver requests in accordance with the requirements in paragraph (f) of this section. To resolve any fee issues that arise under this section, the Commission will contact a requester for additional information. No fees shall be charged if the amount of fees incurred in processing the request is below \$25. The Commission ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States, or by another method as determined by the Commission.

(b) *Definitions.* For purposes of this section:

*Commercial use request* means a request that asks for information for a use or a purpose that furthers a commercial, trade, or profit interest, which can include furthering those interests through litigation. The Commission's decision to place a requester in the commercial use category will be made on a case-by-case basis based on the requester's intended use of the information. The Commission will notify requesters of their placement in this category.

*Direct costs* means those expenses that the Commission incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records in order to respond to a FOIA request. For example, direct costs include the salary of the employee performing the work (*i.e.*, the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating computers and other electronic equipment, such as

photocopiers and scanners. Direct costs do not include overhead expenses such as the costs of space, and of heating or lighting a facility.

*Duplication* means reproducing a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, audiovisual materials, or electronic records, among others.

*Educational institution* means any school that operates a program of scholarly research. A requester in this fee category must show that the request is made in connection with his or her role at the educational institution. The Commission may seek verification from the requester that the request is in furtherance of scholarly research and the Commission will advise requesters of their placement in this category.

*Example 1.* A request from a professor of geology at a university for records relating to soil erosion, written on letterhead of the Department of Geology, would be presumed to be from an educational institution.

*Example 2.* A request from the same professor of geology seeking drug information from the Food and Drug Administration in furtherance of a murder mystery he is writing would not be presumed to be an institutional request, regardless of whether it was written on institutional stationery.

*Example 3.* A student who makes a request in furtherance of their coursework or other school-sponsored activities and provides a copy of a course syllabus or other reasonable documentation to indicate the research purpose for the request, would qualify as part of this fee category.

*Noncommercial scientific institution* means an institution that is not operated on a "commercial" basis, as defined in this paragraph (b) and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and are not for a commercial use. The Commission will advise requesters of their placement in this category.

*Representative of the news media* means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations that broadcast news to the public at large and publishers of periodicals that disseminate news and

make their products available through a variety of means to the general public, including news organizations that disseminate solely on the internet. A request for records supporting the news-dissemination function of the requester will not be considered to be for a commercial use. "Freelance" journalists who demonstrate a solid basis for expecting publication through a news media entity will be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, the Commission can also consider a requester's past publication record in making this determination. The Commission will advise requesters of their placement in this category.

*Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. Review time includes processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including the process of redacting the record and marking the appropriate exemptions. Review costs are properly charged even if a record ultimately is not disclosed. Review time also includes time spent both obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter under § 426.207 of this subpart, but it does not include time spent resolving general legal or policy issues regarding the application of exemptions.

*Search* means the process of looking for and retrieving records or information responsive to a request. Search time includes page-by-page or line-by-line identification of information within records and the reasonable efforts expended to locate and retrieve information from electronic records.

(c) *Fees chargeable for specific services.* In responding to FOIA requests, the Commission will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (f) of this section. No additional costs will be added to charges calculated under this section.

(1) *Duplicating records.* The Commission shall assess requester fees for the cost of copying records. The charge will be \$0.12 per page, up to 8½ x 14, made by photocopy or similar process. The charge will be the actual cost for duplicating photographs, films, and other materials. Where paper documents must be scanned so they can be sent electronically, the requester must pay the direct costs associated with scanning those materials. The Commission will honor a requester's

preference for receiving a record in a particular form or format where the agency can readily reproduce it in the form or format requested.

(2) *Search services.* The Commission shall charge a requester for all time spent by its employees searching for records that are responsive to a request, even if no responsive records are found or the records are exempt from disclosure. For non-electronic searches, the Commission shall charge for search time at the salary rate (basic pay plus 16 percent) of the employee who conducts the search. For electronic records, the Commission shall charge the requester for the actual direct cost of the search, including computer search time, runs, and the operator's salary.

(3) *Review of records.* The Commission shall only charge review fees to requesters who make commercial use requests. Review fees will be assessed in connection with the initial review of the record, but no charge will be made for review at the administrative appeal stage. However, if a particular exemption is deemed to no longer apply, any costs associated with an agency's re-review of the records in order to consider the use of other exemptions may be assessed as review fees. The Commission shall charge a requester for time spent reviewing records at the salary rate(s) (*i.e.*, basic pay plus 16 percent) of the employees who conduct the review.

(4) *Inspection of records in the reading room.* Fees for all services provided shall be charged whether or not copies are made available to the requester for inspection. However, no fee shall be charged for monitoring a requester's inspection of records in the physical reading room.

(5) *Other services.* Although not required to provide special services, if the Commission chooses to do so as a matter of administrative discretion, the requested services are charged at the actual cost to the Commission. Examples of such services include certifying that records are true copies or sending records by express mail.

(d) *Fees applicable to each category of requester.* The Commission shall apply the fees set forth in this paragraph, for each category described in paragraph (c) of this section, to FOIA requests processed by the Commission.

(1) *Commercial use.* A requester seeking records for commercial use shall be charged the full direct cost of searching for, reviewing, and duplicating the records they request as set forth in paragraph (c) of this section. The Commission is not required to consider a waiver request based upon the assertion that disclosure would be in

the public interest from a commercial use requester.

(2) *Educational and non-commercial scientific uses.* A requester seeking records for educational or non-commercial scientific use shall be charged only for the cost of duplicating the records they request, except that the Commission shall provide the first 100 pages of duplication (or cost equivalent for other media) free of charge. To be eligible, the requester must show that the records are not sought for a commercial use, but rather in furtherance of scholarly or scientific research.

(3) *News media uses.* A requester seeking records under the news media use category shall be charged only the cost of duplicating the records they request, except that the Commission shall provide the requester with the first 100 pages of duplication (or cost equivalent for the other media) free of charge.

(4) *Other requests.* A requester seeking records for any other use shall be charged the full direct cost of searching for and duplicating records that are responsive to the request, as set out in paragraph (b) of this section, except that the Commission shall provide the first 100 pages of duplication and the first two hours of search time free of charge.

(e) *Other circumstances when fees are not charged.* Notwithstanding paragraphs (c) and (d) of this section, the Commission may not charge a requester a fee for processing a FOIA request if the total fee is equal to or less than \$25. Additionally, the Commission may not charge a requester a search or duplication fee if the Commission fails to comply with any time limit under § 426.205 or § 426.208, unless:

(1) A court has determined that exceptional circumstances exist, as defined by the FOIA, then a failure to comply with such time limit shall be excused for the length of time provided by the court order;

(2) The Commission has determined that unusual circumstances, as defined by the FOIA, apply and the Commission provides timely written notice to the requester in accordance with § 426.205(d), then the time limit shall be excused for an additional 10 days; or

(3) The Commission has determined that unusual circumstances apply; more than 5,000 pages are necessary to respond to the request; the Commission has provided a timely written notice to the requester in accordance with § 426.205(d), and the Commission has discussed with the requester via written mail, electronic mail, or telephone (or made not less than three good-faith

attempts to do so) how the requester could effectively limit the scope of the request. Then the Commission may charge a requester all applicable fees.

(f) *Waiver or reduction of fees.* (1) A requester may request a waiver or reduction of fees otherwise applicable to a FOIA request in writing during the initial FOIA request. The waiver must demonstrate that the fee reduction or waiver is in the public interest because it furnishes information that is likely to contribute significantly to public understanding of the operations or activities of the government, and the information is not primarily in the commercial interest of the requester.

(2) To determine whether the requester has satisfied the waiver request requirements, the Commission shall consider whether the subject of the requested records has a direct connection to government operations or activities; the disclosable portion of the requested records is meaningfully informative, and is not already in the public domain; the disclosure would contribute to the understanding of a reasonably broad audience, as opposed to the individual requester; and the public's understanding would be significantly enhanced by the disclosure. The Commission shall also consider whether the requester, or any person on whose behalf the requester may be acting, has a commercial interest that would be furthered by the disclosure, and whether the public interest is greater in magnitude than that of any identified commercial interest in disclosure.

(3) Where only some of the records to be released satisfy the requirements for a waiver or reduction of fees, a waiver or reduction shall be granted for those records.

(4) The Commission shall notify the requester in writing regarding its determination to reduce or waive fees.

(5) If the Commission denies a request to reduce or waive fees, then the Commission shall advise the requester, in the denial notification letter, that the requester may incur fees as a result of processing the request. In the denial notification letter, the Commission shall advise the requester that the Commission will not proceed to process the request further unless the requester, in writing, directs the Commission to do so and either agrees to pay any fees that may apply to processing the request or specifies an upper limit (of not less than \$25) that the requester is willing to pay to process the request. If the Commission does not receive this written direction and agreement within 30 days of the date of the denial notification letter, then the Commission

shall deem the FOIA request to be withdrawn.

(6) If the Commission denies a request to reduce or waive fees, then the requester shall have the right to submit an appeal in accordance with § 426.208. The Commission shall communicate this appeal right as part of its denial notification to the requester.

(g) *Notice of estimated fees.* (1) When an agency determines or estimates that the fees to be assessed in accordance with this section will exceed \$25, the agency must notify the requester of the actual or estimated amount of the fees, including a breakdown of the fees for search, review or duplication, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily the Commission will advise the requester accordingly. The notice will specify what duplication and search time the requester is entitled to and how they have been accounted for in the estimate.

(2) If the agency notifies the requester that the actual or estimated fees are in excess of \$25, the request will not be considered received and further work will not be completed until the requester commits in writing to pay the actual or estimated total fee, or designates some amount of fees the requester is willing to pay, or in the case of a noncommercial use requester who has not yet been provided with the statutory entitlements, designates that the requester seeks only that which can be provided by the statutory entitlements. The requester must provide the commitment or designation in writing, and must, when applicable designate an exact dollar amount the requester is willing to pay. Agencies are not required to accept payments in installments.

(3) If the requester has indicated a willingness to pay some designated amount of fees, but the Commission estimates that the total fee will exceed that amount, the Commission will toll the processing of the request when it notifies the requester of the estimated fees in excess of the amount the requester has indicated a willingness to pay. The Commission will inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, the time to respond will resume from where it was at the date of the notification.

(4) The FOIA Public Liaison will be available to assist any requester in reformulating a request to meet the requester's needs at a lower cost.

(h) *Advance payment.* (1) For requests other than those described in

paragraphs (h)(2) and (3) of this section, the Commission will not require the requester to make an advance payment before work is commenced or continued on a request. Payment owed for work already completed (*i.e.*, payment before copies are sent to a requester) is not an advance payment.

(2) When the Commission determines or estimates that a total fee to be charged under this section will exceed \$250, it may require that the requester make an advance payment up to the amount of the entire anticipated fee before beginning to process the request. An agency may elect to process the request prior to collecting fees when it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(3) If a requester previously has failed to pay a fee within 30 calendar days of the date of the billing, the requester shall be required to pay the full amount owed plus any applicable interest, and to make an advance payment of the full amount of the estimated fee before the Commission begins to process a new request.

(4) In cases in which an agency requires advance payment, the request will not be considered received and further work will not be completed until

the required payment is received. If the requester does not pay the advance payment within 30 calendar days after the date of the agency's fee determination, the request will be closed.

(i) *Charging interest.* The Commission may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the billing date until payment is received by the Commission. The Commission will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), as amended, and its administrative procedures.

(j) *Aggregating requests.* If the Commission reasonably determines that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the Commission may aggregate those requests and charge accordingly. The Commission may presume that multiple requests involving related matters submitted within a 30 calendar day period have been made in order to avoid fees. For requests separated by a longer

period, the Commission will aggregate them only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved. The Commission shall not aggregate multiple requests involving unrelated matters.

(k) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute that specifically requires an agency to set and collect fees for particular types of records. In instances where records responsive to a request are subject to a statutorily-based fee schedule program, the Commission must inform the requester of the contact information for that program.

#### **§ 426.211 Other rights and services.**

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

Dated: April 20, 2018.

**Joseph Heck,**  
Chairman.

[FR Doc. 2018–09212 Filed 5–1–18; 8:45 am]

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# FEDERAL REGISTER

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Part IV

The President

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Proclamation 9730—National Small Business Week, 2018





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# Presidential Documents

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Title 3—

Proclamation 9730 of April 27, 2018

The President

National Small Business Week, 2018

By the President of the United States of America

**A Proclamation**

During Small Business Week, we recognize the ingenuity of the American spirit and the renewed promise of the American Dream. America is a country of innovators, entrepreneurs, and builders. Our Nation's strength is derived from our people's initiative and desire to create a better tomorrow for our country through hard work and determination.

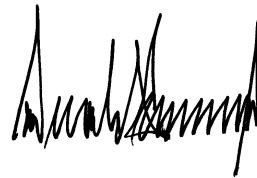
Small businesses are at the heart of our Nation. Our country's 30 million small businesses employ nearly 58 million Americans—48 percent of the labor force. Each year, small businesses create two-out-of-three net new, private-sector jobs in the United States. For this reason, my Administration worked with the Congress to enact a tax relief plan that provides small businesses with hundreds of billions in additional tax cuts. Moreover, we remain focused on eliminating unnecessary and unduly burdensome regulations, which hurt hardworking Americans. Across the Nation, we are enabling entrepreneurs to invest more of their time and hard-earned profits into growing their businesses and delivering better value for American consumers.

As we usher in a new era of American prosperity, my Administration will continue to implement a pro-growth agenda based on policies that champion small business creation and growth, giving more Americans the opportunity to start, scale, and succeed in businesses of their own. We will ensure trade deals are fair and reciprocal, cutting the barriers that prevent American producers from selling their products abroad. We are protecting our economic interests and intellectual property by investing in our Nation's cybersecurity, making sure our workforce has the education, skills, and training that small business owners demand, and investing in our country's infrastructure to improve productivity and the ability to transport goods and services.

This week, we celebrate all the entrepreneurs who have taken a risk to start and grow a small business. They are driven by a belief that they can do something better, smarter, and more efficient than what has been done before. They make our neighborhoods vibrant places to live and work. They invest in their neighbors and employ millions of Americans. When they succeed, we all succeed.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 29 through May 5, 2018, as Small Business Week. I call upon all Americans to recognize the critical contributions of America's entrepreneurs and small business owners as they grow our Nation's economy.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of April, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



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## Federal Register

Vol. 83, No. 85

Wednesday, May 2, 2018

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### FEDERAL REGISTER PAGES AND DATE, MAY

18913-19156..... 1  
19157-19426..... 2

### CFR PARTS AFFECTED DURING MAY

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.

**1 CFR** 52.....19191, 19194  
426.....19408, 19414 62.....19195

#### 3 CFR

**Proclamations:** 1.....19186  
9729.....19155 54.....18948, 18951  
9730.....19425 64.....18951

#### Administrative Orders:

**Memorandums:** 73.....19186  
**Memorandum of April** **Proposed Rules:**  
26, 2018.....19157 54.....19196  
76.....19033

#### 6 CFR

**Proposed Rules:** 5.....19020 **48 CFR**

#### 7 CFR

250.....18913 Ch. 1.....19144, 19150  
16.....19145  
19.....19146  
22.....19148  
49.....19149  
52.....19148

#### 12 CFR

1026.....19159 **50 CFR**  
**Proposed Rules:** 1290.....19188  
1291.....19188 648.....18965, 18972, 18985  
660.....19005

#### 14 CFR

25.....18934, 19176  
39.....19176  
73.....18938  
**Proposed Rules:** 21.....19021

#### 31 CFR

408.....18939

#### 32 CFR

291.....19179

#### 33 CFR

100.....19179  
165.....18941, 18943, 18946  
326.....19180  
**Proposed Rules:** 165.....19025, 19189

#### 40 CFR

62.....19184  
**Proposed Rules:** 51.....19026

---

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---

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**S. 167/P.L. 115–169**

National Memorial to Fallen Educators Act (Apr. 30, 2018; 132 Stat. 1285)

**Last List April 25, 2018**

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