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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1238; Airspace Docket No. 17–ASO–25]

RIN 2120–AA66

Amendment of Class E Airspace; Kenansville, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Duplin County Airport, Kenansville, NC, to accommodate airspace reconfiguration due to the decommissioning of the Kenan non-directional radio beacon (NDB), and cancellation of the NDB approach. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport. This action also updates the geographic coordinates of this airport.

DATES: Effective 0901 UTC, September 13, 2018. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface at Duplin County Airport, Kenansville, NC, to support IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 9822, March 8, 2018) for Docket No. FAA–2016–1238 to amend Class E airspace extending upward from 700 feet above the surface within a 6.8-mile (from a 6.4-mile) at Duplin County Airport, Kenansville, NC, due to the decommissioning of the Kenan NDB, and cancellation of the NDB approach, and adjustment of the geographic coordinates. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Duplin County Airport, Kenansville, NC, due to the decommissioning of the Kenan NDB and cancellation of the NDB approach. These changes are necessary for continued safety and management of IFR operations at the airport. The geographic coordinates of the airport are amended to coincide with the FAA's aeronautical database.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,''

paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Kenansville, NC [Amended]

Duplin County Airport, NC
(Lat. 35°00′00″ N, long. 77°58′54″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Duplin County Airport.

Issued in College Park, Georgia, on June 14, 2018.

Ken Brissenden,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–13374 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

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

RIN 2120–AA66

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies VHF Omnidirectional Range (VOR) Federal airways V–2, V–26, V–84, V–218, and V–510 in the vicinity of Lansing, MI, and removes airway V–410 in the vicinity of Pontiac, MI. These modifications are required due to the planned decommissioning of the Lansing, MI, VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) and the Pontiac, MI, VORTAC navigation aids, which provide navigation guidance for portions of the above routes.

DATES: Effective date 0901 UTC, September 13, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the National Airspace System route structure as necessary to preserve the safe and efficient flow of air traffic.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for Docket No. FAA–2017–0724 (82 FR 34272; July 24, 2017). The NPRM proposed to amend VOR Federal airways V–2, V–26, V–84, V–218, and V–510, and to remove V–410, due to the planned decommissioning of the Lansing, MI, and Pontiac, MI, VORTACs. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 by modifying the descriptions of VOR Federal airways V–2, V–26, V–84, V–218, and V–510; and removing V–410, due to the planned decommissioning of the Lansing, MI, and Pontiac, MI,

VORTACs. The route changes are described below.

V–2: V–2 extends between the Seattle, WA, VORTAC and the Gardner, MA, VOR/DME, excluding the airspace within Canada. The airway segment between the intersection of the Nodine, MN, 122° and Waukon, IA, 053° radials (WEBYE fix) and the Lansing, MI, VORTAC is removed. The unaffected portions of the airway remain as charted.

V–26: V–26 extends between the Blue Mesa, CO, VOR/DME and the Dryer, OH, VOR/DME, excluding the airspace within Canada. The airway segment between the White Cloud, MI, VOR/DME and the Lansing, MI, VORTAC is removed. The unaffected portions of the airway remain as charted.

V–84: V–84 extends between the Northbrook, IL, VOR/DME and the Flint, MI, VORTAC; and between the Buffalo, NY, VOR/DME and the Syracuse, NY, VORTAC. The airway segment between the Pullman, MI, VOR/DME and the Lansing, MI, VORTAC is removed. The unaffected portions of the airway remain as charted.

V–218: V–218 extends between the Grand Rapids, MN, VOR/DME and the Rockford, IL, VOR/DME; and between the Keeler, MI, VOR/DME and the Lansing, MI, VORTAC. The airway segments between the Waukon, IA, VORTAC and the Rockford, IL, VOR/DME; and between the Keeler, MI, VOR/DME and the Lansing, MI, VORTAC are removed. The unaffected portions of the airway remain as charted.

V–410: V–410 extends between the Pontiac, MI, VORTAC and the London, ON, Canada VOR/DME, excluding the airspace within Canada. The airway is removed in its entirety.

V–510: V–510 extends between the Dickinson, ND, VORTAC and the Dells, WI, VORTAC; between the Oshkosh, WI, VORTAC and the Lansing, MI, VORTAC; and between the Buffalo, NY, VOR/DME and the Rochester, NY, VOR/DME. The airway segment between the Oshkosh, WI, VORTAC and the Lansing, MI, VORTAC is removed. The unaffected portions of the airway remain as charted.

All radials in the route descriptions are stated relative to True north. Additionally, minor punctuation changes were made for clarity.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of modifying five VOR Federal airways and removing one Federal airway qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, Paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017 and effective September 15, 2017, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal airways.

* * * * *

V–2 [Amended]

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

* * * * *

V–26 [Amended]

From Blue Mesa, CO; Montrose, CO; 13 miles 112 MSL, 131 MSL, Grand Junction, CO; Meeker, CO; Cherokee, WY; Muddy Mountain, WY; 14 miles, 37 miles 75 MSL, 84 miles 90 MSL, Rapid City, SD; Philip, SD; Pierre, SD; Huron, SD; Redwood Falls, MN; Farmington, MN; Eau Claire, WI; Waussau, WI; Green Bay, WI; INT Green Bay 116° and White Cloud, MI, 302° radials; to White Cloud.

* * * * *

V–84 [Amended]

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

* * * * *

V–218 [Amended]

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

* * * * *

V–410 [Removed]

* * * * *

V–510 [Amended]

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

Issued in Washington, DC, on June 13, 2018.

Scott J. Gardner,

Acting Manager, Airspace Policy Group.

[FR Doc. 2018–13376 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0129; Airspace Docket No. 18–AEA–4]

RIN 2120–AA66

Amendment of Class E Airspace; Altoona, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends amend Class E surface area airspace and Class E airspace extending upward from 700 feet or more above the surface at Altoona-Blair County Airport, Altoona, PA. This action accommodates airspace reconfiguration due to the decommissioning of Altoona VHF omnidirectional range navigation system (VOR) and cancellation of the VOR approaches. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, September 13, 2018. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at Altoona-Blair County Airport, Altoona, PA, to ensure the efficient use of airspace within the National Airspace System.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 11446, March 15, 2018) for Docket No. FAA–2018–0129 to amend Class E surface area airspace, and Class E airspace extending upward from 700 feet above the surface at Altoona-Blair County Airport, Altoona, PA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.11B dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending Class E surface area airspace, and Class E airspace extending upward from 700 feet or more above the surface due to the decommissioning of the Altoona VOR and cancelation of associated approaches at Altoona-Blair County Airport, Altoona, PA.

The Class E surface area airspace is amended to within a 4.7-mile (from a 4-mile) radius of the airport, with a segment 1.0-mile each side of the 026° bearing from the airport to 8.7 miles northeast. The Altoona VOR segment is removed.

The Class E airspace area extending upward from 700 feet above the surface is amended to within an 11.2-mile (from a 6.5-mile) radius of the airport. These changes enhance the safety and management of IFR operations at the airport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, effective September 15, 2017, is amended as follows:

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

AEA PA E2 Altoona, PA [Amended]

Altoona-Blair County Airport, PA
(Lat. 40°17′47″ N, long. 78°19′12″ W)

Within a 4.7-mile radius of Altoona-Blair County Airport, and within 1.0 mile each side of the 026° bearing from the airport to 8.7 miles northeast of the airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA PA E5 Altoona, PA [Amended]

Altoona-Blair County Airport, PA
(Lat. 40°17′47″ N, long. 78°19′12″ W)

That airspace extending upward from 700 feet above the surface within an 11.2-mile radius of Altoona-Blair County Airport.

Issued in College Park, Georgia, on June 14, 2018.

Ken Brissenden,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–13373 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2018–0470; Airspace Docket No. 18–ASW–2]

RIN 2120–AA66

Modification to Restricted Area R–5601F and Establishment of Restricted Area R–5601J; Fort Sill, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends the restricted areas at Fort Sill, OK, to subdivide R–5601F into two subareas, R–5601F and R–5601J, make a minor correction to one boundary point in R–5601G, and to update and standardize the using agency information for each restricted area in the Fort Sill restricted area complex. The FAA is taking this action to allow for more efficient use of the airspace during periods when military activities only require the eastern portions of the restricted area complex. The airspace modifications are fully contained within the existing lateral and vertical boundaries of the Fort Sill, OK, restricted airspace. The using agency information update to each of the restricted areas in the Fort Sill complex is editorial only.

DATES: Effective date 0901 UTC, September 13, 2018.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends existing restricted area R–5601F by subdividing it into R–5601F and R–5601J, and updates the using agency information for each of the restricted areas at Fort Sill, OK.

History

R–5601F is an irregularly shaped restricted area in the Fort Sill, OK, restricted area complex used to contain hazardous activities. It connects the Military Operations Areas located to the north with the R–5601 gunnery ranges located to the south and stretches the entire length of the Fort Sill restricted area complex laterally from west to east, from 500 feet above ground level (AGL) to Flight Level 400 in altitude. The United States (U.S.) Army normally trains in the eastern restricted areas, R–5601A, R–5601B, and R–5601F, while the U.S. Air Force normally trains in the western areas, R–5601C, R–5601D, R–5601E, R–5601F, and R–5601G. When the using agency only requires the eastern areas to support its hazardous training activities, it results in the R–5601F restricted area being activated across the entire northern boundary of the restricted areas being activated, and creates a 14-mile extension of restricted area airspace that is not needed for the training activities being conducted.

The activation of R–5601F, and the unintended consequences of the 14-mile extension of restricted area airspace extending westward beyond the eastern Fort Sill restricted areas, primarily impacts the high altitude commercial air carriers inbound to the Dallas-Fort Worth metroplex area. Routing aircraft to overfly the R–5601F restricted area results in descent delays that take aircraft off their optimized descent profiles, and vectoring aircraft to circumnavigate the R–5601F restricted area laterally to the west adds miles and flight time to each aircraft. Additionally, these mitigations to overcome the unneeded extension of the R–5601F restricted area when only the eastern Fort Sill restricted areas are required also increases air traffic complexity and controller workload.

In December 2017, the FAA supported a U.S. Army laser air defense exercise conducted at Fort Sill, OK, using existing permanent restricted areas and two temporary restricted areas established overhead the Fort Sill restricted area complex. As part of a lessons learned review of the exercise, the FAA determined that subdividing the existing R–5601F restricted area laterally into two restricted areas, activated independently, would lessen aeronautical impacts to air traffic operating in the central United States.

Further, subdividing the existing R–5601F laterally into two separate restricted areas enhances the efficient

use of the National Airspace System by providing for activation of the minimum amount of restricted area airspace needed for hazardous military training activities and releases unneeded restricted areas for access by other airspace users.

Lastly, while staffing this airspace action to subdivide R–5601F laterally, the FAA also determined that one geographic point in the R–5601G boundary information needed to be adjusted and the using agency information needed to be updated in all of the restricted areas in the R–5601 complex. The minor R–5601G boundary point change was deemed necessary to ensure the accuracy of the shared boundaries with the two new subdivided restricted areas and the using agency editorial updates was necessary for clarity and standardization in all of the restricted areas in the R–5601 complex.

The Rule

This action amends 14 CFR part 73 by subdividing restricted area R–5601F in the Fort Sill, OK, restricted area complex into two subareas, R–5601F (amended) and R–5601J (new), divided laterally by a shared boundary extending from lat. 34°45′03″ N, long. 98°29′44″ W to lat. 34°43′30″ N, long. 98°35′40″ W. The subarea portion of the current R–5601F established west of the shared boundary will continue to be designated R–5601F, and the subarea portion established east of the shared boundary will be designated R–5601J. This action does not alter the existing lateral or vertical boundaries of the restricted area airspace or the operations currently conducted in that airspace. The subdivision of the current R–5601F restricted area minimizes impacts to high altitude commercial air carriers inbound to the Dallas-Fort Worth metroplex area unnecessarily when only the eastern R–5601 complex restricted areas are required for training by the using agency at Fort Sill, OK.

This action also makes a minor change to one geographic point in the boundaries information listed in the R–5601G description due to improved digital charting capabilities. This change ensures the accuracy of the shared boundaries between restricted areas R–5601F and R–5601J with R–5601G, and that all three restricted areas meet at the same shared boundary point.

Additionally, this action makes editorial changes to the using agency information listed in each of the Fort Sill restricted area descriptions for clarity and standardization. The using agency is unchanged, but simply amended in the descriptions to reflect the military unit responsible for ensuring the restricted areas are used for their designated purpose, scheduling the restricted areas, and coordinating the restricted area airspace use with the controlling agency. The Fort Sill using agency concurs with this editorial update.

These modifications do not change the current lateral boundaries, designated altitudes, times of designation, or activities conducted within the Fort Sill restricted area complex; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending the internal subdivision of restricted area R–5601F within the Fort Sill, OK, complex qualifies for categorical exclusion under the National Environmental Policy Act and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5.d, ''Modification of the technical description of special use airspace (SUA) that does not alter the dimensions, altitudes, or times of designation of the airspace (such as changes in designation of the controlling or using agency, or correction of typographical errors).'' This airspace action is an administrative change to the internal subdivision of an existing restricted area within the Fort Sill, OK, restricted area complex. It does not alter the dimensions, altitudes, time of designation, or use of the airspace. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or an environmental impact study.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

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

§ 73.56 [Amended]

■ 2. § 73.56 is amended as follows:

R–5601A Fort Sill, OK [Amended]

* * * * *

By removing ''Using agency. U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCOE) and Fort Sill, Fort Sill, OK,'' and adding in its place:

Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

R–5601B Fort Sill, OK [Amended]

* * * * *

By removing ''Using agency. U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCOE) and Fort Sill, Fort Sill, OK,'' and adding in its place:

Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

R–5601C Fort Sill, OK [Amended]

* * * * *

By removing ''Using agency. U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCOE) and Fort Sill, Fort Sill, OK,'' and adding in its place:

Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

R–5601D Fort Sill, OK [Amended]

* * * * *

By removing ''Using agency. U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCOE)

and Fort Sill, Fort Sill, OK,'' and adding in its place:

Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

R–5601E Fort Sill, OK [Amended]

* * * * *

By removing ''Using agency. U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCOE) and Fort Sill, Fort Sill, OK,'' and adding in its place:

Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

R–5601F Fort Sill, OK [Amended]

Boundaries. Beginning at lat. 34°46′24″ N, long. 98°52′00″ W; thence clockwise via the 49 NM arc of the Wichita Falls VORTAC to lat. 34°46′39″ N, long. 98°50′53″ W; to lat. 34°43′46″ N, long. 98°49′55″ W; thence clockwise via the 46 NM arc of the Wichita Falls VORTAC to lat. 34°45′03″ N, long. 98°29′44″ W; to lat. 34°43′30″ N, long. 98°35′40″ W; to lat. 34°45′00″ N, long. 98°40′31″ W; to lat. 34°42′15″ N, long. 98°50′01″ W; to the point of beginning. Excluding that airspace below 5,500 feet MSL beginning at lat. 34°44′28″ N, long. 98°46′16″ W; thence clockwise via the 46 NM arc of the Wichita Falls VORTAC to lat. 34°45′03″ N, long. 98°29′44″ W; to lat. 34°43′30″ N, long. 98°35′40″ W; to lat. 34°45′00″ N, long. 98°40′31″ W; to lat. 34°43′09″ N, long. 98°46′56″ W; to the point of beginning.

Designated altitudes. 500 feet AGL to FL 400. Times of designation. Sunrise to 2200 local time, Monday–Friday; other times by NOTAM. Controlling agency. FAA, Fort Worth ARTCC. Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

R–5601G Fort Sill, OK [Amended]

* * * * *

By removing the boundary geographic point ''lat. 34°45′03″ N, long. 98°29′46″ W'' and adding in its place ''lat. 34°45′03″ N, long. 98°29′44″ W.''

By removing ''Using agency. U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCOE) and Fort Sill, Fort Sill, OK,'' and adding in its place:

Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

R–5601H Fort Sill, OK [Amended]

* * * * *

By removing ''Using agency. U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCOE) and Fort Sill, Fort Sill, OK,'' and adding in its place:

Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

R–5601J Fort Sill, OK [New]

Boundaries. Beginning at lat. 34°45′03″ N, long. 98°29′44″ W; to lat. 34°46′15″ N, long. 98°25′01″ W; to lat. 34°47′00″ N, long. 98°17′46″ W; to lat. 34°46′45″ N, long. 98°17′01″ W; to lat. 34°46′06″ N, long. 98°17′01″ W; to lat. 34°46′06″ N, long. 98°21′01″ W; to lat. 34°43′45″ N, long. 98°21′01″ W; to lat. 34°43′30″ N, long. 98°21′21″ W; to lat. 34°43′30″ N, long. 98°35′40″ W; to the point of beginning. Excluding that airspace below 5,500 feet MSL beginning at lat. 34°43′30″ N, long. 98°35′40″ W; to lat. 34°44′48″ N, long. 98°30′45″ W; to lat. 34°43′30″ N, long. 98°30′00″ W; to the point of beginning; and that airspace below 3,500 feet MSL within a 1 NM radius of lat. 34°46′46″ N, long. 98°17′46″ W.

Designated altitudes. 500 feet AGL to FL 400. Times of designation. Sunrise to 2200 local time, Monday–Friday; other times by NOTAM. Controlling agency. FAA, Fort Worth ARTCC. Using agency. U.S. Army, U.S. Army Fires Center of Excellence (USAFCOE), Fort Sill, OK.

Issued in Washington, DC, on June 13, 2018.

Scott J. Gardner,

Acting Manager, Airspace Policy Group.

[FR Doc. 2018–13375 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1252

[Docket No. CPSC–2017–0038]

Children's Products, Children's Toys, and Child Care Articles: Determinations Regarding Lead, ASTM F963 Elements, and Phthalates for Engineered Wood Products

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission (CPSC) is issuing a final rule determining that certain untreated and unfinished engineered wood products (EWPs), specifically, particleboard, hardwood plywood, and medium-density fiberboard, made from virgin wood or pre-consumer wood waste do not contain lead, the ASTM F963 elements, or specified phthalates that exceed the limits set forth under the CPSC's statutes for children's products, children's toys, and child care articles. Based on these determinations, the specified EWPs would not be required to have third party testing for compliance with the requirements for lead, ASTM F963 elements, or phthalates for children's products, children's toys, and child care articles.

DATES: The rule is effective on July 23, 2018.

FOR FURTHER INFORMATION CONTACT: Stephen Lee, Office of Compliance, U.S. Consumer Product Safety Commission, 4330 East West Hwy., Bethesda, MD 20814; 301–504–7844: email: *slee@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. Third Party Testing and Burden Reduction

Section 14(a) of the Consumer Product Safety Act (CPSA), as amended by the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires that manufacturers of products subject to a consumer product safety rule or similar rule, ban, standard, or regulation enforced by the CPSC, must certify that the product complies with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). For children's products, children's toys, and child care articles, certification must be based on testing conducted by a CPSC-accepted third party conformity assessment body (laboratory). *Id.* Public Law 112–28 (August 12, 2011) directed the CPSC to seek comment on ''opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation.'' Public Law 112–28 also authorized the Commission to issue new or revised third party testing regulations if the Commission determines ''that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.'' *Id.* 2063(d)(3)(B).

2. CPSC's Lead Standard

Section 101 of the CPSIA has two requirements associated with lead in children's products. 15 U.S.C. 1278a. First, no accessible part of a children's product may contain more than 100 parts per million (ppm) lead content. Second, paint or other surface coatings on children's products and furniture intended for consumer use may not contain lead in concentrations greater than 90 ppm. Manufacturers of children's products must certify, based on third party testing, that their

products comply with all relevant children's product safety rules. Thus, products subject to the lead content or paint/surface coating limits require passing test results from a CPSC-accepted third party laboratory for the manufacturer to issue a children's product certificate (CPC), before the products can be entered into commerce.

To alleviate some of the third party testing burdens associated with lead in the accessible component parts of children's products, the Commission determined that certain materials, including gemstones, precious metals, wood, paper, CMYK process printing inks, textiles, and specified stainless steel, do not exceed the 100 ppm lead content limit under section 101 of the CPSIA. Based on this determination, these materials do not require third party testing for the lead content limits. The determinations regarding lead content for certain materials are set forth in 16 CFR 1500.91.

3. ASTM F963 Elements

Section 106 of the CPSIA provides that the provisions of ASTM International *Consumer Safety Specifications for Toy Safety* (ASTM F963) shall be considered to be consumer product safety standards issued by the Commission.[1] 15 U.S.C. 2056b. The Commission has issued a rule that incorporates by reference the relevant provisions of ASTM F963.[2] 16 CFR part 1250. Thus, children's toys subject to ASTM F963 must be tested by a CPSC-accepted third party laboratory and demonstrate compliance with all applicable CPSC requirements for the manufacturer to issue a CPC before the children's toys can be entered into commerce.[3]

Section 4.3.5 of ASTM F963 requires that surface coating materials and accessible substrates of children's toys that can be sucked, mouthed, or ingested[4] must comply with the solubility limits of eight elements listed in Table 1 of the toy standard. The materials and their solubility limits are shown in Table 1. We refer to these eight elements as ''ASTM F963 elements.''

TABLE 1—MAXIMUM SOLUBLE MIGRATED ELEMENT IN ppm (mg/kg) FOR SURFACE COATINGS AND SUBSTRATES INCLUDED AS PART OF A TOY

Elements	Solubility limit (ppm)[5]
Antimony (Sb)	60
Arsenic (As)	25
Barium (Ba)	1000
Cadmium (Cd)	75
Chromium (Cr)	60
Lead (Pb)	90
Mercury (Hg)	60
Selenium (Se)	500

The third party testing burden could be reduced only if all elements listed in section 4.3.5 have concentrations below their solubility limits. Because third party laboratories typically run one test for all of the ASTM F963 elements, no testing burden reduction would be achieved if any one of the elements requires testing.

To alleviate some of the third party testing burdens associated with the ASTM F963 elements in the accessible component parts of children's toys, the Commission determined that certain unfinished and untreated trunk wood does not contain ASTM F963 elements that would exceed the limits specified in section 106 of the CPSIA. Based on this determination, unfinished and untreated trunk wood would not require third party testing for the ASTM F963 elements. The determinations regarding the ASTM F963 elements limits for certain materials is set forth in 16 CFR 1251.2.

4. Phthalates

Section 108(a) of the CPSIA permanently prohibits the manufacture for sale, offer for sale, distribution in commerce, or importation into the United States of any ''children's toy or child care article'' that contains concentrations of more than 0.1 percent of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or butyl benzyl phthalate (BBP). 15 U.S.C. 2057c(a). The CPSIA required the Commission to appoint a Chronic Hazard Advisory Panel (CHAP) to ''study the effects on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles.'' 15 U.S.C. 2057c(b)(2). The CHAP issued its report in July 2014.[6] On October 27, 2017, the Commission published a final rule in the **Federal Register**, ''Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates,'' 82 FR 49938, prohibiting children's toys and child care articles containing concentrations greater than 0.1 percent of:

- di-(2-ethylhexyl) phthalate (DEHP);
- dibutyl phthalate (DBP);
- benzyl butyl phthalate (BBP);
- diisononyl phthalate (DINP);
- diisobutyl phthalate (DIBP);
- di-*n*-pentyl phthalate (DPENP);
- di-*n*-hexyl phthalate (DHEXP); or
- dicyclohexyl phthalate (DCHP).

These restrictions apply to any plasticized component part of a children's toy or child care article or any other component part of a children's toy or child care article that is made of other materials that may contain phthalates. The phthalates prohibitions are set forth in 16 CFR part 1307.

Tests for phthalate concentration are among the most expensive certification tests to conduct on a product, and each accessible component part subject to section 108 of the CPSIA must be tested.[7] Third party testing burden reductions can occur only if each phthalate's concentration is below 0.1 percent (1000 ppm). Because laboratories typically run one test for all of the specified phthalates, no testing burden reduction likely is achieved if any one of the phthalates requires compliance testing.

To alleviate some of the third party testing burdens associated with plastics in the accessible component parts of

[1] ASTM F963 is a consumer product safety standard, except for section 4.2 and Annex 4, or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute.

[2] The current version of ASTM F963 is ASTM F963–17. The test method for the ASTM F963 elements allows the use of High-Definition X-Ray Fluorescence Spectroscopy (HDXRF) for total element screening. See section 8.3.1.4 of ASTM F963–17.

[3] A ''children's toy'' is defined in section 1.3 of ASTM F963–17 as any object designed, manufactured, or marketed as a plaything for children under 14 years of age. However, the term ''children's toy'' is defined in section 108(e)(1)(B) of the CPSIA as a consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays. Only toys intended for a child 12 years of age or younger are subject to certification requirements.

[4] ASTM F963 contains the following note regarding the scope of the solubility requirement: NOTE 4—For the purposes of this requirement, the following criteria are considered reasonably appropriate for the classification of children's toys or parts likely to be sucked, mouthed or ingested: (1) All toy parts intended to be mouthed or contact food or drink, components of children's toys which are cosmetics, and components of writing instruments categorized as children's toys; (2) Children's toys intended for children less than 6 years of age, that is, all accessible parts and components where there is a probability that those parts and components may come into contact with the mouth.

[5] The method to assess the solubility of a listed element is detailed in section 8.3.2, *Method to Dissolve Soluble Matter for Surface Coatings,* of ASTM F963. Modeling clays included as part of a toy have different solubility limits for several of the elements.

[6] *http://www.cpsc.gov/PageFiles/169902/CHAP-REPORT-With-Appendices.pdf.*

[7] Test costs for the content of all the specified phthalates have been reported to range from $125 to $350 per component, depending upon where the tests are conducted and any discounts that might apply.

children's toys and child care articles, the Commission determined that products made with general purpose polystyrene (GPPS), medium-impact polystyrene (MIPS), high-impact polystyrene (HIPS), and super high-impact polystyrene (SHIPS) with specified additives do not exceed the phthalates content limits under section 108 of the CPSIA. 82 FR 41163 (August 30, 2017). Based on this determination, materials used in children's toys and child care articles that use these specified plastics and additives would not require third party testing for the phthalates content limits. The plastics determinations are set forth in the Commission's regulations at 16 CFR part 1308.

5. Notice of Proposed Rulemaking

On October 13, 2017, the Commission published a notice of proposed rulemaking (NPR) in the **Federal Register** for the engineered wood determinations. (80 FR 47645). The Commission proposed determinations that untreated and unfinished EWPs (particleboard, hardwood plywood, and medium-density fiberboard) made from virgin wood or pre-consumer wood waste, do not contain lead, or any of the specified elements in ASTM F963 in concentrations greater than their specified solubility limits. In addition, with the exception of hardwood plywood that contains PVAc adhesive formulations, the Commission proposed a determination that these specified EWPs do not contain any of the specified phthalates in concentrations greater than 0.1 percent. The comments to the NPR are addressed in section C of this preamble.

B. Contractor's Research

1. Overview

CPSC contracted with the Toxicology Excellence for Risk Assessment (TERA),[8] who authored literature review reports on the content issues related to certain natural materials, plastics, and EWPs. The following reports produced by TERA formed the basis for the proposed EWP determinations: Task 9, *Concentrations of Selected Elements in Unfinished Wood and Other Natural Materials;* Task 11, *Exposure Assessment: Composition, Production, and Use of Phthalates;* and Task 14, *Final Report for CPSC Task 14,* which summarized the available information on the production of the EWPs.

1. TERA Task 9 Report

In the Task 9 Report, TERA conducted a literature search on whether unfinished wood and other natural materials could be determined not to contain any of the ASTM F963 elements in concentrations greater than the ASTM F963 solubility limits.[9] The materials researched included unfinished woods (ash, beech, birch, cherry, maple, oak, pine, poplar, and walnut); bamboo; beeswax; undyed and unfinished fibers and textiles (cotton, wool, linen, and silk); and uncoated or coated paper (wood or other cellulosic fiber).

To assess the presence of the ASTM F963 elements' concentrations in the materials, TERA looked at several factors. The factors reviewed included the presence and concentrations of the elements in the environmental media (*e.g.,* soil, water, air), and in the base materials for the textiles and paper; whether processing has the potential to introduce any of the ASTM F963 elements into the material under study; and the potential for contamination after production, such as through packaging. From this report, the Commission determined that untreated and unfinished woods from tree trunks do not contain any of the elements in ASTM F963 in concentrations greater than their respective solubility limits, and thus, they are not required to be third party tested to ensure compliance with the specified solubility test.[10] TERA relied on this information in TERA Task Report 14 to determine that the virgin wood material used in the manufacture of EWPs does not, and will not, contain any of the elements in ASTM F963 in concentrations greater than their respective solubility limits.

2. TERA Task 11 Report

In the Task 11 Report, TERA conducted a literature search on the production and use of 11 specified phthalates in consumer products.[11] The 11 phthalates researched by TERA were based on the recommendations made in the CHAP report. The 11 phthalates included the eight prohibited phthalates that are subject to the final rule prohibiting children's toys and child care articles containing specified phthalates issued in October 2017 and codified in 16 CFR part 1307. (82 FR 49938). Table 2 lists the phthalates researched by TERA. TERA's research focused on the following factors:

- The raw materials used in the production of the specified phthalates;
- The manufacturing processes used worldwide to produce the specified phthalates;
- Estimated annual production of the specified phthalates;
- Physical properties of the specified phthalates (*e.g.,* vapor pressure, flashpoint, water solubility, temperature at which chemical breakdown occurs);
- Applications for phthalates use in materials and consumer and non-consumer products; and
- Other potential routes by which phthalates can be introduced into an otherwise phthalates-free material (*e.g.,* migration from packaging, recycling, reuse, product breakdown).

TABLE 2—PHTHALATES RESEARCHED IN THE TASK 11 REPORT

[* Prohibited phthalates under 16 CFR part 1307]

Phthalate	CASRN [12]
* DEHP: di-(2-ethylhexyl) phthalate	117–81–7.
* DBP: dibutyl phthalate	84–74–2.
* BBP: benzyl butyl phthalate	85–68–7.
* DINP: diisononyl phthalate	28553–12–0, 68515–48–0.
DIDP: diisodecyl phthalate	26761–40–0, 68515–49–1.
DnOP: di-n-octyl phthalate	117–84–0.
DIOP: diisooctyl phthalate	27554–26–3.
* DIBP: diisobutyl phthalate	84–69–5.
* DPENP: di-n-pentyl phthalate	131–18–0.
* DHEXP: di-n-hexyl phthalate	84–75–3.

[8] After conducting the contract reports for the CPSC, TERA reorganized as the Risk Science Center at the University of Cincinnati: *https://med.uc.edu/eh/centers/rsc.*

[9] *http://www.cpsc.gov/Global/Research-and-Statistics/TechnicalReports/Toys/TERAReportASTMElements.pdf.*

[10] 80 FR 78651 (Dec. 17, 2015).

[11] *http://www.cpsc.gov//Global/Research-and-Statistics/Technical-Reports/Other%20Technical%20Reports/TERAReportPhthalates.pdf.*

TABLE 2—PHTHALATES RESEARCHED IN THE TASK 11 REPORT—Continued

[* Prohibited phthalates under 16 CFR part 1307]

Phthalate	CASRN [12]
* DCHP: dicyclohexyl phthalate	84–61–7.

TERA found that phthalates are used generally as plasticizers or softeners of certain plastics, primarily polyvinyl chloride (PVC), as solvents, and as component parts of inks, paints, adhesives, and sealants.

3. TERA Task 14 Report

In the Task 14 Report, TERA conducted a literature search on the production of three EWPs: Particleboard, hardwood plywood, and medium-density fiberboard.[13] TERA first researched authoritative sources, such as reference books and textbooks, along with internet resources, for general information about EWPs, adhesives, raw materials, manufacturing processes, and the potential use of recycled materials. TERA used this information and consulted technical experts to identify key words for searching the literature. These key words were then used to conduct primary literature searches for research studies and publications. In addition, TERA searched for Safety Data Sheets (SDS) for information on raw materials. TERA researched the possibility of the raw materials or finished products in the three EWPs to contain:

- Lead in concentrations exceeding 100 ppm;
- Any of the specified elements that are included in the safety standard for children's toys, ASTM F963, *Standard Consumer Safety Specification for Toy Safety,* in concentrations exceeding specified solubility limits; or
- Any of 10 specified phthalates in concentrations greater than 0.1 percent (1000 ppm), listed in Table 3.[14]

TABLE 3—PHTHALATES RESEARCHED IN THE TASK 14 REPORT

[* Prohibited phthalates under 16 CFR part 1307]

Phthalate	CASRN
* DEHP: di-(2-ethylhexyl) phthalate	117–81–7.
* DBP: dibutyl phthalate	84–74–2.
* BBP: benzyl butyl phthalate	85–68–7.
* DINP: diisononyl phthalate	28553–12–0, 68515–48–0.
DIDP: diisodecyl phthalate	26761–40–0, 68515–49–1.
DnOP: di-n-octyl phthalate	117–84–0.
* DIBP: diisobutyl phthalate	84–69–5.
* DPENP: di-n-pentyl phthalate	131–18–0.
* DHEXP: di-n-hexyl phthalate	84–75–3.
* DCHP: dicyclohexyl phthalate	84–61–7.

TERA found that, generally, the processes for manufacturing the three EWPs are similar; wood fibers, chips, layers, or a similar raw wood product are processed with various adhesive formulations (sometimes referred to as binders or resins) along with other additives to create uniform sheets with known characteristics and performance qualities. The main difference among the three types of EWPs relates primarily to the size and morphology (shape and surface characteristics) of the wood material used in their production.

TERA reviewed the literature to assess whether the specified EWPs might contain lead or one or more of the other elements at levels that exceed the ASTM solubility limits, or any of the specified phthalates in concentrations greater than the specified limits. TERA reported that no studies found lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than their limits in particleboard, hardwood plywood, or medium-density fiberboard, that are unfinished and untreated, and made from virgin wood or pre-consumer wood waste.

In the Task 14 Report, TERA described an unfinished EWP as one that does not have any surface treatments applied at manufacture, such as factory-applied coatings. An untreated EWP is one that does not have any additional finishes applied at manufacture, such as flame retardants or rot-resistant finishes. TERA described ''virgin wood'' as wood logs, fibers, chips, or layers that have not been recycled from a previous use. TERA described ''pre-consumer wood waste'' as wood materials that have been recycled from an industrial process before being made available for consumer use. Examples of this type of waste include trimmings from EWP panel manufacturing, sawdust from cutting logs, or remaining wood pieces from sawing a log into framing lumber.

The TERA report highlighted the potential for lead, the ASTM F963 elements, or the specified phthalates to be present in concentrations greater than those specified through the use of contaminated recycled material in EWPs made from recycled wood waste or EWPs that have post-manufacturing treatments or finishes. Recycled wood waste may be made from reclaimed or post-consumer wood waste. ''Post-consumer wood waste'' is described as wood waste that is comprised of materials that are recovered from their original use and subsequently used in a new product. Examples of this type of waste include recycled demolition wood, packaging materials, such as pallets and crates, used wood from

[12] A CAS Registry Number is assigned to a substance when it enters the CAS REGISTRY database. *https://www.cas.org/content/chemical-substances/faqs.*

[13] *https://www.cpsc.gov/s3fs-public/ManufacturedWoodsTERATask14Report.pdf.*

[14] The TERA research providing the basis for this determination covered the six phthalates subject to the statutory prohibition, as well as the additional phthalates the Commission proposed to prohibit in children's toys and child care articles, with the exception of DIOP. The Commission has issued a final rule prohibiting eight phthalates in children's toys and child care articles on October 17, 2017 (82 FR 49938).

landscape care (*i.e.,* from urban and highway trees, hedges, and gardens), discarded furniture, and wood waste from industrial, construction, and commercial activities.

The three types of EWPs reviewed by TERA are discussed below.

a. Particleboard

Particleboard is a composite of wood chips, adhesives, and other additives pressed into a board. Adhesive formulations are used to bond wood chips, which are then formed into mats that are layered to create uniform boards in a range of dimensions. Particleboard is used widely in furniture making and other interior (or nonstructural) uses. The constituent parts of particleboard reported by TERA can include (by weight):

- Wood (60–99+ percent);
- Adhesive formulation (0–17 percent, with 5–11 percent most common);
- Phenol-formaldehyde (uncommon but potential for use), urea-formaldehyde, melamine-urea-formaldehyde, polymeric methylene-diphenyl-diisocyanate (pMDI);
- Waxes (0.3–1 percent);
- Other additives (up to 2 percent); or
- Scavengers or additional unspecified materials.

TERA researched the possibility of lead, the ASTM F963 elements, or the specified phthalates, in concentrations greater than their specified limits in particleboard. TERA identified little information on measurements of lead and the ASTM F963 elements in particleboard, and found no studies that measured the specified phthalates. TERA identified two references where particleboard made from both untreated and copper chromate arsenic-(CCA) treated wood chips was tested. Arsenic and chromium were undetected in the particleboards made from virgin wood chips. However, the particleboard composed of 25 percent wood chips from reclaimed CCA-treated wood products contained 895 and 832 ppm of arsenic and chromium, respectively, without adversely affecting the mechanical performance of the board. Another study that discussed ''recycled particleboard'' was identified as wood waste obtained from a wood recycling plant.

Apart from the studies on particleboard made from wood waste that may contain post-consumer wood waste or post-manufacturing treatments, TERA reported that no studies found lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than the specified limits in untreated and unfinished particleboard.

b. Hardwood Plywood

Plywood is a layered board of wood veneers, where the layers have alternating, perpendicular wood grain directions. Less commonly, the board might have a core of other EWPs with wood veneers as the outer layers. Hardwood plywood, addressed in this report, is a type of plywood that is composed of angiosperms (*i.e.,* ''hardwoods,'' such as oak or maple) and used primarily in furniture and for other interior (nonstructural) purposes, as well as in playground equipment, sports equipment, and musical instruments. The constituent parts of hardwood plywood reported by TERA can include (by weight):

- Wood (75–99+ percent);
- Adhesive formulation (0.02–20 percent, with 1 percent to 5 percent most common);
- Phenol-formaldehyde or phenol-resorcinol-formaldehyde (likely for use in structural plywood but potential for application to hardwood plywood), urea-formaldehyde, melamine-formaldehyde, or melamine-urea-formaldehyde, or polyvinyl acetate (PVAc); or
- Other additives (less than 2 percent).

TERA researched the possibility of lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than those specified in hardwood plywood. TERA identified only one study that measured lead and the ASTM F963 elements in plywood, and found no studies that measured the specified phthalates. Concentrations of cadmium, chromium, and lead were all less than the solubility limits in ''plain'' plywood. In addition, because hardwood plywood is made from sheets of wood veneer, it is less likely to contain recycled wood content, unless it incorporates a core of some other EWPs, such as particleboard or medium-density fiberboard.

Aside from the studies on recycled wood waste that may contain post-consumer wood waste or post-manufacturing treatments in a particleboard, medium-density fiberboard, or other EWP core, TERA reported that no studies found lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than the specified limits in untreated and unfinished hardwood plywood. However, TERA identified research that indicated that polyvinyl acetate (PVAc) can be used as an adhesive system for hardwood plywood, as discussed in section (d) below.

c. Medium-Density Fiberboard

Medium-density fiberboard (MDF) is a composite of wood fibers, an adhesive formulation, and other additives pressed into a board. MDF is a product similar to particleboard, differing mostly due to the use of fiber rather than chips. It is used primarily in furniture and for other interior (nonstructural) purposes. The constituent parts of MDF reported by TERA can include (by weight):

- Wood (73–99+ percent);
- Adhesive formulation (0–25 percent with most common 5–12 percent);
- Phenol-formaldehyde (uncommon, but potentially used for moisture resistance), urea-formaldehyde (most commonly identified), methylene-diphenyl-diisocyanate (pMDI), melamine-formaldehyde, or melamine-urea-formaldehyde;
- Waxes (less than 1 percent); or
- Other additives (10–30 percent).

TERA researched the possibility of lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than those specified in MDF. TERA did not identify any references that reported the presence of lead, the ASTM F963 elements, or the specified phthalates in MDF made with virgin wood.

Aside from the studies on recycled wood waste that may contain post-consumer wood waste or post-manufacturing treatments, TERA reported that no studies found lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than the specified limits in untreated and unfinished MDF.

d. TERA's Findings on EWP Constituent Parts

Because few references were found directly addressing lead, the ASTM F963 elements, and the specified phthalates in EWPs, TERA also researched the constituent parts that could be used to manufacture EWPs, including wood and adhesives.

Wood

According to the manufacturing process information provided by TERA, virgin wood and wood residues are the main sources of wood fiber used in North America to manufacture EWPs. Typically, these sources include low-value logs, industrial wood residues, or scraps and trim from furniture and EWP production. For example, hardwood plywood requires the trunks of trees to obtain the thin layers of veneer used to construct a sheet. TERA relied on the Task 9 Report and Commission findings on unfinished and untreated wood (80 FR 78651 (Dec. 17, 2015)) to determine

that untreated and unfinished wood from the trunks of trees do not contain lead or the ASTM F963 elements in concentrations greater than the specified solubility limits. TERA also noted that, although phthalates can be taken up by trees and plants, the concentrations are negligible and less than the specified limit (0.1 percent).

Although TERA reported that the majority of EWPs are manufactured with virgin wood or pre-consumer wood waste fiber or chips, the wood component also can originate from recycled material. For EWPs made from recycled wood waste that may contain post-consumer wood waste, the TERA report highlighted the potential for lead, the ASTM F963 elements, or the specified phthalates to be present in concentrations greater than those specified through the use of contaminated recycled material. The TERA report cited multiple examples of the use of reclaimed or post-consumer wood material used to produce EWPs, both domestically and internationally. Specifically, TERA found studies showing that reclaimed lumber and wood waste could contain a myriad of contaminants, such as surface treatments (*e.g.,* paints, stains), metals, glues and adhesives, glass, paper, plastic, rubber and chemical treatments. Metals and organic materials may be present in paints, stains, varnishes, and polishes that are used on wood products (*e.g.,* furniture, window frames) and nails, screws, and other metal hardware might be attached to the recycled and recovered wood. These contaminants are intimately attached to the wood, and therefore, some contaminants may pass through cleaning systems, contaminating the entire recovered wood stream.

TERA also reviewed another study, based in Italy, which evaluated the ''recyclability'' of used wood, by conducting elemental analysis of wood residues from wood recycling plants using a handheld fast energy dispersive X-ray fluorescence spectroscopy (ED–XRF) device. TERA found that the study provided some indication of the types and levels of contamination in various kinds of post-consumer wood waste. Elemental analysis results were compared to EU Community Ecolabel limits.[15] For all wood products tested, 16 percent exceeded one or more of the Ecolabel limits, with the highest concentrations from lead, chromium, chlorine, copper, cadmium, and mercury. No samples had levels of arsenic over the 25 ppm limit (except a CCA-treated utility pole). Barium and lead were found in 10 percent to 20 percent of the samples, chromium and cadmium in 3 percent to 4 percent, and antimony, mercury, and arsenic ranged from 0.3 percent to 1.2 percent of samples. The sources most contaminated with non-wood content were from furniture and building materials, while pallets and shipping containers were least likely to be contaminated.[16]

TERA concluded that, with an increased interest and use of post-consumer recycled materials in EWP production, potential contamination by the specified elements and phthalates must be considered. To ensure that EWPs made from used wood fibers do not contain ASTM F963 elements or phthalates that exceed the specified limits, TERA indicated that the materials would need to be sorted carefully and tested to ensure that they are not contaminated.

Adhesive Formulations

Adhesive formulations hold together the wood chips, layers, or fibers to make EWP mats and sheets. Some of the formulations use a metal catalyst during the curing process. TERA identified a number of references describing the presence of the ASTM F963 elements in adhesive formulations. However, TERA found very few references that would implicate EWPs. Although the use of barium was noted in multiple references, only one study appeared to be relevant to EWPs. This study suggested that barium, when used as a catalyst in an adhesive, could result in an EWP that exceeded the ASTM solubility level for barium.[17] However, this method does not appear to be used currently in EWP production. TERA also noted studies that indicate the possible use of chromium as a catalyst in phenol formaldehyde resin, as well as the possible use of antimony or arsenic in a drier formulation for certain polymeric coatings. However, no references included information on concentrations or appeared to be relevant to EWPs.

Although many different adhesive formulations may be used in hardwood plywood, TERA noted that PVAc can be used as an adhesive system for hardwood plywood. The report cited sources (The Handbook of Adhesive Technology, USDA), which mentioned the use of some of the specified phthalates in PVAc adhesive formulations.[18] TERA also identified research papers that included the use of DBP and DEHP in PVAc at concentrations greater than 0.1 percent.

C. Discussion of Comments to the NPR

The CPSC received seven comments in response to the NPR. Five of the comments did not address any matters regarding EWPs. These comments addressed environmental regulation issues concerning alternative energy, electric cars, and greenhouse gas emissions, among other topics. None of these comments addressed EWPs. Accordingly, these comments do not fall within the scope of the current rulemaking. Two comments addressed the proposed determinations for EWPs.

Comment 1: A commenter states that the use of third party testing and ''verification of testing'' for lead is important for ensuring product safety and that any change to the testing and verification requirements is ''antithetical'' to public safety.

Response 1: The commenter does not provide any data or information about EWPs that would support a testing requirement for lead for certain untreated and unfinished EWPs. Nor does the commenter address the data and information the Commission relied upon to demonstrate that certain untreated and unfinished EWPs do not contain lead above the limits specified by the lead content requirements. The Commission's proposed EWP determinations only apply to EWPs that have not been treated or adulterated with materials that could result in the addition of lead, the ASTM elements, or

[15] Ecolabel element concentrations are less than 25 mg/kg of arsenic, 25 mg/kg of mercury, 25 mg/kg of chromium, 50 mg/kg cadmium, 90 mg/kg lead, and 40 mg/kg copper (EU, 2004). Ecolabel limits are similar to ASTM solubility limits for the ASTM F963 elements.

[16] Twenty-four percent of furniture and 18 percent of building materials had one or more ASTM F963 elements exceeding the limits which may be due to manufacturing processes such as painting, preservation, and overlaying, which are common with furniture and building materials. The most polluted types of wood waste were particleboard (37% exceeded Ecolabel limits), recycled particleboard (25% exceeded), and plywood (18% exceeded); while fiberboard (MDF and HDF) exceeded limits in 9 percent of samples.

[17] Wang and Zhang (2011) studied the use of calcium hydroxide, $Ba(OH)_2$, and magnesium hydroxide and their effect on cure times for phenol formaldehyde adhesive formulations, finding that the use of $Ba(OH)_2$ could be a viable means to speed up cure times. Both calcium hydroxide and $Ba(OH)_2$ had similar cure times and are about the same price in bulk. Because the compounds would be used in an adhesive system, the catalyst is not expected to be recovered and so would remain in situ once curing is complete. If the catalyst remained in the adhesive, it could result in concentrations of barium exceeding the ASTM solubility limits.

[18] The USDA publication Wood Handbook: Wood as an Engineering Material (2010) explains that ''Plasticizers, for example dibutyl phthalate, are used to soften the brittle vinyl acetate homopolymer in poly(vinyl acetate) emulsion adhesives. This is necessary to facilitate adhesive spreading and formation of a flexible adhesive film from the emulsion at and below room temperature.''

the specified phthalates at concentrations greater than their specified solubility limits. EWPs that do not meet the provisions of the rule would still be subject to applicable testing requirements.

Comment 2: A commenter expresses concern regarding the language of the proposed rule's determination, which states: ''Accessible component parts of children's products, children's toys, and child care articles made with engineered wood products not listed in paragraphs (a)–(c) of this section are required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.'' The commenter asserts that the language negates the flexibility of the Commission's 2009 *Statement of Policy*. The commenter requests a revision of the language to state: ''Accessible component parts of children's products, children's toys, and child care articles made with engineered wood products not listed in paragraphs (a)–(c) of this section must still be comprised of compliant materials pursuant to section 108 of CPSIA, Public Law 110–314 as amended by H.R. 2714, Public Law 112–28.''

Response 2: The proposed EWP determinations do not negate the flexibility of the Commission's 2009 *Statement of Policy*.[19] That policy was intended to give general guidance on the types of materials that may contain phthalates. Section 108 of the CPSIA is limited to plasticized component parts and other materials that may contain phthalates. The Commission has already identified in the proposed rule the potential use of phthalates in polyvinyl acetate (PVAc) adhesive in hardwood plywood that would result in an EWP with phthalate concentrations greater than 0.1 percent. However, to make it clear that only products that are subject to one or more of the requirements for lead, ASTM elements, and the specified phthalates, or that contain post-consumer wood waste, must be third party tested, the Commission is revising the proposed language in section 1252.3(e). That section now states that accessible component parts of children's products, children's toys, and child care articles made with engineered wood products other than the specified EWPs listed in the rule, or that contain post-consumer wood waste, are required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107 and sections 101, 106, or 108 of the CPSIA, as applicable.

In addition, to reflect the current list of prohibited phthalates in section 108 of the CPSIA, as required in the Commission's final rule issued on October 27, 2017, § 1252.1(c) is revised to include all of the permanently prohibited phthalates in any children's toy or child care article that contains concentrations of more than 0.1 percent of DEHP, DBP, BBP, DINP, DIBP, DPENP, DHEXP, or DCHP.

D. Determination for EWPs

1. Legal Requirements for a Determination

As noted above, section 14(a)(2) of the CPSA requires third party testing for children's products that are subject to a children's product safety rule. 15 U.S.C. 2063(a)(2). Children's products must comply with the lead limits in section 101 of the CPSIA. 15 U.S.C. 1278a. Children's toys must comply with the solubility limits for elements under the ASTM toy standard in section 106 of the CPSIA. 15 U.S.C. 2056b. Children's toys and child care articles must comply with the phthalates prohibitions in section 108 of the CPSIA. 15 U.S.C. 2057c. In response to statutory direction, the Commission has investigated approaches that would reduce the burden of third party testing while also assuring compliance with CPSC requirements. As part of that endeavor, the Commission has considered whether certain materials used in children's products, children's toys, and child care articles would not require third party testing.

To issue a determination that an EWP does not require third party testing, the Commission must have sufficient evidence to conclude that the product consistently complies with the CPSC's requirements to which the EWP is subject, so that third party testing is unnecessary to provide a high degree of assurance of compliance. Under 16 CFR part 1107, section 1107.2 defines ''a high degree of assurance'' as ''an evidence-based demonstration of consistent performance of a product regarding compliance based on knowledge of a product and its manufacture.''

For accessible component parts of children's products, children's toys, and child care articles subject to sections 101, 106, and 108 of the CPSIA, compliance to the specified content limits is always required, irrespective of any testing exemptions. Thus, a manufacturer or importer who certifies a children's product, children's toy or child care article, must ensure the product's compliance. The presence of lead, the ASTM F963 elements, or the specified phthalates do not have to be intended to require compliance. The presence of these chemicals, whether for any functional purpose, as a trace material, or as a contaminant, must be in concentrations less than the specified content or solubility limits for the material to be compliant. Additionally, the manufacturer or importer must have a high degree of assurance that the product has not been adulterated or contaminated to an extent that would render it noncompliant. For example, if a manufacturer or importer is relying on a determination that an EWP does not contain lead, ASTM F963 elements, or specified phthalates in concentrations greater than the specified limits in a children's product, children's toy, or child care article, the manufacturer must ensure that the EWP is one on which a determination has been made.

The Commission finds, based on the staff's review of TERA's Task 14 report regarding reclaimed or post-consumer waste assessment in EWPs, that EWPs with post-consumer wood content and post-manufacturing waste could contain unwanted contaminants, such as paint or stains, metals from nails or fasteners, or adhesive formulations. Additionally, based on staff's review of the Task 11 and Task 14 reports, the Commission finds that PVAc used as an adhesive formulation in the manufacture of EWPs could contain at least one of the specified phthalates in hardwood plywood manufacturing that could result in the EWP exceeding the allowable levels of the specified phthalates. Accordingly, the Commission concludes that there is not a high degree of assurance that EWPs made from post-consumer wood waste or post-manufacturing treatments or finishes are compliant with sections 101, 106, or 108 of the CPSIA, or that hardwood plywood that contain PVAc are compliant with 108 of the CPSIA.

Based on the information provided in the TERA Task reports, staff's review of TERA's source references in the Task reports, and with the additional clarification that only products that are subject to one or more of the requirements for lead, ASTM elements, and the specified phthalates must be third party tested, the Commission determines that untreated and unfinished EWPs (particleboard, hardwood plywood, and medium-density fiberboard) made from virgin wood or pre-consumer wood waste, do not contain lead, or any of the specified elements in ASTM F963 in concentrations greater than their specified solubility limits. In addition, with the exception of hardwood plywood that contains PVAc adhesive formulations, the Commission determines that the specified EWPs do

[19] *https://www.cpsc.gov/s3fs-public/pdfs/blk_media_componenttestingpolicy.pdf.*

not contain any of the specified phthalates in concentrations greater than 0.1 percent. The Commission's determinations on EWPs are limited to unfinished and untreated EWPs made from virgin wood or pre-consumer wood waste. Children's products, children's toys, and child care articles made from post-consumer wood waste, or from EWPs that have other materials that are applied to or added on to the EWP after it is manufactured, such as treatments and finishes, would be subject to third party testing requirements, unless the component part has a separate determination which does not require third party testing for certification purposes.

2. Statutory Authority

Section 3 of the CPSIA grants the Commission general rulemaking authority to issue regulations, as necessary, to implement the CPSIA. Public Law 110–314, sec. 3, Aug. 14, 2008. Section 14 of the CPSA, which was amended by the CPSIA, requires third party testing for children's products subject to a children's product safety rule. 15 U.S.C. 2063(a)(2). Section 14(d)(3)(B) of the CPSA, as amended by Public Law 112–28, gives the Commission the authority to ''prescribe new or revised third party testing regulations if it determines that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.'' *Id.* 2063(d)(3)(B). These statutory provisions authorize the Commission to issue a rule determining that certain EWPs would not be concentrations greater than their specified limits, and thus, are not required to be third determined to contain lead, the ASTM F963 elements, and the specified phthalates in party tested to ensure compliance with sections 101, 106, and 108 of the CPSIA.

The determinations for the specified EWPs would relieve children's product certifiers from third party testing burdens, while assuring compliance with sections 101, 106, and 108 of the CPSIA for component parts made from the specified EWPs. However, the determinations would only relieve the manufacturers' obligation to have the specified EWPs tested by a CPSC-accepted third party laboratory. Children's products, children's toys, and child care articles must still comply with the substantive content limits in sections 101, 106, and 108 of the CPSIA, regardless of any relief on third party testing requirements. Finally, even if a determination is in effect and third party testing is not required, a certifier must still issue a certificate.

3. Description of the Rule

This rule creates a new part 1252 for *Children's Products, Children's Toys, and Child Care Articles: Determinations Regarding Lead, ASTM F963 elements, and Phthalates for Engineered Wood Products.*

- Section 1252.1(a) of the rule explains the statutorily created requirements that limit lead in children's products under the CPSIA and the third party testing requirements for children's products.
- Section 1252.1(b) of the rule explains the statutorily created requirements for limiting the ASTM F963 elements in children's toys under the CPSIA and the third party testing requirements for children's toys.
- Section 1252.1(c) of the rule explains the statutorily created requirements limiting phthalates for children's toys and child care articles under the CPSIA and the third party testing requirements for children's toys and child care articles. This section is revised to reflect the final rule issued on phthalates that permanently prohibits any children's toy or child care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP). In addition, in accordance with section 108(b)(3) of the CPSIA, 16 CFR part 1307 prohibits any children's toy or child care article that contains concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisobutyl phthalate (DIBP), di-*n*-pentyl phthalate (DPENP), di-*n*-hexyl phthalate (DHEXP), or dicyclohexyl phthalate (DCHP).
- Section 1252.2 of the rule provides definitions that apply to part 1252.
- Section 1252.3(a) of the rule establishes the Commission's determinations that specified EWPs do not exceed the lead content limits with a ''high degree of assurance,'' as that phrase is defined in 16 CFR part 1107.
- Section 1252.3(b) of the rule establishes the Commission's determinations that specified EWPs do not exceed the solubility limits for ASTM F963 elements with a ''high degree of assurance,'' as that phrase is defined in 16 CFR part 1107.
- Section 1252.3(c) of the rule establishes the Commission's determinations that specified EWPs do not exceed the phthalates content limits, with the exception of hardwood plywood containing PVAc, with a ''high degree of assurance,'' as that phrase is defined in 16 CFR part 1107.
- Section 1252.3(d) of the rule provides that accessible component parts of children's products, children's toys, and child care articles made with the specified EWPs, are not required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.
- Section 1252.3(e) of the rule is clarified to state that accessible component parts of children's products, children's toys, and child care articles made with engineered wood products not listed in paragraphs (a)–(c) of this section, or with post-consumer wood waste, are required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107 and sections 101, 106, or 108 of the CPSIA, as applicable.

E. Effective Date

The Administrative Procedure Act (APA) generally requires that a substantive rule must be published not less than 30 days before its effective date. 5 U.S.C. 553(d)(1). Because the final rule provides relief from existing testing requirements under the CPSIA, the Commission concludes that 30 days is sufficient. Thus, the effective date is July 23, 2018.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires agencies to consider the impact of proposed and final rules on small entities, including small businesses. Section 604 of the RFA requires that agencies prepare a final regulatory flexibility analysis (FRFA) when promulgating final rules, unless the head of the agency certifies that the rule will not have a significant impact on a substantial number of small entities. The FRFA must describe the impact of the rule on small entities. CPSC staff prepared a FRFA, which is summarized below.

CPSC staff's review shows that comprehensive estimates of the number of children's products, children's toys, and child care articles that contain component parts made from the specified engineered woods are not available. However, based on the number of domestic producers and sellers of these products, staff believes that a substantial number of small entities could be impacted by this regulation. Staff's review indicates that there are approximately 81,505 small firms that manufacture or distribute children's products, children's toy or child care articles (6,976 manufacturers + 26,124 wholesalers + 48,405 retailers). Even if only a small proportion of these firms manufacture or sell products using the EWPs of interest, staff finds that a

substantial number would benefit from the reduced testing burden. The impact of the determinations on small businesses would be to reduce the burden of third party testing for firms and are expected to be entirely beneficial. The current cost of testing, on a per-test basis, is reflective of the expected cost reductions that would result from the determinations, and are as follows:

• Lead—The cost of lead testing ranges from $50 to more than $100 per component through Inductively Coupled Plasma (ICP) testing. If one uses X-ray fluorescence (XRF) spectrometry, which is an acceptable method for certification of third party testing for lead content, the costs can be greatly reduced to approximately $5 per component. If a component part made with one of the specified engineered woods is painted, the component part would be exempt from the third party testing requirement, but the paint would still require lead testing.

• ASTM F963 Elements—Based on published invoices and price lists, the cost of a third party test for the ASTM F963 elements ranges from around $60 in China, up to around $190 in the United States, using ICP. This cost can be greatly reduced with the use of high definition X-ray fluorescence spectrometry (HDXRF), which is an acceptable method for certification of third party testing for the presence of the ASTM elements. The cost can be reduced to about $40 per component part. It should be noted that lead is one of the ASTM elements, so this testing would also cover the cost of lead testing for component parts.

• Phthalates—The cost of phthalate testing is relatively high: between about $125 and $350 per component, depending upon where the testing is conducted and any discounts that are applicable. Because one product might have multiple components that require testing, the cost of testing a single product for phthalates could exceed $1,000 in some cases. Moreover, more than one sample might have to be tested to provide a high degree of assurance of compliance with the requirements for testing.

To the extent that small businesses have lower production or lower sales volume than larger businesses, these determinations would be expected to have a disproportionately beneficial impact on small businesses. This beneficial impact is due to spreading the costs of the testing over fewer units. However, small entities that need fewer third party tests may not qualify for discounts that some laboratories may offer their larger customers. In addition, the possible benefits associated with the determinations might be somewhat lower to the extent that firms were already taking advantage of component part testing as allowed by 16 CFR part 1109. Additionally, some firms have reduced their testing costs by using XRF or HDXRF technology, which is less expensive than ICP, and would reduce the marginal benefit of these determinations.

The determinations would not impose any new reporting, recordkeeping, or other compliance requirements on small entities. In fact, because the rule would eliminate a testing requirement, there would be a small reduction in some of the recordkeeping burden under 16 CFR parts 1107 and 1109 because manufacturers would no longer have to maintain records of third party tests for the component parts manufactured from these engineered woods for lead, the ASTM F963 elements, or the specified phthalates. Based on staff's review, the Commission finds that the burden reduction from this determination rule could potentially result in significant benefits for a substantial number of manufacturers, importers, or retailers of the relevant product categories.

Under section 604 of the Regulatory Flexibility Act, a FRFA should include a ''statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.'' The final rule is itself, the result of CPSC's efforts to reduce third party testing costs consistent with assuring compliance with all applicable consumer product safety rules. Therefore, CPSC considered few alternatives, other than expanding the list of engineered woods for which determinations could be made. CPSC staff identified these three types of EWPs for study, based on stakeholder feedback, the likelihood of being used in products subject to children's product, children's toy, or child care article certification requirements, and available resources. However, the Commission did not receive any other comments or other information on any additional engineered wood materials for further burden-reduction activities.

G. Environmental Considerations

The Commission's regulations provide a categorical exclusion for most Commission rules from any requirement to prepare an environmental assessment or an environmental impact statement because they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required. The Commission's regulations state that safety standards for products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this rule alters that expectation.

List of Subjects in 16 CFR Part 1252

Business and industry, Consumer protection, Imports, Infants and children, Product testing and certification, Toys.

■ For the reasons stated in the preamble, the Commission amends title 16 of the CFR by adding part 1252 to read as follows:

PART 1252—CHILDREN'S PRODUCTS, CHILDREN'S TOYS, AND CHILD CARE ARTICLES: DETERMINATIONS REGARDING LEAD, ASTM F963 ELEMENTS, AND PHTHALATES FOR ENGINEERED WOOD PRODUCTS

Sec.
1252.1 Children's products, children's toys, and child care articles containing lead, ASTM F963 elements, and phthalates in engineered wood products and testing requirements.
1252.2 Definitions.
1252.3 Determinations for engineered wood products.

Authority: Sec. 3, Pub. L. 110–314, 122 Stat. 3016; 15 U.S.C. 2063(d)(3)(B).

§ 1252.1 Children's products, children's toys, and child care articles containing lead, ASTM F963 elements, and phthalates in engineered wood products and testing requirements.

(a) Section 101(a) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) provides that any children's product, material, or component part or a children's product must comply with a lead content limit that does not exceed 100 parts per million. Materials used in children's products subject to section 101 of the CPSIA must comply with the third party testing requirements of section 14(a)(2) of the Consumer Product Safety Act (CPSA), unless listed in 16 CFR 1500.91.

(b) Section 106 of the CPSIA made provisions of ASTM F963, Consumer Product Safety Specifications for Toy Safety, a mandatory consumer product safety standard. Among the mandated provisions is section 4.3.5 of ASTM F963 which requires that surface coating materials and accessible substrates of children's toys that can be sucked, mouthed, or ingested, must comply with solubility limits that the toy standard establishes for eight elements. Materials used in children's toys subject to section

4.3.5 of the toy standard must comply with the third party testing requirements of section 14(a)(2) of the CPSA, unless listed in 16 CFR 1251.2.

(c) Section 108(a) of the CPSIA permanently prohibits any children's toy or child care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP). In accordance with section 108(b)(3) of the CPSIA, 16 CFR part 1307 prohibits any children's toy or child care article that contains concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisobutyl phthalate (DIBP), di-*n*-pentyl phthalate (DPENP), di-*n*-hexyl phthalate (DHEXP), or dicyclohexyl phthalate (DCHP). Materials used in children's toys and child care articles subject to section 108(a) of the CPSIA and 16 CFR part 1307 must comply with the third party testing requirements of section 14(a)(2) of the CPSA, unless listed in 16 CFR 1308.2.

§ 1252.2 Definitions.

In addition to the definitions given in sections 101, 106, and 108 of the CPSIA, the following definitions apply for this part 1252.

Post-consumer wood waste describes wood waste that is comprised of materials that are recovered from their original use and subsequently used in a new product. Examples of this type of waste include recycled demolition wood, packaging materials such as pallets and crates, used wood from landscape care (*i.e.,* from urban and highway trees, hedges, and gardens), discarded furniture, and waste wood from industrial, construction, and commercial activities.

Pre-consumer wood waste describes wood materials that have been recycled from an industrial process before being made available for consumer use. Examples of this type of waste include trimmings from engineered wood product (EWP) panel manufacturing, sawdust from cutting logs, or remaining wood pieces from sawing a log into framing lumber.

Unfinished means an EWP that does not have any surface treatments applied at manufacture, such as factory-applied coatings. Examples of such treatments may include paint or similar surface coating materials, wood glue, or metal fasteners, such as nails or screws.

Untreated means an EWP that does not have any additional finishes applied at manufacture. Examples of such finishes may include flame retardants or rot resistant finishes.

Virgin wood describes wood logs, fibers, chips, or layers that have not been recycled from a previous use.

§ 1252.3 Determinations for engineered wood products.

(a) The following engineered wood products do not exceed the lead content limits with a high degree of assurance as that term is defined in 16 CFR part 1107:

(1) Particleboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste;

(2) Hardwood plywood that is untreated and unfinished made from virgin wood or pre-consumer wood waste; and

(3) Medium-density fiberboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste.

(b) The following engineered wood products do not exceed the ASTM F963 elements solubility limits set forth in 16 CFR part 1250 with a high degree of assurance as that term is defined in 16 CFR part 1107:

(1) Particleboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste;

(2) Hardwood plywood that is untreated and unfinished made from virgin wood or pre-consumer wood waste; and

(3) Medium-density fiberboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste.

(c) The following engineered wood products do not exceed the phthalates content limits with a high degree of assurance as that term is defined in 16 CFR part 1107:

(1) Particleboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste;

(2) Hardwood plywood that is untreated and unfinished made from virgin wood or pre-consumer wood waste and does not contain polyvinyl acetate (PVAc) adhesive formulations; and

(3) Medium-density fiberboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste.

(d) Accessible component parts of children's products, children's toys, and child care articles made with EWPs, listed in paragraphs (a) through (c) of this section are not required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.

(e) Accessible component parts of children's products, children's toys, and child care articles made with engineered wood products not listed in paragraphs (a) through (c) of this section, or that contain post-consumer wood waste, are required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107 and sections 101, 106, or 108 of the CPSIA, as applicable.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–13392 Filed 6–21–18; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2018–0021]

RIN 0960–AI36

Extension of Sunset Date for Attorney Advisor Program

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are extending for one year our rule authorizing attorney advisors to conduct certain prehearing proceedings and to issue fully favorable decisions. The current rule is scheduled to expire on August 3, 2018. In this final rule, we are extending the sunset date to August 2, 2019. We are making no other substantive changes.

DATES: This final rule is effective June 22, 2018.

FOR FURTHER INFORMATION CONTACT: Susan Swansiger, Office of Hearings Operations, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041, (703) 605–8500. For information on eligibility or filing for benefits, call our national toll-free number, 800–772–1213 or TTY 800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

Background of the Attorney Advisor Program

On August 9, 2007, we issued an interim final rule permitting some attorney advisors to conduct certain prehearing proceedings and issue fully favorable decisions when the documentary record warrants doing so. 72 FR 44763. We instituted this practice to provide more timely service to the increasing number of applicants for Social Security disability benefits and Supplemental Security Income payments based on disability. We considered the public comments we received on the interim final rule, and on March 3, 2008, we issued a final rule without change. 73 FR 11349. Under this rule, some attorney advisors may

develop claims and, in appropriate cases, issue fully favorable decisions before a hearing.

We originally intended the attorney advisor program to be a temporary modification to our procedures. Therefore, we included in sections 404.942(g) and 416.1442(g) of the interim final rule a provision that the program would end on August 10, 2009, unless we decided to either terminate the rule earlier or extend it beyond that date by publication of a final rule in the **Federal Register**. Since that time, we have periodically extended the sunset date (see 74 FR 33327 extending to August 10, 2011; 76 FR 18383 extending to August 9, 2013; 78 FR 45459 extending to August 7, 2015; 80 FR 31990 extending to August 4, 2017; and 82 FR 34400 extending to February 5, 2018). As we noted above, the current sunset date for the program is August 3, 2018. 83 FR 711.

Explanation of Extension

We published the final rule to adopt without change the interim final rule that we published on August 9, 2007. We stated our intent to monitor the program closely and to modify it if it did not meet our expectations. 73 FR 11349.

We explained in the 2008 final rule that the number of requests for hearings had increased significantly in recent years. From 2008 to the present, the number of pending hearing requests has continued to remain at a high level, and we anticipate that we will receive several hundred thousand hearing requests in fiscal year 2018 and in fiscal year 2019.[1] We are extending the program at this time while we continue to consider our options with respect to the program.

To preserve the maximum degree of flexibility and manage our hearings-level workloads effectively, we have decided to extend the attorney advisor rule until August 2, 2019. As before, we reserve the authority to end the program earlier, to extend it by publishing a final rule in the **Federal Register**, or to discontinue it altogether.

Regulatory Procedures

Justification for Issuing Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. We have determined that good cause exists for dispensing with the notice and public comment procedures for this rule. 5 U.S.C. 553(b)(B). Good cause exists because this final rule only extends the expiration date of an existing rule. It makes no substantive changes to the rule. The current regulations expressly provide that we may extend or terminate this rule. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this rule as a final rule.

In addition, because we are not making any substantive changes to the existing rule, we find that there is good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d)(3). To ensure that we have uninterrupted authority to use attorney advisors to address the number of pending cases at the hearing level, we find that it is in the public interest to make this final rule effective on the date of publication.

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and although we do not believe that this will be a significant regulatory action under Executive Order (E.O.) 12866, as supplemented by E.O. 13563, OMB has reviewed this final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

20 CFR Part 416

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Nancy A. Berryhill,

Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart J of part 404 and subpart N of part 416 of Chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J—[Amended]

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. In § 404.942, revise paragraph (g) to read as follows:

§ 404.942 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on August 2, 2019, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N—[Amended]

■ 3. The authority citation for subpart N continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 4. In § 416.1442, revise paragraph (g) to read as follows:

§ 416.1442 Prehearing proceedings and decisions by attorney advisors.

* * * * *

[1] Our budget estimates indicate that we expect to receive approximately 582,000 hearing requests in fiscal year 2018 and 578,000 in fiscal year 2019 (available at: *https://www.ssa.gov/budget/FY19Files/2019CJ.pdf*).

(g) *Sunset provision.* The provisions of this section will no longer be effective on August 2, 2019, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

[FR Doc. 2018–13359 Filed 6–21–18; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2018–N–1929]

Medical Devices; Immunology and Microbiology Devices; Classification of the Next Generation Sequencing Based Tumor Profiling Test

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the next generation sequencing based tumor profiling test into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the next generation sequencing based tumor profiling test's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective June 22, 2018. The classification was applicable on November 15, 2017.

FOR FURTHER INFORMATION CONTACT: Scott McFarland, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4676, Silver Spring, MD, 20993–0002, 301–796–6217, *Scott.McFarland@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the next generation sequencing based tumor profiling test as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act to a predicate device that does not require premarket approval (see 21 U.S.C. 360c(i)). We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act and Part 807 (21 U.S.C. 360(k) & 21 CFR part 807, respectively).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act (21 U.S.C. 360c(f)(2)). Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act (21 U.S.C. 360c(a)(1)). Although the device was automatically within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or PMA in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On September 25, 2017, Memorial Sloan-Kettering Cancer Center Department of Pathology submitted a request for De Novo classification of the MSK–IMPACT (Integrated Mutation Profiling of Actionable Cancer Targets). FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on November 15, 2017, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 866.6080. We have named the generic type of device next generation sequencing (NGS) based tumor profiling test, and it is identified as a qualitative in vitro diagnostic test intended for NGS analysis of tissue

specimens from malignant solid neoplasms to detect somatic mutations in a broad panel of targeted genes to aid in the management of previously diagnosed cancer patients by qualified health care professionals.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—NEXT GENERATION SEQUENCING BASED TUMOR PROFILING TEST RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measures
Incorrect performance of the test leading to false positives, false negatives.	General controls and Special control (1) (21 CFR 866.6080(b)(1)).
Incorrect interpretation of test results	General controls; Special control (1)(21 CFR 866.6080(b)(1)(iii)(E)); and Special control (2) (21 CFR 866.6080(b)(2)).

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. In order for a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k).

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collection of information in part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collection of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR parts 801 and 809, regarding labeling have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l*, 371.

■ 2. Add § 866.6080 to subpart G to read as follows:

§ 866.6080 Next generation sequencing based tumor profiling test.

(a) *Identification.* A next generation sequencing (NGS) based tumor profiling test is a qualitative in vitro diagnostic test intended for NGS analysis of tissue specimens from malignant solid neoplasms to detect somatic mutations in a broad panel of targeted genes to aid in the management of previously diagnosed cancer patients by qualified health care professionals.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Premarket notification submissions must include the following information:

(i) A detailed description of all somatic mutations that are intended to be detected by the test and that are adequately supported in accordance with paragraph (b)(1)(v) of this section and reported in the test results in accordance with paragraph (b)(2)(iv) of this section, including:

(A) A listing of mutations that are cancer mutations with evidence of clinical significance.

(B) As appropriate, a listing of mutations that are cancer mutations with potential clinical significance.

(ii) The indications for use must specify the following:

(A) The test is indicated for previously diagnosed cancer patients.

(B) The intended specimen type(s) and matrix (*e.g.,* formalin-fixed, paraffin-embedded tumor tissue).

(C) The mutation types (*e.g.,* single nucleotide variant, insertion, deletion, copy number variation or gene rearrangement) for which validation data has been provided.

(D) The name of the testing facility or facilities, as applicable.

(iii) A detailed device description including the following:

(A) A description of the test in terms of genomic coverage, as follows:

(*1*) Tabulated summary of all mutations reported, grouped according to gene and target region within each gene, along with the specific cDNA and amino acid positions for each mutation.

(*2*) A description of any within-gene targeted regions that cannot be reported and the data behind such conclusion.

(B) Specifications for specimen requirements including any specimen collection devices and preservatives, specimen volume, minimum tumor content, specimen handling, DNA extraction, and criteria for DNA quality and quantity metrics that are prerequisite to performing the assay.

(C) A detailed description of all test components, reagents, instrumentation, and software required. Detailed documentation of the device software including but not limited to, software applications and hardware-based devices that incorporate software.

(D) A detailed description of the methodology and protocols for each step of the test, including description of the quality metrics, thresholds, and filters at each step of the test that are implemented for final result reporting and a description of the metrics for run-failures, specimen-failures, invalids, as applicable.

(E) A list of links provided by the device to the user or accessed by the device for internal or external information (*e.g.,* decision rules or databases) supporting clinical significance of test results for the panel

or its elements in accordance with paragraphs (b)(1)(v) and (b)(2)(vi) of this section.

(F) A description of internal and external controls that are recommended or provided and control procedures. The description must identify those control elements that are incorporated into the testing procedure.

(iv) Information demonstrating analytical validity of the device according to analytical performance characteristics, evaluated either specifically for each gene/mutation or, when clinically and practically justified, using a representative approach based on other mutations of the same type, including:

(A) Data that adequately supports the intended specimen type (*e.g.,* formalin-fixed, paraffin-embedded tumor tissue), specimen handling protocol, and nucleic acid purification for specific tumor types or for a pan-tumor claim.

(B) A summary of the empirical evidence obtained to demonstrate how the analytical quality metrics and thresholds were optimized.

(C) Device precision data using clinical samples to adequately evaluate intra-run, inter-run, and total variability. The samples must cover all mutation types tested (both positive and negative samples) and include samples near the limit of detection of the device. Precision must be assessed by agreement within replicates on the assay final result for each representative mutation, as applicable, and also supported by sequencing quality metrics for targeted regions across the panel.

(D) Description of the protocols and/or data adequately demonstrating the interchangeability of reagent lots and multiplexing barcodes.

(E) A description of the nucleic acid assay input concentration range and the evidence to adequately support the range.

(F) A description of the data adequately supporting the limit of detection of the device.

(G) A description of the data to adequately support device accuracy using clinical specimens representing the intended specimen type and range of tumor types, as applicable.

(*1*) Clinical specimens tested to support device accuracy must adequately represent the list of cancer mutations with evidence of clinical significance to be detected by the device.

(*2*) For mutations that are designated as cancer mutations with evidence of clinical significance and that are based on evidence established in the intended specimen type (*e.g.,* tumor tissues) but for a different analyte type (*e.g.,* protein, RNA) and/or a measurement (*e.g.,* incorporating a score or copy number) and/or with an alternative technology (*e.g.,* IHC, RT-qPCR, FISH), evidence of accuracy must include clinically adequate concordance between results for the mutation and the medically established biomarker test (*e.g.,* evidence generated from an appropriately sized method comparison study using clinical specimens from the target population).

(*3*) For qualitative DNA mutations not described in paragraph (b)(1)(iv)(G)(*2*) of this section, accuracy studies must include both mutation-positive and wild-type results.

(H) Adequate device stability information.

(v) Information that adequately supports the clinical significance of the panel must include:

(A) Criteria established on what types and levels of evidence will clinically validate a mutation as a cancer mutation with evidence of clinical significance versus a cancer mutation with potential clinical significance.

(B) For representative mutations of those designated as cancer mutations with evidence of clinical significance, a description of the clinical evidence associated with such mutations, such as clinical evidence presented in professional guidelines, as appropriate, with method comparison performance data as described in paragraph (b)(1)(iv)(G) of this section.

(C) For all other mutations designated as cancer mutations with potential clinical significance, a description of the rationale for reporting.

(2) The 21 CFR 809.10 compliant labeling and any product information and test report generated, must include the following, as applicable:

(i) The intended use statement must specify the following:

(A) The test is indicated for previously diagnosed cancer patients.

(B) The intended specimen type(s) and matrix (*e.g.,* formalin-fixed, paraffin-embedded tumor tissue).

(C) The mutation types (*e.g.,* single nucleotide variant, insertion, deletion, copy number variation or gene rearrangement) for which validation data has been provided.

(D) The name of the testing facility or facilities, as applicable.

(ii) A description of the device and summary of the results of the performance studies performed in accordance with paragraphs (b)(1)(iii), (b)(1)(iv), and (b)(1)(v) of this section.

(iii) A description of applicable test limitations, including, for device specific mutations validated with method comparison data to a medically established test in the same intended specimen type, appropriate description of the level of evidence and/or the differences between next generation sequencing results and results from the medically established test (*e.g.,* as described in professional guidelines).

(iv) A listing of all somatic mutations that are intended to be detected by the device and that are reported in the test results under the following two categories or equivalent designations, as appropriate: ''cancer mutations panel with evidence of clinical significance'' or ''cancer mutations panel with potential clinical significance.''

(v) For mutations reported under the category of ''cancer mutations panel with potential clinical significance,'' a limiting statement that states ''For the mutations listed in [cancer mutations panel with potential clinical significance or equivalent designation], the clinical significance has not been demonstrated [with adequate clinical evidence (*e.g.,* by professional guidelines) in accordance with paragraph (b)(1)(v) of this section] or with this test.''

(vi) For mutations under the category of ''cancer mutations panel with evidence of clinical significance,'' or equivalent designation, link(s) for physicians to access internal or external information concerning decision rules or conclusions about the level of evidence for clinical significance that is associated with the marker in accordance with paragraph (b)(1)(v) of this section.

Dated: June 18, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–13406 Filed 6–21–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[SATS No. AL–080–FOR; Docket ID: OSM–2016–0011; S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520]

Alabama Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement

(OSMRE), are approving an amendment to the Alabama Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter, the Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Alabama proposed updates to their Plan with changes required by the 2006 Amendments to SMCRA.

DATES: The effective date is July 23, 2018.

FOR FURTHER INFORMATION CONTACT: William L. Joseph, Acting Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209. Telephone: (205) 290–7282. Email: *bjoseph@osmre.gov.*

SUPPLEMENTARY INFORMATION:

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

I. Background on the Alabama Plan

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act, (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. Background information on the Alabama Plan, including the Secretary's findings, the disposition of comments, and the approval of the Plan, is found in the May 20, 1982, **Federal Register** (47 FR 22057). Later actions concerning the Alabama Plan and amendments to the Plan, are found at 30 CFR 901.20 and 901.25.

II. Submission of the Amendment

By letter dated June 7, 2016 (Administrative Record No. AL–0670), Alabama sent OSMRE an amendment to its Plan under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative.

We announced receipt of the proposed amendment in the April 7, 2017, **Federal Register** (82 FR 16975). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on May 8, 2017. We did not receive any public comments.

During OSMRE's review, several minor deficiencies were noted, including section numbering inconsistencies and the lien language in the ''Reclamation of Private Land'' section. By letter dated July 17, 2017 (Administrative Record No. AL–0670–02), OSMRE requested that Alabama address these minor deficiencies. Because these requested changes were minor, Alabama was given the option to either incorporate the changes or withdraw the amendment and resubmit the Plan amendment at a later date. By letter dated July 28, 2017 (Administrative Record No. AL–0670–03), Alabama returned a revised Plan amendment correcting the deficiencies and the amendment process resumed.

III. OSMRE's Findings

We are approving the amendment as described below. The following are the findings we made concerning Alabama's amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. Any revisions that we do not specifically discuss below concerning non-substantive wording or editorial changes can be found in the full text of the Plan amendment available at *www.regulations.gov.*

Alabama Reclamation Plan

1. Governor's Letter of Designation [30 CFR 884.13(a)(1)]

Alabama included a 1979 letter from the Governor designating the Alabama Department of Industrial Relations, now known as the Alabama Department of Labor (ADOL), as the agency responsible for the abandoned mine lands reclamation program in the state of Alabama. This letter was submitted and approved as part of the original proposed reclamation plan and is consistent with the Federal requirements of 30 CFR 884.13(a)(1). Therefore, we are approving its inclusion.

2. Legal Opinion [30 CFR 884.13(a)(2)]

Alabama included a 1981 legal opinion from the Attorney General of Alabama authorizing the Alabama Department of Industrial Relations, under the legal authority of Alabama law, to conduct its reclamation program in accordance with the requirements of Title IV of the Act. This legal opinion was submitted and approved as part of the original proposed reclamation plan and is consistent with the Federal requirements of 30 CFR 884.13(a)(2). Therefore, we are approving its inclusion.

3. Purpose, Goals and Objectives [30 CFR 884.13(a)(3)(i)]

Alabama, in section 884.13(a)(3)(i) of the Plan, stated that the goal of its AMLR Plan is to amend those adverse effects of past coal mining conducted prior to August 3, 1977, which impact public health, safety, or general welfare, and cause environmental degradation. The stated objectives of the AMLR Plan are to identify and prioritize these adverse impacts, provide planning procedures, and affect their ultimate reclamation. Alabama also stated that, although the primary purpose of the program is the reclamation of coal mine lands, any non-coal AML issues will be dealt with in accordance with OSMRE policies. ADOL elected to set aside up to the maximum amount allowed by OSMRE of each year's allocation of AML funds into a separate fund for the abatement of the causes and treatment of the effects of acid mine drainage. These funds are used in accordance with all applicable State and Federal regulations and are used to achieve the priorities of SMCRA. The program purpose, goals, and objectives are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(i). Therefore, we are approving their inclusion.

4. Project Ranking, Selection and Development Procedures [30 CFR 884.13(a)(3)(ii)]

Alabama, in section 884.13(a)(3)(ii) of the Plan, described the priority system and the specific criteria for identifying and ranking all sites eligible for reclamation under Title IV of the Act. Examples of eligible site problems include: Open and unprotected mine entries; open shafts; hazardous highwalls and other steep embankments; hazardous mine structures; underground mine subsidence; trash dumps on mine lands; water bodies adversely affected by coal mine drainage; dangerous impoundments; and any other mine related danger. The sites given highest priority are those exhibiting extreme danger to public health, safety, and property from adverse effects of coal mining practices. The sites given the second highest priority are those exhibiting adverse effects of coal mining practices that may impact public health and safety. The sites given third priority for restoration are those land and water resources previously degraded by

adverse effects of coal mining, including measures for the conservation and development of soil, water, woodland, fish and wildlife, recreational resources, and agricultural productivity. The three priority categories described are consistent with Section 403(a) of SMCRA. Alabama also describes ADOL's data acquisition procedures in determining site eligibility, which include the review of past mining records (available in the OSMRE's Abandoned Mine Land Inventory System (e-AMLIS)), site inventories, field investigations, and public input. Alabama states that site priority will be determined for all eligible sites, regardless of resource recovery potential, and that any resource recovery will be undertaken in accordance with Federal rules. Any remined sites will remain eligible for AML reclamation. These descriptions are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(ii). Therefore, we are approving their inclusion.

5. Coordination With Other Programs [30 CFR 884.13(a)(3)(iii)]

Alabama, in section 884.13(a)(3)(iii) of the Plan, described ADOL's coordination with other agencies. The ADOL AML Program coordinates with other State divisions such as the Alabama Department of Environmental Management (ADEM), the State Historic Preservation Office (SHPO), and the Alabama Department of Conservation and Natural Resources (ADCNR), to review proposed reclamation projects, provide assistance, and offer expertise to ensure that reclamation activities restore adversely impacted land and water to a productive state while protecting natural and historic/cultural resources. ADOL maintains an annual cooperative agreement with a non-profit organization, the Walker County Soil and Water Conservation District Board (WCB), which funds and oversees a reclamation group that performs reclamation and maintenance on AML sites and responds to AML emergencies. Historically, several major and minor tribes occupied Alabama; however, no tribal reservations were historically or are currently located in the areas where AML reclamation presently takes place within the Alabama Coal Region. Consultations concerning potential cultural resource impacts are conducted through the SHPO's Alabama Historical Commission through the NEPA review process. Alabama also describes the purpose of its AML Emergency Program, which is to stabilize the emergency aspects of an AML problem by eliminating the immediate danger to public health, safety, or general welfare. The AML Emergency Program is discussed further in Section 8, ''Rights of Entry.'' This description of agency coordination is consistent with the Federal requirements of 30 CFR 884.13(a)(3)(iii). Therefore, we are approving its inclusion.

6. Land Acquisition, Management, and Disposal [30 CFR 884.13(a)(3)(iv)]

Alabama, in section 884.13(a)(3)(iv) of the Plan, stated that ADOL may acquire, manage, and dispose of lands that have been adversely affected by coal mining activity, if deemed necessary, pursuant to Section 407 of SMCRA, 30 U.S.C. 1237, and Code of Alabama Section 9–16–127. These acquisition, management, and disposition policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(iv). Therefore, we are approving their inclusion.

7. Reclamation of Private Land [30 CFR 884.13(a)(3)(v)]

Alabama, in section 884.13(a)(3)(v) of the Plan, described its policies and procedures for reclamation on private land. Under its Plan, the ADOL State Programs Administrator has the authority to place or waive a lien against private property if the owner has consented to, participated in, or exercised control over the mining operation, and if reclamation will result in a significant increase in property value. If an initial evaluation suggests an increase in property value of $25,000 or more, the land appraisal may be conducted by an independent appraiser. The Administrator will determine whether to place or waive a lien based on both the independent appraisal findings and other relevant facts, in accordance with Code of Alabama Section 9–16–129. During OSMRE's review, it was noted that this section of the Plan, as well as the referenced Alabama state law (Code of Alabama Section 9–16–129), fails to address the full requirements of 30 CFR 882.13(b) in regard to notifying the landowner of the proposed lien and allowing the landowner a reasonable time to pay that amount in lieu of filing the lien. On July 17, 2017 (Administrative Record No. AL–0670–02), OSMRE requested that Alabama add this lien language to its proposed Plan. On July 28, 2017, Alabama returned a revised Plan which incorporated the additional lien language. These revised policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(v) and 882.13(b). Therefore, we are approving this inclusion.

8. Rights of Entry [30 CFR 884.13(a)(3)(vi)]

Alabama, in section 884.13(a)(3)(vi) and (iii) of the Plan, stated its policies and procedures regarding rights of entry to lands or property. Pursuant to Code of Alabama Section 9–16–126, ADOL will take all reasonable actions to obtain advance written consent from the property owner for the purposes of reclamation. In the event that permission cannot be obtained on properties where reclamation is needed and there is an immediate danger to public health, safety, or general welfare, police power entry is authorized under the AML Emergency Program. If police power entry is necessary, a written notice must be mailed to the property owner at least 30 days prior to entry. If the property owner's address is not known, the notice must be posted on the property and advertised in the newspaper. These policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(vi). Therefore, we are approving their inclusion.

9. Public Participation Policies [30 CFR 884.13(a)(3)(vii)]

Alabama, in section 884.13(a)(3)(vii) of the Plan, described its public participation policies in the development and operation of its Plan. The ADOL encourages the public to contact its office with any questions or concerns regarding mining related problems or the AML program, or to visit the ADOL Inspections Division Abandoned Mine Lands Program Office. For future projects, ADOL distributes notifications to Federal, State, and local elected officials, and publishes public notices to news outlets within the county where the proposed activity is located. If sufficient public response is received, a public meeting may be scheduled to provide information on proposed activities and address the concerns of the citizens. Additional public involvement in the preparation of any revisions or amendments to the AML Plan will be coordinated and executed by OSMRE during the public comment and review period. These policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(vii). Therefore, we are approving their inclusion.

10. Organization of the Designated Agency [30 CFR 884.13(a)(4)(i)]

Alabama, in section 884.13(a)(4)(i) of the Plan, described the organization of ADOL and its relationship to other State organizations that may become involved in its reclamation program. ADOL also

attached an updated organizational chart. The Inspections Division of ADOL reports to the Commissioner, via the State Programs Administrator. The Commissioner for ADOL reports directly to the Governor. The ADOL AML Program also coordinates with other State divisions such as the ADEM, SHPO, and the ADCNR to review proposed reclamation projects, provide assistance, and offer expertise to ensure that reclamation activities restore adversely impacted land and water to a productive state while protecting natural and historic/cultural resources. This description of agency organization is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(i). Therefore, we are approving its inclusion.

11. Personnel Staffing Policies [30 CFR 884.13(a)(4)(ii)]

Alabama, in section 884.13(a)(4)(ii) of the Plan, described the personnel staffing policies that will govern the assignment of personnel to its reclamation program. The program's staff is selected on the basis of applicable academic and professional experience. ADOL will be responsible for complying with all pertinent Federal and State laws. This description of agency personnel policies is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(ii). Therefore, we are approving its inclusion.

12. Purchasing and Procurement [30 CFR 884.13(a)(4)(iii)]

Alabama, in section 884.13(a)(4)(iii) of the Plan, stated that the purchasing and procurement systems used by ADOL will be in accordance with the requirements of Office of Management and Budget (OMB) Circular A–102, Attachment 0. Purchasing and procurement program staff is trained in all applicable State and Federal regulations and larger transactions are reviewed, if necessary, by the Alabama Department of Finance, the State Attorney General, the Alabama Department of Examiners of Public Accounts, and the State Auditor. Alabama also described its AML Applicant/Violator System (AVS), which ensures that no company owners, directors, or major shareholders bidding on AML Federally funded projects have any Federal coal mining violations or state cessation orders that would render them ineligible. Emergency program contractors are also required to meet AVS clearance requirements, unless an overriding need to proceed is determined. These systems are consistent with the Federal requirements of 30 CFR 884.13(a)(4)(iii). Therefore, we are approving their inclusion.

13. Accounting [30 CFR 884.13(a)(4)(iv)]

Alabama, in section 884.13(a)(4)(iv) of the Plan, described the ADOL's accounting system, including procedures for the operation of the State Abandoned Mine Reclamation Fund. The ADOL Finance Division is responsible for the proper accounting of Federal draws, income, and expenses, including the maintenance of records for annual audits conducted by the Alabama Department of Examiners of Public Accounts. AML projects, including administrative, operational, and construction costs, are grant-funded and detailed financial records are maintained for auditing purposes, in accordance with 30 CFR part 886 and OMB Circular A–102, Attachment 0. This system description is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(iv). Therefore, we are approving its inclusion.

14. Eligible Lands and Waters [30 CFR 884.13(a)(5)] [30 CFR 884.13(a)(5)(i)]

Alabama, in section 884.13(a)(5) and (a)(5)(i) of the Plan, included a list of documents and data sources offering general descriptions of known or suspected eligible lands and waters within the State of Alabama which potentially required reclamation at the time of publication. Alabama also included a list of counties, in order of significance which have either reported coal mining prior to 1978, currently have conditions associated with past surface mining practices, or currently have physical hazards or environmental conditions associated with past underground mining practices. Alabama also included a mine map repository showing the general location of known or suspected eligible lands and waters within the State which require reclamation. These descriptions are consistent with the Federal requirements of 30 CFR 884.13(a)(5) and (a)(5)(i). Therefore, we are approving their inclusion.

15. Environmental Problems and Reclamation Techniques [30 CFR 884.13(a)(5)(ii)] [30 CFR 884.13(a)(5)(iii)]

Alabama, in section 884.13(a)(5) through (a)(5)(iii) of the Plan, described the problems occurring on known or suspected lands and waters which require reclamation, including a table expressing the percentage of total abandoned mine lands affected by each problem or source. Examples of such problems include: Open shafts and portals; subsidence; highwalls; abandoned structures and equipment; insect or vermin vectors; water impoundments; waste banks; mine-related fires; landslide and flood hazards; pollution of domestic water supplies; erosion; sedimentation; reduced land potential; and aesthetic disamenities. Reclamation techniques to restore the site to an environmentally stable condition will be based on ADOL's site specific assessments, current industry construction standards, and the reclamation cost estimate procedures outlined in OSMRE Directive AML–1. These descriptions are consistent with the Federal requirements of 30 CFR 884.13(a)(5)(ii) and (iii). Therefore, we are approving their inclusion.

16. The Economic Base [30 CFR 884.13(a)(6)(i)]

Alabama, in section 884.13(a)(6)(i) of the Plan, described the economic base for the state's primary coal producing region, including population size, market accessibility, economic activities, such as agricultural products and manufacturing, and available mining resources. This description is consistent with the Federal requirements of 30 CFR 884.13(a)(6)(i). Therefore, we are approving its inclusion.

17. Significant Aesthetic, Historic, and Recreational Values [30 CFR 884.13(a)(6)(ii)]

Alabama, in section 884.13(a)(6)(ii) of the Plan, described the aesthetic, historic, and recreational values of Alabama. Alabama stated that, to ensure that all potential impacts of the reclamation process are mitigated, ADOL's Planning and Maintenance Branch will consult with the SHPO's Alabama Historical Commission. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(6)(ii). Therefore, we are approving its inclusion.

18. Flora and Fauna of the Northern One-Half of Alabama [30 CFR 884.13(a)(6)(iii)]

Alabama, in section 884.13(a)(6)(iii) of the Plan, stated that, during the planning stages of proposed AML reclamation projects, evaluations are conducted by the Planning and Maintenance Branch to determine the presence of wetlands, endangered species, and other environmental concerns. Recommendations are provided to enhance or improve wildlife habitat, and to preserve wetlands and other critical wildlife habitat during construction. During this process, ADOL consults with the U.S. Fish and Wildlife

Service to determine whether the project will adversely affect any Federally-listed threatened or endangered species and to develop appropriate mitigation measures and minimize disturbance, if necessary. ADOL also coordinates with the ADCNR and reviews the Outdoor Alabama Watchable Wildlife database to determine whether any important natural features are recorded at or near the proposed reclamation project. These descriptions are consistent with the Federal requirements of 30 CFR 884.13(a)(6)(iii). Therefore, we are approving their inclusion.

19. Locations of Documented Coal Mines in Alabama [30 CFR 884.13(a)(5)(i)]

Alabama included a mine map repository showing the general location of known or suspected eligible lands and waters within the State which require reclamation. This map repository is consistent with the Federal requirements of 30 CFR 884.13(a)(5)(i). Therefore, we are approving its inclusion.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment but did not receive any.

Federal Agency Comments

On June 27, 2016, under 30 CFR 884.14(a), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Alabama plan (Administrative Record No. AL–0670). We did not receive any comments.

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

Under 30 CFR 884.14(a)(2), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On June 27, 2016, we requested comments on Alabama's amendment (Administrative Record No. AL–0670), but neither the SHPO nor ACHP responded to our request.

V. OSMRE's Decision

Based on the above findings, we approve the revised amendment Alabama sent us on July 28, 2017 (Administrative Record No. AL–0670–03).

To implement this decision, we are amending the Federal regulations at 30 CFR part 901, that codify decisions concerning the Alabama Plan. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 405 of SMCRA requires that each state with an abandoned mine reclamation program must have an approved State regulatory program pursuant to Section 503 of the Act. Section 503(a) of the Act requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Instead, this rule approves an amendment to the Alabama Plan submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in Sections 2 and 3 of the Executive Order and with the principles of cooperative federalism as set forth in SMCRA. See, *e.g.,* 30 U.S.C. 1201(f). As such, pursuant to Section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the plan amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rulemaking on Federally-recognized Indian tribes and have determined that the rulemaking does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is that our decision is on a State AML program and does not involve Federal regulations involving Indian lands.

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

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

National Environmental Policy Act

This rulemaking does not require an environmental impact statement because it falls within a categorical exclusion within the meaning of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). It is documented in the DOI Departmental Manual, 516 DM 13.5(B)(29), that agency decisions on approval of state reclamation plans for abandoned mine lands do not constitute major Federal Actions.

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Small Business Regulatory Enforcement Fairness Act

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 31, 2018.

Paul Ehret,

Acting Regional Director, Mid-Continent Region.

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

PART 901—ALABAMA

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

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

■ 2. Section 901.25 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 901.25 Approval of Alabama abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
June 7, 2016	June 22, 2018	Abandoned Mine Land Reclamation Plan for the State of Alabama.

[FR Doc. 2018–13434 Filed 6–21–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 736

[Docket ID: USN–2018–HQ–0002]

RIN 0703–AB05

Disposition of Property

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes Department of the Navy regulations governing disposition of property, including surplus real property, warships, other surface vessels, personal property, and strategic materials. The disposal of surplus property is governed by standing authorities found within the U.S. Code. Further, disposal of surplus property is also governed by Department of Defense regulations entitled ''Defense Material Disposition.'' Therefore, this rule can be removed from the CFR.

DATES: This rule is effective on June 22, 2018.

FOR FURTHER INFORMATION CONTACT: James Omans at 703–614–5848.

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 a duplicative CFR part.

Removal of this part does not add or reduce the burden or cost on the public in any way. The cost of disposal of surplus property will remain the same with removal of the part.

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 736

Surplus Government property.

PART 736—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 736 is removed.

Dated: June 12, 2018.

E.K. Baldini,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2018–13409 Filed 6–21–18; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0541]

Drawbridge Operation Regulation; Cape Fear River, North Carolina, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the U.S. Route 76 (Cape Fear Memorial) Bridge across the Cape Fear River, mile 26.8, in Wilmington, NC. The deviation is necessary to facilitate routine maintenance. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective without actual notice from June 22, 2018 through 5 p.m. on November 30, 2018. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on June 15, 2018, until June 22, 2018.

ADDRESSES: The docket for this deviation, [USCG–2018–0541] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Mickey Sanders, Bridge Administration Branch, Fifth District, Coast Guard; telephone (757) 398–6587, email *Mickey.D.Sanders2@uscg.mil*.

SUPPLEMENTARY INFORMATION: The North Carolina Department of Transportation, owner and operator of the U.S. Route 76 (Cape Fear Memorial) Bridge across the Cape Fear River, mile 26.8, in Wilmington, NC, has requested a temporary deviation from the current operating schedule to accommodate routine maintenance.

Under this temporary deviation, the bridge will require a four hour advanced notice to open from 12:01 a.m. on June 15, 2018, to 5 p.m. on November 30, 2018. The current operating schedule is set out in 33 CFR 117.822.

The Cape Fear River is used by a variety of vessels including small commercial vessels, recreational vessels and tug and barge traffic. The Coast Guard has carefully considered the restrictions with waterway users in publishing this temporary deviation.

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

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

Dated: June 14, 2018.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2018–13386 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0480]

Recurring Safety Zone; Monongahela Area Chamber of Congress/ Monongahela 4th of July Celebration, Monongahela, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Monongahela Area Chamber of Congress/ Monongahela 4th of July Celebration, to provide for the safety of persons, vessels, and the marine environment on the Monongahela River during this event. Our regulation for marine events within the Eighth Coast Guard District identifies the regulated area for this event in Monongahela, PA. During the enforcement periods, entry into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 1, Line 45, will be enforced from 9 p.m. through 11 p.m. on July 4, 2018, with a rain date of July 5, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone for the Monongahela Area Chamber of Congress/Monongahela 4th of July Celebration in 33 CFR 165.801, Table 1, Line 45, from 9 p.m. through 11 p.m. on July 4, 2018, with a rain date of July 5, 2018. This action is being taken to provide for the safety of persons, vessels, and the marine environment on the Monongahela River during this event. Our regulation for marine events within the Eighth Coast Guard District, § 165.801, specifies the location of the safety zone for the Monongahela Area Chamber of Congress/Monongahela 4th of July Celebration, which covers a one-mile stretch of the Monongahela River. Entry into the safety zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the area must request permission from the COTP or a designated representative. They can be reached on VHF FM channel 16. If permission is granted, all persons and vessel shall comply with the instructions of the COTP or designated representative.

In addition to this notice of enforcement in the **Federal Register**, the COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNMs), Local Notices to Mariners (LNMs), Marine Safety Information Bulletins (MSIBs), and/or through other means of public notice as appropriate at least 24 hours in advance of each enforcement.

Dated: June 15, 2018.

L. McClain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.

[FR Doc. 2018–13394 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0479]

Recurring Safety Zone; Wellsburg 4th of July Committee/Wellsburg 4th of July Freedom Celebration, Wellsburg, WV

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Wellsburg 4th of July Committee/Wellsburg 4th of July Freedom Celebration, to provide for the safety of persons, vessels, and the marine environment on the navigable waters of Ohio River during this event. Our regulation for marine events within

the Eighth Coast Guard District identifies the regulated area for this event in Wellsburg, WV. During the enforcement periods, entry into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 1, Line 68, will be enforced from 9:30 p.m. through 11 p.m. on July 4, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone for the Wellsburg 4th of July Committee/Wellsburg 4th of July Freedom Celebration in 33 CFR 165.801, Table 1, Line 68, from 9:30 p.m. through 11 p.m. on July 4, 2018. This action is being taken to provide for the safety of persons, vessels, and the marine environment on the navigable waters of the Ohio River during this event. Our regulation for marine events within the Eighth Coast Guard District, § 165.801, specifies the location of the safety zone for the Wellsburg 4th of July Committee/Wellsburg 4th of July Freedom Celebration, which covers a one-mile stretch of the Ohio River. Entry into the safety zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the area must request permission from the COTP or a designated representative. They can be reached on VHF FM channel 16. If permission is granted, all persons and vessel shall comply with the instructions of the COTP or designated representative.

In addition to this notice of enforcement in the **Federal Register**, the COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNMs), Local Notices to Mariners (LNMs), Marine Safety Information Bulletins (MSIBs), and/or through other means of public notice as appropriate at least 24 hours in advance of enforcement.

Dated: June 15, 2018.

L. McClain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.

[FR Doc. 2018–13395 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0123]

RIN 1625–AA00

Safety Zone; Lavaca Bay, Point Comfort, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of Lavaca Bay, Point Comfort, TX. This action is necessary to provide for the safety of life on these navigable waters near Point Comfort Bayfront Park during a fireworks display. Entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Sector Corpus Christi or a designated representative.

DATES: This rule is effective from 7:30 p.m. through 9:30 p.m. on June 30, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0123 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Kevin Kyles, Waterways Management Division, U.S. Coast Guard; telephone 361–939–5125, email *Kevin.L.Kyles@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Corpus Christi
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

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. This safety zone must be established by June 30, 2018 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the scheduled date of the fireworks and compromise public safety.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with the fireworks display occurring on June 30, 2018 will be a safety concern for anyone within a 500-foot radius of the fireworks display. This rule is necessary to ensure the safety of life before, during, and after the scheduled firework displays.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 7:30 p.m. through 9:30 p.m. on June 30, 2018. The safety zone will cover all navigable waters within 500 feet of the fireworks launch location at Point Comfort Bayfront Park in the approximate position 28°40′52.93″ N, 096°33′47.723″ W, Point Comfort, TX. The duration of the zone is intended to protect the public from the fireworks display before, during, and after the scheduled fireworks display. The duration of the zone is intended to protect personnel, vessels, and the marine environment before, during, and after the scheduled firework displays.

Entry of vessels or persons into this zone is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi. Persons or vessels seeking to enter the safety zone must request permission from the COTP or a designated representative on VHF–FM

channel 16 or by telephone at 361–939–0450. All persons and vessels permitted to enter this safety zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will impact a small designated area of Lavaca Bay for about two hours on one evening when vessel traffic is normally low. Moreover, the Coast Guard will issue BNMs (via VHF–FM marine channel 16), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), about the zone. In addition, the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting two hours that would prohibit entry within 500 feet of the fireworks launch location. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0123 to read as follows:

§ 165.T08–0123 Safety Zone; Lavaca Bay, Point Comfort, TX.

(a) *Location.* The following area is a safety zone: All navigable waters of Lavaca Bay encompassing a 500 feet of the fireworks launch location at Point Comfort Bayfront Park in the approximate position 28°40′52.93″ N, 096°33′47.723″ W, Point Comfort, TX.

(b) *Effective period.* This section is effective from 7:30 p.m. through 9:30 p.m. on June 30, 2018.

(c) *Enforcement period.* This section will be enforced from 7:30 p.m. through 9:30 p.m. on June 30, 2018.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi.

(2) Persons or vessels seeking to enter the safety zone must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 361–939–0450.

(3) All persons and vessels permitted to enter this safety zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

Dated: June 15, 2018.

E.J. Gaynor,

Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.

[FR Doc. 2018–13428 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0426]

Recurring Safety Zone; EQT 4th of July Celebration, Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the EQT 4th of July Celebration to provide for the safety of persons, vessels, and the marine environment on the navigable waters of the Ohio, Allegheny, and Monongahela Rivers during this event. Our regulation for marine events within the Eighth Coast Guard District identifies the regulated area for this event in Pittsburgh, PA. During the enforcement periods, entry into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 1, Line 47, will be enforced from 9 p.m. through 11 p.m. on July 4, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Charles Morris, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Charles.F.Morris@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone for the EQT 4th of July Celebration in 33 CFR 165.801, Table 1, Line 47, from 9 p.m. through 11 p.m. on July 4, 2018. This action is being taken to provide for the safety of persons, vessels, and the marine environment on navigable waters of the Ohio, Allegheny, and Monongahela Rivers during this event. Our regulation for marine events within the Eighth Coast Guard District, § 165.801, specifies the location of the safety zone for the EQT 4th of July Celebration, which covers a less than one-mile stretch of the Ohio, Allegheny, and Monongahela Rivers. Entry into the safety zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. Persons or vessels desiring to enter the safety zone must request permission from the COTP or a designated representative. They can be reached on VHF FM channel 16. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

In addition to this notice of enforcement in the **Federal Register**, the COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), Marine Safety Information Bulletins (MSIBs), and/or through other means of public notice as appropriate at least 24 hours in advance of enforcement.

Dated: June 15, 2018.

L. McClain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.

[FR Doc. 2018–13393 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0507]

RIN 1625–AA00

Safety Zone: San Francisco Giants Fireworks Display, San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone in the navigable waters of the San Francisco Bay near AT&T Park in support of the San Francisco Giants Fireworks Display on June 22, 2018. This safety zone is established to ensure the safety of participants and spectators from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective from 11:00 a.m. to 10:45 p.m. on June 22, 2018.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2018–0507. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Emily

Rowan, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7443 or email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

APA Administrative Procedure Act
COTP U.S. Coast Guard Captain on the Port
DHS Department of Homeland Security
FR Federal Register
NOAA National Oceanic and Atmospheric Administration
NPRM Notice of Proposed Rulemaking
PATCOM U.S. Coast Guard Patrol Commander
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Since the Coast Guard received notice of this event on May 26, 2018, notice and comment procedures would be impracticable in this instance.

For similar reasons as those stated above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) San Francisco has determined that potential hazards associated with the planned fireworks display on June 22, 2018, will be a safety concern for anyone within a 100-foot radius of the fireworks barge and anyone within a 700-foot radius of the fireworks firing site. This rule is needed to protect spectators, vessels, and other property from hazards associated with pyrotechnics.

IV. Discussion of the Rule

This rule establishes a temporary safety zone during the loading and transit of the fireworks barge, until after completion of the fireworks display. During the loading of the pyrotechnics onto the fireworks barge, scheduled to take place from 11:00 a.m. to 5:00 p.m. on June 22, 2018, at Pier 50 in San Francisco, CA, the safety zone will encompass the navigable waters around and under the fireworks barge within a radius of 100 feet.

The fireworks barge will remain at Pier 50 until the start of its transit to the display location. Towing of the barge from Pier 50 to the display location is scheduled to take place from 8:30 p.m. to 9:00 p.m. on June 22, 2018, where it will remain until the conclusion of the fireworks display.

At 9:30 p.m. on June 22, 2018, 30 minutes prior to the commencement of the 15-minute fireworks display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius of 700 feet in approximate position 37°46′36″ N, 122°22′56″ W (NAD 83) for the San Francisco Giants Fireworks Display. The safety zone shall terminate at 10:45 p.m. on June 22, 2018.

The effect of the temporary safety zone is to restrict navigation in the vicinity of the fireworks loading, transit, and firing site. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted areas. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing sites to ensure the safety of participants, spectators, and transiting vessels.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

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

This rule may affect the following entities, some of which may be small entities: Owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the safety zone at times when this zone is being enforced. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) This rule will encompass only a small portion of the waterway for a limited period of time, and (ii) the maritime public will be advised in advance of these safety zones via Broadcast Notice to Mariners.

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. It is categorically excluded from further review under Categorical Exclusion L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–928 to read as follows:

§ 165.T11–928 Safety Zone; San Francisco Giants Fireworks Display, San Francisco Bay, San Francisco, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the San Francisco Bay within 100 feet of the fireworks barge during loading at Pier 50, as well as transit and arrival near AT&T Park in San Francisco, CA. From 11:00 a.m. until approximately 5:00 p.m. on June 22, 2018, the fireworks barge will be loading at Pier 50 in San Francisco, CA. The safety zone will expand to all navigable waters around and under the firework barge within a radius of 700 feet in approximate position 37°46′36″ N, 122°22′56″ W (NAD 83), 30 minutes prior to the start of the 15 minute fireworks display, scheduled to begin at 10:00 p.m. on June 22, 2018.

(b) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 11:00 a.m. until approximately 10:45 p.m. June 22, 2018. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which these zones will be enforced via Broadcast Notice to Mariners in accordance with § 165.7.

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

(d) *Regulations.* (1) Under the general regulations in subpart C of this part, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zones on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: June 18, 2018.

Anthony J. Ceraolo,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2018–13421 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0523]

RIN 1625–AA00; 1625–AA11

Regulated Navigation Area and Safety Zone, Harlem River and Hudson River, Manhattan, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area and safety zone for waters of the Harlem and Hudson Rivers in the vicinity of the Amtrak Spuyten Duyvil Railroad Bridge at mile 7.9 over the Harlem River. The regulated navigation area and safety zone are needed to protect personnel, vessels, and the marine environment from potential hazards created by the removal and reinstallation of the swing span portion of the Spuyten Duyvil Railroad Bridge. During heavy lift operations this regulated navigation area will establish speed restrictions on vessels transiting the Hudson River to eliminate vessel wake. During heavy lift operations entry of vessel or persons into this safety zone is prohibited unless specifically authorized by the First District Commander or a designated representative.

DATES: This rule is effective without actual notice from June 22, 2018 through September 30, 2018. For the purposes of enforcement, actual notice will be used from June 12, 2018 through June 22, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0523 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Craig Lapiejko, Waterways Management, First Coast Guard District; telephone (617) 223–8351, email *Craig.D.Lapiejko@uscg.mil.* You may also call or email Mr. Jeff Yunker, Waterways Management Division, U.S. Coast Guard Sector New York, telephone (718) 354–4195, email *Jeff.M.Yunker@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
LNM Local Notice to Mariners
NPRM Notice of proposed rulemaking
RNA Regulated Navigation Area
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On May 1, 2018, Amtrak sent the U.S. Coast Guard a letter describing work it would be conducting to remove and replace the moveable portion of the Spuyten Duyvil Railroad Bridge over the Harlem River at mile 7.9. On May 7, 2018, the U.S. Coast Guard District One Bridge Administration notified Amtrak, the bridge owner, that it had no objections to the proposed project.

From May 27 to September 29, 2018, Amtrak will be repairing the Spuyten Duyvil Railroad Bridge. This repair project includes the removal and reinstallation of the swing span of the bridge.

During the removal of the swing span a crane barge and support vessels will be staged near the bridge. The swing span will be lifted from the bridge by a heavy lift crane barge and then secured to another barge. The barge with the swing span will then be towed away and moored west of the bridge, in the Hudson River. These operations, from preparing for the removal of the swing span, removing and securing the swing span to the waiting barge, to mooring the barge with the secured swing span in the Hudson River, will take approximately 72 hours. Amtrak anticipates this work will be conducted over a three-day period between June 12 and June 17, 2018.

During the reinstallation of the swing span a barge and support vessels will again be staged near the bridge. The swing span will be lifted from a support barge by a heavy lift crane barge and reinstalled. The preparation for and reinstallation of the swing span will take approximately 72 hours. Amtrak anticipates this work will be conducted over a three-day period between July 15 and July 28, 2018.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the schedule for the removal and reinstallation of the swing span was only recently finalized and provided to the Coast Guard, and timely action is needed to respond to the potential safety hazards associated with this bridge project. The schedule for the repairs and notification to the Coast Guard was delayed by the late finalization of project details, including coordinating the two heavy lift operations with the schedules of known waterway users, and writing a Maintenance of Waterway Traffic Plan. It is impracticable and contrary to the public interest to publish an NPRM because we must establish this RNA and safety zone by June 12, 2018, to allow for timely repairs to the bridge's swing span and promote the safety of the public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because timely action is needed to respond to the potential safety hazards associated with repairs to the swing span of the bridge.

III. Legal Authority and Need for Rule

The First District Commander has determined that potential hazards associated with the bridge swing span removal and reinstallation will be a safety concern for anyone within approximately 300 yards of the center of the Spuyten Duyvil Railroad Bridge. The RNA and safety zone are needed to ensure the safety of personnel, vessels, and the marine environment from hazards associated with the removal and replacement of Spuyten Duyvil Railroad Bridge. The Coast Guard anticipates that crane lifting operations may create the potential for falling debris into the waterway. The RNA is needed to limit vessel speed and wake of all vessels operating in the Hudson River in the vicinity to minimize the unexpected or uncontrolled movement of water. Construction operations utilizing a crane barge are sensitive to water movement and wake from passing vessels could pose significant risk of injury or death to construction workers.

IV. Discussion of the Rule

This rule establishes a RNA and safety zone from noon on Monday, June 12, 2018, to 11:59 p.m. on Sunday, September 30, 2018.

The RNA covers all waters of the Hudson River, approximately 500 yards upstream, and downstream, of the Spuyten Duyvil Railroad Bridge from surface to bottom bound by the following approximate positions starting south of a line drawn from 40°53′15.67″ N, 073°56′29.22″ W, thence to 40°52′56.48″ N, 073°55′21.57″ W, and all waters north of a line drawn from 40°52′47.97″ N, 073°56′42.85″ W, thence to 40°52′31.58″ N, 073°55′45.06″ W (NAD 83), excluding the portion of the safety zone surrounding the Spuyten Duyvil Railroad Bridge as discussed in the following paragraph.

The safety zone covers all waters of the Hudson River and Harlem River

within approximately 300 yards of the center of the Spuyten Duyvil Railroad Bridge, from surface to bottom, bound by the following approximate positions starting on the Manhattan side of Spuyten Duyvil Railroad Bridge with position 40°52′38.20″ N, 073°55′36.70″ W, thence to 40°52′39.96″ N, 073°55′43.75″ W, thence to 40°52′46.34″ N, 073°55′36.90″ W, thence to 40°52′43.98″ N, 073°55′29.83″ W, thence along the Bronx shoreline to the Henry Hudson Bridge at mile 7.2 of the Harlem River, thence south across the Harlem River following along the Henry Hudson Bridge to the Manhattan side, thence along the Manhattan shoreline to the point of origin (NAD 83). For illustrations of the RNA and the safety zone, please refer to the docket.

During operations involving the removal and reinstallation of the swing span a safety zone will prohibit the transit of vessels in the Hudson River and Harlem River within approximately 300 yards of the center of the Spuyten Duyvil Railroad Bridge. This safety zone will protect personnel, vessels, and the marine environment from potential hazards created by the Spuyten Duyvil Railroad Bridge swing span removal and reinstallation project.

Additionally, during the removal and reinstallation of the swing span all vessels transiting the Hudson River within the regulated navigation area (RNA) will be required to follow a ''Slow-No Wake'' speed limit. When this RNA is enforced, no vessel may produce a wake nor attain speeds greater than five (5) knots unless a higher minimum speed is necessary to maintain bare steerageway. The heavy lift operations involving the removal and reinstallation of the bridge swing span are currently scheduled to take place in June and July 2018. The Coast Guard is publishing this rule to be effective, and enforceable, through September 30, 2018, in case the project is delayed due to unforeseen circumstances.

We anticipate enforcing the RNA and safety zone during the two periods of heavy lift operations, one occurring between June 12 and approximately June 17, 2018 and the other between approximately July 15 and July 28, 2018. The RNA and safety zone is expected to be enforced for approximately two 72-hour periods when vessels are preparing for, and conducting, the swing span removal and reinstallation operations. The duration of enforcement for both the RNA and safety zone is intended to protect personnel, vessels, and the marine environment in these waters while the bridge span is being removed and reinstalled. During the enforcement periods, all vessels and persons must obtain permission from the First District Commander or a designated representative before entering the safety zone.

The Coast Guard will notify the public and local mariners of this RNA and safety zone through the Local Notice to Mariners (LNM) and Broadcast Notice to Mariners via VHF–FM marine channel 16 in advance of any enforcement period. The regulatory text we are enforcing appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the following reasons: (1) The RNA and safety zone only impact a small designated area of the Harlem and Hudson Rivers; (2) the RNA and safety zone will only be enforced during heavy lift operations tentatively scheduled to occur between June 12–17, 2018, for the swing span removal, and between July 15–28, 2018, for the swing span reinstallation; (3) persons or vessels may transit the RNA at any time, subject to a speed restriction during any periods of enforcement; (4) persons or vessels desiring to enter the safety zone may do so when the heavy lift operations are not in progress; (5) the Coast Guard previously published the approximate project dates in the LNM #18–2018 dated May 2, 2018, LNM #19–2018 dated May 9, 2018, LNM #20–2018 dated May 17, 2018, LNM #21–2018 dated May 23, 2018, LNM #22 dated May 30, 2018, and also requested impacted mariners to contact the contractor to discuss their schedules and receive email schedule updates; (6) the contractor contacted known waterway users to discuss the project and waterway impacts. Although the heavy lift operations will result in two periods of enforcement of a safety zone, closing the Harlem River in the vicinity of the Spuyten Duyvil Railroad Bridge, these operations are scheduled to accommodate sight-seeing vessels and marine events to the greatest extent possible.

The Coast Guard will also notify the public of the enforcement of this rule via appropriate means, such as the LNM and Broadcast Notice to Mariners.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the creation of an RNA and a safety zone, both of which are expected to be enforced for two periods each lasting approximately 72 hours. The RNA is will restrict the speed of vessels transiting the Hudson River within approximately 500 yards upstream and downstream of the Spuyten Duyvil Railroad Bridge while heavy lift operations are conducted. The safety zone will prohibit vessels on the Hudson and Harlem Rivers from coming within approximately 300 yards of the center of the Spuyten Duyvil Railroad Bridge during heavy lift operations. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination will be available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0523 to read as follows:

§ 165.T01–0523 Regulated navigation area and safety zone; Harlem River and Hudson River, Manhattan, NY.

(a) *Location*—(1) *Regulated navigation area.* The following is a regulated navigation area: All waters of the Hudson River, approximately 500 yards upstream, and downstream, of the Spuyten Duyvil Railroad Bridge from surface to bottom starting south of a line drawn from 40°53′15.67″ N, 073°56′29.22″ W, thence to 40°52′56.48″ N, 073°55′21.57″ W, and all waters north of a line drawn from 40°52′47.97″ N, 073°56′42.85″ W, thence to 40°52′31.58″ N, 073°55′45.06″ W (NAD 83), excluding the portion of the safety zone surrounding the Spuyten Duyvil Railroad Bridge as described in paragraph (a)(2) of this section.

(2) *Safety zone.* The following is a safety zone: All waters of the Hudson River and Harlem River within approximately 300 yards of the center of the Spuyten Duyvil Railroad Bridge, from surface to bottom, bound by the following approximate positions starting on the Manhattan side of Spuyten Duyvil Railroad Bridge with position 40°52′38.20″ N, 073°55′36.70″ W, thence to 40°52′39.96″ N, 073°55′43.75″ W, thence to 40°52′46.34″ N, 073°55′36.90″ W, thence to 40°52′43.98″ N, 073°55′29.83″ W, thence along the Bronx shoreline to the Henry Hudson Bridge at mile 7.2 of the Harlem River, thence south across the Harlem River following along the Henry Hudson Bridge to the Manhattan side, thence along the Manhattan shoreline to the point of origin (NAD 83).

(b) *Definitions.* As used in this section, a *designated representative* of the First District Commander is any Coast Guard commissioned, warrant or petty officer who has been designated by the First District Commander to act on his or her behalf. A designated representative may be on a Coast Guard vessel, other designated craft, or on shore and communicating with vessels via VHF–FM radio, loudhailer, or by phone. Members of the Coast Guard Auxiliary may be present to inform vessel operators of the regulations in this section.

(c) *Regulations*—(1) *Regulated navigation area.* (i) The general regulations contained in 33 CFR 165.13 apply.

(ii) During periods of enforcement, entry and movement within the RNA is subject to a ''Slow-No Wake'' speed limit. No vessel may produce a wake nor attain speeds greater than five (5) knots unless a higher minimum speed is necessary to maintain bare steerageway.

(iii) During periods of enforcement, any vessel transiting within this RNA must comply with all directions given to them by the First District Commander or the First District Commander's designated representative.

(2) *Safety zone.* (i) The general regulations in 33 CFR 165.23 apply.

(ii) Entry into, anchoring, loitering, or movement within the safety zone is prohibited during any periods of enforcement, including preparations for the heavy lift operations, the heavy lift operations, and necessary follow-on actions. This prohibition does not apply to vessels authorized to be within the zone by the District Commander or the

District Commander's designated representative.

(iii) During periods of enforcement, any vessel or person transiting through the safety zone must comply with all orders and directions from the District Commander or the District Commander's designated representative.

(d) *Enforcement periods.* This section will be subject to enforcement from noon on June 12, 2018, to 11:59 p.m. on June 17, 2018; from 6 a.m. on July 15, 2018, to 11:59 p.m. on July 28, 2018, and at other times during the effective period of this rule when the COTP New York issues a notice of enforcement to be published in the **Federal Register**. In addition the COTP New York will provide notice by Broadcast Notice to Mariners, Local Notice to Mariners, or both, to announce whenever this section is subject to enforcement or whenever an announced enforcement period will be suspended. Violations of this regulation may be reported to the COTP New York at (718) 354–4353 or on VHF-Channel 16.

Dated: June 12, 2018.

A.J. Tiongson,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2018–13441 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0531]

RIN 1625–AA00

Safety Zone; Unexploded Ordnance Detonation, Gulf of Mexico, Pensacola, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Gulf of Mexico near Fort Pickens in Pensacola, FL. This temporary safety zone is necessary to protect persons, vessels, and the marine environment from potential hazards associated with the detonation of unexploded ordnance. Entry into this zone is prohibited to all vessels and persons unless authorized by the Captain of the Port Sector Mobile or a designated representative.

DATES: This rule is effective without actual notice from June 22, 2018 through June 30, 2018. For purposes of enforcement, actual notice will be used from June 14, 2018 through June 22, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0531 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Kyle D. Berry, Sector Mobile Waterways Management Division, U.S. Coast Guard; telephone 251–441–5940, email *Kyle.D.Berry@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. It is impracticable to publish an NPRM because we must enforce this safety zone starting June 14, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. It is also contrary to the public interest as it would delay the safety measures necessary to protect persons, vessels, and the marine environment from the potential hazards associated with the detonation of unexploded ordnance.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule is contrary to public interest because it would delay the safety measures necessary to protect persons, vessels, and the marine environment from the potential hazards associated with the detonation of unexploded ordnance.

The United States Army Corps of Engineers is conducting a Remedial Investigation/Feasibility Study for the Fort Pickens Munitions Response Site 01—Range Complex, located in Escambia County, Florida. The site, which is located along the western tip of Santa Rosa Island and extends south into the Gulf of Mexico, was used for coastal defense from before the Civil War until after World War II. There is a potential that the marine investigation may encounter munitions that will require in-water detonation to address potential explosive hazards. The safety zone will encompass a 1,000 yard square area detonation area surrounded by a 1,200 yard buffer area. The United States Army Corps of Engineers will be responsible for the detonation of ordnance within the safety zone.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Mobile (COTP) has determined that potential hazards associated with the detonation of unexploded ordnance beginning on June 14, 2018 will be a safety concern for any vessels or persons on the Gulf of Mexico near Fort Pickens in Pensacola, FL. This rule is necessary to protect persons, vessels, and the marine environment from the potential hazards associated with the detonation of unexploded ordnance.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from June 14, 2018 through June 30, 2018. The safety zone will cover all navigable waters of the Gulf of Mexico within the approximate positions 30°17′47.65″ N, 87°21′36.5″ W; 30°17′47.65″ N, 87°19′39.8″ W; 30°16′6.35″ N, 87°19′39.8″ W; and 30°16′6.35″ N, 87°21′36.5″ W near Fort Pickens in Pensacola, FL. The safety zone will encompass a 1,000 yard square area detonation area surrounded by a 1,200 yard buffer area. A chart depicting the area is included in the docket where indicated under **ADDRESSES**.

The duration of this safety zone is intended to protect persons, vessels, and the marine environment, and will only be enforced if and when the detonation of unexploded ordnance is necessary. No person or vessel will be permitted to enter or transit within the safety zone during periods of enforcement unless authorized by the COTP or a designated representative. The periods of

enforcement will be one hour prior to, during, and after any ordnance exploding operations. The Coast Guard was informed that the operations would take place during daylight hours only. A law enforcement vessel will coordinate all vessel traffic during the enforcement periods. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) at least 3 hours in advance of each enforcement period.

Entry into the temporary safety zone is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Mobile. Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM channel 16 or by telephone at 251–441–5976. The COTP or a designated representative will inform the public of the enforcement periods of this safety zone through BNMs, LNMs, and/or MSIBs as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory determination is based on the size, location, and duration of the temporary safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of the Gulf of Mexico only as necessary for the detonation of ordnance during a two and half week period. Moreover, the Coast Guard will issue a BNMs via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone that will prohibit entry on a small designated area of the Gulf of Mexico near Fort Pickens in Pensacola, FL only as necessary for the detonation of ordnance. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction

Manual 023–01–001–01, Rev.01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0531 to read as follows:

§ 165.T08–0531 Safety Zone; Unexploded Ordnance Detonation, Gulf of Mexico, Pensacola, FL.

(a) *Location.* The following area is a safety zone: All navigable waters on the Gulf of Mexico within the approximate positions 30°17′47.65″ N, 87°21′36.5″ W; 30°17′47.65″ N, 87°19′39.8″ W; 30°16′6.35″ N, 87°19′39.8″ W; and 30°16′6.35″ N, 87°21′36.5″ W near Fort Pickens in Pensacola, FL.

(b) *Effective dates.* This section is effective without actual notice from June 22, 2018 through June 30, 2018. For purposes of enforcement, actual notice will be used from June 14, 2018 through June 22, 2018.

(c) *Enforcement periods.* This section will be enforced during the effective period one hour prior to, during, and after any ordnance exploding operations. The operations will take place during daylight hours only. The Captain of the Port Sector Mobile (COTP) or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) at least 3 hours in advance of each enforcement period. A law enforcement vessel will coordinate all vessel traffic during the enforcement periods.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Mobile.

(2) Persons or vessels seeking to enter into or transit through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM channel 16 or by telephone at 251–441–5976.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement periods of this safety zone through BNMs, LNMs, and/or MSIBs as appropriate.

Dated: June 6, 2018.

M.R. McLellan,

Captain, U.S. Coast Guard, Captain of the Port Sector Mobile.

[FR Doc. 2018–13433 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[EPA–HQ–OPP–2011–0184; FRL–9979–50]

RIN 2070–AJ22

Pesticides; Agricultural Worker Protection Standard; Notification of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of availability.

SUMMARY: EPA is announcing the availability of training materials covering the expanded training content required by the Federal Insecticide, Fungicide and Rodenticide Act Worker Protection Standard (WPS) for both agricultural workers and pesticide handlers. The publication of this notification of availability triggers the WPS requirement that training programs must include all of the topics specified in the 2015 revisions to the WPS.

DATES: Training programs must include all of the topics specified in 40 CFR 170.401(c)(3)(i)–(xxiii) and 170.501(c)(3)(i)–(xiv) no later than December 19, 2018.

FOR FURTHER INFORMATION CONTACT: EPA is not requesting, and does not expect to receive, comments on this notification of availability. Questions should be directed to: Jennifer Park, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0121; email address: *Park.Jennifer@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you work in or employ persons working in crop production agriculture where pesticides are applied. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Agricultural Establishments (NAICS code 111000), *e.g.,* establishments or persons, such as farms, orchards, groves, greenhouses, and nurseries, primarily engaged in growing crops, plants, vines, or trees and their seeds.
- Nursery and Tree Production (NAICS code 111421), *e.g.,* establishments or persons primarily engaged in (1) growing nursery products, nursery stock, shrubbery, bulbs, fruit stock, sod, and so forth, under cover or in open fields and/or (2) growing short rotation woody trees with a growth and harvest cycle of 10 years or less for pulp or tree stock.
- Timber Tract Operations (NAICS code 113110), *e.g.,* establishments or persons primarily engaged in the operation of timber tracts for the purpose of selling standing timber.
- Forest Nurseries and Gathering of Forest Products (NAICS code 113210), *e.g.,* establishments or persons primarily engaged in (1) growing trees for reforestation and/or (2) gathering forest products, such as gums, barks, balsam needles, rhizomes, fibers, Spanish moss, ginseng, and truffles.
- Farm Workers (NAICS codes 11511, 115112, and 115114), *e.g.,* establishments or persons primarily engaged in providing support activities for growing crops; establishments or persons primarily engaged in performing a soil preparation activity or crop production service, such as plowing, fertilizing, seed bed

preparation, planting, cultivating, and crop protecting services; and establishments or persons primarily engaged in performing services on crops, subsequent to their harvest, with the intent of preparing them for market or further processing.

- Pesticide Handling on Farms (NAICS code 115112), *e.g.,* establishments or persons primarily engaged in performing a soil preparation activity or crop production service, such as seed bed preparation, planting, cultivating, and crop protecting services.
- Farm Labor Contractors and Crew Leaders (NAICS code 115115), *e.g.,* establishments or persons primarily engaged in supplying labor for agricultural production or harvesting.
- Pesticide Handling in Forestry (NAICS code 115310), *e.g.,* establishments or persons primarily providing support activities for forestry, such as forest pest control.
- Pesticide Manufacturers (NAICS code 325320), *e.g.,* establishments primarily engaged in the formulation and preparation of agricultural and household pest control chemicals (except fertilizers).
- Farm Worker Support Organizations (NAICS codes 813311, 813312, and 813319), *e.g.,* establishments or persons primarily engaged in promoting causes associated with human rights either for a broad or specific constituency; establishments or persons primarily engaged in promoting the preservation and protection of the environment and wildlife; and establishments primarily engaged in social advocacy.
- Farm Worker Labor Organizations (NAICS code 813930), *e.g.,* establishments or persons primarily engaged in promoting the interests of organized labor and union employees.
- Crop Advisors (NAICS codes 115112, 541690, 541712) *e.g.,* establishments or persons who primarily provide advice and assistance to businesses and other organizations on scientific and technical issues related to pesticide use and pest pressure.

II. Background

On November 2, 2015, EPA published a final rule making changes to the WPS, 40 CFR part 170, referred to as the ''2015 revised WPS'' (80 FR 67496) (FRL–9931–81). The WPS is a regulation primarily intended to reduce the risks of injury or illness resulting from agricultural workers' and handlers' use of and contact with agricultural pesticides on farms, forests, nurseries and greenhouses. The rule primarily seeks to protect workers (those who perform hand-labor tasks on pesticide-treated crops, such as harvesting, thinning or pruning) and handlers (those who mix, load and apply pesticides). The 2015 revised WPS requirements retained many of the 1992 WPS requirements, while increasing the stringency of some standards and adding new requirements.

III. Availability of Training Materials and Deadline for Compliance With New Training Requirements

Sections 170.401 and 170.501 of the 2015 revised WPS allowed employers to omit certain topics from training materials until 180 days after EPA publishes in the **Federal Register** a notification of availability of new WPS training materials. EPA is announcing the availability of new training materials covering the expanded training content for both workers and handlers. These materials, developed through a cooperative agreement with the Pesticide Education Resources Collaborative (PERC), are available at *http://pesticideresources.org/.* These materials have been approved by EPA and contain the content required by the 2015 revised WPS. There are also new training materials developed by other organizations that have been approved by EPA and contain the content required by the 2015 revised WPS; some of these materials are available on the PERC website and others are proprietary.

EPA is currently reconsidering three requirements of the 2015 revised WPS and plans to solicit comments on potential changes to the designated representative provision, the minimum age for handlers and early-entry workers, and the application exclusion zone. If those requirements are changed through a final rulemaking, training materials may need to be amended to reflect such changes.

The publication of this notification of availability of the training materials specified in 40 CFR 170.401(c)(3) and 170.501(c)(3) commences the 180-day period provided in those provisions. Per §§ 170.401(c)(3) and 170.501(c)(3), WPS training programs must include all of the topics specified in §§ 170.401(c)(3)(i)–(xxiii) and 170.501(c)(3)(i)–(xiv) no later than December 19, 2018.

List of Subjects in 40 CFR Part 170

Environmental protection, Agricultural worker, Employer, Farms, Forests, Greenhouses, Nurseries, Pesticide handler, Pesticides, Worker protection standard.

Dated: June 13, 2018.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2018–13353 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0071; FRL–9978–08]

Oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxy methylethoxy)methylethoxy] methylether] ether; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy)methylethoxy] methylether] ether, number average molecular weight 1900 daltons; when used as an inert ingredient in a pesticide chemical formulation. SciReg, Inc. on behalf of Solvay USA Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether on food or feed commodities.

DATES: This regulation is effective June 22, 2018. Objections and requests for hearings must be received on or before August 21, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0071, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal

holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0071 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 21, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0071, by one of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

II. Background and Statutory Findings

In the **Federal Register** of April 11, 2018 (83 FR 15528) (FRL–9975–57), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11112) filed by SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192 on behalf of Solvay USA Inc., 504 Carnegie Center Princeton, NJ 08540. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy)methylethoxy] methylether] ether (CAS Reg. No. 2112825–11–1). That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. No relevant comments were received on the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR

723.250(d). oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy)methylethoxy] methylether] ether conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the Toxic Substances Control Act (TSCA) Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF3- or longer chain length as listed in 40 CFR 723.250(d)(6)

Additionally, the polymer also meets as required the following exemption criteria: Specified in 40 CFR 723.250(e):

The polymer's number average MW of polymer's number average MW is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer contains only reactive functional groups listed in 40 CFR 723.250(e)(1)(ii)(A).

Thus, oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy)methylethoxy] methylether] ether meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether is 1900 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy)methylethoxy] methylether] ether to share a common mechanism of toxicity with any other substances, and oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy)methylethoxy] methylether] ether does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether.

VIII. Other Considerations

A. Existing Exemptions From a Tolerance

There are no existing exemptions from a tolerance for oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether polymers.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

IX. Conclusion

Accordingly, EPA finds that exempting residues of oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types

of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 8, 2018.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, alphabetically add the following polymer to the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * * * *	
Oxirane, 2-methyl-, polymer with oxirane, mono[2-[2-(2-methoxymethylethoxy) methylethoxy]methylether] ether, minimum number average molecular weight (in amu), 1400 daltons.	CAS Reg. No. 2112825–11–1.
* * * * * * *	

[FR Doc. 2018–13457 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0156; FRL–9976–21]

Tolfenpyrad; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of tolfenpyrad in or on multiple commodities which are identified and discussed later in this document. Nichino America, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 22, 2018. Objections and requests for hearings must be received on or before August 21, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0156, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0156 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 21, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0156, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 8, 2017 (82 FR 26641) (FRL–9961–14), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 7F8544 and PP 7F8543) by Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808–2951. The petitions requested that 40 CFR 180.675 be amended by establishing tolerances for residues of the insecticide tolfenpyrad, 4-chloro-3-ethyl-1-methyl-*N*-[4-(*p*-tolyloxy)benzyl]pyrazole-5-carboxamide, in or on *Brassica* head and stem vegetable group (crop group 5–16) at 5.0 parts per million (ppm) (PP 7F8544); *Brassica* leafy greens subgroup (4–16B) at 40 ppm (PP 7F8544); Vegetables, cucurbit, group 9 at 0.7 ppm (PP 7F8544); Vegetables, fruiting, group 8–10 at 0.7 ppm (PP 7F8544); Fruit, pome, group 11–10 at 0.7 ppm (PP 7F8544); and Apple, wet pomace at 2.5 ppm (PP 7F8544). The petitions also requested that established tolerances be amended for residues of tolfenpyrad in or on Fruit, citrus, group 10–10 at 0.9 ppm (PP 7F8544; PP 7F8543); Citrus, dried pulp at 3.0 ppm (PP 7F8544; PP 7F8543); and Citrus, oil at 28.0 ppm (PP 7F8544; PP 7F8543). That document referenced a summary of the petition prepared by Nichino America, Inc., the registrant, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notices of filing. Consistent with the authority in section 408(d)(4)(A)(i), EPA is establishing tolerances that vary from what the petitioner sought. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for tolfenpyrad including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with tolfenpyrad follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A variety of toxic effects were noted in the toxicology database for tolfenpyrad. However, the most consistent finding across species and studies was decreased body weight and/or body weight gain, which were observed in adults of all species (rat, mice, rabbit, and dog) in the majority of the subchronic oral and dermal toxicity studies, and all chronic toxicity studies.

The rat is the species most sensitive to body weight changes, with effects observed at much lower doses than in other species. In rats, significant decreases in body weight and body weight gain were observed in

subchronic oral and acute and subchronic neurotoxicity studies. Decreases in body weight and body weight gain were also seen in chronic rat studies but at lower doses than observed in the other rat studies. Although seen at lower doses, the body weight decrements noted in the chronic study were not as pronounced as seen after subchronic exposure or in the neurotoxicity studies. Decreases in body weight and body weight gain were also observed in reproduction, developmental toxicity, and developmental immunotoxicity studies at doses comparable to the chronic study. Significant decreases in body weight and body weight gain were seen in both mice and dogs after subchronic exposure; these effects were also noted in rabbits in a developmental toxicity study. Chronic exposure resulted in body weight and body weight gain decreases in mice and dogs at lower doses for longer duration studies.

The body weight changes observed in the database were most often seen in the presence of decreased food consumption and in some studies, additional toxicity including liver/kidney effects and clinical signs. Increased liver and kidney weights, liver and kidney hypertrophy, hyaline droplets in the kidney, and color change in the kidney were seen after subchronic exposure in rats. Chronic exposure resulted in similar effects along with color changes in the liver and liver histopathology at slightly lower doses than in the subchronic studies. Other effects noted in rats were effects on the harderian gland and lymph nodes. In dogs, both changes in liver and kidney histopathology, along with testicular atrophy and clinical signs (emaciation, decreased movement, and staggering gait) were seen in short-term studies. Long-term exposure resulted in histopathological changes in the liver, along with increased liver enzymes. No treatment-related effects were noted in the liver or kidney in mice. However, rough coats, hunched posture, ataxia, and hypoactivity were seen in subchronic studies.

Moribundity and/or mortality were noted in at least one study in all tested species at ≥3 milligrams/kilogram/day (mg/kg/day). Moribundity and mortality were noted in two dams in a rat reproduction study. Mortality was also noted in one dam in a rabbit developmental toxicity study, as well as in two rats from an inhalation toxicity study (range-finding only). In mice and dogs, mortality was observed in both subchronic and chronic toxicity studies. In all cases, these effects were observed only after repeat-dose exposures, and the current points of departure (PODs) for the relevant exposure durations are protective of the observed mortality.

There is no evidence of increased quantitative or qualitative susceptibility in the guideline rat and rabbit developmental studies, or the rat reproduction study. Although several adverse effects were noted in young animals in these studies, the effects were observed in the presence of significant maternal toxicity (significant body weight changes and/or moribundity/mortality). In a non-guideline rat developmental immunotoxicity (DIT) study, decreased survival, body weight, body weight gain, increased blackish abdominal cavity, and dark green abnormal intestinal contents were observed in offspring animals at 3 mg/kg/day. At the same dose, decreased body weight (up to 10%), body weight gain (up to 36%) and food consumption were seen in maternal animals. This is consistent with the other developmental toxicity studies in the database, in which offspring toxicity is observed at the same dose as significant maternal toxicity. There was no evidence of immunotoxicity observed in the study.

No evidence of neurotoxicity was observed in acute and subchronic neurotoxicity studies for tolfenpyrad. Although hunched posture, ataxia, and hypoactivity were seen in mice in a 28-day toxicity study, these effects were not seen in a 90-day study or after chronic exposure. In dogs, decreased spontaneous movement and staggering gait were observed after 13 weeks. In rats, decreased motor activity and prone position (lying face down) prior to death were noted in a reproduction study. Overall, the effects noted in the database were agonal effects mainly seen at high doses, not associated with neuropathology, and not noted in long-term studies. The effects observed are consistent with the mode of action for tolfenpyrad (mitochondrial inhibitor) and are not considered evidence of neurotoxicity.

No evidence of carcinogenicity was observed in cancer studies with mice and rats. Therefore, in accordance with EPA's Final Guidelines for Carcinogen Risk Assessment (March 2005), tolfenpyrad is classified as ''not likely to be carcinogenic to humans.'' Specific information on the studies received and the nature of the adverse effects caused by tolfenpyrad as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Tolfenpyrad—Aggregate Human Health Risk Assessment of Proposed New Uses on Multiple Commodities'' at pages 11–15 in docket ID number EPA–HQ–OPP–2017–0156.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides*.

A summary of the toxicological endpoints for tolfenpyrad used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR TOLFENPYRAD FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children).	NOAEL = 10 mg/kg/day. UF_A = 10X UF_H = 10X FQPA SF = 1X	Acute RfD = 0.1 mg/kg/day. aPAD = 0.1 mg/kg/day.	Acute Neurotoxicity Study in rats. LOAEL = 20 mg/kg/day based on decreased bodyweight, bodyweight gain and food consumption.
Chronic dietary (All populations)	NOAEL= 0.6 mg/kg/day. UF_A = 10X UF_H = 10X FQPA SF = 1X	Chronic RfD = 0.006 mg/kg/day. cPAD = 0.006 mg/kg/day.	Combined Chronic/Carcinogenicity Study in rats. LOAEL = 1.5 mg/kg/day based on decreased bodyweight, bodyweight gain, and food consumption of females, gross changes in the harderian glands of males, and histopathological changes in the liver, kidney and mesenteric lymph nodes of females and the kidney of males.
Cancer (Oral, dermal, inhalation).	Classification: ''Not likely to be Carcinogenic to Humans'' based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to tolfenpyrad, EPA considered exposure under the petitioned-for tolerances as well as all existing tolfenpyrad tolerances in 40 CFR 180.675. EPA assessed dietary exposures from tolfenpyrad in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for tolfenpyrad. In estimating acute dietary exposure, EPA used food consumption information from the 2003–2008 U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumes 100 percent crop treatment (PCT) and tolerance-level residues with minor refinements including a factor to account for the reduction in residues when wrapper leaves are removed from head lettuce and cabbage, as well as empirical processing factors for tomato juice, paste, and puree, cottonseed oil, citrus juice, and grape juice (which was translated broadly to other juices for which empirical data were not available).

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the 2003–2008 U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumes 100 PCT and average residue levels from crop field trials as well as minor refinements listed above for acute exposure. Although partially refined, the chronic exposure estimates still retain a high level of conservatism due to the source and scope of the refinements, and are likely to overestimate the actual chronic dietary risk.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that tolfenpyrad does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residues and percent crop treated.* Although EPA did not use any percent crop treated estimates for this action, the Agency relied on average residue information. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such Data Call-Ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for tolfenpyrad in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of tolfenpyrad. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of tolfenpyrad for acute exposures are estimated to be 26.9 parts per billion (ppb) for surface water and 11.0 ppb for ground water, for chronic exposures for non-cancer assessments are estimated to be 12.2 ppb for surface water and 11.0 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 26.9 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 12.2 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure

(*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Tolfenpyrad is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found tolfenpyrad to share a common mechanism of toxicity with any other substances, and tolfenpyrad does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that tolfenpyrad does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides*.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* Although evidence is noted for qualitative susceptibility in the young in the developmental immunotoxicity study (DIT) in rats, there is low concern and there are no residual uncertainties regarding increased quantitative or qualitative prenatal and/or postnatal susceptibility for tolfenpyrad. When the DIT study is considered along with the reproduction study, the offspring toxicity in the DIT study was observed at the same dose as comparable maternal toxicity (moribundity/mortality) in the reproduction study. Therefore, EPA does not consider the isolated incident in the DIT a true indicator of qualitative susceptibility. Additionally, the effects observed in the DIT study are well-characterized, a clear NOAEL was identified, and the endpoints chosen for risk assessment are protective of potential offspring effects.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for tolfenpyrad is complete.

ii. There is no indication that tolfenpyrad is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. Although there is some evidence that tolfenpyrad may result in increased susceptibility, the concern for developmental or reproductive effects is low for the reasons contained in Unit III.D.2., and thus, a 10X FQPA safety factor is not necessary to protect infants and children.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues for the acute dietary exposure and average residue levels from crop field trials for the chronic dietary exposure. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to tolfenpyrad in drinking water. These assessments will not underestimate the exposure and risks posed by tolfenpyrad.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate margin of exposure (MOE) exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to tolfenpyrad will occupy 54% of the aPAD for children 1–2 years of age, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to tolfenpyrad from food and water will utilize 68% of the cPAD for children 1–2 years of age, the population group receiving the greatest exposure. There are no residential uses for tolfenpyrad.

3. *Short- and Intermediate-term risk.* Short- and intermediated-term aggregate exposures take into account short- and intermediate-term residential exposures plus chronic exposure to food and water (considered to be a background exposure level). Short- and intermediate-term adverse effects were identified; however, tolfenpyrad is not registered for any use patterns that would result in short- or intermediate-term residential exposures. Short- and intermediate-term risks are assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there are no short- or intermediate-term residential exposures and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- and intermediate-term risk), no further assessment of short- and intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for tolfenpyrad.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, tolfenpyrad is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to tolfenpyrad residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies, utilizing high-performance liquid chromatography with tandem mass spectrometric detection (LC/MS/MS), are available for enforcement of tolfenpyrad residue tolerances in/on plant commodities (Morse Laboratories Analytical Method #Meth-183, Revision #2). For livestock, a method described in PTRL West Study No. 1841W is available. The livestock method adequately determines residues of tolfenpyrad and its metabolites, PT–CA,

OH–PT–CA, and PCA in milk, bovine meat, kidney, liver and fat. Residues are determined by LC/MS/MS analysis. These methods are adequate for enforcement and may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov*.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established any MRLs for tolfenpyrad in commodities in this action.

C. Revisions to Petitioned-For Tolerances

EPA's tolerance levels are expressed to provide sufficient precision for enforcement purposes, and this may include the addition of trailing zeros (such as 0.30 ppm rather than 0.3 ppm). This is done to avoid the situation where rounding of an observed violative residue to the level of precision of the tolerance expression would result in a residue considered non-violative (such as 0.34 ppm being rounded to 0.3 ppm). EPA added additional zeros for fruiting vegetables group 8–10 and cucurbit vegetables group 9. EPA is establishing tolerances for residues in or on fruit, citrus, group 10–10 at 0.80 ppm instead of 0.9 ppm; citrus, oil at 30 ppm instead of 28.0 ppm; and citrus, dried pulp at 4.0 ppm instead of 3.0 ppm, based on the previously reviewed orange processing study, and the newly submitted lemon field trial residues as the input dataset for the Organization for Economic Cooperation and Development (OECD) MRL calculation procedure. In addition, the tolerances in fruits, pome, group 11–10 and apple wet pomace are based on the petitioner's revision of the proposed maximum annual use rate on pome fruits, from 0.42 lb ai per acre (lb ai/A) to 0.57 lb ai/A.

D. International Trade Considerations

In this rule, EPA is reducing the existing tolerances for citrus commodities as follows: Fruit, citrus, group 10–10 from 1.5 ppm to 0.80 ppm; citrus, dried pulp from 8.0 ppm to 4.0 ppm; and citrus, oil from 70 ppm to 30 ppm. The Agency is reducing these tolerances because these reductions requested by the petitioner are supported by available data. This reduction in tolerance levels is not discriminatory; the same food safety standard contained in the FFDCA applies equally to domestically produced and imported foods.

In accordance with the World Trade Organization's (WTO) Sanitary and Phytosanitary Measures (SPS) Agreement, EPA will notify the WTO of its tolerance revision. In addition, the SPS Agreement requires that Members provide a ''reasonable interval'' between the publication of a regulation subject to the Agreement and its entry into force in order to allow time for producers in exporting Member countries to adapt to the new requirement. At this time, EPA is establishing an expiration date for the existing tolerances to allow those tolerances remain in effect for a period of six months after the effective date of this final rule, in order to address this requirement. Prior to the expiration date, residues of tolfenpyrad up to the existing tolerance levels will be permitted; after the expiration date, residues will need to comply with the reduced tolerance levels.

V. Conclusion

Therefore, tolerances are established for residues of tolfenpyrad, 4-chloro-3-ethyl-1-methyl-*N*-[4-(*p*-tolyloxy)benzyl]pyrazole-5-carboxamide, in or on Vegetable, *Brassica,* head and stem, group 5–16 at 5.0 parts per million (ppm); *Brassica,* leafy greens, subgroup 4–16B at 40 ppm; Vegetable, cucurbit, group 9 at 0.70 ppm; Vegetable, fruiting, group 8–10 at 0.70 ppm; Fruit, pome, group 11–10 at 1.0 ppm; and Apple, wet pomace at 3.0 ppm. Furthermore, established tolerances are amended for residues of tolfenpyrad in or on Fruit, citrus, group 10–10 from 1.5 ppm to 0.80 ppm; Citrus, dried pulp from 8.0 ppm to 4.0 ppm; and Citrus, oil from 70 ppm to 30 ppm. Finally, the tolerances for ''Vegetable, fruiting, group 8–10'' at 0.70 ppm and ''Watermelon'' at 0.70 ppm in paragraph (b), which cover residues resulting from the section 18 emergency exemptions, are removed as it is superseded by the tolerances established for group 9 in this action.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001); Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997); or Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10,

1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 8, 2018.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.675:

■ a. Revise the table in paragraph (a)(1); and

■ b. Remove the entries for ''Vegetable, fruiting, group 8–10'' and ''Watermelon'' in the table in paragraph (b).

The revision reads as follows:

§ 180.675 Tolfenpyrad; tolerance for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
Almond hulls	6.0
Apple, wet pomace	3.0
Brassica, leafy greens, subgroup 4–16B	40
Citrus, dried pulp [1]	8.0
Citrus, dried pulp	4.0
Citrus, oil [1]	70.0
Citrus, oil	30
Cotton, gin byproducts	15.0
Cotton, undelinted seed	0.70
Fruit, citrus, group 10–10 [1]	1.5
Fruit, citrus, group 10–10	0.80
Fruit, pome, group 11–10	1.0
Fruit, stone, group 12–12	2.0
Grape	2.0
Grape, raisin	6.0
Nuts, tree, group 14–12	0.05
Persimmon	2.0
Plum, prune	3.0
Pomegranate	2.0
Potato	0.01
Tea	30.0
Vegetable, *Brassica,* head and stem, group 5–16	5.0
Vegetable, cucurbit, group 9	0.70
Vegetable, fruiting, group 8–10	0.70
Vegetable, leafy, except *Brassica,* group 4	30.0

[1] This tolerance expires on December 24, 2018.

* * * * *

[FR Doc. 2018–13456 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0235; FRL–9976–41]

Acetochlor; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of acetochlor in or on alfalfa and related animal commodities which are identified and discussed later in this document. Monsanto Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 22, 2018. Objections and requests for hearings must be received on or before August 21, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0235, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0235 in the subject line on the first page of your submission. All objections and requests for a hearing

must be in writing, and must be received by the Hearing Clerk on or before August 21, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0235, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of February 27, 2018 (83 FR 8408) (FRL–9972–17), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F8533) by Monsanto Company, 1300 I Street NW, Suite 450 East, Washington, DC 20005. The petition requested that 40 CFR 180.470 (a) *General.,* be amended by establishing tolerances for residues of the herbicide acetochlor, (2-chloro-2′-methyl-6′-ethyl-N-ethoxymethylacetanilide), and its metabolites containing either the 2-ethyl-6-methylaniline (EMA) or the 2-(1-hydroxyethyl)-6-methyl-aniline (HEMA) moiety, to be expressed as acetochlor equivalents, resulting from applications to soil or growing crops, in or on Alfalfa, forage at 8 parts per million (ppm), Alfalfa, hay at 20 ppm, Cattle, fat at 0.02 ppm, Cattle, kidney at 0.03 ppm, Cattle, meat at 0.02 ppm, Cattle, meat byproducts, except kidney at 0.02 ppm, Goat, fat at 0.02 ppm, Goat, kidney at 0.03 ppm, Goat, meat at 0.02 ppm, Goat, meat byproducts, except kidney at 0.02 ppm, Hog, kidney at 0.02 ppm, Horse, fat at 0.02 ppm, Horse, kidney at 0.03 ppm, Horse, meat at 0.02 ppm, Horse, meat byproducts, except kidney at 0.02 ppm, Milk at 0.02 ppm, Sheep, fat at 0.02 ppm, Sheep, kidney at 0.03 ppm, Sheep, meat at 0.02 ppm, Sheep, meat byproducts, except kidney at 0.02 ppm, and to amend 40 CFR part 180.470 (d) *Indirect or inadvertent residues.,* by adding alfalfa as an exception in the description of the commodities as follows: Animal feed, nongrass, group 18, except alfalfa, forage, and Animal feed, nongrass, group 18, except alfalfa, hay. That document referenced a summary of the petition prepared by Monsanto Company, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the proposed 8 ppm tolerance for alfalfa forage to 8.0 ppm. The reason for this change is explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for acetochlor including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with acetochlor follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Acetochlor has low acute toxicity by the oral, dermal, and inhalation routes of exposure and is minimally irritating to the eyes. A dermal irritation study indicates that it is a severe skin irritant. Acetochlor is also a strong dermal sensitizer. Evidence of neurotoxicity was observed in acute and subchronic neurotoxicity screening studies in rats, developmental toxicity studies in rats, and subchronic and chronic studies in dogs. In addition to the nervous system, the major target organs affected in subchronic and chronic studies in rats, dogs, and mice exposed to acetochlor are the liver, thyroid (secondary to liver), kidney, testes, and erythrocytes. Species-specific target organs include the nasal olfactory epithelium in rats and the lungs in mice.

There is no evidence of increased qualitative or quantitative susceptibility of fetuses or offspring to acetochlor exposure in the developmental and reproduction toxicity studies in rats and rabbits. In two developmental toxicity studies in rats, fetal effects (increased early resorptions, post-implantation loss, and decreased fetal weight) occurred at doses that also resulted in maternal toxicity (mortality, clinical signs of toxicity, and decreased maternal body weight). In two rabbit developmental toxicity studies, there were no adverse fetal effects at the highest doses tested (190 mg/kg/day and 300 mg/kg/day); whereas maternal toxicity (body weight loss) was seen at 190 mg/kg/day in one study. In three reproduction toxicity studies in rats, offspring effects (decreased pup weights in the first two studies; decreased pup weights, decreased F2 litter size at birth, and focal hyperplasia and polypoid adenomata in nasal epithelium of adult F1 offspring at study termination in the third study) occurred at the same or higher doses than those resulting in parental toxicity (decreased body weight or weight gain in the first two studies; focal hyperplasia and polypoid adenomata in nasal epithelium of adult F1 offspring at study termination in the third study). There was no evidence of reproductive toxicity observed at any

dose tested in two of the three reproductive toxicity studies in rats. The third reproduction study in rats showed a decreased number of implantations at the highest dose tested of 216 mg/kg/day.

There was evidence of carcinogenicity in studies conducted with acetochlor in rats and mice. A 23-month mouse carcinogenicity study showed weak evidence for increased benign lung tumors in females, and a 78-week study showed weak evidence for increased benign lung tumors in males. The increases were considered equivocal, based on increases in benign tumors only, inconsistent dose-responses between the two studies, inconsistencies in the responses of males and females between the two studies, lack of pre-neoplastic lung lesions in the 23-month study (while the 78-week study showed an increase in bronchiolar hyperplasia), and the variable incidence of lung tumors known to occur in older mice.

Two carcinogenicity studies in rats showed an increase in nasal epithelial tumors and thyroid follicular cell tumors. Thyroid tumor incidence was relatively low, and there was evidence that the tumors were due to disruption of thyroid-pituitary homeostasis. There are acceptable mode of action data for the rat tumors (nasal olfactory epithelial tumors and thyroid follicular cell tumors) which are adequate to support a non-linear, margin of exposure (MOE), approach for assessment of cancer risk. The data show that, like the related compounds, alachlor and butachlor, tumor formation is dependent upon local cytotoxicity secondary to oxidative damage by a reactive quinone imine intermediate. The mechanistic data on nasal tumorigenesis of acetochlor in the rat, when considered together with the mutagenicity data on acetochlor and consistent findings in mechanistic and mutagenicity studies on the closely related compound alachlor, are considered adequate to demonstrate a cytotoxic, non-mutagenic mode of tumor induction.

Because a clear mode of action was demonstrated for the rat tumors, EPA based the cancer classification on the data from the mouse. EPA classified acetochlor as ''Suggestive Evidence of Carcinogenic Potential'' based on weak evidence for benign lung tumors in male and female mice and histiocytic sarcomas in female mice, and determined that linear quantification of carcinogenic potential would not be appropriate for the mouse tumors. The rat nasal tumors, with a point of departure (POD) of 10 mg/kg/day, are the most sensitive effect for cancer risk. The chronic population adjusted dose (cPAD), based on the no observed adverse effect level (NOAEL) of 2.0 mg/kg/day from the chronic dog study, will be protective of both non-cancer and cancer effects, including rat nasal tumors, thyroid tumors, and mouse tumors.

Specific information on the studies received and the nature of the adverse effects caused by acetochlor as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Acetochlor: Human Health Risk Assessment for Proposed New Use on Alfalfa and Related Animal Commodities* at [insert page number] in docket ID number EPA–HQ–OPP–2017–0235.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for acetochlor used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of January 22, 2014 (79 FR 3512) (FRL–9904–19).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to acetochlor, EPA considered exposure under the petitioned-for tolerances as well as all existing acetochlor tolerances in 40 CFR 180.470. EPA assessed dietary exposures from acetochlor in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for acetochlor. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture's (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed tolerance level residues except for livestock commodities where anticipated residues were used, and 100 percent crop treated (PCT) for all commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's NHANES/WWEIA. As to residue levels in food, anticipated residues from field trial data and livestock feeding studies were used, while 100% crop treated assumptions (including feed items) were made for all commodities.

iii. *Cancer.* Based on the results of carcinogenicity studies in rats and mice summarized in Unit III.A., EPA classified acetochlor as having ''Suggestive Evidence of Carcinogenic Potential'' but determined that the chronic risk assessment will be protective of both non-cancer and cancer effects. Therefore, a separate exposure assessment to evaluate cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are

required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for acetochlor in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of acetochlor. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of acetochlor for acute exposures are estimated to be 74.9 parts per billion (ppb) for surface water and 129 ppb for ground water. EDWCs for chronic exposures for non-cancer assessments are estimated to be 4.84 ppb for surface water and 82.6 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 129.0 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value of 82.6 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Acetochlor is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

The chloroacetanilides have been evaluated by the Agency and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) as a related group of chemicals for this purpose. Acetochlor is included in a Cumulative Assessment Group of chloroacetanilide pesticides. For purposes of a cumulative risk assessment, it was determined that the common mechanism of toxicity group consists of alachlor, acetochlor, and butachlor. Butachlor is excluded from the group for risk assessment purposes at present because there are no registered uses or tolerances for this chemical in the U.S. The group was selected based on common endpoints of:

i. Nasal turbinate tumors in rats, and a known mechanism of toxicity for development of these tumors.

ii. Induction of hepatic uridine diphosphate-glucuronosyl transferase (UDPGT), which results in increased incidence of thyroid follicular cell tumors secondary to disruption of pituitary-thyroid homeostasis.

Thyroid effects were not included in the final cumulative assessment of the chloroacetanilide herbicides because they were determined to occur at excessively toxic dose levels, and therefore were not considered relevant to human risk assessment. Nasal tumors represent the most sensitive endpoint for both compounds.

A cumulative risk assessment of the chloroacetanilide pesticides acetochlor and alachlor was conducted in April 2007 and did not identify any cumulative risks of concern. A revised quantitative cumulative assessment was not conducted because the proposed new use on alfalfa would not affect the cumulative risk results. The new use on alfalfa is not anticipated to affect the cumulative risk results for the following reasons: The major risk driver in the cumulative assessment was alachlor in drinking water, domestic alachlor uses are being phased out (tolerances are being maintained for imported foods), cumulative dietary exposure was not of concern when accounting for the contribution from alachlor, acetochlor is a very minor contributor to chloroacetanilide cumulative risk when compared to alachlor, and acetochlor is less toxic than alachlor. No further cumulative evaluation is necessary for acetochlor use on alfalfa.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No increase in susceptibility was seen in developmental toxicity studies in rats and rabbits or in three multi-generation reproductive toxicity studies in rats. Toxicity to offspring was observed at dose levels which were the same or greater than those causing maternal or parental toxicity. Based on the results of developmental and reproductive toxicity studies, there is no concern for increased qualitative and/or quantitative susceptibility of the young following exposure to acetochlor.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for acute dietary, chronic dietary, and dermal. That decision is based on the following findings:

i. The toxicity database for acetochlor is complete for the purpose of evaluating this tolerance petition.

ii. Evidence of neurotoxicity from exposure to acetochlor was observed in several oral studies. However, these effects were typically observed at high doses. The points of departure selected for risk assessment are protective of the potential neurotoxicity observed in the database.

iii. There is no evidence that acetochlor results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction studies.

iv. There are no residual uncertainties identified in the exposure databases. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to acetochlor in drinking water. The acute dietary exposure analysis used tolerance level residues except for livestock commodities where anticipated residues were used and 100 PCT. The chronic dietary exposure analysis used anticipated residues from field trial data and livestock feeding studies, while 100% crop treated assumptions (including feed items) were made for all commodities and 100 PCT. These assessments will not underestimate the exposure and risks posed by acetochlor.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are

safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* In examining acute aggregate risk, the only pathway of exposure relevant to the acute time frame is dietary exposure. Therefore, the acute aggregate risk is comprised of exposures to acetochlor residues in food and drinking water and is equivalent to the acute dietary risk estimates. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to acetochlor will occupy 1.6% of the aPAD for infants <1-year old, the population group receiving the greatest exposure.

2. *Chronic risk.* In examining chronic aggregate risk, the only pathway of exposure relevant to the chronic time frame is dietary exposure. Therefore, the chronic aggregate risk is comprised of exposures to acetochlor residues in food and drinking water and is equivalent to the chronic dietary risk. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to acetochlor from food and water will utilize 26% of the cPAD for all infants (<1 year old), the population group receiving the greatest exposure. There are no residential uses for acetochlor.

3. *Short- and intermediate-term aggregate risk.* Short-term and intermediate-term aggregate exposure take into account short-term or intermediate-term residential exposure plus chronic exposure from food and water (considered to be a background exposure level). Acetochlor is not registered for any use patterns that would result in residential exposure. Therefore, the short-term or intermediate-term aggregate risk is the sum of the risk from exposure to acetochlor through food and water and will not be greater than the chronic aggregate risk.

4. *Aggregate cancer risk for U.S. population.* The Agency has concluded that assessments using a non-linear approach (*e.g.,* a chronic RfD-based approach) will adequately protect for all chronic toxicity, including carcinogenicity that could result from exposure to acetochlor. Chronic aggregate risk estimates are below the Agency's level of concern; therefore, cancer risk is also below the Agency's level of concern.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to acetochlor residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An Enforcement Analytical Method is available to enforce the proposed tolerances. The method is a high performance liquid chromatography/oxidative coulometric electrochemical detector (HPLC/OCED) method and is listed as Method I in the Pesticide Analytical Manual (PAM) Vol. II (§ 180.470).

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for acetochlor on alfalfa commodities, but there are Codex MRLs established for livestock commodities at 0.02 ppm. The tolerances established in this rulemaking are harmonized with the Codex MRLs for livestock commodities, except for the U.S. kidney tolerances, which are being established at 0.03 ppm.

C. Revisions to Petitioned-For Tolerances

EPA has revised the 8 ppm tolerance for alfalfa forage to 8.0 ppm, in accordance with policy. No other revisions were needed.

V. Conclusion

Therefore, tolerances are established for residues of acetochlor, in or on Alfalfa, forage at 8.0 ppm, Alfalfa, hay at 20 ppm, Cattle, fat at 0.02 ppm, Cattle, kidney at 0.03 ppm, Cattle, meat at 0.02 ppm, Cattle, meat byproducts, except kidney at 0.02 ppm, Goat, fat at 0.02 ppm, Goat, kidney at 0.03 ppm, Goat, meat at 0.02 ppm, Goat, meat byproducts, except kidney at 0.02 ppm, Hog, kidney at 0.02 ppm, Horse, fat at 0.02 ppm, Horse, kidney at 0.03 ppm, Horse, meat at 0.02 ppm, Horse, meat byproducts, except kidney at 0.02 ppm, Milk at 0.02 ppm, Sheep, fat at 0.02 ppm, Sheep, kidney at 0.03 ppm, Sheep, meat at 0.02 ppm, Sheep, meat byproducts, except kidney at 0.02 ppm, and to amend 40 CFR part 180.470 (d) Indirect or inadvertent residues., by adding alfalfa as an exception in the description of the commodities as follows: Animal feed, nongrass, group 18, except alfalfa, forage, and Animal feed, nongrass, group 18, except alfalfa, hay.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001); Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997); or Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food

retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 5, 2018.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.470,

■ i. Add alphabetically the entries ''Alfalfa, forage''; ''Alfalfa, hay''; ''Cattle, fat''; ''Cattle, kidney''; ''Cattle, meat''; ''Cattle, meat byproducts, except kidney''; ''Goat, fat''; ''Goat, kidney''; ''Goat, meat''; ''Goat, meat byproducts, except kidney''; ''Hog, kidney''; ''Horse, fat''; ''Horse, kidney''; ''Horse, meat''; ''Horse, meat byproducts, except kidney''; ''Milk''; ''Sheep, fat''; ''Sheep, kidney''; ''Sheep, meat''; ''Sheep, meat byproducts, except kidney''; to the table in paragraph (a) and

■ ii. Revise the commodities ''Animal feed, nongrass, group 18, except alfalfa, forage'', and ''Animal feed, nongrass, group 18, except alfalfa, hay'' in the table in paragraph (d).

The additions and revisions read as follows:

§ 180.470 Acetochlor; tolerances for residues.

(a) * * *

Commodity	Parts per million
Alfalfa, forage	8.0
Alfalfa, hay	20
* * * * *	
Cattle, fat	0.02
Cattle, kidney	0.03
Cattle, meat	0.02
Cattle, meat byproducts, except kidney	0.02
* * * * *	
Goat, fat	0.02
Goat, kidney	0.03
Goat, meat	0.02
Goat, meat byproducts, except kidney	0.02
Hog, kidney	0.02
Horse, fat	0.02
Horse, kidney	0.03
Horse, meat	0.02
Horse, meat byproducts, except kidney	0.02
Milk	0.02
* * * * *	
Sheep, fat	0.02
Sheep, kidney	0.03
Sheep, meat	0.02
Sheep, meat byproducts, except kidney	0.02
* * * * *	

* * * * *

(d) * * *

Commodity	Parts per million
Animal feed, nongrass, group 18, except alfalfa, forage	1.3
Animal feed, nongrass, group 18, except alfalfa, hay	3.5
* * * * *	

[FR Doc. 2018–13459 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0448; FRL–9978–50]

Thiencarbazone-methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of thiencarbazone-methyl in or on wheat forage. Bayer CropScience requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 22, 2018. Objections and requests for hearings must be received on or before August 21, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0448, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial

Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0448 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 21, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0448, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of March 6, 2018 (83 FR 9471) (FRL–9973–27), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F8583) by Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. The petition requested that the existing wheat, forage tolerance in 40 CFR 180.645 for residues of the herbicide thiencarbazone-methyl, methyl 4-[[[(4,5-dihydro-3-methoxy-4-methyl-5-oxo-1H–1,2,4-triazol-1-yl)carbonyl] amino]sulfonyl]-5-methyl-3-thiophenecarboxylate, be amended from 0.10 parts per million (ppm) to 0.15 ppm. That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov.* No comments related to this tolerance action were received on the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for thiencarbazone-methyl including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with thiencarbazone-methyl follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Thiencarbazone-methyl has low acute toxicity via the oral, dermal, and inhalation routes of exposure. Thiencarbazone-methyl is not an eye nor a skin irritant and it is not a skin sensitizer.

The most toxicologically significant effect of thiencarbazone-methyl occurs in the urothelial system including the kidney, bladder, and urinary tract. Across species, the dog is more sensitive than the rat or the mouse. Common effects observed throughout the database included sulfonamide crystals in the urine, eosinophilic urolithiasis (kidney, ureter and bladder stones), pelvic dilation, thickening of the kidney, bladder, or ureter, collecting duct hyperplasia, urothelial hyperplasia, submucosal inflammatory cell infiltration, bladder hemorrhage, inflammation, and ulceration.

There is no evidence of susceptibility in the thiencarbazone-methyl database. Offspring effects occurred at the same doses as those which caused maternal toxicity. In rats, maternal toxicity was indicated by decreased body and placenta weight and yellowish sediment in the urinary bladder. Developmental toxicity was indicated by delayed ossification of several locations. In rabbits, maternal toxicity consisted of decreased body weight, deaths, reduced food consumption and sediment in the kidney and urinary bladder. Developmental toxicity consisted of more runt fetuses and lower body weight in female offspring. There were no effects on reproductive parameters in either males or females in a reproductive study in rats. Systemically, there were effects on the urothelial system at the high dose in the parents and decreases in body weight in females

toward the end of lactation. There was also evidence of reduced absolute and relative liver weight in males in the high dose F1 group. The pups also demonstrated evidence of urothelial effects as indicated by the presence of stones in the kidneys and urinary bladder in a few F2 weanlings at the highest dose tested.

There is no evidence of immunotoxicity, neurotoxicity, or mutagenicity in the thiencarbazone-methyl database. There were no treatment-related increases in neoplasia in the rat carcinogenicity study. In mice, calculi in the urothelial system as well as transitional cell epithelium tumors in the urinary bladder (1 male/3 females) and in the prostatic urethra (1 male) were observed at the highest dose tested (599 mg/kg/day in males and 758 mg/kg/day in females). Since the neoplasia occurred only in the high dose group, thiencarbazone-methyl was classified as ''not likely to be a carcinogen to humans at doses that do not cause urothelial cytotoxicity.'' The formation of the tumors is considered to be related to the secondary effects of the urothelial toxicity (irritation) and regenerative proliferation associated with the formation of urinary tract crystals/calculi.

Specific information on the studies received and the nature of the adverse effects caused by thiencarbazone-methyl as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document, Thiencarbazone-methyl Human Health Risk Assessment, at pages 39–42 in docket ID number EPA–HQ–OPP–2017–0448.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for thiencarbazone-methyl used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR THIENCARBAZONE-METHYL FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (All populations) ..	No selection because no indication of significant toxicity following a single dose.		
Chronic dietary (All populations)	NOAEL= 117 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 1.17 mg/kg/day. cPAD = 1.17 mg/kg/day.	Dog chronic feeding. LOAEL = 117 mg/kg/day based on urothelial effects.
Oral short-term (adult and incidental oral for children) (1 to 30 days).	NOAEL= 159 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Residential MOE = 100.	Dog subchronic study. LOAEL = 335 mg/kg/day in males and 351 mg/kg/day in females based on urothelial effects.
Dermal short-term (1 to 30 days).	NOAEL = 159 mg/kg/day. DAF = 100% UF_A = 10x UF_H = 10x FQPA SF = 1x	Residential MOE = 100.	Dog subchronic study. LOAEL = 335 mg/kg/day in males and 351 mg/kh/day in females based on urothelial effects.
Inhalation short-term (1 to 30 days).	NOAEL= 159 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Residential MOE = 100.	Dog subchronic study. LOAEL = 335 mg/kg/day in males and 351 mg/kg/day in females based on urothelial effects.
Cancer (oral, dermal, inhalation).	Classification ''not likely to be carcinogenic to humans at doses that do not cause urothelium cytotoxicity.''		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). DAF= dermal absorption factor.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiencarbazone-methyl, EPA considered exposure under the petitioned-for tolerances as well as all existing thiencarbazone-methyl tolerances in 40 CFR 180.180.645. EPA assessed dietary exposures from thiencarbazone-methyl in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for thiencarbazone-methyl; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the dietary model Dietary Exposure Evaluation Model-Food Commodity Intake Database (DEEM–FCID). The modeled exposure estimates for the chronic assessment are based on tolerance level residues and assume 100% of the crops are treated.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to thiencarbazone-methyl because the chronic reference dose is protective of any cancer or pre-cancerous effect observed in carcinogenicity studies. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii., *chronic exposure.*

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for thiencarbazone-methyl. Tolerance-level residues and/or 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for thiencarbazone-methyl in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of thiencarbazone-methyl. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the First Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of thiencarbazone-methyl for chronic exposures for non-cancer assessments are estimated to be 0.36 ppb for surface water and 0.00079 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 0.36 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Thiencarbazone-methyl is currently registered for the following uses that could result in residential exposures: Application to residential turfgrass and ornamentals. EPA assessed residential exposure using the following assumptions:

- Residential handler exposure is expected to be short-term in duration. Intermediate-term exposures are not likely because of the intermittent nature of applications by homeowners. There is a potential for inhalation and dermal exposure for adult handlers.
- Post-application exposure is expected to be short-term in nature. There is a potential for dermal exposure to adults and children and incidental oral exposure to children ages 1 <2 years old through contact with treated areas after treatment.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found thiencarbazone-methyl to share a common mechanism of toxicity with any other substances, and thiencarbazone-methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that thiencarbazone-methyl does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence of increased qualitative or quantitative susceptibility in the young. Offspring effects occurred at the same doses as those which caused maternal toxicity.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for thiencarbazone-methyl is considered complete. There are available developmental studies in rats and rabbits, a reproductions study in rats, and acute and subchronic neurotoxicity battery studies. The requirement for a subchronic inhalation study was waived because thiencarbazone-methyl has low volatility, low acute inhalation toxicity and the use of a POD from an oral study to estimate inhalation exposures results in MOEs that are >100 times higher than the MOEs of concern.

ii. There is no indication that thiencarbazone-methyl is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that thiencarbazone-methyl results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and

tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to thiencarbazone-methyl in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by thiencarbazone-methyl.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, thiencarbazone-methyl is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to thiencarbazone-methyl from food and water will utilize less than 1% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Thiencarbazone-methyl is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to thiencarbazone-methyl. Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 9,200 to adults, 140,000 for children 11–16 years old, 13,000 for children 6–11 years old, and 7,500 for children 1–2 years old. Because EPA's level of concern for thiencarbazone-methyl is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no intermediate-term adverse effect was identified, thiencarbazone-methyl is not expected to pose a intermediate-term risk.

5. *Aggregate cancer risk for U.S. population.* As explained in section III.A., thiencarbazone-methyl is considered ''not likely to be carcinogenic to humans at doses that do not cause urothelial cytotoxicity.'' Because the Agency is regulating exposure to thiencarbazone-methyl to ensure that the U.S. population will not be exposed to levels that cause urothelial cytotoxicity, EPA concludes that thiencarbazone-methyl will not pose an aggregate cancer risk.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to thiencarbazone-methyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (LC/MS/MS) is available to enforce the tolerance expression.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for thiencarbazone-methyl.

V. Conclusion

Therefore, the tolerance is amended for residues of thiencarbazone-methyl, methyl 4-[[[(4,5-dihydro-3-methoxy-4-methyl-5-oxo-1H–1,2,4-triazol-1-yl)carbonyl] amino]sulfonyl]-5-methyl-3-thiophenecarboxylate, in or on wheat forage at 0.15 ppm. In addition, EPA is revising the tolerance expression to clarify (1) that, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of thiencarbazone-methyl not specifically mentioned; and (2) that compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression. EPA has determined that it is reasonable to make this change final without prior proposal and opportunity for comment, because public comment is not necessary, in that the change has no substantive effect on the tolerance, but rather is merely intended to clarify the existing tolerance expression.

VI. Statutory and Executive Order Reviews

This action amends a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action subject to Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not

require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 1, 2018.

Daniel J. Rosenblatt,

Deputy Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.645,
■ a. Revise paragraph (a)(1) introductory text;
■ b. Revise the entry for ''wheat, forage'' in the table in paragraph (a)(1);
■ c. Revise paragraph (a)(2) introductory text; and
■ d. Revise paragraph (d) introductory text.

The revisions read as follows:

§ 180.645 Thiencarbazone-methyl; tolerances for residues.

(a)(1) *General.* Tolerances are established for residues of the thiencarbazone-methyl, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only only thiencarbazone-methyl [methyl 4-[[[(4,5-dihydro-3-methoxy-4-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl)-carbonyl]amino]sulfonyl]-5-methyl-3-thiophenecarboxylate] in or on the following food and feed commodities.

Commodity	Parts per million
* * * * *	
Wheat, forage	0.15
* * * * *	

(2) Tolerances are established for residues of thiencarbazone-methyl, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only the sum of thiencarbazone-methyl [methyl 4-[[[(4,5-dihydro-3-methoxy-4-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl)-carbonyl]amino]sulfonyl]-5-methyl-3-thiophenecarboxylate] and its metabolite BYH 18636–MMT [5-methoxy-4-methyl-2,4-dihydro-3*H*-1,2,4-triazol-3-one], calculated as the stoichiometric equivalent of thiencarbazone-methyl, in or on the following food commodities of animal origin:

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for residues of thiencarbazone-methyl, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only the sum of thiencarbazone-methyl [methyl 4-[[[(4,5-dihydro-3-methoxy-4-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl)-carbonyl]amino]sulfonyl]-5-methyl-3-thiophenecarboxylate] and its metabolite BYH 18636–MMT-glucoside [2-hexopyranosyl-5-methoxy-4-methyl-2,4-dihydro-3*H*-1,2,4-triazol-3-one], calculated as the stoichiometric equivalent of thiencarbazone-methyl, in or on the following food commodities:

* * * * *

[FR Doc. 2018–13453 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0167; FRL–9977–94]

Benzovindiflupyr; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In response to a petition filed by Syngenta Crop Protection, LLC under the Federal Food, Drug, and Cosmetic Act (FFDCA), this regulation establishes tolerances for residues of benzovindiflupyr in or on bluegrass, forage at 0.15 parts per million (ppm), bluegrass, hay at 7.0 ppm, bluegrass, straw at 6.0 ppm, bromegrass, forage at 0.15 ppm, bromegrass, hay at 7.0 ppm, bromegrass, straw at 6.0 ppm, fescue, forage at 0.15 ppm, fescue, hay at 7.0 ppm, fescue, straw at 6.0 ppm, orchardgrass, forage at 0.15 ppm, orchardgrass, hay at 7.0 ppm, orchardgrass, straw at 6.0 ppm, and ryegrass, forage at 0.15 ppm, ryegrass, hay at 7.0 ppm, and ryegrass, straw at 6.0 ppm.

DATES: This regulation is effective June 22, 2018. Objections and requests for hearings must be received on or before August 21, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0167, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m.,

Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0167 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 21, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0167, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of July 26, 2017 (82 FR 34664) (FRL–9963–50), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F8542) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.686 be amended by establishing tolerances for residues of the fungicide benzovindiflupyr (N-[9-(dichloromethylene)-1,2,3,4-tetrahydro-1,4-methanonaphthalen-5-yl]-3-(difluoromethyl)-1-methyl-1H-pyrazole-4-carboxamide), in or on grasses grown for seed, forage at .15 parts per million (ppm); grasses grown for seed, hay at 7 ppm; and grasses grown for seed, straw at 6 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, the registrant, which is available in the docket, *http://www.regulations.gov.* Although one commenter requested that this petition be denied, no basis or information was provided to support a denial of this petition.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for benzovindiflupyr including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with benzovindiflupyr follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The rat is the most sensitive species tested, and the target organs of benzovindiflupyr are the liver, thyroid, and kidneys in rats. Hepatotoxicity was manifested as changes in liver weights, liver hypertrophy, and decreased triglycerides. The kidney effects were tubular cell pigment deposits, changes in the tubular basophilia, and increased urea. Enlargement and focal c-cell hyperplasia of the thyroid were observed. An increased incidence of cell hypertrophy in the pituitary pars distalis was noted in the F1 generation males and females in the 2-generation

reproductive toxicity rat study. Mouse studies revealed distended large intestines, soft feces and hyperplasia of the colon and caecum. Indications of general malaise including decreased body weight and food consumption, decreased activity, decreased grip strength, piloerection, decreased response to stimulus, hunched posture, gait changes and/or ataxia were reported in the rat and mouse studies. In several studies, females tended to be more sensitive than males, and effects were generally seen at lower doses with gavage dosing than with dietary dosing.

There are no concerns for developmental or reproductive toxicity following benzovindiflupyr exposure. Decreased fetal weight and ossification in the rat developmental toxicity studies occurred at maternally toxic doses. There were no maternal or fetal adverse effects in the rabbit developmental study. In rat reproduction studies, offspring effects (decreased body weight, liver and pituitary effects) occurred at doses higher than those causing parental effects, thus there was no quantitative increase in sensitivity in rat pups. There were no single-dose developmental effects identified in the developmental toxicity studies in rats or rabbits. Although decreases in growing follicle counts were noted in the 2-generation reproduction toxicity study, this effect did not result in reduced fertility in the rat. Furthermore, the antral follicle counts at a later stage in development were not decreased, so the decreased growing follicle count effect is not considered adverse.

No evidence of specific neurotoxicity was observed in the acute oral (gavage) and sub-chronic oral (dietary) neurotoxicity (ACN and SCN) studies in rats, conducted on the benzovindiflupyr technical product. Although benzovindiflupyr caused decreased activity and decreased grip strength in the neurotoxicity studies, there was no supportive neuro-histopathology in any study to indicate a specific neurotoxic effect.

The mouse immunotoxicity study was negative by the T-cell Dependent Antigen Response (TDAR) assay in the mouse.

No systemic effects were noted at the limit dose of 1000 mg/kg/day in the 28-day dermal rat study.

The Agency classified benzovindiflupyr as showing ''*Suggestive Evidence of Carcinogenic Potential*'' based on the presence of granular cell tumors of the brain in male rats only at the highest dose tested. The Agency concluded that a non-genotoxic mode of action for thyroid tumors observed in male rats has been established as a result of upregulation of uridine diphosphate glucuronyltransferase (UDPGT), increased clearance of T3 and T4 hormones, and increased TSH levels, resulting in increased thyroid cell proliferation, which progress to form thyroid tumors. There was no evidence of carcinogenicity in female rats or in male or female mice. In addition, there is no concern for mutagenicity. The Agency has determined that using a non-linear approach (*i.e.,* RfD; reference dose) will adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to benzovindiflupyr.

Specific information on the studies received and the nature of the adverse effects caused by benzovindiflupyr as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document titled *Benzovindiflupyr. Human Health Risk Assessment for the Proposed Use on Grasses Grown for Seeds* on pages 30–36 in docket ID number EPA–HQ–OPP–2017–0167.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for benzovindiflupyr used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of November 14, 2017 (82 FR 52669) (FRL–9967–33).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to benzovindiflupyr, EPA considered exposure under the petitioned-for tolerances as well as all existing benzovindiflupyr tolerances in 40 CFR 180.686. EPA assessed dietary exposures from benzovindiflupyr in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for benzovindiflupyr. In estimating acute dietary exposure, EPA used 2003–2008 food consumption information from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used 2003–2008 food consumption data from the USDA's NHANES/WWEIA. As to residue levels in food, EPA assumed 100 PCT and tolerance-level residues.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a non-linear approach (*i.e.,* RfD) adequately accounts for all chronic toxicity, including carcinogenicity, that could result from exposure to benzovindiflupyr. A separate cancer assessment was not performed.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for benzovindiflupyr. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for benzovindiflupyr in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of benzovindiflupyr. Further information regarding EPA drinking water models used in pesticide exposure assessment

can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Surface Water Concentration Calculator (SWCC) model and the Pesticide Root Zone Model Ground Water (PRZM–GW) model, the estimated drinking water concentrations (EDWCs) of benzovindiflupyr for acute exposures are estimated to be 8.41 parts per billion (ppb) for surface water and 0.14 ppb for ground water and for chronic exposures for non-cancer assessments are estimated to be 5.41 ppb for surface water and 0.14 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 8.41 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 5.41 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Benzovindiflupyr is currently registered for the following uses that could result in residential exposures: Turf and ornamentals. EPA assessed residential exposure using the following assumptions: The residential uses of benzovindiflupyr will result in short-term residential handler and post-application exposure in residential settings. Only residential handler inhalation and post-application incidental oral exposure scenarios have been quantitatively assessed since no dermal hazard was identified. Residential handler short-term inhalation MOEs are well above the LOC of 100 for all scenarios assessed and are not of concern (inhalation MOEs are ≥180,000). Residential post-application (incidental oral) MOEs for children ranged from 8,000 to 3,600,000 on the day of application, using default input values, and are not of concern.

The residential scenarios for the benzovindiflupyr aggregate assessments are as follows: Adults: Inhalation exposures from treating ornamentals with a manually pressurized hand-wand or backpack sprayer; children 1 to <2 years old: Post-application hand-to-mouth exposures from treated turf. These scenarios resulted in the highest residential exposures and are considered protective of other exposure scenarios.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found benzovindiflupyr to share a common mechanism of toxicity with any other substances, and benzovindiflupyr does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that benzovindiflupyr does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of quantitative or qualitative susceptibility in fetuses or offspring in the rat and rabbit developmental studies or in the 2-generation rat reproduction study. Benzovindiflupyr produced effects in rat fetuses (*i.e.,* decreased fetal weight and ossification) in developmental toxicity studies at maternally toxic doses. In the rabbit developmental study, there were no adverse effects in either the does or the fetuses at the highest dose tested. In reproduction studies, offspring effects occurred at doses higher than those causing parental effects; thus, there was no quantitative increase in sensitivity in rat pups. The LOAELs and NOAELs for the rat developmental and rat reproduction studies were clearly defined.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for benzovindiflupyr is complete.

ii. There is no indication that benzovindiflupyr is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. There is no evidence that benzovindiflupyr results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to benzovindiflupyr in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by benzovindiflupyr.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate food and water exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to benzovindiflupyr will occupy 43% of the aPAD for children 1–2 years old, the

population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to benzovindiflupyr from food and water will utilize 19% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of benzovindiflupyr is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Benzovindiflupyr is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to benzovindiflupyr.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 2100 for adults and 510 for children. Because EPA's LOC for benzovindiflupyr is an MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, benzovindiflupyr is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for benzovindiflupyr.

5. *Aggregate cancer risk for U.S. population.* Based on the discussion in Unit III.A., EPA considers the chronic aggregate risk assessment to be protective of any aggregate cancer risk. Based on the results of the chronic risk assessment, which accounts for all chronic toxicity, including carcinogenicity, EPA does not expect any cancer risk to the U.S. population from aggregate exposure to benzovindiflupyr.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to benzovindiflupyr residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate analytical method is available to enforce the proposed tolerances for benzovindiflupyr in the specified grass commodities. A Quick, Easy, Cheap, Effective, Rugged, and Safe (QuEChERS) multi-residue method (EN15662:2009) was developed for the determination of residues of benzovindiflupyr via liquid chromatography-mass spectrometry/mass spectrometry (LC–MS/MS)

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for benzovindiflupyr.

C. Revisions to Petitioned-For Tolerances

The registrant petitioned for the use of benzovindiflupyr in or on grasses grown for seed, forage at 0.15 parts per million (ppm), grasses grown for seed, hay at 7 ppm and grasses grown for seed, straw at 6 ppm. The Agency has not established a crop group for ''grasses grown for seed'' or otherwise defined what commodities are included in the category of ''grasses grown for seed''. The closest group tolerance to the commodity category requested is a crop group tolerance on grasses (*i.e.,* ''grass, forage, fodder and hay, group 17''), although this group includes all grasses, whether grown for seed or not. Sufficient representative commodity residue data were not submitted to support establishing a crop group 17 tolerances; therefore, the Agency is establishing tolerances for the individual grasses for which residue data were submitted: Bluegrass, bromegrass, fescue, orchardgrass, and ryegrass.

V. Conclusion

Therefore, tolerances are established for residues of benzovindiflupyr, including its metabolites and degradates, in or on bluegrass, forage at 0.15 ppm, bluegrass, hay at 7.0 ppm, bluegrass, straw at 6.0 ppm, bromegrass, forage at 0.15 ppm, bromegrass, hay at 7.0 ppm, bromegrass, straw at 6.0 ppm, fescue, forage at 0.15 ppm, fescue, hay at 7.0 ppm, fescue, straw at 6.0 ppm, orchardgrass, forage at 0.15 ppm, orchardgrass, hay at 7.0 ppm, orchardgrass, straw at 6.0 ppm, and ryegrass, forage at 0.15 ppm, ryegrass, hay at 7.0 ppm, and ryegrass, straw at 6.0 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001); Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997); or Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations

under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 1, 2018.

Daniel J. Rosenblatt,

Deputy Director Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.686, add alphabetically the commodities: ''Bluegrass, forage''; ''Bluegrass, hay''; ''Bluegrass, straw''; ''Bromegrass, forage''; ''Bromegrass, hay''; ''Bromegrass, straw''; ''Fescue, forage''; ''Fescue, hay''; ''Fescue, straw''; ''Orchardgrass, forage''; ''Orchardgrass, hay''; ''Orchardgrass, straw''; ''Ryegrass, forage''; ''Ryegrass, hay''; and ''Ryegrass, straw'' to the table in paragraph (a) to read as follows:

§ 180.686 Benzovindiflupyr; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Bluegrass, forage	0.15
Bluegrass, hay	7.0
Bluegrass, straw	6.0
Bromegrass, forage	0.15
Bromegrass, hay	7.0
Bromegrass, straw	6.0
* * * * *	
Fescue, forage	0.15
Fescue, hay	7.0
Fescue, straw	6.0
* * * * *	
Orchardgrass, forage	0.15
Orchardgrass, hay	7.0
Orchardgrass, straw	6.0
* * * * *	
Ryegrass, forage	0.15
Ryegrass, hay	7.0
Ryegrass, straw	6.0
* * * * *	

[FR Doc. 2018–13454 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1802

RIN 2700–AE46

NASA Federal Acquisition Regulation Supplement: Removal of Definitions (NFS Case 2018–N017)

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: NASA is issuing a final rule to amend the NASA Federal Acquisition Regulation (FAR) Supplement (NFS) to remove definitions which affect only the internal Agency administrative procedures and have no cost or administrative impact on contractors or prospective contractors.

DATES: This final rule is effective August 21, 2018. Comments due on or before July 23, 2018. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Submit comments identified by NFS Case 2018–N017, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''NFS Case 2018–N017''. Select the link ''Comment Now'' that corresponds with ''NFS Case 2018–N017''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''NFS Case 2018–N017'' on any uploaded files.''
- *Email: geoffrey.s.sage@nasa.gov.* Include ''NFS Case 2018–N017'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Geoffrey S. Sage, NASA Headquarters, Office of Procurement, Contract and Grant Policy Division, Suite 5K32, 300 E Street SW, Washington, DC 20456–0001. Telephone 202–358–2420.

SUPPLEMENTARY INFORMATION:

I. Background

NFS part 1802, Definitions of Words and Terms, contains the following definitions that affect only the internal Agency administrative procedures and have no cost or administrative impact on contractors or prospective contractors: Administrator, Contracting activity, Head of the agency or agency head, Head of the contracting activity (HCA), NASA Acquisition internet Service (NAIS), Procurement officer, and Senior Procurement Executive. Pursuant to Executive Order 13563, Improving Regulation and Regulatory

Review, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, NASA is continually reviewing existing regulations with the objective of reducing or removing any unnecessary, outdated and burdensome requirements that have outlived their intended purpose. Because the definitions affect only the internal Agency administrative procedures they can be removed from the regulatory section of the NFS.

NASA does not anticipate opposition to the changes or significant adverse comments. However, if the Agency receives significant adverse comment, it will withdraw this final rule by publishing a document in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the final rule will be ineffective or unacceptable without change. In determining whether a comment necessitates withdrawal of this final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation (FAR). Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it makes nonsubstantive changes to Agency regulations that has no impact on contractors or prospective offerors as the definitions being removed affect only the internal Agency administrative procedures.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Executive Order 13371

This rule is not subject to Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant NFS revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 and therefore does not require publication for public comment.

VI. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 1802

Government procurement.

Geoffrey Sage,

NASA FAR Supplement Manager.

PART 1802—[REMOVED]

■ Accordingly, under the authority of 51 U.S.C. 20113(a), 48 CFR part 1802 is removed.

[FR Doc. 2018–13475 Filed 6–21–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1827 and 1852

RIN 2700–AE45

NASA Federal Acquisition Regulation Supplement: Removal of Reference to the Supplemental Rights in Data Special Works Policy and Associated Clause (NFS Case 2018–N016)

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: NASA is issuing a final rule to amend the NASA Federal Acquisition Regulation (FAR) Supplement (NFS) to remove reference to the supplemental rights in data special works policy and associated clause.

DATES: This final rule is effective August 21, 2018. Comments due on or before July 23, 2018. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Submit comments identified by NFS Case 2018–N016, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''NFS Case 2018–N016''. Select the link ''Comment Now'' that corresponds with ''NFS Case 2018–N016''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''NFS Case 2018–N016'' on any uploaded files.''

○ *Email: john.brett@nasa.gov.* Include ''NFS Case 2018–N016'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: John Brett, NASA Headquarters, Office of Procurement, Contract and Grant Policy Division, Suite 5G25, 300 E Street SW, Washington, DC 20456–0001. Telephone 202–358–0687.

SUPPLEMENTARY INFORMATION:

I. Background

NFS 1827.409(i), and associated clause 1852.227–17, Rights in Data-Special Works, require that whenever the words ''establish'' and ''establishment'' are used in clause 52.227–17, Rights in Data, those words shall be construed to mean ''assert'' and ''assertion'', respectively. In 2007, 52.227–17 was modified. As a result of the modification, the words ''establish'' and ''establishment'' no longer appear in the clause. With the modification of 52.227–17, the requirement for NFS 1827.409(i), and associated clause 1852.227–17, Rights in Data-Special Works, is rendered unnecessary. Pursuant to Executive Order 13563, Improving Regulation and Regulatory Review, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, NASA is continually reviewing existing regulations with the objective of reducing or removing any unnecessary, outdated and burdensome requirements that have outlived their intended purpose, NFS 1827.409(i), and associated clause 1852.227–17, Rights in Data-Special Works, were reviewed and recommended for removal from the NFS since they are no longer applicable under any circumstance.

NASA does not anticipate opposition to the changes or significant adverse

comments. However, if the Agency receives significant adverse comment, it will withdraw this final rule by publishing a document in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the final rule will be ineffective or unacceptable without change. In determining whether a comment necessitates withdrawal of this final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation (FAR). Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or from, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it makes nonsubstantive changes to Agency regulations. The rule merely removes from the NFS policy and an associated clause that are outdated.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Executive Order 13371

This rule is not subject to Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant NFS revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 and therefore does not require publication for public comment.

VI. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1827 and 1852

Government procurement.

Geoffrey Sage,
NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1827 and 1852 are amended as follows:

■ 1. The authority citation for parts 1827 and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1827—PATENTS, DATA, AND COPYRIGHTS

1827.409 [Amended]

■ 2. Remove and reserve 1827.409(i).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.227–17 [Removed and Reserved]

■ 3. Remove and reserve 1852.227–17.

[FR Doc. 2018–13464 Filed 6–21–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1843 and 1852

RIN 2700–AE44

NASA Federal Acquisition Regulation Supplement: Removal of Reference to the Shared Savings Policy and Associated Clause (NFS Case 2018–N008)

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: NASA is issuing a final rule to amend the NASA Federal Acquisition Regulation (FAR) Supplement (NFS) to remove reference to the Shared Savings policy and associated clause.

DATES: This final rule is effective August 21, 2018. Comments due on or before July 23, 2018. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Submit comments identified by NFS Case 2018–N008, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''NFS Case 2018–N008''. Select the link ''Comment Now'' that corresponds with ''NFS Case 2018–N008''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''NFS Case 2018–N008'' on any uploaded files.''

○ *Email: marilyn.seppi-1@nasa.gov.* Include ''NFS Case 2018–N008'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Seppi, NASA Headquarters, Office of Procurement, Contract and Grant Policy Division, Suite 5H35, 300 E. Street SW, Washington, DC 20456–0001. Telephone 202–358–0447.

SUPPLEMENTARY INFORMATION:

I. Background

NFS subpart 1843.71, Shared Savings, and associated clause 1852.243–71, Shared Savings, were added to the NFS in 1997. The intent of the clause was to provide an incentive for contractors to identify and implement significant cost reduction programs. In return, they would be eligible for a share of the realized savings which resulted from those cost-cutting projects once they were approved by the contracting officer. Pursuant to Executive Order 13563, Improving Regulation and Regulatory Review, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, NASA is continually reviewing existing regulations with the objective of reducing or removing any unnecessary, outdated and burdensome requirements that have outlived their intended purpose, NFS 1843.71, Shared Savings, and associated clause 1852.243–71, Shared Savings were reviewed and recommended for removal from the NFS since they are duplicative of the FAR part 48, Value Engineering Change Proposal (VECP) program and associated clauses implemented under OMB Circular A–131, Value Engineering. The FAR VECP clauses provide the same

incentive to contactors as the NFS Shared Savings clause.

NASA does not anticipate opposition to the changes or significant adverse comments. However, if the Agency receives significant adverse comment, it will withdraw this final rule by publishing a document in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the final rule will be ineffective or unacceptable without change. In determining whether a comment necessitates withdrawal of this final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation (FAR). Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it makes nonsubstantive changes to Agency regulations that has minimal impact on contractors or offerors as there are value engineering proposal clauses prescribed in FAR part 48 that may be utilized in lieu of the NFS clause. The rule merely removes from the NFS policy and an associated clause that is outdated and redundant to policy that is already provided for in the FAR.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Executive Order 13371

This rule is not subject to Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant NFS revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 and therefore does not require publication for public comment.

VI. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1843 and 1852

Government procurement.

Geoffrey Sage,

NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1843 and 1852 are amended as follows:

■ 1. The authority citation for parts 1843 and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1843—CONTRACT MODIFICATIONS

Subpart 1843.71 [Removed]

■ 2. Remove subpart 1843.71, consisting of sections 1843.7101 and 1843.7102.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.243–71 [Removed and Reserved]

■ 3. Remove and reserve 1852.243–71.

[FR Doc. 2018–13463 Filed 6–21–18; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170627600–8521–02]

RIN 0648–BG99

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Mutton Snapper and Gag Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico (Gulf) Fishery Management Council (Council). This final rule revises the mutton snapper commercial and recreational minimum size limits, the recreational bag limit, and the stock annual catch limit (ACL). In addition, this final rule revises the gag commercial minimum size limit. The purposes of this final rule are to reduce harvest of mutton snapper to prevent overfishing while also achieving optimum yield (OY), and streamline management measures to help increase compliance with the fishing regulations for mutton snapper and gag in the exclusive economic zone (EEZ) of the Gulf off Florida.

DATES: This final rule is effective July 23, 2018.

ADDRESSES: Electronic copies of the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office website at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/mutton_gag/mutton_gag_index.html.*

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, NMFS SERO, telephone: 727–824–5305, email: *Rich.Malinowski@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery includes mutton snapper and gag and is managed under the FMP. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-

Stevens Fishery Conservation and Management Act (Magnuson-Steven Act) (16 U.S.C. 1801, *et seq.*).

On February 15, 2018, NMFS published a proposed rule for the framework action and requested public comment (83 FR 6830). The proposed rule and framework action outlined the rationale for the actions contained in this final rule. A summary of the management measures described in the framework action and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

For mutton snapper, this final rule revises the stock ACL (given in round weight), the commercial and recreational minimum size limits, and the recreational bag limit. This final rule also revises the gag commercial minimum size limit.

Mutton Snapper Stock ACL

This final rule sets the Gulf mutton snapper stock ACL at 134,424 lb (60,974 kg) for the 2018 fishing year, 139,392 lb (63,227 kg) for the 2019 fishing year, and 143,694 lb (65,179 kg) for the 2020 fishing year and subsequent fishing years. The ACLs are consistent with the current apportionment between the Gulf and South Atlantic and are equal to the Gulf's portion of the acceptable biological catch recommended by the Council's Scientific and Statistical Committee (SSC).

Mutton Snapper Recreational Bag Limit

This final rule reduces the recreational bag limit applicable to the Gulf EEZ to 5 mutton snapper per person per day within the 10-snapper aggregate bag limit to be consistent with the Florida state bag limit and South Atlantic EEZ bag limit. NMFS and the Council expect consistent mutton snapper recreational bag limits across the Gulf and South Atlantic EEZs and Florida state waters to improve regulatory compliance and decrease the burden for law enforcement.

Mutton Snapper Minimum Size Limit

This final rule revises the mutton snapper commercial and recreational minimum size limits to 18 inches (45.7 cm), total length (TL), in the Gulf EEZ to be consistent with the state of Florida and South Atlantic EEZ minimum size limits. As with the change to the recreational bag limit, this revision increases regulatory consistency to improve compliance and decrease the burden for law enforcement.

Because more than 95 percent of mutton snapper landings from the Gulf are from the commercial sector and 95 percent of the commercially landed mutton snapper are larger than 20 inches (50.8 cm), NMFS expects little effect on the spawning population and harvest rates as a result of this change.

Gag Commercial Minimum Size Limit

This final rule increases the Gulf gag commercial minimum size limit to 24 inches (60.9 cm), TL, to make the commercial minimum size limit consistent with the Gulf EEZ recreational minimum size limit, as well as consistent with the South Atlantic EEZ and state of Florida commercial and recreational size limits. Over 98 percent of Gulf commercial gag landings come from waters adjacent to Florida and 94.5 percent of commercially harvested gag in the Gulf waters are at least 24 inches. Therefore, NMFS and the Council expect increasing the commercial minimum size limit to improve compliance and decrease the burden for law enforcement by increasing regulatory consistency, but do not expect an increase in regulatory discards of gag.

Comments and Responses

NMFS received three comments related to the proposed rule for the framework action. These comments either agreed with the proposed changes or suggested additional modifications to management measures such as prohibiting commercial harvest of gag or modifying the recreational closed seasons, which were beyond the scope of the proposed rule. No changes were made to this final rule based on public comment.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with the framework action, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under E.O. 12866.

In compliance with section 604 of the Regulatory Flexibility ACT (RFA), NMFS prepared a final regulatory flexibility analysis (FRFA) for this final rule. The FRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this final rule. A description of the final rule, why it is being considered, and the objectives of, and legal basis for this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of the preamble. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule. Accordingly, this final rule does not implicate the Paperwork Reduction Act.

No public comments were received relating to the socio-economic implications and potential impacts on small business entities, therefore no changes to this final rule were made in response to public comments. No comments were received from the Office of Advocacy for the Small Business Administration.

NMFS agrees that the Gulf Council's preferred alternatives will best achieve their objectives for the framework action while minimizing, to the extent practicable, the adverse effects on fishers, support industries, and associated communities.

NMFS expects this final rule to directly affect all commercial vessels that harvest Gulf mutton snapper and/or gag under the FMP. Changes to ACLs, recreational minimum size limits, or recreational bag limits in this framework and final rule will not directly apply to or regulate charter vessel and headboat (for-hire) businesses. Any impact to the profitability or competitiveness of for-hire fishing businesses will be the result of changes in for-hire angler demand and will therefore be indirect in nature. The RFA does not consider recreational anglers, who will be directly affected by this final rule, to be small entities, so they are outside the scope of this analysis and only the effects on commercial vessels were analyzed. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

As of April 5, 2018, there were 842 vessels with valid or renewable Federal Gulf reef fish commercial vessel permits. From 2010 through 2015, an average of 119 vessels per year landed mutton snapper in state and Federal waters of the Gulf. These vessels, combined, averaged 429 trips per year in the Gulf on which mutton snapper were landed and 1,594 other trips taken in the Gulf on which no mutton snapper were landed or were taken in the South Atlantic. The average annual total

dockside revenue (2015 dollars) was approximately $0.22 million from mutton snapper, approximately $4.34 million from other species co-harvested with mutton snapper (on the same trips), and approximately $12.10 million from other trips by these vessels in the Gulf on which no mutton snapper were harvested or occurred in the South Atlantic. Total average annual revenue from all species harvested by vessels harvesting mutton snapper in the Gulf was approximately $16.66 million, or approximately $138,764 per vessel. For the same period, an average of 375 vessels per year landed gag in the Gulf. These vessels, combined, averaged 2,936 trips per year in the Gulf, on which gag were landed and 2,416 trips taken either in the Gulf on which gag were not harvested or trips taken in the South Atlantic. The average annual total dockside revenue (2015 dollars) for these 375 vessels was approximately $2.39 million from gag, approximately $25.32 million from other species co-harvested with gag (on the same trips in the Gulf), and approximately $17.06 million from the other trips taken by these vessels. The total average annual revenue from all species harvested by these 375 vessels was approximately $44.77 million, or approximately $120,238 per vessel. Based on the foregoing revenue information, all commercial vessels affected by the final rule may be assumed to be small entities.

Because all entities expected to be directly affected by this final rule are assumed to be small entities, NMFS has determined that this final rule will affect a substantial number of small entities; however, the issue of disproportionate effects on small versus large entities does not arise in the present case.

Relevant to commercial vessels, the final rule modifies the 2018–2020, and subsequent years', ACLs for the Gulf apportionment of mutton snapper; increases the minimum size limit for commercial mutton snapper in the Gulf to 18 inches (45.7 cm) TL; and, increases the commercial minimum size limit for gag in the Gulf to 24 inches (60.9 cm) TL.

Modifying the ACLs for mutton snapper will result in ACL reductions each year from 2018 through 2020. Vessel revenue reductions corresponding to these reduced ACLs will be approximately $166,000 in 2018, $154,000 in 2019, and $143,000 in 2020, or an annual average of approximately $160,000 for the four-year period. If distributed equally among the 119 vessels, average annual revenue loss will be approximately $1,350 per vessel. This annual revenue loss per vessel will be approximately 1 percent of average per vessel revenues from all species.

Increasing the Gulf mutton snapper minimum size limit from 16 inches (40.6 cm), TL, to 18 inches (45.7 cm), TL, affects approximately 0.2 percent of commercial landings, or approximately $495 annually in total vessel revenues. This revenue reduction is minimal, and it is also unlikely to be in addition to the estimated revenue losses from the reductions in ACLs, because NMFS expects fishermen to catch the full amount of the ACLs even with an increase in the minimum size limit for mutton snapper.

Increasing the commercial gag minimum size limit in the Gulf from 22 inches (55.8 cm), TL, to 24 inches (60.9 cm), TL, could potentially reduce commercial gag landings by 12,207 lb (5,537 kg) annually, or approximately $61,890 in total vessel revenues. These landings and revenue loss, however, appear unlikely because gag are managed under an individual fishing quota (IFQ) program, and IFQ participants will likely adjust their trip level catch composition throughout the year or sell a portion of their annual gag allocation to other fishers, rather than suffer a loss in revenues.

The following discussion analyzes the alternatives that were considered by the Council, including those that were not selected as preferred by the Council.

Three alternatives, including the preferred alternative described in this final rule, were considered for establishing ACLs for Gulf mutton snapper. The first alternative, the no-action alternative, would maintain the current economic benefits to all participants in the mutton snapper component of the reef fish fishery. This alternative, however, would be inconsistent with the best scientific information available and would allow more harvest than is recommended by the SSCs based on the most recent stock assessment.

The second alternative, which is the preferred alternative, includes two options, one of which is the preferred option. The non-preferred option would apply the Gulf's ACL/annual catch target (ACT) control rule, with the resultant ACT being 12 percent less than the ACL. Because the ACT is not currently used for management purposes, the economic effects of this option would be the same as that of the preferred option.

The third alternative would establish ACLs that would be lower than the ACLs in the preferred alternative, and thus would be expected to result in larger revenue losses than the preferred alternative.

Three alternatives, one of which includes the preferred alternative described in this final rule, were considered for modifying the mutton snapper minimum size limit. The first alternative, the no-action alternative, would maintain the 16-inch (40.6 cm), TL, minimum size limit for commercial and recreational mutton snapper, and thus would not be expected to change the economic benefits from fishing for mutton snapper. However, this alternative would not achieve one of the stated goals of changing the minimum size limit, which is to establish consistent size limit regulations between the Gulf EEZ, the South Atlantic EEZ, and Florida state waters.

The second alternative would increase the minimum size limit for commercial and recreational mutton snapper to 20 inches (50.8 cm), TL. This alternative would be expected to result in larger revenue reductions to commercial vessels than the preferred alternative.

Two alternatives, including the preferred alternative described in this final rule, were considered for modifying the commercial gag minimum size limit. The only alternative to the preferred action is the no-action alternative which would retain the 22-inch (55.8 cm), TL, minimum size limit for gag. However, this alternative would not establish consistent size limit regulations between the Gulf EEZ, the South Atlantic EEZ, and Florida state waters. Furthermore, although the preferred alternative is expected to reduce vessel revenues by approximately $61,890 relative to the no-action alternative, as previously noted, such revenue reduction is deemed unlikely under an IFQ program.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Gag, Gulf of Mexico, Mutton snapper, Recreational, Reef fish.

Dated: June 18, 2018.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.37, revise paragraphs (a)(5) and (b)(1) to read as follows:

§ 622.37 Size limits.

* * * * *

(a) * * *

(5) *Mutton snapper*—18 inches (45.7 cm), TL.

(b) * * *

(1) *Gag*—24 inches (61.0 cm), TL.

* * * * *

■ 3. In § 622.38, revise paragraph (b)(4) to read as follows:

§ 622.38 Bag and possession limits.

* * * * *

(b) * * *

(4) *Snappers, combined, excluding red, lane, and vermilion snapper*—10. In addition, within the 10-fish aggregate snapper bag limit, no more than 5 fish may be mutton snapper.

* * * * *

■ 4. In § 622.41, revise the last sentence of paragraph (o) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(o) * * * The stock ACL for mutton snapper, in round weight, is 134,424 lb (60,974 kg) for 2018, 139,392 lb (63,227 kg) for 2019, and 143,694 lb (65,179 kg) for 2020 and subsequent fishing years.

* * * * *

[FR Doc. 2018–13401 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170630611–8525–02]

RIN 0648–BH01

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic Regions; Regulatory Amendment 4

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

ACTION: Final rule.

SUMMARY: NMFS implements management measures described in Regulatory Amendment 4 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico (Gulf) and South Atlantic (FMP), as prepared and submitted by the Gulf and South Atlantic Fishery Management Councils (Councils). This final rule increases the annual catch limit (ACL) for spiny lobster based on updated landings information and revised scientific recommendations. This final rule also prohibits the use of traps for recreational harvest of spiny lobster in the South Atlantic exclusive economic zone (EEZ) off Georgia, South Carolina, and North Carolina. The purposes of this final rule are to ensure catch levels for spiny lobster are based on the best scientific information available, to prevent overfishing, and to minimize potential negative effects of traps on habitat and protected species interactions in the South Atlantic EEZ.

DATES: This final rule is effective on July 23, 2018.

ADDRESSES: Electronic copies of Regulatory Amendment 4, which includes an environmental assessment and a regulatory flexibility analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/spiny_lobster/A4_lobster_acl/a4_lobster_acl_index.html.*

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The spiny lobster fishery of the Gulf and the South Atlantic is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

On February 2, 2018, NMFS published a proposed rule for Regulatory Amendment 4 in the **Federal Register** and requested public comment (83 FR 4890). Regulatory Amendment 4 and the proposed rule outline the rationale for the actions contained in this final rule. A summary of the management measures described in Regulatory Amendment 4 and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule modifies the stock ACL and annual catch target (ACT) for spiny lobster and prohibits the use of traps for the recreational harvest of spiny lobster in the South Atlantic EEZ.

Stock ACL and ACT

This final rule revises the stock ACL and ACT based on the new acceptable biological catch (ABC) recommendation provided by the Councils' Scientific and Statistical Committees (SSCs). This final rule sets the ACL equal to the recommended ABC of 9.60 million lb (4.35 million kg), which is based on the mean landings from the years 1991/1992–2015/2016 plus 1.5 standard deviations. This final rule sets the ACT at 8.64 million lb (3.92 million kg), which is 90 percent of the ACL. As established in Amendment 10 to the FMP (Amendment 10), the optimum yield (OY) equals the ACT. NMFS does not expect the increase in the ACT and ACL to result in negative biological effects on the stock because current fishing effort is limited by several variables. These variables include the number of trap tags issued by the state of Florida, commercial and recreational bag and possession limits in the Gulf and South Atlantic EEZ, and the duration of the fishing season, which varies depending on the area where spiny lobsters are harvested.

Recreational Harvest of Spiny Lobster Using Traps in the South Atlantic EEZ

This final rule prohibits the use of traps for recreational harvest of spiny lobster in all of the South Atlantic EEZ.

The Councils are concerned that using these traps for recreational harvest may become more popular and result in potential negative impacts on essential fish habitat and an increase in the use of vertical lines that may interact with protected species, for example, by creating entanglement issues, continuing to fish after a trap is lost, or creating bycatch.

Measures in Regulatory Amendment 4 Not Codified Through This Final Rule

As established in Amendment 10, the maximum sustainable yield (MSY) proxy and maximum fishing mortality threshold (MFMT) are equal to the OFL, which was set at 7.9 million lb (3.58 million kg). Consistent with Amendment 10, Regulatory Amendment 4 would modify the MSY proxy and MFMT values, so that they are equal to the revised OFL of 10.46 million lb (4.74 million kg).

Measures in This Final Rule Not Included in Regulatory Amendment 4

In addition to implementing the measures associated with Regulatory Amendment 4, this final rule corrects regulatory language that was mistakenly included in the final rule implementing Amendment 10. This final rule changes 50 CFR 622.407(c) to remove the phrase ''whichever is greater'' and the first occurrence of a duplicative sentence. This final rule also makes a minor

wording revision to more directly state that the total number of undersized spiny lobster allowed on-board a vessel is 50 plus 1 per trap.

Comments and Responses

A total of 14 comments were received on the proposed rule to implement Regulatory Amendment 4. Comments that were beyond the scope of the proposed rule and comments that agreed with the proposed actions are not responded to in this final rule. Other comments that relate to the actions contained in Regulatory Amendment 4 and the proposed rule are grouped as appropriate and summarized below, followed by NMFS' respective responses.

Comment 1: The ACL for spiny lobster should not be increased. The ACL should remain at its current level for another 5 years to allow the spiny lobster populations to increase.

Response: NMFS disagrees. The new ACL is consistent with a new ABC recommendation by the Councils' SSCs. The prior ABC recommendation was based on a time period when landings were historically low. The new ABC and the corresponding increase in the ACL are based on a longer time period (1991/1992 through 2015/2016) to better capture the dynamics of the fishery that are influenced by factors beyond spiny lobster biology and harvest, such as environmental, economic, and social conditions. As described in Regulatory Amendment 4, increasing the ACL is not expected to negatively affect the spiny lobster population because fishing effort is not expected to increase. Current fishing effort is limited by such measures as the number of commercial trap tags issued by the state of Florida, commercial and recreational bag and possession limits in the South Atlantic and Gulf EEZ, and the duration of the fishing seasons, which varies based on location. Further, maintaining the current ACL for 5 years would not necessarily allow for the spiny lobster populations to increase in U.S. waters. Spiny lobster is widely distributed throughout the western Atlantic Ocean from as far north as North Carolina to as far south as Brazil, including Bermuda, The Bahamas, Caribbean, and Central America. Genetic studies show that most larval recruits in U.S. waters are from elsewhere in the Caribbean, with only 10–40 percent locally spawned larvae retained in U.S. waters.

Comment 2: The timeframe used to specify catch limits for spiny lobster should be continuously updated to incorporate periods of low and high landings, natural disasters such as hurricanes, and to allow for accurate estimates of the stock OFL and ABC.

Response: NMFS agrees that is appropriate to reevaluate the ABC, which is used to set the catch limit, when relevant new information becomes available. That is what occurred through the process leading to up to the Council proposing Regulatory Amendment 4. As explained above, the current OFL and ABC for spiny lobster were established using the mean of the most recent 10 years of landings at that time (*i.e.,* fishing years 2000/2001 through 2009/2010). The Councils' SSCs reevaluated this approach in 2016 in response to a recommendation from a review panel, which was convened as required by the accountability measures when landings exceeded the ACT. The SSCs agreed with the review panel's recommendation to use a longer time series of landings (*i.e.,* fishing years 1991/1992 through 2015/2016) to re-specify the OFL and ABC for spiny lobster. This resulted in the increase in the ACL and ACT implemented through this final rule. Regulatory Amendment 4 also states that a review panel should be convened if there are 2 consecutive years of low landings (below 5.3 million lb). Thus, there are mechanisms in place to respond to changes in harvest and update the ACL as appropriate.

Comment 3: The increase in spiny lobster ACL and prohibition of recreational harvest using traps will allow more commercial harvest of spiny lobster. This will have an economic impact on small business entities and therefore, as a result of increased commercial harvest, NMFS should prepare an initial regulatory flexibility act analysis (IRFA) to better address the economic impacts of these actions.

Response: NMFS disagrees that it is necessary to prepare an IRFA. As stated in the Classification section of the proposed rule and again in this final rule, the increase in the ACL and ACT for spiny lobster will have no impact on small commercial fishing businesses because the AMs do not require a closure or otherwise limit commercial landings of spiny lobster taken from Federal waters if landings reach or exceed the ACL or ACT. Further, the majority of commercial harvest of spiny lobster occurs off Florida, and effort is limited by the number of trap tags issued by the state of Florida, commercial limits, and the length of the fishing season. Therefore, any reduction in the use of traps for recreational harvest is not expected to increase commercial harvest.

Comment 4: NMFS should not prohibit the use of traps for recreational harvest in the EEZ off North Carolina. To avoid interaction of traps with whales, it would be better to close the recreational fishing season for spiny lobster in the EEZ off North Carolina during the whale migration period.

Response: NMFS does not agree that a season restriction on the use of traps for recreational harvest is appropriate. Potential interactions between traps and protected species was one issue the Councils considered in deciding to prohibit the use of traps for recreational harvest in the EEZ off all of the South Atlantic states. However, the Councils were also concerned about bycatch and damage to habitat. Therefore, the Councils did not consider seasonal restrictions for recreational harvest of spiny lobster in Regulatory Amendment 4.

Comment 5: NMFS should allow the use of traps for recreational harvest in the EEZ off Florida to make current spiny lobster regulations consistent in the EEZ off all the states in the South Atlantic region. The proposed rule did not include any evidence that the recreational sector is harming the resource or its habitat as a result of trap use.

Response: NMFS disagrees that consistency in the regulations related to recreational harvest by traps should be achieved by allowing the use of traps in the EEZ off Florida. Consistency was not the basis for the Councils' decision to prohibit the use of this gear. Although current recreational harvest using traps in the EEZ outside Florida is likely minimal, the Councils were concerned that there could be an increase in the use of recreational traps and associated negative impacts. As discussed in Regulatory Amendment 4, trap gear can negatively affect the bottom substrate, entangle protected species, and continue ghost fishing when the trap is lost. Because the majority of spiny lobster harvest occurs in the EEZ off Florida, opening this area to recreational traps would be expected to increase these negatives impacts. In addition, because spiny lobsters are larger in the EEZ off Georgia, South Carolina, and North Carolina than in Florida, traps in those areas would require larger mouths (entrances) that would likely increase bycatch. Recreational harvest is still permitted with dive and snorkel gears, which are the predominant gears used by the recreational sector, and these gears do not have the same impact on habitat and other species as traps do.

Comment 6: Commercial harvest of spiny lobster has fluctuated, while recreational harvest, a small part of overall harvest, has remained consistent. In order to protect the resource, there should be restrictions on

both the commercial and recreational sectors.

Response: Restrictions are already in place for spiny lobster in place for both the commercial and recreational sectors, and this final rule will not remove these restrictions. Commercial and recreational bag and possession limits, and fishing seasons for spiny lobster are in place to control harvest. Any person who commercially fishes for and sells spiny lobster caught in either the Gulf or South Atlantic EEZ, except off Florida, must have a Federal spiny lobster vessel permit. Any person who commercially fishes for spiny lobster caught in the EEZ off Florida, or sells spiny lobster in Florida must have the permits and licenses required by Florida (*http://www.myfwc.com/fishing/saltwater/commercial/spiny-lobster/*). There are also requirements related to gear and vessel identification, and trap construction.

Changes From the Proposed Rule

This final rule revises a reference to a boundary point coordinate for the Tortugas shrimp sanctuary in 50 CFR 622.55(c)(2)(iii), which incorrectly refers to paragraph (d)(1) rather than paragraph (c)(1).

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is consistent with Regulatory Amendment 4, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this final rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here.

One public comment (*Comment 3*) stated that the increase in commercial harvest would have an economic impact on small entities and therefore an IRFA analysis must be prepared. As stated in the Classification section of the proposed rule, although the rule would increase the ACL and ACT, there would be no impact on small commercial fishing businesses because there are no AMs that can either close the Federal season early or otherwise limit commercial landings of spiny lobster taken from Federal waters if landings reach or exceed the ACL or ACT.

No changes were made to the final rule in response to public comments, and NMFS has not received any new information that would affect its previous determination. As a result, a final regulatory flexibility analysis is not required and none was prepared.

The Assistant Administrator for NOAA Fisheries finds that with respect to the change to 50 CFR 622.55(c)(2)(iii) there is good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary. Such procedures are unnecessary because the rule implementing the provision has been subject to notice and comment and the revision corrects only a typographical error.

List of Subjects in 50 CFR Part 640

Fisheries, Fishing, Gulf, South Atlantic, Spiny lobster, Trap.

Dated: June 18, 2018.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 600 and 622 are amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

Subpart R—Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

■ 2. In § 600.725, in the table in paragraph (v), under heading ''III. South Atlantic Fishery Management Council,'' under entry 7, revise entry B pertaining to the ''Recreational fishery'' in the ''Authorized gear types'' column to read as follows:

§ 600.725 General prohibitions.

* * * * *

(v) * * *

Fishery	Authorized gear types
* * * * * * *	
III. South Atlantic Fishery Management Council	
* * * * * * *	
7. South Atlantic Spiny Lobster Fishery (FMP):.	
* * * * * * *	
B. Recreational fishery	B. Dip net, bully net, snare, hand harvest.
* * * * * * *	

* * * * *

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 3. The authority citation for part 622 continues to read as follows:

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

■ 4. In § 622.55, revise paragraph (c)(2)(iii) to read as follows:

§ 622.55 Closed areas.

* * * * *

(c) * * *

(2) * * *

(iii) Effective from May 26 through July 31, each year, that part of the Tortugas shrimp sanctuary seaward of rhumb lines connecting the following points is open to trawling: From point F, as specified in paragraph (c)(1) of this section, to point Q at 24°46.7′ N lat., 81°52.2′ W long. (on the line denoting the seaward limit of Florida's waters); thence along the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11439, to point U and north to point T, both points as specified in paragraph (c)(2)(i) of this section.

* * * * *

■ 5. In § 622.404, add paragraph (d) to read as follows:

§ 622.404 Prohibited gear and methods.

* * * * *

(d) Except for black sea bass pots and golden crab traps as allowed in § 622.188 and § 622.248, respectively, the possession of all other traps is prohibited onboard a vessel in the South Atlantic EEZ when spiny lobster subject to the recreational bag and possession limits specified in § 622.408 is also onboard the vessel. The recreational harvest of spiny lobster using a trap is prohibited in the South Atlantic EEZ.

■ 6. In § 622.407, revise paragraph (c) to read as follows:

§ 622.407 Minimum size limits and other harvest limitations.

* * * * *

(c) *Undersized attractants.* A live spiny lobster under the minimum size limit specified in paragraph (a)(1) of this section that is harvested in the EEZ by a trap may be retained aboard the harvesting vessel for future use as an attractant in a trap provided it is held in a live well aboard the vessel. The live well must provide a minimum of ¾ gallons (1.7 liters) of seawater per spiny lobster. An undersized spiny lobster so retained must be released to the water alive and unharmed immediately upon leaving the trap lines and prior to 1 hour after official sunset each day. No more than 50 undersized spiny lobsters plus 1 per trap aboard the vessel may be retained aboard for use as attractants.

* * * * *

■ 7. Revise § 622.411 to read as follows:

§ 622.411 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

For recreational and commercial spiny lobster landings combined, the ACL is 9.60 million lb (4.35 million kg), whole weight. The ACT is 8.64 million lb, (3.92 million kg) whole weight.

[FR Doc. 2018–13400 Filed 6–21–18; 8:45 am]

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Proposed Rules

Federal Register
Vol. 83, No. 121
Friday, June 22, 2018

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

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–TP–0029]

Energy Conservation Program: Test Procedure for Water-Source Heat Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (''DOE'') is initiating a data collection process through this RFI to consider whether to amend DOE's test procedure for commercial water-source heat pumps (''WSHPs''). To inform interested parties and to facilitate this process, DOE has gathered data, identifying several issues associated with the currently applicable test procedure on which DOE is interested in receiving comment. The issues outlined in this document mainly concern: Methods that are incorporated by reference by the applicable industry standard; efficiency metrics and calculations; additional specifications for the test methods; and any additional topics that may inform DOE's decisions in a future test procedure rulemaking, including methods to reduce regulatory burden while ensuring the test procedure's accuracy. DOE welcomes written comments from the public on any subject within the scope of this document (including topics not raised in this RFI).

DATES: Written comments and information are requested and will be accepted on or before July 23, 2018.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–TP–0029, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: WSHP2017TP0029@ee.doe.gov.* Include the docket number EERE–2017–BT–TP–0029 in the subject line of the message.
- *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Test Procedure RFI for Water-Source Heat Pumps, Docket No. EERE–2017–BT–TP–0029, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section III of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at: *https://www.regulations.gov/docketBrowser?rpp=25&po=0&D=EERE-2017-BT-TP-0029.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III of this document for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Antonio Bouza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–4563. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov.*

For further information on how to submit a comment, or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

WSHPs are included in the list of ''covered equipment'' for which DOE is authorized to establish and amend energy efficiency standards and test procedures. (42 U.S.C. 6311(1)(B)–(D)) DOE's test procedure for WSHPs is prescribed at title 10 of the Code of Federal Regulations (''CFR'') § 431.96. The following sections discuss DOE's authority to establish and amend test procedures for WSHPs, as well as relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority and Background

The Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part C[2] of EPCA, added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes small, large, and very large commercial package air conditioning and heating equipment, which include the WSHPs that are the subject of this notice. (42 U.S.C. 6311(1)(B)–(D))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of the Act include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6316(b)(2)(D))

The DOE testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA.

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of covered equipment during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b))

As discussed, WSHPs are a category of commercial package air conditioning and heating equipment. EPCA requires that the test procedures for commercial package air conditioning and heating equipment be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), as referenced in ASHRAE Standard 90.1, ''Energy Standard for Buildings Except Low-Rise Residential Buildings'' (ASHRAE Standard 90.1). (42 U.S.C. 6314(a)(4)(A)) Further, if such an industry test procedure is amended, DOE must amend its test procedure to be consistent with the amended industry test procedure, unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that such amended test procedure would not meet the requirements in 42 U.S.C. 6314(a)(2) and (3) related to representative use and test burden. (42 U.S.C. 6314(a)(4)(B))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered equipment, including WSHPs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6314(a)(1)) In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. (42 U.S.C. 6314(a)(1)(A)(ii)) DOE is publishing this RFI to collect data and information to inform its decision in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6314(a)(1))

B. Rulemaking History

DOE sets forth the test procedure for WSHPs with a cooling capacity less than 135,000 Btu/h at 10 CFR 431.96. The DOE test procedure currently incorporates by reference International Organization for Standardization (ISO) Standard 13256–1 (1998), ''Water-source heat pumps-Testing and rating for performance-Part 1: Water-to-air and brine-to-air heat pumps,'' (ISO 13256–1:1998) and includes additional provisions for equipment set-up at 10 CFR 431.96(e). Paragraph (e) of 10 CFR 431.96 provides specifications for addressing key information typically found in the installation and operation manuals.

DOE initially incorporated ISO 13256–1:1998 as the referenced test procedure for WSHPs on October 21, 2004 (69 FR 61962), and DOE last reviewed the test procedure for WSHPs as part of a final rule for test procedures for commercial package air conditioners and heat pumps published on May 16, 2012 (77 FR 28928). Since then, the relevant industry standards have undergone a reevaluation process which did not result in substantive changes to the referenced standards. (See section II.C.1 of this RFI for a more complete explanation of the industry update process.) Because these actions by the relevant industry standard-setting bodies contained no substantive changes to the industry standard already incorporated by reference, DOE has tentatively concluded that the statutory trigger provisions of 42 U.S.C. 6314(a)(4)(B) do not provide a basis for DOE to review its WSHP test procedure at this time. Therefore, if DOE determines, based upon its assessment of the information submitted in response to this RFI, that a rulemaking is necessary for a reevaluation of the WSHP test procedure, DOE would conduct such review under EPCA's 7-year-lookback authority. (42 U.S.C. 6314(a)(1))

II. Request for Information

In the following sections, DOE has identified a variety of issues on which it seeks input to aid in the development of the technical and economic analyses regarding whether amended test

[1] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA 2015), Public Law 114–11 (April 30, 2015).

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

procedures for WSHPs may be warranted. Specifically, DOE is requesting comment on any opportunities to streamline and simplify testing requirements for WSHPs.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this process that may not specifically be identified in this document. In particular, DOE notes that under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (Feb. 3, 2017). Pursuant to that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its regulations applicable to WSHPs consistent with the requirements of EPCA.

A. Scope and Definition

This RFI covers WSHPs, which DOE defines at 10 CFR 431.92, as a single-phase or three-phase reverse-cycle heat pump that uses a circulating water loop as the heat source for heating and as the heat sink for cooling. The main components are a compressor, refrigerant-to-water heat exchanger, refrigerant-to-air heat exchanger, refrigerant expansion devices, refrigerant reversing valve, and indoor fan. Such equipment includes, but is not limited to, water-to-air water-loop heat pumps.

DOE notes that while the current Federal test procedure and energy conservation standards at 10 CFR 431.96 and 431.97 apply only to those WSHPs with a rated cooling capacity below 135,000 Btu/h (*i.e.,* within the covered equipment type of small commercial package air conditioning and heating equipment; 42 U.S.C. 6311(1)(B)), WSHPs also meet the definitions of the covered equipment types large and very large commercial package air conditioning and heating equipment. (42 U.S.C. 6311(8)(A), (C)–(D)) DOE understands that the market for WSHPs greater than 135,000 Btu/h may be limited, but DOE has identified some models on the market in the larger capacity range. Therefore, DOE may consider expanding the scope of the WSHP TP to include WSHPs with cooling capacity equal to or greater than 135,000 Btu/h.

Issue 1: DOE seeks data on the size of the market for WSHPs with a cooling capacity equal to or greater than 135,000 Btu/h. DOE also requests comment on whether there are any limitations, not otherwise captured in this RFI, associated with testing WSHPs in this large and very large capacity range.

B. Energy Efficiency Descriptor

For WSHPs, the cooling metric currently specified by DOE is the energy efficiency ratio (EER). 10 CFR 431.96. EER is the ratio of the produced cooling effect of the WSHP to its net work input, expressed in Btu/watt-hour, and measured at standard rating conditions. The heating mode metric currently specified by DOE for WSHPs is the coefficient of performance (COP). *Id.* COP is the ratio of the produced heating effect of the WSHP to its network input, when both are expressed in identical units of measurement, and measured at standard rating conditions.

1. Fan Energy Use

DOE is aware that the energy use of field-installed fans will vary based on the use of the fan for various functions (*e.g.,* economizing, ventilation, filtration, and auxiliary heat). Consequently, DOE is investigating whether changes to the WSHP test procedure are needed to properly characterize a representative average use cycle, including changes to more accurately represent fan energy use in field applications. DOE also seeks comment on any anticipated burdens associated with such potential changes to the WSHPs test procedure. DOE also requests information as to the extent that accounting for the energy use of fans in commercial equipment such as WSHPs would be additive of other existing accounting of fan energy use. DOE also seeks information as to whether accounting for the energy use of fan operation in WSHPs would alter measured efficiency, and if so, to what extent.

Issue 2: DOE requests data and information regarding what form(s) of auxiliary heating are installed in WSHPs, how frequently they operate, and whether they operate independently of the WSHP. Additionally, DOE requests data and information on how frequently WSHP supply fans are operated when there is no demand for heating or cooling (*i.e.,* for fresh air ventilation or air circulation/filtration).

Issue 3: DOE requests data and information on the typical operating schedules or duty cycles for WSHP supply fans when there is no demand for heating or cooling. DOE also seeks comment and information regarding the use of the indoor supply fan of WSHPs for any ancillary functions not mentioned above.

ISO 13256–1:1998 uses a fan power adjustment calculation to exclude fan power used for overcoming external resistance on ducted equipment. As a result, the calculation of efficiency only includes the fan power required to overcome the internal resistance of the unit. Similarly, only liquid pump power required to overcome the internal resistance of the unit is included in the effective power input used for efficiency calculation for WSHPs.

ISO 13256–1:1998 does not provide minimum external static pressure (ESP) requirements for ducted equipment; however, Table 9 of ISO 13256–1:1998 includes an operating tolerance (*i.e.,* maximum variation of individual reading from rating conditions) and a condition tolerance (*i.e.,* maximum variation of arithmetical average values from specified test conditions) for external resistance to airflow. ISO 13256–1:1998 does not specify to which values of ESP these tolerances are intended to apply.

Issue 4: DOE requests comment on whether the test procedure for WSHPs should include minimum ESP requirements for the indoor fan, and if so, what values would be representative of field installations. DOE seeks information on whether field ESP values typically vary with capacity, and whether fan power used for overcoming ESP should be included in the efficiency calculation for WSHPs intended to be used with ducting. Similarly, DOE seeks information on what ESP values are typical in field installations for the liquid pump and whether any allowance for external liquid pressure drop should be considered in the efficiency metric.

DOE is aware that some WSHPs may be installed with or without indoor air distribution ducts in the field. Depending on the type of installation, the test method specified in ISO 13256–1:1998 differs; section 4.1.2 of ISO 13256–1:1998 specifies provisions for WSHPs installed without ducts, and section 4.1.3 of that standard specifies provisions for WSHPs installed with ducts. DOE's preliminary research has not revealed any physical characteristics of WSHPs that distinguish them as being suitable for installation with ducts, without ducts, or both. ISO 13256–1:1998 does not specify how to determine whether a WSHP is to be tested using the ducted or non-ducted provisions.

Issue 5: DOE requests comment on what, if any, physical characteristics distinguish WSHPs that are suitable for installation with ducts from those suitable for installation without ducts. DOE also requests comment on whether any WSHP models can be installed either with or without indoor air

distribution ducts. If models exist that can be installed both with or without ducts, DOE requests comment on whether manufacturers test such models using the provisions of section 4.1.2 of ISO 13256–1:1998, which is for heat pumps without duct connection, or using the provisions of section 4.1.3 of that standard for heat pumps with duct connection, or test such models using both provisions of sections 4.1.2 and 4.1.3.

ISO 13256–1:1998 provides requirements for airflow rates in section 4.1.5, including that: (a) Non-ducted heat pumps shall be tested at airflow rates obtained at zero ESP; (b) ducted heat pumps with internal fans or with designated air movers be tested at the airflow rates obtained at zero ESP or the manufacturer-specified airflow rate, whichever is lower, and (c) ducted heat pumps without internal fans shall be tested at the manufacturer-specified airflow rate subject to a maximum internal pressure drop. Additionally, paragraph (e)(2) of 10 CFR 431.96 requires that the airflow rate used for testing must be specified by the manufacturer in the installation and operation manuals being shipped to the commercial customer. ISO 13256–1:1998 does not indicate what speed setting should be used to achieve specified airflow for a fan with more than one speed setting. Also, in some cases, the airflow rate and pressure conditions specified by ISO 13256–1:1998 for a given ducted heat pump without an internal fan may not be achievable simultaneously. For example, the manufacturer-specified airflow may not be achievable below the maximum internal pressure drop specified in section 4.1.5.3 of ISO 13256–1:1998. ISO 13256–1:1998 does not provide an approach for simultaneously achieving the specified airflow rate and pressure conditions for such a case.

Issue 6: DOE requests comment on whether WSHP indoor fans typically have multiple speed settings, and if so, how manufacturers decide which speed setting to use during testing. Further, DOE requests comment on how the specified airflow is achieved during testing if none of the speed settings available with the indoor fan produce the specified airflow at the specified internal or external static pressure (when applicable).

ISO 13256–1:1998 uses a fan efficiency value of 0.3×10^3 Pascal-liters per second per watt to calculate the fan power associated with internal or external airflow resistance (see sections 4.1.3.1 and 4.1.3.2 of that test standard, respectively). However, DOE recognizes that fan and motor technology is evolving, including associated improvements in efficiency. Consequently, the fan efficiency value used in ISO 13256–1:1998 may not be reflective of these improvements for WSHPs that include an integral fan/motor that is based on new, more-efficient technology. On the other hand, DOE notes that for other air-conditioners and heat pumps (*e.g.,* central air-conditioners), indoor units that do not include integrated fans (*i.e.,* coil-only units) are often installed with an existing, external fan that is part of a furnace. The furnace is not always replaced when the new indoor unit is installed. In these cases, the efficiency of the external fan (*i.e.,* the furnace fan) reflects performance of past fan technology. This scenario may or may not be relevant for WSHPs.

Issue 7: DOE seeks comment and data on whether the fan/motor efficiency factor used in the calculation of fan power for WSHPs is representative of units currently on the market and whether the value accurately represents the efficiency of existing fans that are not replaced in WSHP installations. DOE also requests comment on whether indoor fans are typically replaced when coil-only WSHPs are installed. DOE also seeks comment regarding potential test approaches that might lead to more direct representation of efficiency of the fan/motor combination under test instead of relying on a single factor for all units.

DOE notes that all of the issues considered in this section address potential changes to the test procedure for WSHPs that could be reflected in the cooling and/or heating efficiency metrics (*i.e.,* EER or integrated energy efficiency ratio (IEER; see section II.B.2), and COP) for WSHPs in order to make them more representative of the energy contributions of all operating modes. This approach would not regulate the fans separately from the end-use equipment (*i.e.,* the WSHP).

Issue 8: Assuming DOE has authority to address fans embedded in other commercial equipment such as WSHPs (a conclusion the agency has not yet reached), DOE is interested in receiving comment and other information on this topic. DOE requests comment on whether any of the issues considered in this section would result in double-regulation of the energy use of fans in WSHPs, and if so, how. DOE further seeks comment as to whether or what portion of such fan operation is part of a ''representative average use cycle'' of a WSHP. DOE also seeks comment as to whether accounting for the energy use of fan operation in WSHPs would alter measured efficiency, and if so, to what extent.

2. Integrated Efficiency Metrics

DOE's test procedure for WSHPs does not include part-load conditions nor a seasonal metric that includes part-load performance. A seasonal metric is a weighted average of the performance of cooling or heating systems at different rating points intended to represent average efficiency over a full cooling or heating season. Several categories of commercial package air conditioning and heating equipment are rated using a seasonal metric, such as the IEER for air cooled commercial unitary air conditioners as discussed in section 6.2 of AHRI Standard 340/360–2015, ''2015 Standard for Performance Rating of Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment,'' (''AHRI 340/360–2015''). IEER is a weighted average of efficiency at the four load levels representing 100, 75, 50, and 25 percent of full-load capacity, each measured at an outdoor air condition representative of field operation at the given load level.

Issue 9: DOE requests information on whether a seasonal efficiency metric that incorporates part-load performance would be appropriate for WSHPs. DOE also requests input on the specific details of a seasonal energy efficiency metric that would best represent the average cooling seasonal efficiency of WSHPs, including specification of test conditions.

C. Test Procedure

1. ISO 13256–1:1998

At this time, ISO 13256–1:1998 is still the most current industry standard relevant to water-source heat pumps. In 2012, AHRI and ASHRAE reaffirmed ISO 13256–1:1998, and published a version denoted as ISO 13256–1:1998 (RA 2012). DOE tentatively determined that there are no changes to ISO 13256–1:1998 in the reaffirmed 2012 version. ISO 13256–1:1998 is also referenced in ASHRAE Standard 90.1 as the test procedure for testing and rating WSHPs. ASHRAE Standard 90.1 was updated on October 26, 2016, and this update references the reaffirmed version of ISO 13256–1:1998 that DOE tentatively determined contains no changes from the version of ISO 13256–1:1998 referenced in the previous version of ASHRAE Standard 90.1. Because neither of these actions by the relevant industry standard-setting bodies contained substantive changes to the industry standards already incorporated by reference, DOE has tentatively concluded that the statutory trigger

provisions of 42 U.S.C. 6314(a)(4)(B) do not require DOE to review its WSHP test procedure at this time. Instead, if DOE determines, based upon its assessment of the information submitted in response to the RFI, that a rulemaking is necessary for a reevaluation of the WSHP test procedure, DOE would conduct such review under EPCA's 7-year-lookback authority. (42 U.S.C. 6314(a)(1))

2. Potential for Harmonization With ANSI/ASHRAE 37–2009

The test method used in ISO 13256–1:1998 is similar to the American National Standards Institute (ANSI)/ASHRAE 37–2009, ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment'' (ANSI/ASHRAE 37–2009). ANSI/ASHRAE 37–2009 is the method referenced by the 2007 and 2015 versions of AHRI 340/360, ''Standard for Performance Rating of Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment'' (AHRI 340/360). The 2015 version of AHRI 340/360 is referenced by ASHRAE Standard 90.1 for testing water-cooled commercial unitary air conditioners (WCUACs). DOE is considering whether using the same method of test for WSHPs and WCUACs is appropriate, given the similarities in the design of WSHPs and WCUACs.

Issue 10: DOE seeks comment on whether a single test method could be used for both WSHPs and WCUACs. DOE also seeks comment on any aspects of design, installation, and application of WSHPs that would make the use of ANSI/ASHRAE 37–2009 infeasible for WSHPs.

ISO 13256–1:1998 determines total cooling and heating capacities by averaging the results obtained using two test methods: The liquid enthalpy test method for the liquid side tests and the indoor air enthalpy test method for the air side tests. For non-ducted equipment, ISO 13256–1:1998 includes an option for conducting the air-side tests using the calorimeter room test method instead of the air enthalpy test method. The test standard also specifies that, for a test to be valid, the results obtained by the two methods used must agree within 5 percent. ANSI/ASHRAE 37–2009 requires two capacity measurements as well (*i.e.,* for units with cooling capacity less than 135,000 Btu/h); the first method of measurement (*i.e.,* the primary method) is used as the determination of the unit's capacity, while the second measurement (*i.e.,* the secondary method) is used to confirm rather than to be averaged with the primary measurement.

Issue 11: DOE requests information on whether one of the two capacity measurements prescribed in ISO 13256–1:1998 consistently gives a higher or lower result than the other or whether one of the methods can be considered more accurate for a range of different WSHP configurations and models. In addition, DOE requests comment on whether the ANSI/ASHRAE 37–2009 approach for determination of rated capacity (*i.e.,* using the primary method's measurement as the rated capacity rather than averaging the two capacity measurements) would result in more representative ratings than the ISO 13256–1:1998 approach.

3. Accounting for Compressor Heat When Testing Split Systems

DOE has identified split-system WSHPs available on the market. For at least one of these split-system WSHP, the unit containing the compressor is intended for either indoor or outdoor installation. Where the compressor is installed in relation to the conditioned space and other system components impacts the capacity of the WSHP system and the provisions necessary for accurately measuring system capacity. DOE is considering whether the test procedure needs to provide additional specifications for split systems in order to properly account for compressor heat during testing of such WSHPs.

ISO 13256–1:1998 requires use of two methods to measure space-conditioning capacity provided by a WSHP. One of these methods, the indoor air enthalpy method (see normative annex B of ISO 13256–1:1998), measures capacity directly by measuring mass flow and enthalpy change of the indoor air.[3] The second method, the liquid enthalpy test method (see normative annex C of ISO 13256–1:1998), measures heat transferred at the liquid coil. This measurement is adjusted by adding or subtracting the total unit input power (including the compressor input power) from the measured liquid side capacity in the heating or cooling mode tests, respectively, using the equations in normative annex C of ISO 13256–1:1998. This adjustment assumes that all compressor heat is absorbed and ultimately transferred to the conditioned space, increasing heating capacity or decreasing cooling capacity. This ignores any heat transferred from the components (*e.g.,* pump, fan, compressor, controls) to their surroundings that does not contribute to space conditioning. ISO 13256–1:1998 may not accurately account for component losses (in the form of heat) for the indoor air enthalpy method either. The indoor air enthalpy method does not appear to capture any impacts of the heat transferred by the components if the equipment or the test facility are not designed or set up to ensure the heat is captured.

For testing of single-package WSHPs, ISO 13256–1:1998 provides specific instructions to ensure that all energy flows (including heat transfer) are accounted for appropriately. Specifically, section F7.5 of ISO 13256–1:1998 indicates that an enclosure as shown in Figure F–3 should be used when the compressor is in the indoor section and separately ventilated (*i.e.,* air that absorbs compressor heat would not combine with supply air, which is used to measure capacity). Figure F–3 shows an insulated enclosure surrounding the indoor unit that ensures that separately-ventilated compressor air recombines with supply air to be included in capacity measurements. Hence, the heat rejected from the compressor shell is accounted for in the indoor air enthalpy method measurement. This test arrangement also reflects field performance of the WSHP because any compressor heat rejected to the indoors will heat the space, reducing cooling capacity and increasing heating capacity. For WSHPs where the compressor is in the indoor section but not separately ventilated, the air that absorbs compressor heat combines with supply air and is accounted for in the indoor air enthalpy capacity measurements without the need for the enclosure in Figure F–3.

As discussed previously, for split-system WSHPs with the compressor in the liquid coil section, some of the compressor heat may be transferred to the ambient air surrounding the compressor/coil section and, therefore, may not be captured in the space-conditioning measurement. Under ISO 13256–1:1998, if a separate compressor/liquid coil section is placed in the indoor room (as shown in Figure F–1 of ISO 13256–1:1998), the compressor heat would not be captured by the indoor air enthalpy method, even though it does add heat to the indoor room. For a split-system WSHP for which the compressor/liquid coil section is always installed indoors, this issue might be remedied by using an arrangement similar to Figure F–3 and installing both the compressor/liquid coil section and the indoor air section (*i.e.,* the section that includes the air-to-refrigerant coil) in the insulated enclosure, so that any

[3] The alternative calorimeter room test method (see normative annex E of ISO 13256–1:1998), allowed to be used instead of the indoor air enthalpy method for ductless WSHPs, also measures indoor space-conditioning capacity directly.

heat associated with compressor cooling contributes to warming of the indoor air.

In contrast, for a split-system WSHP for which the compressor/liquid coil section is always installed outdoors, the air that absorbs compressor heat would not directly affect the conditioned space. For such a case, the arrangement of Figure F–1 of the test standard and avoiding adjustments that assume that the compressor heat that is absorbed by outdoor air is combined with supply air would be appropriate. However, for such a case, ambient temperature conditions surrounding the outdoor section in field installations would likely be warmer than the indoor conditions specified in ISO 13256–1:1998 (or cooler than indoor conditions when operating in heating mode), which might affect system performance in a different way. In addition, adding or subtracting the entire compressor input power to or from the capacity calculated based on liquid temperature change likely overestimates the impact of compressor power input on the indoor-side capacity that is calculated using the liquid enthalpy-based method. ANSI/ASHRAE 37–2009 also includes a capacity measurement method for systems with outdoor coils that reject or absorb heat from a flowing liquid. However, this ''outdoor liquid coil method'' may not be used if the compressor is cooled (ventilated) by outdoor air (see ANSI/ASHRAE 37–2009, table 1 and section 7.6.1.2). This restriction applies because determination of cooling or heating capacity for a system with outdoor-air cooling of the compressor requires accounting for the compressor heat transferred to the outdoor air, the measurement of which is not specified in the outdoor liquid coil method. In contrast, ISO 13256–1:1998 does not include any restrictions on use of the liquid enthalpy test method—in fact, it is required for testing all WSHPs. The approach may have to be modified to be suitable for split-system WSHPs for which the compressor is housed in a section located outdoors.

Issue 12: DOE seeks comment on whether there are split-system WSHPs on the market for which the unit containing the compressor is intended only for outdoor installation or only for indoor installation (or whether all such units can be used for either indoor or outdoor installation). DOE also seeks information regarding manufacturers' practices for testing split-system WSHPs for which the compressor is not housed in the section containing the indoor refrigerant-to-air coil. First, for units in which the compressor section is to be installed outdoors, DOE seeks comment on whether manufacturers test these units using ''outdoor'' rooms for the outdoor section, and, if so, what outdoor room conditions are used for the test. Second, for testing systems for which the compressor section is to be installed indoors, DOE seeks comment regarding what provisions are adopted during testing to properly account for the compressor heat. For both situations, DOE also seeks comment on whether any adjustments are made to the capacity equations in order to properly account for the compressor heat.

4. Refrigerant Line Losses

Split-system WSHPs have refrigerant lines that can transfer heat to and from their surroundings, which can incrementally affect measured capacity. ISO 13256–1:1998 indicates, for both the indoor air enthalpy test method (annex B) and the liquid enthalpy test method (annex C), in sections B4.2 and C3.3 of the industry standard, that if line loss corrections are to be made, they shall be included in the capacity calculations. DOE believes that these procedures may benefit from additional specificity, specifically regarding what circumstances require line loss corrections and what method to use to determine an appropriate correction.

DOE notes that sections 7.3.3.4 and 7.3.4.4 of ANSI/ASHRAE 37–2009 prescribe methods for calculating and including line losses for both heating and cooling capacity calculations in the outdoor air enthalpy method, in order to obtain an energy balance with results from the indoor air enthalpy method; these procedures and calculations are for air-cooled split systems in which the ''outdoor unit'' is generally located outdoors. In contrast, the ''outdoor unit'' for a split-system WSHP (*i.e.,* the section that contains the liquid/refrigerant heat exchanger) could be located either outdoors or indoors. Similar to the issue of accounting for compressor heat (as discussed in section II.C.3), for a split-system WSHP for which the compressor/liquid coil section is always installed indoors, the impacts of refrigerant line losses on capacity could be captured by using the arrangement of Figure F–3 in Annex F of ISO 13256–1:1998 and installing the compressor/liquid coil section in the insulated enclosure, so that any heat transfer from the refrigerant lines to the surrounding air contribute to warming or cooling of the indoor air. When such a system is tested in this fashion, line loss calculations may not be needed. However, there may be test scenarios for which line loss calculations are needed.

Issue 13: DOE requests comment on whether the methods prescribed in ANSI/ASHRAE 37–2009 for calculating line losses are appropriate for WSHPs. In addition, DOE requests comment on what modification might be made to the procedure in ISO 13256–1:1998 in order to address further refrigerant line losses—specifically, what test situations require their use in the capacity calculations, and which do not. DOE also requests comment on how manufacturers of split-system WSHPs currently incorporate line loss adjustments into both heating and cooling capacity calculations. Further, DOE requests comment on whether manufacturers of split-system WSHPs use test set-ups that capture the effects of refrigerant line losses in capacity measurements (*e.g.,* installing both the indoor coil and liquid coil sections of the split-system WSHP within an insulated enclosure).

5. Standardized Heat Capacity for Water

For the liquid enthalpy test method in annex C of ISO 13256–1:1998, the variables used to calculate the heating and cooling capacity include liquid mass flow rate, specific heat capacity of the liquid, liquid temperatures entering and leaving the unit, and total unit power. The test standard requires the use of water as the liquid medium when testing water-loop heat pumps; however, no value or method for calculating the specific heat capacity of water is provided. Specification of a standard value or calculation method for the specific heat capacity of water may improve the repeatability of the WSHP test procedure.

Issue 14: DOE seeks comment on whether a standard value or calculation method for the specific heat capacity of water should be specified in the WSHP test procedure for calculating the capacity of WSHPs when using the liquid enthalpy method. If a standard value should be used, DOE seeks comments on what that value should be.

6. Discharge Coefficients for Airflow Measurement

ISO 13256–1:1998 section D.1 requires airflow measurements to be made in accordance with the provisions specified in several different industry test standards, ''as appropriate.'' [4] However, ISO 13256–1:1998 is not explicit regarding the circumstances under which the different airflow

[4] ISO 3966:1977, ''Measurement of fluid flow in closed conduits—Velocity area method using Pitot static tubes;'' ISO 5167–1:1991, ''Measurement of fluid flow by means of pressure differential devices—Part 1: Orifice plates, nozzles and Venturi tubes inserted in circular cross-section conduits running full;'' and ISO 5221:1984, ''Air Distribution and air diffusion—Rules to methods of measuring airflow rate in an air handling duct.

measurement approaches included in these industry test standards should be used.

Some of the airflow measurement approaches specified in ISO 13256–1:1998 use a nozzle apparatus. Airflow can be derived from measuring the change in pressure across a nozzle of known geometry. Airflow derivations using this approach often include a discharge coefficient (*i.e.,* the ratio of actual discharge air to theoretical discharge air) to account for factors that reduce the actual discharge air, such as nozzle resistance and airflow turbulence. In general, as the nozzle throat diameter decreases, nozzle resistance increases, thereby reducing actual discharge which is characterized by a lower discharge coefficient. Turbulent airflow (as characterized by Reynolds numbers [5]) and temperature also impact the discharge coefficient. Section F8.9 of annex F to ISO 13256–1:1998 uses a look-up table that specifies the discharge coefficient based on the eight different Reynolds numbers for nozzles with a throat diameter smaller than 12.5 centimeters, and a fixed discharge coefficient of 0.99 for nozzles with a throat diameter equal to or greater than 12.5 centimeters. In contrast, ANSI/ASHRAE 37–2009, which is a common industry standard for measuring airflow for similar equipment, includes provisions regarding the nozzle airflow measuring apparatus that are identical to the provisions in ISO 13256–1:1998, except for the method used to determine the coefficient of discharge. ANSI/ASHRAE 37–2009 uses a calculation to determine the discharge coefficient for nozzles with a throat diameter smaller than 25 centimeters, and a fixed discharge coefficient of 0.99 for nozzles with a throat diameter equal to or greater than 25 centimeters.

ISO 13256–1:1998 section F8.9 uses a second lookup table that specifies the temperature factor, used to calculate the Reynolds number, based on eight different air temperatures. For measured air temperature and calculated Reynolds numbers, ISO 13256–1:1998 does not specify what approach should be applied to determine the coefficient of discharge for air temperatures and Reynolds numbers that fall between the values specified in the look-up tables.

Issue 15: DOE requests comment on which of the methods specified in ISO 13256–1:1998 (*i.e.,* ISO 3966:1977, ISO 5167–1:1991, and ISO 5221:1984) are used by manufacturers to measure airflow of WSHPs, and whether this varies based on WSHP capacity or configuration. DOE requests comment on whether it should incorporate by reference additional industry test standards that outline the calculation method for airflow, such as ANSI/ASHRAE 37–2009. DOE also requests information on how manufacturers determine the coefficient of discharge for air temperatures and Reynolds numbers that fall between the values specified in the look-up table in section F8.9 of annex F to ISO 13256–1:1998.

7. Duct Loss Adjustments

In the calculations for cooling and heating capacities for the indoor air enthalpy test method of ISO 13256–1:1998, the test standard includes a footnote in sections B3 and B4 of annex B stating that the equations do not provide allowances for heat leakage in the test equipment (*i.e.,* duct losses). In contrast, section 7.3.3.3 of ANSI/ASHRAE 37–2009 addresses duct loss adjustments.

Issue 16: DOE requests confirmation whether the duct loss adjustments as described in section 7.3.3.3 of ANSI/ASHRAE 37–2009 are used to adjust capacity measured using the indoor air enthalpy method when testing WSHPs. DOE requests comment on whether any other type of adjustments are used to address the fact that the capacity equations of ISO 13256–1:1998 do not provide allowances for heat leakage in the test equipment.

8. Water Flow Rate

Section 4.1.6 of ISO 13256–1:1998 indicates that WSHPs shall be tested using the water flow rate specified by the manufacturer, with a few exceptions depending on whether the WSHP includes an integral pump and whether the flow rate is automatically adjusted. DOE has reviewed publicly-available WSHP product literature and notes that manufacturers often list multiple water flow rates in performance data.

In contrast, the test method for WCUACs (AHRI 340/360–2007) specifies both the water inlet and outlet temperatures to be 85 °F and 95 °F, respectively, which determines the water flow rate setting. ISO 13256–1:1998 does not include water outlet temperature rating conditions for WSHPs, so the water flow rate cannot be set by adjusting to match the prescribed test conditions.

Issue 17: DOE requests comment on how manufacturers select water flow rate when testing WSHPs in cases where multiple flow rates are provided in product literature. DOE also requests comment on what the typical water temperature rise is during testing, and whether the typical test temperature rise is representative of field operation.

9. Indoor Air Measurements

Indoor air temperature and humidity are key parameters that affect WSHP performance, and for this reason, ISO 13256–1:1998 requires accurate indoor air condition measurements. However, DOE has tentatively determined that the method set forth in ISO 13256–1:1998 would benefit from additional specification as to indoor air temperature measurement. For air-cooled and evaporatively-cooled commercial unitary air conditioners, Appendix C of AHRI 340/360–2015 provides details on entering outdoor air temperature measurement, including air sampling tree and aspirating psychrometer requirements, but AHRI 340/360–2015 does not state that these provisions apply for measurement of entering indoor air temperature and leaving indoor air temperature. DOE is considering whether the requirements contained in Appendix C of AHRI 340/360–2015 (excluding the temperature uniformity requirements in Table C2) would be appropriate for indoor air measurements for testing WSHPs.

Issue 18: DOE requests comment on whether the requirements for outdoor entering air measurement in Appendix C of AHRI Standard 340/360–2015 (excluding the temperature uniformity requirements in Table C2), such as air sampling requirements and aspirating psychrometer requirements, would be appropriate for measurement of indoor air entering and leaving temperatures for WSHPs.

10. Refrigerant Charging

ISO 13256–1:1998 does not provide any specific guidance on setting and verifying the refrigerant charge of a unit. In a test procedure final rule for central air conditioners (CACs) and heat pumps (HPs) published on June 8, 2016 (''June 2016 CAC TP final rule''), DOE established a comprehensive approach for refrigerant charging that improves test reproducibility. 81 FR 36992, 37030–37031. The approach specifies which set of installation instructions to use for charging, explains what to do if there are no instructions, specifies that target values of parameters are the centers of the ranges allowed by installation instructions, and specifies tolerances for the measured values. *Id.* The approach also requires that refrigerant line pressure gauges be installed for single-package units, unless otherwise specified in manufacturer

[5] Reynolds number is a dimensionless number that characterizes the flow properties of a fluid. Section F8.9 of ISO 13256–1:1998 includes an equation for calculating Reynolds number that depends on a temperature factor, air velocity, and throat diameter.

instructions. *Id.* These methods could be considered for the WSHP test procedure.

Issue 19: DOE seeks comment on whether it would be appropriate to adopt an approach for charging requirements for WSHPs similar or identical to the approach adopted in the June 2016 CAC TP final rule. DOE seeks comments regarding which parts of the approach should or should not be adopted, and for what reasons they might or might not be suitable for application to WSHPs. DOE is also interested in receiving data that demonstrate how sensitive the performance of a WSHP is relative to changes in the various charge indicators used for different charging methods, specifically the method based on sub-cooling.

11. Voltage

ISO 13256–1:1998 requires that for units rated with dual nameplate voltages, the test be performed at both voltages or at the lower voltage if only a single rating is to be published. DOE understands that voltage can affect the measured efficiency of air conditioners and is, therefore, considering adding provisions to its test procedure that specify at which nameplate voltage to conduct the test for dual nameplate voltage units.

Issue 20: DOE requests data and information demonstrating the effect of voltage on air conditioning equipment (including, but not limited to, WSHPs). Specifically, DOE seeks comment on whether there is a consistent relationship between voltage and efficiency, and if so, whether testing at a lower voltage will typically result in a higher or lower tested efficiency. Further, DOE requests feedback on whether certain voltages within common dual nameplate voltage ratings (*e.g.,* 208/230 V) are more representative of typical field installation.

D. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedures for WSHPs not already addressed by the specific areas identified in this document. DOE particularly seeks information that would improve the repeatability, reproducibility of the test procedures, as well as the ability of the test procedure to provide results that are representative of actual use. DOE also requests information that would help DOE create a procedure that would limit manufacturer test burden through streamlining or simplifying testing requirements. Comments regarding the repeatability and reproducibility are also welcome.

DOE also requests feedback on any potential amendments to the existing test procedure that could be considered to address impacts on manufacturers, including small businesses. Regarding the DOE test method, DOE seeks comment on the degree to which the DOE test procedure should consider and be harmonized with the most recent relevant industry standards for WSHPs, and whether there are any changes to the DOE test method that would provide additional benefits to the public. DOE also requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification. As discussed, the current DOE test procedure relies on ISO 13256–1:1998, with some additional provisions specified for equipment set-up. 10 CFR 431.96(e).

Additionally, DOE requests comment on whether the existing test procedures limit a manufacturer's ability to provide additional features to consumers of WSHPs. DOE particularly seeks information on how the test procedures could be amended to reduce the cost of new or additional features and make it more likely that such features are included on WSHPs.

III. Submission of Comments

DOE invites all interested parties to submit in writing by July 23, 2018, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of amended test procedures for WSHPs. These comments and information will aid in the development of a test procedure NOPR for WSHPs if DOE determines that amended test procedures may be appropriate for this equipment.

Submitting comments via *http://www.regulations.gov.* The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

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Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not

secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of a rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in a rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this proceeding should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

Signed in Washington, DC, on June 18, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2018–13430 Filed 6–21–18; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 110

[Notice 2018–12]

Internet Communication Disclaimers and Definition of ''Public Communication''

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking; public hearing.

SUMMARY: The Federal Election Commission is adding a second day to the already-announced public hearing on the proposed rules for disclaimers on public communications on the internet.

DATES: The public hearing will be held on June 27–28, 2018, and will begin at 9:30 a.m. on June 27, continuing the next day.

ADDRESSES: The hearing will be held in the Commission's 12th floor hearing room at 1050 First St. NE, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Neven F. Stipanovic, Acting Assistant General Counsel, or Ms. Jessica Selinkoff, Attorney, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On March 26, 2018, the Commission published a Notice of Proposed Rulemaking (''NPRM'') proposing to revise its regulations at 11 CFR 100.26 and 110.11 regarding disclaimers on communications placed for a fee on the internet that contain express advocacy, solicit contributions, or are made by political committees. Internet Communication Disclaimers and Definition of ''Public Communication,'' 83 FR 12864 (Mar. 26, 2018). In the NPRM, the Commission announced that it would hold a hearing on June 27, 2018, and that anyone wishing to testify at the hearing must file timely written comments including a request to testify. *Id.* The deadline for comments was May 25, 2018, and the Commission received more timely-filed requests to testify than can be accommodated in a one-day hearing.

Accordingly, the Commission is extending the hearing to a second day: June 28, 2018. Witnesses will be limited to those persons who included a request to testify in their timely comments on the NPRM.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dayna Brown, Commission Secretary, at (202) 694–1040 at least 72 hours prior to the date of attendance. Individuals who cannot attend in person may view the hearing via webcast; on the hearing day, visit *www.fec.gov* for more information. The Commission will make transcripts of the hearing available on its website after the hearing.

On behalf of the Commission,

Dated: June 18, 2018.

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2018–13390 Filed 6–21–18; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0549; Product Identifier 2018–NM–014–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Dassault Aviation Model MYSTERE–FALCON 200 airplanes. This proposed AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 6, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com*. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0549; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0549; Product Identifier 2018–NM–014–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0009, dated January 15, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model MYSTERE–FALCON 200 airplanes. The MCAI states:

> The airworthiness limitations for Dassault Mystère Falcon 200 aeroplanes, which are approved by EASA, are currently defined and published in AMM [aircraft maintenance manual] ALS [airworthiness limitations section] Chapter 5–40. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> EASA previously issued AD 2008–0221 (later corrected), requiring the actions described in Dassault Mystère Falcon 200 AMM Chapter 5–40 (DMD 18740A) at Revision 14. Since that [EASA] AD was issued, Dassault published the ALS, containing new and/or more restrictive maintenance tasks.
>
> For the reason described above, this [EASA] AD takes over the requirements for Mystère Falcon 200 aeroplanes from EASA AD 2008–0221 and requires accomplishment of the actions specified in the ALS.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0549.

Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Falcon 200 Maintenance Manual, Airworthiness Limitations, Chapter 5–40–00, Revision 17, dated December 20, 2017. The service information describes mandatory maintenance tasks that operators must perform at specified intervals. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

Difference Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the airworthiness limitations section (ALS) inspection tasks, corrective actions must be accomplished in accordance with Dassault maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 9 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-

airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2018–0549; Product Identifier 2018–NM–014–AD.

(a) Comments Due Date

We must receive comments by August 6, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Dassault Aviation Model MYSTERE-FALCON 200 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to address fatigue cracking, damage, and corrosion in principal structural elements; such fatigue cracking, damage, and corrosion could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate Falcon 200 Maintenance Manual, Airworthiness Limitations, Chapter 5–40–00, Revision 17, dated December 20, 2017. The initial compliance time for accomplishing the actions is at the applicable time specified in Falcon 200 Maintenance Manual, Airworthiness Limitations, Chapter 5–40–00, Revision 17, dated December 20, 2017; or within 90 days after the effective date of this AD; whichever occurs later.

(h) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0009, dated January 15, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0549.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 12, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–13333 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0548; Product Identifier 2017–NM–184–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model DHC–8–400 series airplanes. This proposed AD was prompted by a report of broken P-clamps on the pressure relief line and the motive flow line in the left and right fuel tanks, and fouling conditions between the motive flow line and the collector tank partition wall in both fuel tanks. This proposed AD would require, depending on airplane configuration: Increasing the hole size in the collector tank partition wall, inspecting the motive flow line for damage, and replacing the associated grommet and motive flow line; replacing the affected single nut plate brackets and standoffs at the affected stations on the motive flow line and pressure relief line; and inspecting the motive flow line and vent line at certain wing stations, and inspecting the fuel tubes, to verify that an appropriate clearance has been maintained between the fuel tubes and their support brackets, and applicable corrective actions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 6, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0548; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Joseph Catanzaro, Aerospace Engineer, Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0548; Product Identifier 2017–NM–184–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2017–05R1, dated September 20, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model DHC–8–400 series airplanes. The MCAI states:

> Some operators have reported broken P-clamps on the pressure relief line and the motive flow line in the left and right fuel tanks. Fouling conditions were also reported to exist between the motive flow line and the collector tank partition wall in both fuel tanks. These issues affect the integrity of the electrical bonding paths throughout the fuel lines, which in turn may lead to lightning strike induced fuel tank ignition.
>
> The initial issue of this [Canadian] AD mandated design changes that mitigate the risk of lightning strike induced fuel tank ignition.
>
> Since the initial issue of this [Canadian] AD, Transport Canada has become aware that Bombardier (BA) Service Bulletin (SB) 84–28–19 Revision A, dated 4 November 2016, and the initial issue of BA SB 84–28–19, dated 16 August 2016, do not instruct operators to support the motive flow line and vent line at wing stations −371.019 and 371.019 in the left-hand and right-hand fuel tanks, respectively, and do not instruct operators to maintain appropriate clearance between the fuel tubes and their support brackets at wing stations −371.019 and −209.019 in the left-hand fuel tank and wing stations 371.019 and 209.019 in the right-hand fuel tank. Revision 1 of this [Canadian] AD introduces Part III, which requires operators to inspect and correct the fuel tube installation on affected aeroplanes, as required, to maintain fuel tube support and clearance between the fuel tubes and their support brackets. Revision 1 of this [Canadian] AD also updates SB references.

Required actions include, depending on airplane configuration, increasing the hole size in the collector tank partition wall, inspecting the motive flow line for damage, and replacing the associated grommet and motive flow line; replacing the affected single nut plate brackets and standoffs at the affected stations on the motive flow line and pressure relief line; and inspecting the motive flow line and vent line at certain wing stations, and inspecting the fuel tubes, to verify that an appropriate clearance has been maintained between the fuel tubes and their support brackets, and applicable corrective actions. Corrective actions include reworking the replaced parts. You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0548.

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 84–28–18, Revision B, dated April 20, 2017. This service information describes procedures to increase the hole size in the collector tank partition wall, inspect the motive flow line for damage, and replace the associated grommet and motive flow line.

Bombardier has also issued Service Bulletin 84–28–19, Revision C, dated September 1, 2017. This service information describes procedures to replace the affected single nut plate brackets and standoffs at the affected stations on the motive flow line and pressure relief line, inspect the motive flow line and vent line at certain wing stations, and inspect the fuel tubes to verify that an appropriate clearance has been maintained between the fuel tubes and their support brackets, and applicable corrective actions.

The service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 52 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections and modifications	Up to 21 work-hours × $85 per hour = $1,785.	Up to $6,152	$7,937	Up to $412,724.

Authority for This Rulemaking

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

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2018–0548; Product Identifier 2017–NM–184–AD.

(a) Comments Due Date

We must receive comments by August 6, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–400, –401, and –402 airplanes, certificated in any category, having serial numbers 4001, and 4003 through 4533 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by a report of broken P-clamps on the pressure relief line and the motive flow line in the left and right fuel tanks, and fouling conditions between the motive flow line and the collector tank partition wall in both fuel tanks. We are issuing this AD to address fouling or chafing conditions that affect the integrity of the electrical bonding paths throughout the fuel lines, which could lead to lightning strike induced fuel tank ignition.

(f) Compliance

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

(g) Modification of Hole Size on Collector Tank Partition Wall for Certain Airplanes

For airplanes having serial numbers (S/Ns) 4001, and 4003 through 4525 inclusive: Within 6,000 flight hours or 36 months, whichever occurs first, from the effective date of this AD, increase the hole size in the collector tank partition wall, do a detailed inspection of the motive flow line for damage, including chafing, and replace the associated grommet and motive flow line, as applicable, before further flight in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–28–18, Revision B, dated April 20, 2017.

(h) Introduction of Revised P-Clamp Installation at Affected Left and Right Wing Stations on the Motive Flow Line and Pressure Relief Line for Certain Airplanes

For airplanes, having S/Ns 4001, and 4003 through 4533 inclusive, on which Bombardier Service Bulletin 84–28–19, dated August 16, 2016; or Bombardier Service Bulletin 84–28–19, Revision A, dated November 4, 2016; has not been incorporated: Within 6,000 flight hours or 36 months, whichever occurs first, from the effective date of this AD, replace the affected single nut plate brackets and standoffs at the affected left and right wing stations on the motive flow line and pressure relief line, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–28–19, Revision C, dated September 1, 2017. Where Bombardier Service Bulletin 84–28–19, Revision C, dated September 1, 2017, specifies to contact Bombardier for appropriate action: Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (k)(2) of this AD.

(i) Inspection of Motive Flow Line and Vent Line at Wing Stations −371.019 and 371.019 in the Fuel Tanks, and Inspection of Fuel Tubes

For airplanes, having S/Ns 4001, and 4003 through 4533 inclusive, on which Bombardier Service Bulletin 84–28–19, dated August 16, 2016; or Bombardier Service Bulletin 84–28–19, Revision A, dated November 4, 2016; have been incorporated: Within 6,000 flight hours or 36 months, whichever occurs first, from the effective date of this AD, inspect the motive flow line and vent line at wing stations −371.019 and 371.019 in the left-hand and right-hand fuel tanks, respectively, to ensure that these fuel tubes are adequately supported, inspect the fuel tubes to verify that an appropriate clearance has been maintained between the fuel tubes and their support brackets, and before further flight do all applicable corrective actions, in accordance with Section 3.A., Section 3.B.(13), and Section 3.C. of Bombardier Service Bulletin 84–28–19, Revision C, dated September 1, 2017. Where Bombardier Service Bulletin 84–28–19, Revision C, dated September 1, 2017, specifies to contact Bombardier for appropriate action: Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (k)(2) of this AD.

(j) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–28–18, dated April 20, 2016; or Bombardier Service Bulletin 84–28–18, Revision A, dated November 14, 2016.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–28–19 Revision B, dated July 28, 2017.

(3) This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using Section 3.A., Section 3.B.(13), and Section 3.C. of Bombardier Service Bulletin 84–28–19, Revision B, dated July 28, 2017.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2017–05R1, dated September 20, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0548.

(2) For more information about this AD, contact Joseph Catanzaro, Aerospace Engineer, Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531.

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 12, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–13335 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0550; Product Identifier 2018–NM–024–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2B16 (CL–604 Variants) airplanes. This proposed AD was prompted by reports of floodlight lamps found burned and the corresponding circuit breaker tripped as a result of fluid entering the cockpit floodlight fixtures. This proposed AD would require installation of a new gasket seal on floodlight fixtures. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 6, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bombardier, Inc.,

400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0550; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7301; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0550; Product Identifier 2018–NM–024–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2016–40, dated December 15, 2016; and Canadian AD CF–2018–06, dated February 19, 2018; to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2B16 (CL–604 Variants) airplanes. Canadian AD CF–2016–40 and Canadian AD CF–2018–06 are referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI.''

Canadian AD CF–2016–40 states:

Several operators have reported a burning odor and smoke emanating from the cockpit floodlights. Bombardier Aerospace (BA) has determined the cause to be fluid entering into the cockpit floodlight fixtures causing short circuits and damage to electrical components. If not corrected, this condition may result in a fire in the cockpit.

This [Canadian] AD is issued to mandate the installation of a new gasket seal on the floodlight fixture.

Canadian AD CF–2018–06 states:

[Canadian] AD CF–2016–40, applicable to Bombardier Inc. model CL–600–2B16 (604 [CL–604 Variants serial numbers 5301 through 5665 inclusive] and 605 [CL–604 Variants serial numbers 5701 through 5988 inclusive] variants) aeroplanes, was issued to address the potential of water penetrating into cockpit floodlight fixtures. A similar condition exists on the CL–600–2B16 (650 variant [CL–604 Variants serial numbers 6050 through 6070 inclusive]) aeroplanes. This condition can cause short circuits and damage to electrical components, which may result in a fire in the cockpit.

This [Canadian] AD mandates the installation of gasket seals on the pilot and co-pilot floodlight fixtures to prevent fluid from entering them.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0550.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information:

- Bombardier Service Bulletin 604–33–007, Revision 02, dated October 2, 2017.
- Bombardier Service Bulletin 605–33–005, Revision 02, dated October 2, 2017.
- Bombardier Service Bulletin 650–33–001, Revision 03, dated October 2, 2017.

The service information describes procedures to install a new gasket seal on floodlight fixtures. These documents are distinct since they apply to different configurations of the same airplane model. The service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of this Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type design.

Costs of Compliance

We estimate that this proposed AD affects 123 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 2 work-hours × $85 per hour = Up to $170	$0	Up to $170	Up to $20,910.

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all known costs in our cost estimate.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII,

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2018–0550; Product Identifier 2018–NM–024–AD.

(a) Comments Due Date

We must receive comments by August 6, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to certain Bombardier, Inc., Model CL–600–2B16 (CL–604 Variants) airplanes, certificated in any category, serial numbers 5301 through 5665 inclusive, 5701 through 5988 inclusive, and 6050 through 6070 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 33, Lights.

(e) Reason

This AD was prompted by reports of floodlight lamps found burned and the corresponding circuit breaker tripped as a result of fluid entering the cockpit floodlight fixtures. We are issuing this AD to prevent fluid from entering the cockpit floodlight fixtures, which could cause short circuits and damage to electrical components, which may result in a fire in the cockpit.

(f) Compliance

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

(g) Required Actions

(1) For airplanes identified in Bombardier Service Bulletin 604–33–007, Revision 02, dated October 2, 2017: Within 38 months after the effective date of this AD, install new gasket seals in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 604–33–007, Revision 02, dated October 2, 2017.

(2) For airplanes identified in Bombardier Service Bulletin 605–33–005, Revision 02, dated October 2, 2017: Within 38 months after the effective date of this AD, install new gasket seals in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 605–33–005, Revision 02, dated October 2, 2017.

(3) For airplanes identified in Bombardier Service Bulletin 650–33–001, Revision 03, dated October 2, 2017: Within 38 months after the effective date of this AD, install new gasket seals in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 650–33–001, Revision 03, dated October 2, 2017.

(h) Credit for Previous Actions

(1) This paragraph provides credit for actions required by (g)(1), if those actions were performed before the effective date using Bombardier Service Bulletin 604–33–007, dated September 29, 2015; or Bombardier Service Bulletin 604–33–007, Revision 01, dated November 30, 2015.

(2) This paragraph provides credit for actions required by (g)(2), if those actions were performed before the effective date using Bombardier Service Bulletin 605–33–005, dated September 29, 2015; or Bombardier Service Bulletin 605–33–005, Revision 01, dated November 30, 2015.

(3) This paragraph provides credit for actions required by (g)(3), if those actions were performed before the effective date using the service information specified in paragraphs (h)(3)(i), (h)(3)(ii), or (h)(3)(iii) of this AD.

(i) Bombardier Service Bulletin 650–33–001, dated October 1, 2015.

(ii) Bombardier Service Bulletin 650–33–001, Revision 01, dated November 30, 2015.

(iii) Bombardier Service Bulletin 650–33–001, Revision 02, dated March 11, 2016.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO) Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2016–40, dated December 15, 2016; and Canadian AD CF–2018–06, dated February 19, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0550.

(2) For more information about this AD, contact Assata Dessaline, Aerospace Engineer, Avionics and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7301; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov*.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-

Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 12, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–13334 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0475; Airspace Docket No. 18–ANE–4]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Chebeague Island, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Chebeague Island Heliport, Chebeague Island, ME, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving the heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this heliport.

DATES: Comments must be received on or before August 6, 2018.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Bldg. Ground Floor Rm. W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202)-366–9826. You must identify the Docket No. FAA–2018–0475; Airspace Docket No. 18–ANE–4, at the beginning of your comments. You may also submit and review received comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would establish Class E airspace extending upward from 700 feet above the surface at Chebeague Island Heliport, Chebeague Island, ME, to support standard instrument approach procedures for IFR operations at this heliport.

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2018–0475 and Airspace Docket No. 18–ANE–4) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number.) You may also submit comments through the internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2018–0475; Airspace Docket No. 18–ANE–4.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation

Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Chebeague Island Heliport, Chebeague Island, ME, providing the controlled airspace required to support the new Copter RNAV (GPS) standard instrument approach procedures for IFR operations at Chebeague Island Heliport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANE ME E5 Chebeague Island, ME [New]

Chebeague Island Heliport, ME
(Lat. 43°43′45″ N, long. 70°07′37″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Chebeague Island Heliport.

Issued in College Park, Georgia, on June 14, 2018.

Ken Brissenden,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–13370 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9556; Airspace Docket No. 16–AEA–2]

RIN 2120–AA66

Proposed Establishment and Modification of Area Navigation Routes, Atlantic Coast Route Project; Northeastern United States

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: The FAA is withdrawing the NPRM published in the **Federal Register** on January 5, 2017, proposing to establish 12 high altitude area navigation (RNAV) routes (Q-routes), and modify one existing Q-route, in support of the Atlantic Coast Route Project (ACRP). The FAA reviewed project scoping and determined that additional planning is warranted to ensure a more efficient implementation and integration with other ongoing program activities, and determined that withdrawal of the proposed rule is warranted.

DATES: Effective as of 0901 UTC, June 22, 2018, the proposed rule published January 5, 2017 (82 FR 1276), is withdrawn.

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

SUPPLEMENTARY INFORMATION:

History

The FAA published a NPRM in the **Federal Register** for Docket No. FAA–2016–9556 (82 FR 1276; January 5, 2017). The NPRM proposed 12 new Q-routes (Q–75, Q–97, Q–167, Q–220, Q–411, Q–419, Q–430, Q–437, Q–439, Q–445, Q–450 and Q–479); and existing route Q–480, along the Atlantic Coast, in the northeastern U.S.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

FAA's Conclusions

The FAA has reviewed project scoping and determined that additional planning is warranted to ensure a more efficient implementation and integration with other ongoing program activities; therefore, the NPRM is withdrawn.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

■ Accordingly, pursuant to the authority delegated to me, the NPRM published in the **Federal Register** on January 5, 2017 (82 FR 1276), FR Doc. 2016–31911, is hereby withdrawn.

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

Issued in Washington, DC, on June 13, 2018.

Scott J. Gardner,

Acting Manager, Airspace Policy Group.

[FR Doc. 2018–13377 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1043; Airspace Docket No. 17–AEA–18]

Proposed Amendment of Class E Airspace, Bloomsburg, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet or more above the surface at Bloomsburg, PA, due to the decommissioning of the Milton very high frequency omni-directional range collocated tactical air navigation aid (VORTAC) which requires airspace reconfiguration at Bloomsburg Municipal Airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport. This action also would update the geographic coordinates of the airport.

DATES: Comments must be received on or before August 6, 2018.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Bldg. Ground Floor Rm. W12–140, Washington, DC 20590; Telephone: (202) 366–9826. You must identify the Docket No. FAA–2017–1043; Airspace Docket No. 17–AEA–18, at the beginning of your comments. You may also submit and review received comments through the internet at *http://www.regulations.gov.*

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Bloomsburg Municipal Airport, Bloomsburg, PA, to support IFR operations at the airport.

Comments Invited

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

Communications should identify both docket numbers and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number.) You may also submit comments through the internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–1043; Airspace Docket No. 17–AEA–18.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet or more above the surface within a 11.8-mile radius of Bloomsburg Municipal Airport, Bloomsburg, PA. and for continued safety and management of IFR operations at the airport. The geographic coordinates of the airport also would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO AL E5 Bloomsburg, PA [Amended]

Bloomsburg Municipal Airport, PA
(Lat. 40°59′52″ N, long. 76°26′07″ W)

That airspace extending upward from 700 feet above the surface within an 11.8-mile radius of Bloomsburg Municipal Airport.

Issued in College Park, Georgia, on June 14, 2018.

Ken Brissenden,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–13371 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 105

[Docket No. USCG–2017–0711]

RIN 1625–AC47

TWIC—Reader Requirements; Delay of Effective Date

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes delaying the effective date for certain facilities affected by the final rule entitled ''Transportation Worker Identification Credential (TWIC)—Reader Requirements,'' published in the **Federal Register** on August 23, 2016. The current effective date for the final rule is August 23, 2018. The Coast Guard proposes delaying the effective date for two categories of facilities: Facilities that handle certain dangerous cargoes in bulk, but do not transfer these cargoes to or from a vessel, and facilities that receive vessels carrying certain dangerous cargoes in bulk, but do not, during that vessel-to-facility interface, transfer these bulk cargoes to or from those vessels. The Coast Guard proposes delaying the effective date for these two categories of facilities by 3 years, until August 23, 2021. Other vessels and facilities, including facilities that receive large passenger vessels and facilities regulated under 33 CFR 105.295 that handle certain dangerous cargoes in bulk and transfer it to or from a vessel, would be required to comply with the final rule by August 23, 2018.

DATES: Comments and related material must be received by the Coast Guard on or before July 23, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0711 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section of this notice of proposed rulemaking for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email LCDR Yamaris Barril, Coast Guard CG–FAC–2; telephone 202–372–1151, email *Yamaris.D.Barril@uscg.mil.*

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

The Coast Guard views 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 notice of proposed rulemaking for alternate

instructions. Documents mentioned in this notice of proposed rulemaking, and all public comments, will be available in our online docket at *http://www.regulations.gov,* and can be viewed by following that website's instructions. 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.

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 information about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

II. Abbreviations

AHP Analytic Hierarchy Process
ANPRM Advanced notice of proposed rulemaking
BLS U.S. Bureau of Labor Statistics
CDC Certain Dangerous Cargoes
DHS Department of Homeland Security
ECI Employment Cost Index
FR Federal Register
HSI Homeland Security Institute
MSRAM Maritime Security Risk Analysis Model
MTSA Maritime Transportation Security Act of 2002
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
SAFE Port Act Security and Accountability for Every Port Act of 2006
SME Subject matter expert
§ Section symbol
TSA Transportation Security Administration
TSI Transportation Security Incident
TWIC Transportation Worker Identification Credential
U.S.C. United States Code

III. Regulatory History

Pursuant to the Maritime Transportation Security Act of 2002 (MTSA),[1] and in accordance with section 104 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act),[2] Congress requires the electronic inspection of Transportation Worker Identification Credentials (TWIC®) inside secure areas on vessels and in facilities in the United States. Specifically, the SAFE Port Act required that the Secretary promulgate final regulations that require the deployment of electronic transportation security card readers.[3] To implement this requirement in an effective manner, the Coast Guard undertook a series of regulatory actions culminating in a requirement to implement electronic TWIC inspection at certain high-risk vessels and facilities regulated under MTSA.

On May 22, 2006, the Coast Guard and the Transportation Security Administration (TSA) jointly published a notice of proposed rulemaking (NPRM) entitled ''Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License.'' [4] On January 25, 2007, the Coast Guard and TSA published a final rule with the same title.[5] The 2007 final rule established the requirement, among others, that all persons allowed unescorted access to secure areas in MTSA-regulated vessels and facilities must possess a valid TWIC. The 2007 final rule did not, however, mandate that the TWIC be read with an electronic reader and, as such, allowed for visual inspection. Visual inspection does not make use of the electronic security measures built into the TWIC, such as the challenge/response to the TWIC's unique electronic identifier, comparison of the credential to the TWIC Cancelled Card List, and verification of the biometric template stored on the TWIC to the individual's biometrics.

Although the May 22, 2006, NPRM proposed certain TWIC reader requirements, after reviewing the public comments, the Coast Guard decided not to include the proposed TWIC reader requirements in the 2007 final rule. Instead, the Coast Guard addressed TWIC reader requirements in a separate rulemaking after conducting a pilot program to address the feasibility of reader requirements.[6] For a detailed discussion of the public comments and our responses to them, refer to section III.B.7 of the 2007 final rule.

On March 27, 2009, the Coast Guard published an advanced notice of proposed rulemaking (ANPRM) on the topic of TWIC reader requirements.[7] The ANPRM discussed dividing vessels and facilities into three ''risk groups''—Risk Group A for the high-risk vessels and facilities, Risk Group B for medium-risk vessels and facilities, and Risk Group C for low-risk vessels and facilities. The ANPRM also considered different electronic inspection requirements for Risk Groups A and B, with no electronic inspection requirements for Risk Group C. On March 22, 2013, we published an NPRM [8] that proposed the three risk groups (A, B, and C), but limited the proposed electronic TWIC inspection requirements to Risk Group A vessels and facilities only.

On August 23, 2016, we published a final rule entitled ''Transportation Worker Identification Credential (TWIC)—Reader Requirements'' [9] (''TWIC Reader final rule'') that eliminated the three risk group structure and required that the high-risk vessels and facilities (still referred to as Risk Group A) conduct electronic TWIC inspection for all personnel seeking unescorted access to secure areas of the vessel or facility. The TWIC Reader final rule becomes effective on August 23, 2018. On May 15, 2017, we received a petition for rulemaking from the International Liquid Terminals Association and other industry groups.[10] The rulemaking petition requested that we revise the scope of the TWIC Reader final rule to impose electronic TWIC inspection requirements on only those vessels and facilities that engage in the maritime transfer of certain dangerous cargoes (CDCs), and extend the compliance date of the TWIC Reader final rule so that vessels and facilities do not incur costs while the Coast Guard reviews the scope of the TWIC Reader final rule. On May 18, 2017, the Coast Guard opened a public docket on *www.regulations.gov,* and acknowledged receipt of the rulemaking petition by letter dated May 25, 2017. The industry's rulemaking petition is discussed in greater detail below in section IV.D.

IV. Background

In this NPRM, we propose to delay the effective date of the TWIC Reader final rule, until August 23, 2021, for two categories of facilities. The rationale for the proposed delay is to consider industry input asking us to reconsider the scope of the TWIC Reader final rule and to re-evaluate the underlying methodology used to determine the facilities subject to the electronic TWIC inspection requirements. For these reasons, and to provide appropriate context necessary to understand the purpose of this NPRM, we have included background information in this NPRM that details: (1) Why the electronic TWIC inspection requirements were originally proposed

[1] Public Law 107–295, 116 Stat. 2064 (November 25, 2002).

[2] Public Law 109–347, 120 Stat. 1884, 1889 (October 13, 2006).

[3] *See* 46 U.S.C. 70105(k)(3).

[4] 71 FR 29396 (May 22, 2006).

[5] 72 FR at 3492 (January 25, 2007).

[6] The SAFE Port Act required DHS to conduct a pilot program to test the business processes, technology, and operational impacts of TWIC readers in the maritime environment, and to issue regulations that require the deployment of TWIC readers that are consistent with the findings of the pilot program. See 46 U.S.C. 70105(k)(1) and (3).

[7] 74 FR 13360 (March 27, 2009).

[8] 78 FR 17782 (March 22, 2013).

[9] 81 FR 57652.

[10] See Docket number USCG–2017–0447, available at *www.regulations.gov.*

for certain categories of facilities; (2) the Coast Guard's methodology used to analyze risk, including the need to re-evaluate that methodology; and (3) the related petition for rulemaking we received after publication of the TWIC Reader final rule. Specifically, we examine the two technical reports issued in 2008 that explained how we would categorize facilities to analyze risk, which formed the basis for the regulatory framework laid out in the 2009 ANPRM. Overall, these reports provide the foundation for the regulatory framework set forth in the TWIC reader rulemaking documents. In this framework, we first grouped individual facilities by ''asset categories''.[11] Then, we used certain analytical techniques, described below, to rank those categories by relative risk, creating a linear list of 68 different asset categories. Finally, we grouped similarly-risked facilities together into ''Risk Groups,'' to which different regulatory requirements would apply. This analysis, with its strengths and weaknesses, is discussed below.

A. Electronic TWIC Inspection

The TWIC Reader final rule was promulgated to fulfill the Congressional mandate found in section 104 of the SAFE Port Act.[12] The SAFE Port Act, which required the Coast Guard to conduct a pilot program to evaluate the effectiveness of TWIC readers and promulgate regulations in accordance with the findings of that program, led to the development of the TWIC reader rulemaking. The TWIC Reader final rule, the culmination of that rulemaking process, required that high-risk facilities conduct ''electronic TWIC inspection,'' and mandated security improvements above and beyond the existing requirements set forth in the 2007 final rule that all persons with unescorted access to secure areas possess a TWIC. Specifically, for high-risk facilities called ''Risk Group A facilities,'' the TWIC Reader final rule required that, upon each entry into a secure area,[13] the person requesting entry must present a TWIC for electronic inspection before that person would be permitted unescorted access to the area.[14] Other MTSA-regulated facilities (*i.e.,* those facilities not in Risk Group A) may continue to use visual inspection of the TWIC and are not subject to the requirement for electronic inspection.[15] Because the TWIC Reader final rule did not change the existing definition of a secure area in 33 CFR 101.105, and imposed no requirements in other areas,[16] the primary effect of the rule should be to require facilities that are already using visual inspection of the TWIC as part of their access control procedures to use electronic TWIC inspection instead, strengthening existing access control procedures.

Inspection of the TWIC, whether electronic or visual, provides a baseline of information to determine who may be provided unescorted access to secure areas of MTSA-regulated vessels and facilities. While not every person who possesses a TWIC is authorized for unescorted access, the TWIC inspection process ensures that facility security personnel do not grant unescorted access to individuals who have not been vetted or who have been adjudicated unfit for unescorted access to secure areas.

Electronic TWIC inspection is the process by which the TWIC is authenticated and validated, and by which the individual presenting the TWIC is matched to the stored biometric template. This process consists of three discrete parts: (1) Authentication, in which the TWIC presented is identified as an authentic credential issued by TSA; (2) validity check, in which the TWIC presented is compared to the TSA-supplied list of cancelled TWICs to ensure that it has not been revoked and is not expired; and (3) identity verification, in which biometric data stored on the TWIC presented is matched to the person presenting it using a fingerprint scan. Electronic TWIC inspection strengthens the inspection of TWIC, as compared to visual TWIC inspection, resulting in increased security at high-risk facilities. While visual TWIC inspection can accomplish the same three goals as electronic inspection (authentication, validation, and identify verification), visual inspection is not as thorough or reliable.

Electronic TWIC inspection improves on visual inspection by adding additional benefits. With electronic inspection, the authenticity of the TWIC is verified by issuing a challenge/response to the unique electronic identifier of the TWIC, called a Card Holder Unique Identifier. The validity of the TWIC is determined by electronically checking the TWIC against a database with the most recently updated list of cancelled TWICs. Finally, the identity of the person presenting the TWIC is verified by matching the biometric template stored on the TWIC with the presenter's biometrics though use of a fingerprint scan. These three aspects of electronic inspection represent improvements over visual inspection because they are not easily counterfeited or altered within the TWIC.[17] Additionally, electronic inspection ensures that the TWIC presented has not been invalidated because it was reported lost or stolen (or for other reasons), or revoked because of a criminal conviction.

B. Coast Guard Analysis and the Homeland Security Institute (HSI) Report

The Coast Guard based its decision about which vessels and facilities to include in Risk Group A on a study entitled ''Analysis of Transportation Worker Identification Credential (TWIC) Electronic Reader Requirements in the Maritime Sector,''[18] (March 6, 2008)

[11] Each of these ''asset categories'' describes a certain purpose or operational description. For example, ''gravel transfer facilities'' would be considered under the same umbrella (*i.e.,* in one ''asset category''), rather than as individual facilities.

[12] Because this NPRM addresses facilities only, we have omitted further discussion about application of the TWIC program to vessels and outer continental shelf facilities (33 CFR parts 104 and 106, respectively).

[13] ''Secure area'' is defined in 33 CFR 101.105 as ''the area onboard a vessel or at a facility or outer continental shelf facility over which the owner/operator has implemented security measures for access control in accordance with a Coast Guard approved security plan. It does not include passenger access areas, employee access areas, or public access areas, as those terms are defined in §§ 104.106, 104.107, and 105.106, respectively, of this subchapter. Vessels operating under the waivers provided for at 46 U.S.C. 8103(b)(3)(A) or (B) have no secure areas. Facilities subject to part 105 of this subchapter located in the Commonwealth of the Northern Mariana Islands and American Samoa have no secure areas. Facilities subject to part 105 of this subchapter may, with approval of the Coast Guard, designate only those portions of their facility that are directly connected to maritime transportation or are at risk of being involved in a transportation security incident as their secure areas.''

[14] *See* TWIC Reader final rule, section 105.255(a)(4).

[15] Pursuant to existing Coast Guard guidance, facilities not included in Risk Group A may use electronic inspection in lieu of visual inspection on a voluntary basis. See PAC–01–11, ''Voluntary use of TWIC Readers,'' available at *https://homeport.uscg.mil.*

[16] The definition of ''secure area'' specifically excludes areas like passenger access areas, employee access areas, facilities in the Commonwealth of the Northern Mariana Islands and American Samoa, etc. The TWIC Reader final rule imposed no requirements on those types of areas.

[17] That is, one can create a lookalike of a TWIC card, which does not have a working chip or is not linked to the TSA database, and it may not be detected as a counterfeit card if the card was only subject to visual inspection. However, the non-working chip and lack of connection to the TSA database would be detected if the counterfeit card were scanned by a TWIC reader, and the reader could not confirm the authenticity of the card or match it to known card.

[18] While the full Coast Guard TWIC Report contains sensitive security information, a redacted version of the document is available on the public

Continued

(the ''Coast Guard TWIC Report''). The Coast Guard TWIC Report documented the risk-based analytic approach used to develop the TWIC reader requirements in the maritime sector, and supported the drafting of the proposed regulatory requirements for the use of TWIC readers as an access control measure. This study was independently verified in a report titled ''Independent Verification and Validation of Development of Transportation Worker Identification Credential (TWIC) Reader Requirements,'' developed by the Homeland Security Institute (HSI) (October 21, 2008) (the ''HSI Report'').[19]

To develop the Coast Guard TWIC Report, the Coast Guard assembled a panel of maritime security subject matter experts (SMEs) from the Coast Guard and TSA to conduct a risk-based analysis of MTSA-regulated vessels and facilities. The panel determined that the Analytical Hierarchy Process (AHP) would provide an effective basis for applying the panel's judgment to weigh and apply several key factors to the assessment of types of vessels and facilities.[20] The AHP provides a comprehensive and rational framework for structuring a problem, representing and quantifying its elements, and relating those elements to overall goals, and for evaluating a set of alternative solutions. The AHP has been used by government and industry to assess alternatives and arrive at solutions when faced with problems that present disparate criteria and factors for consideration.

The Coast Guard's panel of SMEs identified 68 distinct types of vessels and facilities (referred to as ''asset categories'') based on their purpose or operational description. The panel then assessed each of the 68 asset categories using three factors: (1) Maximum consequences to the vessel or facility resulting from a terrorist attack; (2) criticality to the health and economy of the Nation, and to national security; and (3) utility of the TWIC in reducing risk. The panel used this methodology to develop the framework discussed in the 2009 ANPRM and proposed in the 2013 TWIC Reader NPRM, in which the Coast Guard required vessels and facilities that had the highest vulnerabilities, and that could derive benefits from TWIC readers, to use electronic inspection procedures. The Coast Guard TWIC Report recognized that, while ''security measures are not implemented in a 'one size fits all' fashion . . . Coast Guard regulations also need to be prescriptive to ensure appropriate implementation in a uniform manner nationally.''[21] For that reason, the Coast Guard TWIC Report recommended the Coast Guard determine ''. . . the risk level of facilities and vessels . . . as it relates to access control and assign TWIC reader requirements accordingly.''[22] Additionally, the Coast Guard TWIC Report noted that ''in general, [asset categories] are ranked by the hazards of the cargo (or passenger quantities) carried by the vessel or handled by the facility''[23] and thus suggested that the high-risk vessels and facilities were those containing bulk CDCs and those carrying more than 1,000 passengers.[24]

The HSI Report was designed to determine the validity of the Coast Guard methodology for analyzing the underlying risk to vessels and facilities outlined in the Coast Guard TWIC Report and the effectiveness of the overall TWIC program in mitigating that risk. As stated in the HSI Report, its purpose was to ''strengthen the USCG's TWIC reader requirements development efforts by evaluating (1) the validity of the risk assessment methodology, (2) the extent to which the conclusions follow from the analysis, and (3) the overall strengths and limitations of the risk analysis.''[25]

The HSI Report validated the Coast Guard's risk assessment methodology. Specifically, the report's foremost conclusion was that HSI ''*verified* the [risk-based] process because we were able to independently reproduce the results based on the information provided in the TWIC report . . . we have also *validated* the process and found it generally defensible and based on a rigorous risk framework [emphasis in original].''[26] The HSI Report also affirmed the three criteria that the Coast Guard panel used to determine the risk ranking for the 68 asset categories (Maritime Security Risk Analysis Model (MSRAM) maximum consequence data, criticality of infrastructure, and TWIC utility), and noted that the MSRAM maximum consequence data were ''the most rigorous among the three due to the well-established and ongoing work of the MSRAM.''[27] On the other hand, the HSI Report noted that the TWIC utility criterion was ''perhaps the most uncertain among the three evaluation criteria.''[28]

While the Coast Guard TWIC Report and the HSI Report ranked the relative risk of facilities based on asset category, the HSI Report did not unequivocally state that asset categorization was the best methodology to use. Indeed, in the executive summary, the report noted that ''[t]he 68 asset categories considered in the well-established MSRAM were ranked based on their risk scores. The list is considered comprehensive based upon its widespread use. Nevertheless, we also point out that there might still be *variations among assets in the same category* [emphasis added].''[29] Despite this uncertainty, in the 2013 TWIC Reader NPRM, the Coast Guard proposed to use the asset category methodology to determine which types of facilities would be required to use electronic TWIC inspection in their security protocols.

Furthermore, the HSI Report identified several recommendations that could have been used to improve the methodology to develop the Coast Guard's risk analysis. Most fundamentally, the HSI Report suggested that further analysis on risk grouping of asset categories—that is, which categories should be included in Risk Group A—could help to ensure that the results were more defensible. The HSI Report also suggested that the Coast Guard better define TWIC utility and add mechanisms that allow more flexibility in applying TWIC reader requirements. Finally, noting that the electronic TWIC inspection requirements discussed in the Coast Guard TWIC Report (and, in part, ultimately promulgated in the TWIC Reader final rule) were developed based on the 2006 MSRAM data, the HSI Report stated that ''there is probably a need to reassess reader requirements using recently updated MSRAM data. *At a minimum* [emphasis added], a preliminary assessment should be conducted to determine the potential impacts of the use of the new data.''[30]

After reviewing the methodology used in the TWIC Reader final rule, we believe that the information the methodology contained was generally

docket for the TWIC rulemaking, available at *www.regulations.gov* as docket number USCG–2007–28915–0117.

[19] ''Independent Verification and Validation of Development of Transportation Worker Identification Credential (TWIC) Reader Requirements,'' developed by the Homeland Security Institute (HSI) (October 21, 2008) (the ''HSI Report''). While the full HSI Report contains sensitive security information, a redacted version of the document is available on the public docket for the TWIC rulemaking, available at *www.regulations.gov* as docket number USCG–2007–28915–0119.

[20] Coast Guard TWIC Report, p. 4.

[21] Coast Guard TWIC Report, p.3.

[22] Coast Guard TWIC Report, p.3.

[23] Coast Guard TWIC Report, p.11.

[24] Coast Guard TWIC Report, p.13, figure 12.

[25] HSI Report, p.1.

[26] HSI Report, p.2.

[27] HSI Report, p.2.

[28] HSI Report, p.2.

[29] HSI Report, p.2.

[30] HSI Report, p.3.

accurate. Specifically, we believe that the general conclusions of the MSRAM analysis documented in the Coast Guard TWIC Report and validated in the HSI Report were correct and that the facilities that handle bulk CDC or receive large passenger vessels constitute the most severe vulnerabilities. What the recommendations of the HSI Report indicate, however, is that there is room for improvement within certain aspects of that general methodology, which we discuss in more detail in Section V of this NPRM.

C. Summary of Methodology Used in the TWIC Rulemaking

To ensure that the TWIC reader requirement was applied only to those facilities where the readers could enhance security the most, the Coast Guard designated certain facilities as high risk, putting them into Risk Group A. The TWIC Reader final rule requires that facilities in Risk Group A conduct electronic TWIC inspection to identify that a person seeking unescorted access to a secure area has undergone a biometric identification check, a card authentication check, and a card validation check to ensure that the person is authorized to have access. To determine which vessels and facilities should be included in Risk Group A, we relied on MSRAM. MSRAM is a risk-analysis tool used to analyze vulnerabilities and risk-mitigation measures in a wide variety of scenarios.

MSRAM identified three hypothetical scenarios in which a TWIC reader could be useful in preventing or mitigating terrorist attacks: (1) A truck bomb; (2) a terrorist assault team; and (3) an explosive attack carried out by a passenger or passerby (with the specific stipulation that the terrorist is not an ''insider'').[31] MSRAM also identified risk factors that made a facility or vessel particularly susceptible to these types of attacks and thus warranted the inclusion of that facility or vessel in Risk Group A. As we stated in the NPRM, ''in determining the cutoff points between risk groups, risk rankings were graphed to identify natural breaks that occurred in the data . . . for facilities, these breaks generally occurred where there was a change in the hazardous nature of the materials stored or handled at a facility, or where the number of passengers accessing a facilities increased.'' [32]

Using the asset categories identified in the HSI Report and the risk analysis conducted under MSRAM, the Coast Guard found that three discrete classes of facilities could experience security benefits that are significant enough to warrant the requirement for electronic TWIC inspection. These included: (1) Facilities that handle CDC in bulk; [33] (2) facilities that receive vessels carrying CDC in bulk; and 3) facilities that receive vessels certificated to carry more than 1,000 passengers.[34] Each of these types of facilities contain targets—either bulk CDC or groups of more than 1,000 passengers—that could be attacked using a method identified above, with a result potentially catastrophic enough to be classified as a TSI.

In the TWIC Reader final rule, our goal was to apply the requirements for electronic TWIC inspection only to those high-risk facilities that could most benefit from its use. Because the asset categories identified in this NPRM contained a vulnerable target, and the threat to that vulnerability could be mitigated by electronic TWIC inspection, we believe that the security benefits justify the cost of the upgraded security. As reported in the Regulatory Analysis section of the TWIC Reader final rule, we estimated that the electronic TWIC inspection provision would extend to 290 bulk liquid facilities, 16 break bulk and solid facilities, 3 container facilities, 61 ''mixed use'' facilities, and 165 passenger facilities, for a total of 525 facilities.[35]

D. Petition for Rulemaking and Identified Weaknesses

After publication of the TWIC Reader final rule in August 2016, we received several questions from the public about our risk analysis, as well as a rulemaking petition to reconsider the scope of the TWIC Reader final rule.[36] A primary issue that arose was whether the Coast Guard's risk analysis properly analyzed the location of bulk CDC in a facility. For example, the rulemaking petitioner raised the issue that, because many Risk Group A facilities store or handle bulk CDC in areas unconnected to their maritime nexus, such facilities may not pose as large a risk to transportation infrastructure as those Risk Group A facilities that handle bulk CDC in the marine transfer area and actively transfer it to or from vessels. In addition, we received several inquiries regarding how the Coast Guard would categorize small quantities of bulk [37] CDC used for the direct operations of the facility. Examples of this issue include operational use of CDCs, such as relatively small tanks of propane used internally at a facility to generate electricity or to power port equipment, that would still fall into the broad category of ''CDC in bulk,'' [38] and yet would also seem to pose few of the security concerns described in the Coast Guard's risk analysis.

Furthermore, even though bulk CDC could be attacked by the identified attack methods from the Coast Guard's risk analysis no matter where it is located in the facility,[39] the petitioner suggested that the consequence of such an attack may not be as severe if the bulk CDC is kept far from the marine transfer area. For example, many gasoline refineries may be considered Risk Group A under the TWIC Reader final rule, as they receive shipments of bulk oil, which are not a CDC, from tankships and combine it with chemicals that are CDCs, which may be stored and processed in an inland part of the facility. The petitioner requested, among other things, that the Coast Guard revise the requirements for electronic TWIC inspection so that only facilities that transfer bulk CDC to or from a vessel would be subject to the TWIC Reader final rule requirements. This would exclude from the regulation those facilities where bulk CDC exists but is not transferred to or from a vessel, including facilities where the CDC is stored on land or stored on the water and not transferred to land (*i.e.,* facilities that receive vessels carrying CDC in bulk but do not transfer bulk CDC to or from these vessels).

At this time, we are not issuing a grant or denial for the petition for rulemaking, but we do wish to

[31] See 81 FR 57652, 57659. While there are other means of attacking a facility, we focused on these three scenarios because there is a significant improvement in threat mitigation by moving from visual TWIC inspection to electronic TWIC inspection.

[32] See 78 FR 17782, at 17791.

[33] The term ''Certain Dangerous Cargo'' is defined in 33 CFR 101.105 by reference to 33 CFR 160.202, which lists all covered substances.

[34] See text for 33 CFR 105.253(a)(1) and (2), 81 FR 57652, 57712.

[35] See 81 FR 57712, at 57698, Table 5.

[36] This petition is located in the docket at *www.regulations.gov,* docket number USCG–2017–0447. While we acknowledge some of the issues raised in that petition here, we note that this NPRM does not constitute a grant or denial of that petition.

[37] Bulk, in this context, refers to how the cargoes are packaged rather than to an amount. The terms ''bulk'' or ''in bulk'' are defined in 33 CFR 101.105, in part, as ''a commodity that is loaded or carried without containers or labels, and that is received and handled without mark or count.'' See similar definitions in 33 CFR 126.3 and 160.3.

[38] As this term is used in the text of 33 CFR 105.253(a)(1), 81 FR 57652, 57712.

[39] The specific attack methods were discussed in the TWIC Reader final rule, Section V.A.2, ''Risk analysis methodology,'' These scenarios were: (1) A truck bomb, (2) a terrorist assault team, and (3) an explosive attack carried out by a passenger or passerby (with the specific caveat that the terrorist is not an ''insider''). 81 FR 57652, 57659.

acknowledge that the issue of bulk CDC located in non-maritime areas, which were raised by the petitioner, factored into the Coast Guard's rationale to re-examine the asset categorization that underpins the risk analysis methodology in the TWIC rulemaking.[40] Specifically, it was one of the factors that caused us to focus on the conclusions in the HSI Report that we ''consider further analysis on risk grouping of asset categories,'' and that we ''consider adding mechanisms that allow flexibility in applying reader requirements.''[41] We also note that during the TWIC rulemaking process, other commenters raised similar issues, suggesting that the Coast Guard incorporate additional mechanisms for waivers and exemptions for various types of situations in which the commenters did not believe additional security measures were warranted.[42] While we stated at the time that existing waiver provisions in 33 CFR 105.130 enable the Coast Guard to grant ''a waiver of any requirement that the owner or operator considers unnecessary,''[43] at this time, we do not have a full and consistent picture of what specific security vulnerabilities would need to be addressed in order to grant a waiver based on equivalency. Specifically, because any equivalency determination would need to be based on a determination of TWIC utility, which is not covered in the facility's security assessment, we would be applying any such waivers on an inconsistent and uncertain basis. For that reason, there is a need to develop a more comprehensive analysis of the risk factors of facilities that handle CDC on an individualized basis, and the results of that analysis could inform either a revision of the TWIC reader rule applicability or, alternatively, to develop a consistent methodology for applying waivers. Further analysis could allow the Coast Guard to provide broad relief from security requirements for a wide variety of facilities currently characterized as Risk Group A due to the asset categorization methodology.

In the NPRM, the Coast Guard addressed the issue of bulk CDC located outside of areas related to maritime transportation. In response to a comment suggesting that facility owners should not be required to use TWIC readers for certain portions of their facilities, we noted that facilities already had an ''option to redefine their 'secure area' as only that portion of their access control area that is directly related to maritime transportation . . .'' and that ''facilities whose footprint includes portions that are not directly related to maritime transportation can submit a [Facility Security Plan] for Coast Guard approval that removes those areas from the definition of the facility's 'secure area' for Coast Guard regulatory purposes.''[44] The Coast Guard went on to note that ''[s]uch facilities would typically include refineries, chemical plants, factories, mills, power plants, smelting operations, or recreational boat marinas.''[45]

In the TWIC Reader final rule, we also addressed the issue of bulk CDC located outside of the maritime nexus of the facility. We noted that a facility where bulk CDC is stored and handled away from the maritime nexus would be a Risk Group A facility (because the bulk CDC would still be protected by the facility's security plan and, thus, would present a vulnerability), and stated that ''when the bulk CDC is not a part of the maritime transportation activities, it may be that a facility could define its MTSA footprint in such a way as to exclude that area . . . [with the result that] the TWIC reader requirements . . . would not apply in that area.''[46]

In summary, we believe that the manner in which the TWIC Reader final rule defines Risk Group A may be overbroad. While some facilities that handle bulk CDC that is not transferred to or from a vessel present a serious risk of a TSI, the fact that it was evident that exceptions and waivers would be necessary to implement the program indicates that there may be a need for more refinement of the Risk Group A category. The petitioners and others, such as owners and operators of facilities that would have to comply with the TWIC Reader final rule and members of Congress who represent this interests of those persons, who have discussed the TWIC Reader final rule with the Coast Guard have raised valid issues about whether the risk groupings established in the TWIC Reader final rule represent the best definition of high-risk facilities that can benefit from the requirement of electronic TWIC inspection. Because it is our goal to impose a requirement only where there is clear evidence that the benefits will justify the costs, we believe that these issues warrant additional study.

V. Discussion of the Proposed Rule To Delay the Effective Date

Based on industry input, the recommendations outlined in the HSI Report, and the length of time that has passed since the development of the original risk analysis, we are proposing in this NPRM a temporary, partial delay in implementing the requirements for electronic TWIC inspection for certain facilities. Specifically, we are proposing to delay for 3 years implementation of the requirements for electronic TWIC inspection at facilities that handle bulk CDC but do not transfer it to or from a vessel and facilities that receive vessels that carry bulk CDC but, during that vessel-to-facility interface, do not transfer bulk CDC to or from the vessel. All other vessels and facilities subject to the electronic TWIC inspection requirements, including facilities that receive large passenger vessels and facilities regulated under 33 CFR 105.295 that handle bulk CDC and transfer it to or from a vessel, would still be required to comply on the August 23, 2018, compliance date.

We are proposing this delay because we believe that we can better consider the risk methodology used in the TWIC Reader final rule. When we determined that the presence of CDC in bulk within the MTSA footprint was enough justification for a facility to be considered Risk Group A (*i.e.,* used the asset categorization methodology from the original Coast Guard TWIC Report and HSI Report), we eliminated more precise risk analysis capabilities for assessing whether a particular facility is high risk and warrants the additional regulatory burden of requiring electronic TWIC inspection. That is, when using the asset categorization methodology, the Coast Guard did not examine each facility individually to determine the precise amount of risk posted by a specific facility. We believe that delaying the implementation of the TWIC Reader final rule requirements for certain facilities could allow us to develop a more precise risk-analysis methodology that would better identify which of these facilities subject to the 3-year delayed implementation date would benefit from the electronic TWIC inspection requirements.

The items raised by the petitioners and recommendations provided by the HSI Report establish the parameters of what the Coast Guard plans to study and reevaluate during the proposed delay period. Specifically, we would analyze whether we can divide the general asset category of ''facilities that handle CDC

[40] Several other issues raised by the petitioner, such as questions regarding administrative procedure and economic analysis, are not addressed in this document. We plan to issue a formal response to that petition that will respond to all issues it raised.

[41] HSI Report, p. 3.

[42] See Section III.E.3.a of the NPRM ''Public Comments Received in Response to the ANPRM and Public Meeting,'' 78 FR 17782, 17796.

[43] 78 FR 17782, at 17811.

[44] 78 FR 17782, at 17803.

[45] *Id.*

[46] See 81 FR 57712, at 57681.

in bulk'' into more specific asset categories for purposes of implementing the electronic TWIC inspection requirement. Additionally, the delay period would allow the Coast Guard to determine factors that, if they do not lend themselves to subdividing the asset categories, would be able to provide guidance for waiver procedures. These factors could include, but are not limited to, the quantity of bulk CDC handled or stored, the location within the facility where the CDC is handled or stored, and the population density or other critical infrastructure elements in and around the facility. Furthermore, more precise analysis of specific facility aspects, such as plume modeling, analysis of prevailing winds and currents, and other potential factors could be useful in determining whether an attack on a particular facility presents enough of a security threat to warrant a requirement for enhanced security measures. Finally, we could analyze existing security measures and take them into consideration to determine the marginal TWIC utility, as suggested by the HSI Report.

The goals of the additional study would be to prevent situations where electronic TWIC inspection requirements would provide little or no protection and, conversely, to capture situations where the existing Risk Group A may not cover the full range of necessary facilities. As an example, a 1,000 lb. propane tank remotely located in a large facility away from a population center may have a relatively low risk of causing a TSI. That same propane tank located in a small facility in an urban environment may have a much higher risk of causing a TSI, and therefore may warrant designation of the facility as Risk Group A. The current asset categorization methodology used by the Coast Guard cannot make such distinctions.

We believe that a 3-year delay period is needed to allow time for the Coast Guard to attain and analyze data from individual MTSA facilities that contain hazardous chemicals, and implement electronic TWIC inspection for those facilities that would benefit from electronic TWIC inspection requirements. The first 18 months of the delay would be dedicated to physical analysis of individual facilities, during which we would develop the specific data entry requirements for field inspectors, analyze data from facility inspections, and, potentially, develop a new risk methodology based on that analysis. After the data entry requirements are established, Coast Guard inspectors would incorporate any additional data gathering as part of the annual or spot inspection of each facility. As data are gathered, they would be entered into and analyzed through a risk analysis tool to score for operational risks. This process would require several months to collate and analyze data to determine the risk values of MTSA facilities with regard to electronic TWIC inspection, verify whether the new risk values coincide with previous parameters of Risk Group A, and determine which facilities have the highest risk of a TSI.

Based on the information collected and analyzed during the first half of the proposed 3-year delay period, we would take one of two next steps. If the new data indicates that the risk groupings in the TWIC Reader final rule were appropriate, we would not make any changes to the existing requirements for electronic TWIC inspection, and would publish a document in the **Federal Register** explaining the results of our new data and analysis. If, on the other hand, the data suggest that there is a different and preferable way to implement requirements for electronic TWIC inspection, and the revised Coast Guard risk analysis suggests that additional or fewer facilities not included in the TWIC Reader final rule's risk analysis should be covered, we would use the remaining time of the proposed 3-year delay period to conduct a rulemaking using the new information, including the publication of a notice of proposed rulemaking to allow for a public comment period.

During the proposed delay period, facilities that receive large passenger vessels and facilities that transfer bulk CDC to or from a vessel will be required to implement electronic TWIC inspection. We believe that, unlike situations where CDC is not transferred to or from a vessel, these two categories of facilities present a clear risk of a TSI. Facilities that transfer CDCs to or from a vessel typically transfer large quantities. Similarly, large passenger facilities present an inherent risk of a TSI. Unlike the scenarios described above involving bulk CDC, the loss of human life that could occur as a result of an attack at a large passenger facility is not related to the location of the facility (*e.g.,* near or far from a population center), because the lives would be lost at the facility itself. For these reasons, the August 23, 2018, implementation date of the TWIC Reader final rule continues to be appropriate for these classes of facilities. We also note that the petitioners referred to above did not request that the electronic TWIC inspection requirements be delayed for these categories of facilities.

VI. Regulatory Analysis

This proposed rule would delay implementation of the TWIC Reader final rule by 3 years, until August 23, 2021, for two types of Risk Group A facilities: (1) Those that handle CDCs in bulk, but do not transfer CDCs to or from a vessel, and (2) those that receive vessels carrying bulk CDC but, during the vessel-to-facility interface, do not transfer bulk CDC to or from the vessel. Other facilities and vessels would still be required to comply with the TWIC Reader final rule by August 23, 2018.

Below, we provide an updated Regulatory Analysis of the TWIC Reader final rule that presents the impacts of delaying the effective date of the final rule for the two types of Risk Group A facilities defined in the preceding paragraph. For this updated analysis, we estimated the impact of delaying the final rule by calculating the 10-year cost of this proposed rule, where only certain facilities will incur costs starting in year one and other facilities will incur no costs in the first 3 years, and compare it to the 10-year cost presented in the Regulatory Analysis for the TWIC Reader final rule. We then calculated the difference between the two costs to estimate the impact of this proposed rule. To properly compare the costs and benefits of this proposed rule and the TWIC Reader final rule, we first updated the costs of the final rule from 2012 dollars to 2016 dollars.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This proposed rule is expected to be an Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis.

This proposed rule is a significant regulatory action under section 3(f) of Executive Order 12866. The Office of Management and Budget (OMB) has reviewed it under that Order. It requires an assessment of potential costs and

benefits under section 6(a)(3) of Executive Order 12866. Because this proposed rule would delay the implementation of the TWIC Reader final rule by only 3 years (until August 23, 2021) for facilities that handle CDC in bulk, but do not transfer it to or from a vessel, and facilities that receive vessels carrying bulk CDC but, during that vessel-to-facility interface, do not transfer bulk CDC to or from the vessel, we did not revise our fundamental methodologies or key assumptions for the TWIC Reader final rule Regulatory Analysis.[47]

In the 2016 final rule Regulatory Analysis, we estimated that 525 facilities and 1 vessel out of the MTSA-regulated entities (13,825 vessels and more than 3,270 facilities) will have to comply with the final rule's electronic TWIC inspection requirements using MSRAM's risk-based tiered approach.[48] Using data from MSRAM, we estimate that this proposed rule would delay the implementation of the final rule for 122 of the 525 affected Risk Group A facilities by 3 years, while the remaining 403 facilities and 1 vessel would have to implement the final rule requirements by August 23, 2018. These 122 facilities handle bulk CDC, but do not transfer it to or from a vessel. This proposed rule would also apply to facilities that receive vessels carrying bulk CDC but, during the vessel-to-facility interface, do not transfer the bulk CDC to or from the vessel. We did not include these facilities in our MSRAM risk analysis for the final rule or in the final rule Regulatory Analysis. Therefore, we cannot determine the number of these facilities at this time, and we did not include them in our cost estimates for this proposed rule. We updated our final rule cost estimates from 2012 to 2016 based on Gross Domestic Product (GDP) Deflator data from the U.S. Bureau of Economic Analysis (BEA).[49] The GDP deflator is a measure of the change in price of domestic goods and services purchased by consumers, businesses, and the government.

Table 1 summarizes the costs and benefits of the TWIC Reader final rule as well as this proposed rule, which would delay the final rule. We do not anticipate any new costs to industry if the final rule is implemented, because this proposed rule would not change the applicability of the 2016 final rule. This proposed rule would result in no other changes to the final rule. The impact to the one affected vessel, along with the qualitative costs and benefits, remain the same. Because this proposed rule would delay the implementation of the final rule by 3 years for 122 facilities, it would result in cost savings to both industry and the government of $8.1 million (discounted at 7 percent) over a 10-year period of analysis ($162.9 million minus $154.8 million). At a 7-percent discount rate, we estimate the total annualized cost savings to be $1.2 million ($23.2 million minus $22.0 million). Using a perpetual period of analysis, we estimated the total annualized cost savings of the proposed rule to be $0.552 million in 2016 dollars, using a 7-percent discount rate.

TABLE 1—SUMMARY OF COSTS SAVING AND CHANGE IN BENEFITS: FINAL RULE AND NPRM TO DELAY THE FINAL RULE

Category	TWIC Reader final rule (2016 $)	Proposed rule to delay final rule (2016 $)
Applicability	High-risk MTSA-regulated facilities and high-risk MTSA-regulated vessels with greater than 20 TWIC-holding crew.	Same as in final rule except the facilities and vessels handling bulk CDC, but not transferring it to or from the vessel.
Affected Population	1 vessel	No change from final rule.
	525 facilities (to comply by Aug. 23, 2018)	122 facilities that handle bulk CDC, but do not transfer it to or from a vessel (to comply by Aug. 23, 2021). The proposed rule would also apply to facilities that receive vessels carrying bulk CDC but, during that vessel-to-facility interface, do not transfer bulk CDC to or from the vessel. However, the number of these facilities cannot be determined at this time and will not be known until after an additional study is conducted to improve the risk methodology and determine the new risk groups to comply by August 23, 2021.
Costs to Industry and Government ($ millions, 7% discount rate)*.	Industry: $23.2 (annualized)	Industry: $22.0 (annualized).
	Government: $0.014 (annualized)	Government: $0.013 (annualized).
	Both: $23.2 (annualized)	Both: $22.0 (annualized)
	Industry: $162.8 (10-year)	Industry: $154.7 (10-year)
	Government: $0.097 (10-year)	Both: $154.8 (10-year).
	Both: $162.9 (10-year)	Government: $0.092 (10-year).
Change in Costs (Qualitative).	Time to retrieve or replace lost PINs for use with TWICs.	The proposed rule would delay the cost to retrieve or replace lost PINs for use with TWICs for the facilities with delayed implementation.
Change in Benefits (Qualitative).	Enhanced access control and security at U.S. maritime facilities and on board U.S.-flagged vessels.	Delaying enhanced access control and security for the facilities with delayed implementation.
	Reduction of human error when checking identification and manning access points.	Delaying the reduction of human error when checking identification and manning access points for the facilities with delayed implementation.

*The TWIC Reader final rule Regulatory Analysis estimated an annualized cost to industry of $21.9 million (at a 7-percent discount rate), and a 10-year cost of $153.7 million (at a 7-percent discount rate) in 2012 dollars. For the purposes of this analysis, all costs are presented in 2016 dollars and are updated using *annual GDP deflator data from the BEA.* The annualized total industry cost of $21.9 million in 2012 dollars is now $23.2 million in 2016 dollars and the 10-year cost of $153.7 million is now $162.8 million in 2016 dollars.

[47] Available in the docket, docket number USCG–2007–28915–0231.

[48] See Table 2.8 on page 26 of the TWIC Reader final rule Regulatory Analysis for the estimate of 525 facilities, and Table 2.1 on page 23 for the estimate of 1 vessel.

[49] For consistency across rulemaking analyses we are using the annual Implicit Price Deflators for Gross Domestic Product (BEA National Income and Product Accounts (NIPA) Table 1.1.9) values updated in March 2017. See page 9. *https://faq.bea.gov/scb/pdf/2017/04%20April/0417_selected_nipa_tables.pdf.*

Methodology

Final Rule Costs Inflated to 2016 Dollars

As shown in table 1, we updated the annualized cost of the 2016 final rule from 2012 dollars to 2016 dollars (over a 10-year period), which is approximately $23.2 million at a 7-percent discount rate. We performed this update to compare them to this proposed rule's total industry costs on the same basis.

To do this, we used an inflation factor from the annual GDP deflator data . We calculated the inflation factor of 1.059 by dividing the annual 2016 index number (111.445) by the annual 2012 index number (105.214).

We then applied this inflation factor to the costs for vessels and additional costs, which include additional delay costs, travel costs, and the cost to replace TWIC readers that fail (Table 4.38 of the final rule RA). These inflated costs are shown in table 2.

TABLE 2—COMPARISON OF TOTAL COST FOR VESSELS AND ADDITIONAL COSTS IN 2012 DOLLARS AND 2016 DOLLARS UNDER 2016 TWIC READER FINAL RULE

[Millions]

Year	Vessel		Additional costs	
	2012 $	2016 $	2012 $	2016 $
1	$0.021	$0.022	$4.21	$4.46
2	0.0036	0.0038	4.21	4.46
3	0.0036	0.0038	4.21	4.46
4	0.0036	0.0038	4.21	4.46
5	0.0036	0.0038	4.21	4.46
6	0.018	0.019	4.21	4.46
7	0.0036	0.0038	4.21	4.46
8	0.0036	0.0038	4.21	4.46
9	0.0036	0.0038	4.21	4.46
10	0.0036	0.0038	4.21	4.46
Total	0.068	0.072	42.10	44.59

For facilities, we applied this inflation factor to the total cost-by-cost component (table 4.17 of the final rule RA) because the proposed rule would apply only to some of these cost elements. Facility costs include capital costs, maintenance costs, and operational costs. Capital costs consist of the cost to purchase and install TWIC readers, as well as the cost to fully replace TWIC readers 5 years after the original installation. Maintenance costs account for the costs to maintain TWIC readers every year after the original installation. Operational costs include costs that occur only at the time of the TWIC reader installation, such as those for amending security plans, creating a recordkeeping system, and initial training. Operational costs also include ongoing costs, such as those for keeping and maintaining records, downloading the canceled card list, and ongoing annual training. Table 3 presents a comparison of the facility costs in 2012 and 2016 dollars, as well as an estimate of the total number of facilities complying with the regulation each year.

TABLE 3—COMPARISON OF TOTAL COST FOR FACILITIES IN 2012 DOLLARS AND 2016 DOLLARS UNDER 2016 TWIC READER FINAL RULE

[Millions]

Year	Number of new facilities	Total number of facilities	Capital costs		Maintenance costs		Operational costs		Undiscounted total	
			2012 $	2016 $	2012 $	2016 $	2012 $	2016 $	2012 $	2016 $
1	263	263	$49.49	$52.41	$0	$0	$1.99	$2.10	$51.47	$54.51
2	262	525	49.49	52.41	0.99	1.05	2.16	2.29	52.64	55.74
3	0	525	0	0	1.97	2.09	1.34	1.42	3.31	3.51
4	0	525	0	0	1.97	2.09	1.34	1.42	3.31	3.51
5	0	525	0	0	1.97	2.09	1.34	1.42	3.31	3.51
6	0	525	9.87	10.45	1.97	2.09	1.34	1.42	13.18	13.96
7	0	525	9.87	10.45	1.97	2.09	1.34	1.42	13.18	13.96
8	0	525	0	0	1.97	2.09	1.34	1.42	3.31	3.51
9	0	525	0	0	1.97	2.09	1.34	1.42	3.31	3.51
10	0	525	0	0	1.97	2.09	1.34	1.42	3.31	3.51
Total			118.71	125.72	16.78	17.77	14.84	15.72	150.33	159.20

Table 4 summarizes the total costs to industry of the final rule in 2016 dollars. We estimated the annualized cost to be $23.2 million at a 7-percent discount rate.

TABLE 4—TOTAL INDUSTRY COST UNDER 2016 TWIC READER FINAL RULE

[Millions, 2016 dollars]

Year	Facility	Vessel	Additional costs *	Undiscounted	7%	3%
1	$54.51	$0.022	$4.46	$58.99	$55.13	$57.27
2	55.74	0.0038	4.46	60.20	52.58	56.75
3	3.51	0.0038	4.46	7.97	6.50	7.29
4	3.51	0.0038	4.46	7.97	6.08	7.08
5	3.51	0.0038	4.46	7.97	5.68	6.87
6	13.96	0.019	4.46	18.44	12.28	15.44
7	13.96	0.0038	4.46	18.42	11.47	14.98
8	3.51	0.0038	4.46	7.97	4.64	6.29
9	3.51	0.0038	4.46	7.97	4.33	6.11
10	3.51	0.0038	4.46	7.97	4.05	5.93
Total	159.20	0.072	44.59	203.86	162.76	184.01
Annualized					23.17	21.57

* These costs include additional delay, travel, and TWIC replacement costs due to TWIC failures.
Totals may not sum due to rounding.

Proposed Rule Costs

This proposed rule would delay the effective date of the final rule by 3 years (until August 23, 2021) for 122 facilities that handle bulk CDC, but do not transfer it to or from a vessel, and an unestimated number of facilities that receive vessels carrying bulk CDC, but do not transfer it to or from the vessel during that vessel-to-facility interface. To allow for a consistent comparison between the baseline estimates and the costs of this proposed rule, we maintain the assumption that 50 percent of facilities will comply each year of the implementation period. Therefore, we expect that 50 percent of the 403 facilities unaffected by the delayed implementation will comply in year 1 (202 facilities), and the remaining 50 percent will comply in year 2 (201 facilities). For the 122 facilities with the 3-year implementation delay, we assume that 50 percent will comply in year 3 (61 facilities), and 50 percent will comply in year 4 (61 facilities).

The costs are separated into three categories: Capital costs, maintenance costs, and operating costs. To estimate the capital costs in a given year, we multiplied the total baseline capital costs for all facilities by the percentage of facilities incurring costs in a given year.[50] Because maintenance costs are not incurred until the year after the TWIC readers are installed, we calculated the proposed rule maintenance costs in a given year by multiplying the total baseline costs for all facilities by the percentage of facilities complying in the previous year.[51] We estimated operational costs in a similar manner, multiplying total operational costs by the percentage of facilities complying in a given year.[52] Table 5 presents the total cost to facilities under the proposed rule.

TABLE 5—TOTAL COST FOR FACILITIES FROM PARTIALLY DELAYING THE EFFECTIVE DATE OF FINAL RULE

[Millions 2016 dollars]

Year	Number of new facilities	Total number of facilities	Capital costs	Maintenance costs	Operational costs	Undiscounted total
1	202	202	$40.33	$0	$1.62	$41.95
2	201	403	40.13	0.80	2.16	43.09
3	61	464	12.18	1.60	1.58	15.36
4	61	525	12.18	1.85	1.74	15.77
5	0	525	0	2.09	1.42	3.51
6	0	525	8.04	2.09	1.42	11.55
7	0	525	8.00	2.09	1.42	11.51
8	0	525	2.43	2.09	1.42	5.93

[50] We calculated the total initial baseline capital costs for TWIC installation for all facilities by adding the baseline capital costs presented in table 3 for years 1 and 2 ($52.41 million + $52.41 million = $104.81 million). We calculated the total baseline capital costs for replacing TWIC readers 5 years after the original installation by adding the baseline capital costs presented in table 3 for years 6 and 7 ($10.45 million + $10.45 million = $20.90 million). We then multiplied these numbers by the percentage of facilities incurring the cost in a given year. For example, in year 1, a total of 202 facilities are expected to incur capital costs, for a total industry cost of $40.33 million ($104.81 million × (202 facilities/525 facilities) = $40.33 million).

[51] The total initial baseline maintenance costs for TWIC readers, $2.09 million, is found in year 3 of table 3, as this is the first year that all facilities will incur maintenance costs under the baseline. To estimate maintenance costs, we multiplied the percentage of facilities incurring the cost in a given year by the total costs. Because maintenance costs are not incurred until the year after the TWIC reader is installed, the total number of facilities incurring the cost is equal to the total number of complying facilities in the previous year. For example, we calculated year 2 costs as follows: $2.09 million × (202 facilities/525 facilities) = $0.80 million.

[52] We calculated total operational costs by adding the baseline operational costs in years 1 and 2 as presented in table 3 ($2.10 million + $2.29 million = $4.39 million). However, this total includes a $0.187 million in costs for ongoing recordkeeping and training which do not occur the first year a facility installs a TWIC reader. Therefore, the total initial operational cost to industry is $4.206 million ($4.39 million − $0.187 million = $4.206 million). We then multiplied the total cost by the percentage of new facilities complying in a given year. We also accounted for ongoing costs to industry, which we calculated by multiplying the total ongoing operational costs of $1.416 million per year (see year 3 of table 3) by the percentage of facilities incurring ongoing costs. For example, in year 2, we calculated the total initial costs to be $1.61 million ($4.206 million × (201 facilities/525 facilities)), and we calculated the total ongoing costs to be $0.545 million ($1.416 million × (202 facilities/525 facilities)), for a total cost of $2.16 million ($1.610 million + $0.545 million). The $1.416 million ongoing cost includes not only the $0.187 million in ongoing training and recordkeeping costs, but also the cost to update the canceled card list annually.

TABLE 5—TOTAL COST FOR FACILITIES FROM PARTIALLY DELAYING THE EFFECTIVE DATE OF FINAL RULE—Continued

[Millions 2016 dollars]

Year	Number of new facilities	Total number of facilities	Capital costs	Maintenance costs	Operational costs	Undiscounted total
9	0	525	2.43	2.09	1.42	5.93
10	0	525	0	2.09	1.42	3.51
Total			125.72	16.80	15.58	158.10

Note: Totals may not sum due to rounding.

Table 6 summarizes the total costs to industry of this proposed rule, which would delay the TWIC Reader final rule, in 2016 dollars.[53] This proposed rule would not impact the compliance schedule to vessels. Therefore, these costs remain unchanged from the baseline. We calculated the additional costs by multiplying the totals in table 2 by the percentage of facilities complying within a given year and phasing them in in 2 years. Over 10 years, we estimate the annualized cost to industry to be $22.03 million at a 7-percent discount rate.

TABLE 6—TOTAL INDUSTRY COST UNDER THE PROPOSED RULE PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 FINAL RULE

[Millions, 2016 dollars]

Year	Facility	Vessel	Additional costs *	Undiscounted	7%	3%
1	$41.95	$0.022	$1.73	$43.70	$40.84	$42.43
2	43.09	0.0038	3.41	46.50	40.62	43.83
3	15.36	0.0038	3.94	19.30	15.75	17.66
4	15.77	0.0038	4.46	20.23	15.43	17.97
5	3.51	0.0038	4.46	7.97	5.68	6.87
6	11.55	0.019	4.46	16.03	10.68	13.42
7	11.51	0.0038	4.46	15.97	9.95	12.99
8	5.93	0.0038	4.46	10.40	6.05	8.21
9	5.93	0.0038	4.46	10.40	5.66	7.97
10	3.51	0.0038	4.46	7.97	4.05	5.93
Total	158.10	0.072	40.29	198.46	154.71	177.28
Annualized					22.03	20.78

* These costs include additional delay, travel, and TWIC replacement costs due to TWIC failures.
Totals may not sum due to rounding.

Table 7 presents the estimated change in total costs to industry from delaying the implementation of the TWIC Reader final rule by 3 years (until August 23, 2021) for facilities that handle bulk CDC, but do not transfer it to or from a vessel, and facilities that receive vessels carrying bulk CDC, but do not transfer it to or from the vessel during that vessel-to-facility interface. We estimated an annualized cost savings to industry of $1.15 million at a 7-percent discount rate.

TABLE 7—TOTAL CHANGE IN INDUSTRY COST FROM THE FINAL RULE TO THE NPRM PARTIALLY DELAYING THE EFFECTIVE DATE OF FINAL RULE

[Millions, 2016 dollars]

	Total 10-year cost (not discounted)	Total 10-year cost (discounted)		Annualized cost	
		7%	3%	7%	3%
TWIC Reader Final Rule	$203.86	$162.76	$184.01	$23.17	$21.57
NPRM to Delay Final Rule by 3 years	198.46	154.71	177.28	22.03	20.78
Change	(5.40)	(8.05)	(6.73)	(1.15)	(0.79)

Qualitative Costs

Qualitative costs are as shown in table 1. This proposed rule would delay the cost to retrieve or replace lost PINs for use with TWICs for the facilities with delayed implementation.

Government Costs

We expect that this proposed rule would also generate a cost savings to the government from delaying the review of the revised security plans for 122 Risk Group A facilities that handle bulk CDC, but do not transfer it to or from a vessel, and facilities that receive vessels carrying bulk CDC. There is no change in cost to the government resulting from TWIC inspections, because inspections are already required under MTSA and

the TWIC reader requirements do not modify these requirements. As such, there is no additional cost to the government

To estimate the cost to the government we followed the same approach as the industry cost analysis and adjusted the cost estimate presented in the final rule Regulatory Analysis from 2012 dollars to 2016 dollars. For the government analysis, we used the fully loaded 2016 wage rate for an E–5 level staff member, $51 per hour, from Commandant Instruction 7310.1R: Reimbursable Standard Rates, in place of the 2012 wage of $49 per hour.[54] We then followed the calculations outlined on page 72 of the final rule Regulatory Analysis to estimate a government cost of $53,550 in the first 2 years ($51 × 4 hours per review × 262.5 plans). Table 8 presents the annualized baseline government costs of $13,785 at a 7-percent discount rate.

TABLE 8—TOTAL GOVERNMENT COST UNDER 2016 TWIC READER FINAL RULE

[2016 dollars]

Year	Cost of FSP	7%	3%
1	$53,550	$50,047	$51,990
2	53,550	46,773	50,476
3	0	0	0
4	0	0	0
5	0	0	0
6	0	0	0
7	0	0	0
8	0	0	0
9	0	0	0
10	0	0	0
Total	107,100	96,819	102,466
Annualized	.....	13,785	12,012

Table 9 presents the government cost under the proposed rule. We estimated the annualized government cost to be $13,047 at a 7-percent discount rate. To estimate government costs in year 1 and year 2, we used the same approach as the baseline cost estimates.[55]

TABLE 9—TOTAL GOVERNMENT COST UNDER THE NPRM PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 FINAL RULE, RISK GROUP A

[2016 dollars]

Year	Cost of FSP	7%	3%
1	$41,208	$38,512	$40,008
2	41,004	33,471	38,650
3	12,444	10,158	11,388
4	12,444	9,493	11,056
5	0	0	0
6	0	0	0
7	0	0	0
8	0	0	0
9	0	0	0
10	0	0	0
Total	107,100	91,635	101,102
Annualized	.....	13,047	11,852

Table 10 presents the estimated change in government costs from delaying the implementation of the TWIC Reader final rule by 3 years (until August 23, 2021) for facilities that handle bulk CDC, but do not transfer it to or from a vessel, and facilities that receive vessels carrying bulk CDC, but do not transfer it to or from the vessel during that vessel-to-facility interface. We estimated an annualized cost savings to the government of $738 at a 7-percent discount rate.

[54] Because the Coast Guard is not delaying the implementation schedule for vessels, the proposed rule would have no impact on the costs associated with vessel security plans, and, therefore, we did not include them in this Regulatory Analysis.

[55] We calculated the total cost in year 1 as 4 hours × $51 × 202 FSPs; the total cost in year 2 as 4 hours × $51 × 201 FSP; and the total cost in years 3 and 4 as 4 hours × $51 × 61 FSPs.

TABLE 10—TOTAL CHANGE IN GOVERNMENT COST FROM THE FINAL RULE TO THE NPRM DELAYING THE EFFECTIVE DATE OF FINAL RULE

[2016 dollars]

	Total cost (not discounted)	Total cost (discounted)		Annualized cost	
		7%	3%	7%	3%
TWIC Reader Final Rule	$107,100	$96,819	$102,466	$13,785	$12,012
NPRM to Delay Final Rule by 3 years	107,100	91,635	101,102	13,047	11,852
Change	0.0	(5,184.3)	(1,364.0)	(738.1)	(159.9)

Using a perpetual period of analysis, we estimated the total annualized cost savings of the proposed rule to be $0.552 million in 2016 dollars, using a 7-percent discount rate.

Change in Benefits

As noted, this proposed rule would delay the effective date of the TWIC reader requirement for two categories of facilities: (1) Facilities that handle bulk CDC, but do not transfer it to or from a vessel (to comply by Aug. 23, 2021), and (2) facilities that receive vessels carrying bulk CDC but do not transfer bulk CDC to or from the vessel during that vessel-to-facility interface. The facilities for which the TWIC Reader final rule would be delayed will not realize the enhanced benefits of electronic inspection, such as ensuring that only individuals who hold valid TWICs are granted unescorted access to secure areas, enhanced verification of personal identity, and a reduction in potential vulnerability by establishing earlier the intent of perpetrators who attempt to bypass or thwart the TWIC readers, until August 23, 2021.

Summary of Cost Savings Under Executive Order 13771

We do not anticipate any new costs to the industry and government if this proposed rule is implemented and the effective date of the TWIC Reader final rule is delayed by 3 years. Therefore, this proposed rule is expected to be an Executive Order 13771 deregulatory action. Table 11 summarizes the cost savings of this rule by comparing and subtracting the costs of this proposed rule from the TWIC Reader final rule costs. Because this proposed rule would delay the implementation of the final rule by 3 years for 122 facilities, it would result in cost savings of $8.1 million for industry, $0.005 million for government, and $8.1 million total (all discounted at 7 percent) over a 10-year period of analysis. At a 7-percent discount rate, we estimate the annualized cost savings to be $1.15 million to the industry, $0.0007 to the government, and $1.15 million total. Using a perpetual period of analysis, we found total annualized cost savings of the proposed rule to be $0.552 million to industry and the government.

TABLE 11—SUMMARY OF COSTS SAVINGS UNDER EXECUTIVE ORDER 13771: FINAL RULE AND NPRM TO DELAY THE EFFECTIVE DATE OF THE FINAL RULE

Category	Cost savings of this NPRM (millions 2016$)
Costs to Industry, Government and Total ($ millions, 7% discount rate)	Industry: $8.050 (10-year). Government: $0.005 (10-year). Total: $8.055 (10-year). Industry: $1.146 (annualized). Government: $0.0007 (annualized). Total: $1.147 (annualized). Industry: $0.522 (perpetual). Government: $0.00017 (perpetual). Total: $0.522 (perpetual).

Alternatives

One regulatory alternative to this proposed rule is for the Coast Guard to take no action. Under this alternative, the TWIC Reader final rule would become effective on August 23, 2018, and all 122 facilities we identified in our final rule Regulatory Analysis, in addition to the unknown number of facilities, would be expected to comply with the final rule. These entities would be required to implement the requirements for the electronic inspection of TWICs and would incur the costs we estimated in our final rule Regulatory Analysis unless a waiver was granted by the Coast Guard.

Another alternative the Coast Guard considered was a waiver approach. However, because we currently lack a comprehensive risk analysis on the level of individualized facilities, we do not believe this approach maximizes benefits. In the absence of a new comprehensive risk analysis, the Coast Guard might issue blanket waivers that include facilities that may indeed warrant the additional security of electronic inspection. For example, take 2 facilities with a 5,000 gallon tank of a CDC each. The tank in the first facility is placed near enough to the perimeter fence in a populated area that, if the tank explodes, it would kill enough people to cause a TSI and therefore should require electronic TWIC inspection. That same tank on the other facility is located away from the water in an isolated area within the MTSA footprint (not near a population). If it explodes it does not cause a TSI and therefore should not need to conduct electronic TWIC inspection. If the Coast Guard issued a blanket waiver for those facilities with a storage tank of CDC with 5,000 gallons or less, then we would not be properly implementing these requirements to mitigate the risks as intended.

We rejected both alternatives ('no action' and 'waiver approach') because

they do not address our need to conduct a comprehensive risk analysis at the individual facility level to determine whether or not those 122 facilities and an unknown number of facilities would be required to comply with the final rule after August 23, 2018, and also develop a consistent methodology that would form the rationale for Coast Guard when issuing waivers.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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 proposes to delay the effective date of the TWIC Reader final rule (August 23, 2018) by 3 years, until August 23, 2021, for facilities that handle bulk CDC, but do not transfer it to or from a vessel, and facilities that receive vessels carrying bulk CDC but, during that vessel-to-facility interface, do not transfer it to or from the vessel. These facilities will experience a cost savings. Therefore, we estimate that this proposed rule would provide cost savings to 122 facilities.

Given this information, 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. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this preamble. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If this proposed 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 in the **FOR FURTHER INFORMATION CONTACT** section of this NPRM. 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for Federalism under E.O. 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 E.O. 13132. Our analysis is explained below.

This proposed rule would delay the implementation of existing regulations that create a risk-based set of security measures for MTSA-regulated facilities. Based on this analysis, each facility is classified according to its risk level, which then determines whether the facility will be required to conduct electronic TWIC inspection. As this proposed rule would not impose any new requirements, but simply delay the implementation of existing requirements, it would not have a preemptive impact. Please refer to the Coast Guard's federalism analysis in the final rule entitled ''Transportation Worker Identification Credential (TWIC)—Reader Requirements,'' (81 FR 57652, 57706) for additional information.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, States and local governments have traditionally shared certain regulatory jurisdiction over waterfront facilities. Therefore, MTSA standards contained in 33 CFR part 105 (Maritime security: Facilities) are not preemptive of State or local law or regulations that do not conflict with them (*i.e.,* they would either actually conflict or would frustrate an overriding Federal need for uniformity).

The Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

F. 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 million (adjusted for inflation) or more in any one year. Although this proposed rule would not result in such expenditure, we discuss the effects of this NPRM elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because although it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, 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. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule would be categorically excluded under paragraph L54 of Appendix A, Table 1 of DHS Instruction Manual 023–01(series). Paragraph L54 pertains to regulations that are editorial or procedural. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 105

Maritime security, Reporting and recordkeeping requirements, Security measures.

For the reasons listed in the preamble, the Coast Guard proposes to amend 33 CFR part 105 as follows:

PART 105—MARITIME SECURITY: FACILITIES

■ 1. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 105.253, as proposed to be added August 23, 2018 at 81 FR 57712, by revising paragraphs (a)(1) and (2) and adding paragraphs (a)(3) and (4) to read as follows:

§ 105.253 Risk Group classifications for facilities.

(a) * * *

(1) Beginning August 23, 2018: Facilities that receive vessels certificated to carry more than 1,000 passengers.

(2) Beginning August 23, 2018: Facilities that handle Certain Dangerous Cargoes (CDC) in bulk and transfer such cargoes from or to a vessel.

(3) Beginning August 23, 2021: Facilities that handle CDC in bulk, but do not transfer it from or to a vessel.

(4) Beginning August 23, 2021: Facilities that receive vessels carrying CDC in bulk but, during the vessel-to-facility interface, do not transfer it from or to the vessel.

* * * * *

Dated: June 15, 2018.

Karl L. Schultz,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 2018–13345 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2015–1118]

RIN 1625–AA01

Anchorage Grounds; Lower Chesapeake Bay, Cape Charles, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; notice of public meetings.

SUMMARY: The Coast Guard proposes to amend the regulations for Hampton Roads, Virginia and adjacent water anchorage grounds by establishing a new, deep-water anchorage ground and relocating an existing anchorage ground near Cape Charles, VA on the Lower Chesapeake Bay. Maritime infrastructure improvements and growth in both size and volume of vessel traffic entering the port, including large and deep-draft vessels have prompted this proposed rulemaking to ensure that the Hampton Roads Anchorage Grounds continue to safely and effectively support current and future deep-draft vessel anchorage demands. We moved the proposed locations of the anchorage grounds in this notice of proposed rulemaking (NPRM) further offshore than the potential locations we identified in an advance notice of proposed rulemaking (ANPRM) we published in 2016. We did so based on our review and analysis of public comments on the ANPRM and the results of an environmental study referenced in our preliminary Record of Environmental Consideration for this NPRM. We propose to establish an Anchorage R that is further offshore of Cape Charles, VA, and to relocate the existing Anchorage Q (Quarantine Anchorage) south of its current location to a more secluded location on the southern Chesapeake Bay. The intended effect of this proposed rulemaking is to protect the environment, facilitate the safe navigation of maritime commerce and national defense assets, and more safely and effectively support commercial vessel anchoring requirements on the Lower Chesapeake Bay. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before July 17, 2018. Additionally, the Coast Guard will hold several public meetings to allow the public the opportunity to provide comment. The first public meeting will be held on

Monday, June 25, 2018, from 5 p.m. to 7 p.m. at Slover Public Library Meeting Room, 235 E Plume Street, Norfolk, VA 23510. Two public meetings will be held on Tuesday, July 10, 2018, at Cape Charles Civic Center, 500 Tazwell Avenue, Cape Charles, VA; the first meeting will be held from 1 p.m. to 3 p.m. and the second meeting will be held from 6 p.m. to 8 p.m.

ADDRESSES: You may submit comments identified by docket number USCG–2015–1118 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 CDR Ken Kostecki, Sector Hampton Roads Prevention Chief, 757–668–5536, email *HamptonRoadsWaterway@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AIS Automated Information System
ANPRM Advance notice of proposed rulemaking
COTP Captain of the Port
CFR Code of Federal Regulations
DOD Department of Defense
DHS Department of Homeland Security
FR Federal Register
MD Maryland
NM Nautical Miles
§ Section
NPRM Notice of proposed rule-making
PWSA Port and Waterways Safety Act
U.S.C. United States Code
VA Virginia

II. Background, Purpose, and Legal Basis

On April 19, 2016, the Coast Guard published an advance notice of proposed rule-making (ANPRM) in the **Federal Register** (81 FR 22939) to solicit public comments on amending certain anchorage regulations in Hampton Roads for the possible creation of a new anchorage in the lower Chesapeake Bay near Cape Charles, VA. We received 35 comment letters in response to the ANPRM. On June 27, 2016, we published a 45-day extension and announced two public meetings (81 FR 41487). On August 16, 2016, we announced one additional meeting and reopened the comment period (81 FR 54531). We scheduled the meetings to receive comments on the ANRPM to allow for greater public involvement. The meetings were held in—

- Norfolk, VA, on July 19, 2016;
- Melfa, VA, on July 20, 2016; and
- Cape Charles, VA, on August 17, 2016.

At the three public meetings, we heard from 20 speakers and we received a total of 35 individual comment letters. On December 16, 2016, the Coast Guard issued a news release to inform the public that a review of comments and the environmental study would be conducted. In November 2017, the Coast Guard completed its environmental review. In January 2018, the Center for Disease Control, the U.S. Navy Fleet Forces Command, and the U.S. Army Corps of Engineers, North Atlantic provided comments identifying and addressing adverse impacts from the proposed anchorage establishment.

The purpose of this NPRM is to solicit comments on proposed rulemaking for establishing a federal commercial anchorage ground, Anchorage R, 3 nautical miles (NM) west of Cape Charles, VA and relocating the existing quarantine anchorage ground currently off Cape Charles, VA to a more secluded location in the lower Chesapeake Bay that is 6 NM southwest of Fishermans Island, VA. With the increasing trend of larger and deeper-draft ships calling within Virginia and Maryland, our efforts to improve navigation safety of both national defense and commercial vessels and to protect the environment can be accomplished by providing an anchorage of adequate size, depth and capacity.

The legal basis and authorities for this notice of proposed rulemaking are found in 33 U.S.C. 471, 33 CFR 1.05–1, DHS Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory anchorage grounds.

III. Discussion of Comments on ANRPM

This section provides a detailed discussion of the public comments received during the ANPRM's comment period and public meeting. We received 35 comment letters in response to the ANPRM. In addition, we hosted three public meetings to provide another forum for obtaining public feedback on the ANRPM.

Twenty-three comments were received from the public meetings. Comments submitted to the online docket and received at the public meeting aligned into five categories: Environmental concerns, local economy and tourism, safety and security compliance concerns, view shed concerns, and anchorage proponent. Copies of the public meeting sign-in sheets and written comments received are available for viewing in the public docket for this rulemaking. Commenters represented a wide range of individuals and entities, including State and local government officials, port authorities, representatives of affected industries, such as maritime, port, and other facilities, and private citizens. The comments received from these parties helped to inform the proposal in this NPRM.

1. Environmental Concerns

We received 22 comments opposing the anchorage location due to environmental concerns, such as light and noise pollution and potential vessel discharge. In the ANPRM, we inquired about the possible establishment of a deep-water anchorage ground west of Cape Charles, VA on the Chesapeake Bay. These comments on the ANPRM combined with the results of our environmental study caused us to move the anchorages we are proposing in this NPRM further offshore. The Coast Guard has prepared a preliminary Record of Environmental Consideration (REC) for this NPRM and has made a preliminary determination that the proposed Anchorage R and new Quarantine Anchorage do not cumulatively or individually have a significant effect on the human environment.

Also, we noted that there are existing laws and regulations in place to govern behavior of mariners and vessels related to these concerns about the release of pollutants. In terms of the discharge of pollutants, our regulations in 33 CFR part 151 and the Act to Prevent Pollution from Ships implement provisions of the International Convention for Prevention of Pollution from Ships and subject violators to penalties. Also, the Ports and Waterways Safety Act (PWSA) of 1972, (33 U.S.C. 1221, 1223, 1228, 1232 *et seq.*) and PWSA-implementing regulations help us ensure vessel compliance with all applicable standards, vessel operating requirements, vessel conditions for entry into port and enforcement provisions. In addition, 46 U.S.C. subtitle II, part B, specifically 3305, 3307, and 3714, authorize and call for merchant vessel inspections and examinations. Foreign-flagged vessels are subject to Port State Control examinations to ensure compliance with applicable marine pollution, sewage, waste, and safety and security laws and regulations. Additionally, under current COTP procedures, Sector Hampton Roads has instituted a random and unannounced spot check program for any vessel, foreign or U.S. flagged, anchored off of Cape Charles to ensure regulatory compliance.

Under 33 CFR 110.168(c)(8) and (9), the COTP may prescribe specific

conditions for vessels preventing them from being in a dead ship status, (that is, control unavailable for normal operations) while in an anchorage ground, without prior approval of the COTP. Under § 160.216 of this chapter, vessels experiencing casualties, such as main propulsion, main steering or anchoring equipment malfunction, or which are planning to perform main propulsion engine repairs or maintenance, must immediately notify the Coast Guard COTP. Under § 160.111 of this chapter, the Coast Guard COTP may direct a vessel to depart the anchorage during periods of severe weather or at other times as deemed necessary in the interest of port safety. During these adverse weather conditions, under § 110.168(c)(8) and (9) of this chapter the vessel operator in an anchorage ground must comply with all severe weather precautionary measures directed by the COTP to include but not limited to having additional anchors ready for letting go and standing a continuous and live anchor watch.

To further enhance the safety of the waters of the Chesapeake Bay, the Quarantine Anchorage was relocated to a more secluded location to provide an additional layer of protection should a hazardous condition exist onboard the vessel.

2. Local Economy and Tourism

Sixteen comments received were opposed to the anchorage due to the proximity to the shore and its impact to the commercial and recreational boaters that use the Cape Charles City Channel, also known as the Cherrystone Inlet Channel. In this NPRM, the Coast Guard shifted the anchorage 3 NM from the coastline and into deeper water keeping Cherry Stone Channel Inlet, connected to Cape Charles, VA, open to workboats, fishing vessels, and recreational boats transiting this inlet to support the local economy and tourism. Also, by moving the anchorage north of an existing regulated navigation area, 33 CFR 165.501, this will direct vessels to no longer routinely anchor offshore Bulters Bluff, Kiptopeke State Park Beach, Jackspot at the Sunset Beach and Chesapeake Bay Resort and Beach Club but instead to use a dedicated anchorage ground. This will move the lights from ships anchored there further offshore.

Although boaters would be allowed to fish in the proposed anchorage ground, we would strongly discourage crab pot fishing as we would around any places vessels anchor because lines may get caught or cut by the anchors and propellers of vessels anchoring. Mariners deciding to fish in the anchorage ground would do so at the risk of their lines or other fishing gear getting snagged or cut by anchor lines or propellers. Fishing vessels would also need to comply with the provisions outlined in the Navigation Rules of the Road (see 33 CFR part 83).

An additional commenter opposed the anchorage contemplated in the ANPRM requesting that if the ships could not anchor closer to Norfolk than they should anchor at sea until they are called to port. The Coast Guard cannot direct vessels to anchor greater than 12 NM offshore or to stay at sea where they could become exposed to unsafe environmental weather conditions. However, in this NPRM, the proposed anchorage is being shifted further west from Cape Charles, VA and will now be regulated, enhancing the overall safety and security of both vessels and the public.

3. Safety and Security Compliance Concerns

Ten comments were received regarding vessel safety and crewmember security. Under 33 CFR part 160, subpart C, in general, U.S. vessels in commercial service and foreign vessels entering port must provide a Notice of Arrival to the Coast Guard. The vessel's Notice of Arrival is vetted by numerous federal agencies to ensure compliance with applicable safety and security laws prior to the vessel and its crews entering U.S. waters. Speaking specifically to foreign crewmembers, U.S. Customs and Border Protection (CBP) screen and provide escort protocol for those individuals who are seeking to go ashore. All crewmembers must remain onboard the vessel unless clearance from CBP has been obtained prior to going ashore.

4. View From Shore Concerns

A total of six comments were received opposing the anchorage due to the negative impact anchored vessels could have on the view from shore and diminished property values. The Coast Guard considered these comments to find an alternate anchorage area. Based on exposure to weather, tug and barge traffic density, and navigational safety concerns for areas west of Chesapeake Channel due to drafts between 25 feet and 35 feet with numerous shoals, the proposed alternative areas were considered unsafe for deep draft vessels to anchor. To mitigate the issues associated with the view shed, the Coast Guard moved the anchorage to 3 NM offshore vice the original 1.5 NM and as far west as 500 yards from the Chesapeake Channel. Directly east of Cape Charles heading north towards the Cherry Stone Camp Grounds, the anchorage gets progressively narrower to reduce the overall number of vessels offshore that would be viewed on the horizon.

5. Anchorage Proponent

Three responses were received in support of a new, deep-water anchorage due to the growing maritime infrastructure in the Commonwealth of Virginia. With the support of the anchorage, there were also recommendations to review the existing anchorages within the lower Chesapeake Bay, to maintain the original anchorage proposal, and to expand the boundaries of the anchorage proposal. The existing anchorages will not be reviewed for this rulemaking. The need to adjust the anchorage to include deep water to the north of the proposed area was suggested and incorporated into this adjusted proposal. Various mariner subject matter experts were consulted to ensure navigation safety of both anchored vessels and vessels transiting near the proposed Anchorage R and the proposed Quarantine Anchorage. With limited availability of a deep draft anchorage in the existing naval anchorages, this anchorage proposal is anticipated to enhance the navigation safety of the port and more safely and effectively support commercial vessel anchoring requirements on the Lower Chesapeake Bay.

IV. Discussion of the Proposed Rule

The Coast Guard proposes to establish a new Anchorage R and relocate the existing Quarantine Anchorage. This proposal reflects our consideration of all comments received from the ANPRM and the Record of Environmental Consideration. We believe this will more effectively establish a new deep-water anchorage ground for commercial vessels to support the new and projected growth in maritime commerce vessel traffic throughout the Port of Virginia. The approximate depths of the proposed new Anchorage R will be located in naturally deep water with charted depths between 25 and 101 feet. The average depth of the northern half of the anchorage is between 45 and 101 feet. The average depth of the southern half of the anchorage is between 25 and 45 feet.

The 7.9 NM long eastern boundary of the proposed Anchorage R is located 3 NM to the west of landside Cape Charles, VA on the Lower Chesapeake Bay. The southernmost boundary is 3.9 NM, and runs parallel with, and 500 yards north of the existing Regulated Navigation Area (33 CFR 165.501) connected along the SE to S coordinates

listed in the proposed regulatory language below. The western boundary of the anchorage grounds runs parallel along, and no less than 500 yards east of York Spit Channel for 13.9 NM to include the 11.2 NM between lighted buoy 24 and lighted buoy 38 and then continues to the northeast for 2.7 NM north of lighted buoy 38, connected along the listed S, SW and NW coordinates. The final northern most boundary is 0.6 NM connected by the listed NW and NE coordinates.

The Coast Guard proposes moving the existing Quarantine Anchorage (Anchorage Q), from the current location 3.5 NM to the west of landside of Cape Charles, VA, and east of York Spit Channel between lighted buoys 36 to 38, relocating it 6 NM southwest of Fishermans Point, VA. The new location runs 625 yards west of York Spit Channel between buoys 16 and 18. The eastern boundary of proposed Anchorage Q runs parallel to York Spit Channel for 2.2 NM, connected by the NE and SE coordinates as outlined in the proposed regulatory language. The southernmost boundary is 1.3 NM from the emergency restricted area outside the Chesapeake Bay Bridge Tunnel, connected by the listed SE and SW coordinates. The westernmost boundary is 2.2 NM, connected by the listed SW and NW coordinates. The northernmost boundary is 450 yards southwest of York River Entrance Channel and runs for 1.3 NM, connected by the listed NW and NE coordinates.

The regulatory text we are proposing, including the coordinates mention above, appears at the end of this document. You may find a drawing of the proposed anchorage grounds in the docket. Look for Illustration of Contemplated Anchorage ''R'' and ''Quarantine'' Anchorage.

V. 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, and historical vessel traffic data pertaining to the proposed anchorage locations. The regulation would ensure approximately 18 square miles of anchorage grounds are designated to provide a necessary commercial deep draft anchorage and enhance the navigational safety of large naval and commercial vessels transiting within the lower Chesapeake Bay. In reviewing historical Automated Information System (AIS) track line data of vessel transits, the proposed Anchorages Quarantine and R areas are safe locations for vessels to anchor in a minimally trafficked section of the Chesapeake Bay while maintaining a more appropriate safe distance from shore.

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 use the anchorage 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. The towns and communities along the western coast of Eastern Shore of Virginia have an economy based on tourism and numerous small entities and businesses. The anchorage will regulate and move vessels who are currently anchoring in the general vicinity away from the shore and beaches, lessening impacts these small entities may currently experience.

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 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 M16475.1 (series) OM, which guides 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 amending the regulations for Hampton Roads and adjacent water anchorages by establishing an anchorage, Anchorage R, 3 NM west of Cape Charles, VA and relocating the existing Quarantine Anchorage, Anchorage Q, to a more secluded position that is 6 NM southwest of Fishermans Point, VA. Normally, such actions are categorically excluded from further review under paragraphs L59(a) and L59(b) 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.

VI. 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/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.

We plan to hold three public meetings to receive oral comments on this NPRM, one in Norfolk, VA and two in Cape Charles, VA. The first public meeting will be held on Monday, June 25, 2018, from 5 p.m. to 7 p.m. at Slover Public Library Meeting Room, 235 E. Plume Street, Norfolk, VA 23510. Two public meetings will be held on July 10, 2018 at Cape Charles Civic Center, 500 Tazwell Avenue, Cape Charles, VA; the first meeting will be held from 1 p.m. to 3 p.m. and the second meeting will be held from 6 p.m. to 8 p.m. For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact the person named in the **FOR FURTHER INFORMATION CONTACT** section, above.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

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

PART 110—ANCHORAGE REGULATIONS

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

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

■ 2. In § 110.168, add introductory text in paragraph (a), revise paragraph (a)(6), and add paragraph (a)(7) to read as follows:

§ 110.168 Hampton Roads, Virginia and adjacent waters.

(a) *Anchorage Grounds.* All coordinates in this section for anchorage grounds are based on North American Datum of 1983 (NAD 83).

* * * * *

(6) *Anchorage Q. Quarantine Anchorage.* The waters bound by a line connecting the following points:

Latitude	Longitude
37°05′40″ N	076°08′12″ W
37°05′40″ N	076°07′19″ W
37°03′46″ N	076°05′58″ W
37°03′46″ N	076°06′51″ W

(7) *Anchorage R.* The waters all within the Chesapeake Bay, bound by a line connecting the following points:

Latitude	Longitude
37°19′10″ N	076°05′00″ W
37°12′00″ N	076°05′00″ W
37°09′08″ N	076°08′19″ W
37°11′23″ N	076°08′49″ W
37°19′10″ N	076°05′46″ W

* * * * *

Dated: June 8, 2018.

Meredith Austin,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2018–13439 Filed 6–19–18; 4:15 pm]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–R03–OAR–2018–0304; FRL–9979–70—Region 3]

Commonwealth of Pennsylvania; Allegheny County Health Department, Withdrawal of Section 112(l) Delegation Authority for the Chemical Accident Prevention Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Environmental Protection Agency (EPA) is notifying the public that Allegheny County Health Department (ACHD) has completed the regulatory process for voluntary withdrawal from EPA's delegation of authority to enforce the chemical accident prevention regulations, and EPA is proposing to modify amendments indicating that ACHD does not have delegated authority to implement and enforce the regulatory requirements. EPA is also notifying the public that each facility subject to the previously approved ACHD delegated chemical accident prevention program is required to maintain continuous compliance with applicable requirements. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 23, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2018–0304 at *https://www.regulations.gov,* or via email to *duke.gerallyn@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 *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mary Cate Opila, (215) 814–2041, or by email at *opila.marycate@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Clean Air Act (CAA) and 40 CFR part 63, subpart E, authorizes EPA to approve of State, and local, rules and programs to be implemented and enforced in place of certain CAA requirements, including the chemical accident prevention provisions set forth at 40 CFR part 68 (Chemical Accident Prevention Regulations). EPA promulgated the Chemical Accident Prevention Regulations (or risk management program (RMP) regulations) (RMP regulations) pursuant to CAA Section 112(r)(7). By letter dated June 15, 2001, ACHD requested delegation of authority to implement and enforce the RMP regulations for all sources, among other requests for delegation of other programs. On January 30, 2002, EPA issued a direct final rule, which became effective on April 1, 2002, approving ACHD's request for delegation of authority to implement and enforce EPA's RMP regulations, which had been adopted by reference from 40 CFR part 68, for all sources within Allegheny County, Pennsylvania, subject to such regulations. *See* 67 FR 4363 (January 30, 2002).

The procedures for a State, or local authority, to voluntarily withdraw from a CAA approved rule, program or portion of a rule or program are set forth at 40 CFR 63.96(b)(7). In summary, these regulations and relevant EPA guidance provide that a State, or local authority, may unilaterally and voluntarily withdraw from an approved delegated program by notifying EPA and all affected sources of its intent to withdraw and the specific requirements subject to such withdrawal. Any such withdrawal is not effective sooner than 180 days after such notification to EPA. The State, or local authority, must also provide notice and opportunity for comment to the public. To the extent that any source that is affected by the withdrawal is also subject to a CAA operating permit issued pursuant to 40 CFR part 70, the State, or local authority, must reopen and revise such permit to the extent necessary.

II. EPA Analysis

By letter dated July 28, 2017, ACHD notified EPA Region III of its intent to voluntarily withdraw from EPA's delegation of authority to enforce the RMP regulations. By letter dated November 9, 2017, ACHD notified EPA Region III that ACHD announced a public comment period to take comment on ACHD's voluntary withdrawal from EPA's delegation of authority to enforce the RMP regulations. The public comment period extended from November 10, 2017 to December 10, 2017. During this public comment period, ACHD did not receive any comments in response to the public comment notification. ACHD provided all applicable facilities with written notice that ACHD is voluntarily withdrawing from EPA's delegation of authority to enforce the RMP regulations set forth at 40 CFR part 68.

Pursuant to 40 CFR 63.96(b)(7), ACHD has determined which facilities, located in Allegheny County, are subject to the RMP regulations and have effective CAA Title V operating permits in accordance with 40 CFR part 70. Sixteen facilities within Allegheny County have submitted risk management plans to EPA and ACHD has issued Title V operating permits to 28 currently operating facilities. ACHD Title V operating permits incorporate the RMP regulations, set forth at 40 CFR part 68, by reference. Therefore, each facility, located in Allegheny County, Pennsylvania, that is subject to the RMP regulations and has an effective Title V operating permit has been issued a Title V permit which includes the proper citation to any applicable RMP regulation.

Upon a State's or local authority's voluntary withdrawal of a delegated program, in accordance with 40 CFR 63.96(b)(7), EPA is required to publish a time for sources subject to the previously approved State, or local, rule or program to come into compliance with applicable Federal requirements. Because, as part of its previously approved delegated program, ACHD incorporated the RMP regulations by reference, there is no distinction between ACHD's previously approved delegated program for implementing the requirements set forth at 40 CFR part 68 and the applicable Federal requirements set forth at 40 CFR part 68. Furthermore, EPA's delegation of authority to implement the requirements set forth at 40 CFR part 68 to ACHD stated in relevant part: ''Although ACHD has primary authority and responsibility to implement and enforce the . . . chemical accident prevention provisions, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.'' *See* 67 FR 4366 (January 30, 2002). Therefore, all facilities located in Allegheny County, Pennsylvania, subject to any requirement set forth at 40 CFR part 68 shall maintain continuous compliance with such requirement.

III. Proposed Action

EPA's review of this material indicates that ACHD has completed the regulatorily mandated process, set forth at 40 CFR 63.96(b)(7), for voluntary withdrawal from EPA's delegation of authority to enforce the Chemical Accident Prevention regulations set forth at 40 CFR part 68. EPA is proposing to modify 40 CFR 63.99(a)(39)(v) to indicate ACHD's withdrawal from EPA's delegation of authority to enforce the chemical accident prevention provisions set forth at 40 CFR part 68. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

This action notifies the public that ACHD has completed the process for voluntary withdrawal from EPA's delegation of authority to enforce the chemical accident prevention provisions set forth at 40 CFR part 68, and the action proposes to update 40 CFR 63.99(a)(39)(v) to indicate the withdrawal. The proposed action does not impose additional requirements beyond those imposed by state and federal law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office

of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- is not an Executive Order 13771 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 rule to modify 40 CFR 63.99(a)(39)(v) to indicate ACHD's voluntary withdrawal from EPA's delegation of authority to enforce the chemical accident prevention provisions set forth at 40 CFR part 68, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the action does to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Paper and paper products industry, Reporting and recordkeeping requirements.

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

Dated: June 12, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2018–13452 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 83, No. 121
Friday, June 22, 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.

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of commission telephonic business meeting.

DATES: Tuesday, June 26, 2018, at 1:00 p.m. ET.

ADDRESSES: Meeting to take place by telephone.

FOR FURTHER INFORMATION CONTACT: Brian Walch, (202) 376–8371, *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: This business meeting is open to the public by telephone only.

Participant Access Instructions: Listen Only, Toll Free: 1–888–601–3878, Conference ID: 656–3687. Please dial in 5–10 minutes prior to the start time.

Meeting Agenda

I. Approval of Agenda
II. Program Planning
- Discussion and Vote on 2018 Report: An Assessment of Minority Voting Rights Access in the United States

II. Adjourn Meeting

Dated: June 20, 2018.

Brian Walch,

Director, Communications and Public Engagement.

[FR Doc. 2018–13527 Filed 6–20–18; 11:15 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on July 25 and 26, 2018, 9:00 a.m., at Qualcomm Incorporated, 5665 Morehouse Drive, QRC Building, San Diego, California 92121. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, July 25

Open Session

1. Welcome and Introductions
2. Working Group Reports
3. Old Business
4. Intro to hacking? Trends? Tools?
5. Update on Practitioner's Guide to APP
6. Update on Top 500
7. Digital TV? Implications for 5G video?
8. Industry Wassenaar Proposals for 2019
9. Clash between GDPR (EU) and 5A1j (WA)

Thursday, July 26

Closed Session

10. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than July 18, 2018.

A limited number of seats will be available for the public session. Reservations are not accepted. If attending in person, forward your Name (to appear on badge), Title, Citizenship, Organization name, Organization address, Email, and Phone to Ms. Springer. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 4, 2018, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2018–13455 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–073]

Antidumping Duty Investigation of Common Alloy Aluminum Sheet From the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that common alloy aluminum sheet (aluminum sheet) from the People's Republic of China (China) is being, or is likely to be, sold in the United States at less-than-fair value (LTFV). We invite interested parties to comment on this preliminary determination.

DATES: Applicable June 22, 2018.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Scott Hoefke, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–2657 and (202) 482–4947, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the notice of initiation of this LTFV investigation on December 4, 2017.[1] Commerce exercised its discretion to toll deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the preliminary determination of this investigation became April 26, 2018.[2] On March 29, 2018, we postponed the deadline for the preliminary determination by 50 days, in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.205(b)(2).[3] On April 13, 2018, we clarified that the postponed preliminary deadline is June 15, 2018.[4]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum that is dated concurrently with this determination and is hereby adopted by this notice.[5] A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and electronic version of the Preliminary Decision Memorandum are identical in content.

Period of Investigation

The period of investigation (POI) is April 1, 2017, through September 30, 2017.

Scope of the Investigation

The product covered by this investigation is aluminum sheet from China. For a complete description of the scope of this investigation, *see* Appendix II.

Scope Comments

In accordance with the preamble to Commerce's regulations,[6] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* ''scope'').[7] We received scope comments from interested parties between December 18 and December 20, 2017.[8] We received rebuttal scope comments from the Aluminum Association Common Alloy Sheet Trade Enforcement Working Group (the Domestic Industry) on January 3, 2018.[9] Between March 2 and March 26, 2018, we received additional scope comments from interested parties,[10] and on March 14, 2018, we received rebuttal scope comments from the Domestic Industry.[11] Based on the comments received, for purposes of this preliminary determination, we are not modifying the scope language as it appeared in the *Initiation Notice.*[12]

Methodology

We are conducting this investigation in accordance with section 731 of the Tariff Act of 1930, as amended (the Act). We calculated export prices in accordance with section 772 of the Act. Because China is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value (NV) in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Affirmative Preliminary Determination, in Part, of Critical Circumstances

On March 23, 2018, the Domestic Industry timely filed a critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of aluminum sheet from China.[13] We preliminarily determine that critical circumstances exist for Nanjie Resources Co., Limited (Nanjie), Yong Jie New Material Co., Ltd. (Yong Jie New Material), and Zhejiang Yongjie Aluminum Co., Ltd. (Yongjie Aluminum) (collectively, Yongjie Companies); Zhejiang GKO Aluminium Stock Co., Ltd. (GKO Aluminium); the companies eligible for a separate rate; and the China-wide entity. In addition, we preliminarily determine that critical circumstances do not exist for Henan Mingtai Al Industrial Co., Ltd. (Henan Mingtai) and Zhengzhou Mingtai Industry Co., Ltd. (Zhengzhou Mingtai) (collectively, Mingtai). For a full description of the methodology and results of our analysis, *see* the Preliminary Decision Memorandum and Critical Circumstances Memorandum.[14]

Combination Rates

In the *Initiation Notice,* we stated that it would calculate combination rates for the respondents that are eligible for a

[1] *See Common Alloy Aluminum Sheet from the People's Republic of China: Initiation of Less-Than-Fair-Value and Countervailing Duty Investigations,* 82 FR 57214 (December 4, 2017) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[3] *See Common Alloy Aluminum Sheet from the People's Republic of China: Postponement of Preliminary Determination of the Less-Than-Fair-Value Investigation,* 83 FR 14262 (April 3, 2018).

[4] *See* Memorandum, ''Less-Than-Fair-Value Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Correction of the Preliminary Determination Deadline,'' dated April 13, 2018.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China,'' dated concurrently with this notice (Preliminary Decision Memorandum).

[6] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

[7] *See Initiation Notice,* 82 FR at 57215.

[8] *See* Letter from the Metal Composite Building Materials and Products Branch of China, ''Common Alloy Aluminum Sheet from of China; Antidumping and Countervailing Duty Investigations: Comments on Scope of Investigations,'' dated December 18, 2017; Letter from The Beer Institute, ''Common Alloy Aluminum Sheet from the People's Republic of China: Comments on Scope,'' dated December 18, 2017; Letter from The Truck Trailer Manufacturers Association, ''A–570–073, C–570–074 Common Alloy Aluminum Sheet from the People's Republic of China: Initiation of Less-Than-Fair-Value and Countervailing Duty Investigations,'' dated December 18, 2017; and Letter from MAHLE Behr USA Inc., MAHLE Behr Troy Inc. and MAHLE Behr Charleston Inc., ''Comments on Scope of the Investigation—Common Alloy Aluminum Sheet from the People's Republic of China,'' dated December 18, 2017; Letter from Can Manufactures Institute, ''Common Alloy Aluminum Sheet from the People's Republic of China: Comments on Scope (Case Nos. A–570–073, C–570–074),'' dated December 20, 2017.

[9] *See* Letter from the Domestic Industry, ''Common Alloy Aluminum Sheet from the People's Republic of China—Domestic Industry's Scope Rebuttal Comments,'' dated January 3, 2018.

[10] *See* Letter from FUJIFILM Manufacturing U.S.A., Inc. and FUJIFILM Holdings America Corporation (collectively, FUJIFILM), ''Common Alloy Aluminum Sheet from the People's Republic of China—Scope Exclusion Comments,'' dated March 2, 2018; *see also* Letter from FUJIFILM, ''Common Alloy Aluminum Sheet from the People's Republic of China—Submission of Factual Information to Rebut, Clarify, or Correct Factual Information Submitted by the Domestic Industry,'' dated March 26, 2018.

[11] *See* Letter from the Domestic Industry, ''Common Alloy Aluminum Sheet from the People's Republic of China—Domestic Industry's Rebuttal to F'UJIIFILM's Scope Comments,'' dated March 14, 2018.

[12] *See* Memorandum, ''Common Alloy Aluminum Sheet from the People's Republic of China: Scope Comments Preliminary Decision Memorandum,'' dated June 15, 2018.

[13] *See* Letter from the Domestic Industry, ''Antidumping and Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China—Domestic Industry's Allegation of Critical Circumstances,'' dated March 23, 2018.

[14] *See* Memorandum, ''Calculations for Preliminary Determination of Critical Circumstances,'' dated June 15, 2018.

separate rate in this investigation.[15] Policy Bulletin 05.1 describes this practice.[16]

Preliminary Determination

The preliminary weighted-average antidumping margins are as follows:

Exporter	Producer	Weighted-average margin (percent)	Cash deposit adjusted for subsidy offset (percent)
Henan Mingtai Al Industrial Co., Ltd./Zhengzhou Mingtai Industry Co., Ltd[17].	Henan Mingtai Al Industrial Co., Ltd./Zhengzhou Mingtai Industry Co., Ltd.	167.16	167.16
Alcha International Holdings Limited	Jiangsu Alcha Aluminium Co., Ltd	167.16	167.16
Alumax Composite Material (Jiangyin) Co., Ltd	Chalco Ruimin Co., Ltd	167.16	167.16
Granges Aluminum (Shanghai) Co., Ltd	Granges Aluminum (Shanghai) Co., Ltd	167.16	167.16
Henan Founder Beyond Industry Co., Ltd	Henan Xintai Aluminum Industry Co., Ltd	167.16	167.16
Huafon Nikkei Aluminium Corporation	Huafon Nikkei Aluminium Corporation	167.16	167.16
Jiangsu Lidao New Material Co., Ltd	Henan Jinyang Luyue Co., Ltd	167.16	167.16
Jiangsu Lidao New Material Co., Ltd	Jiangsu Zhong He Aluminum Co., Ltd	167.16	167.16
Jiangyin Litai Ornamental Materials Co., Ltd	Jiangyin Litai Ornamental Materials Co., Ltd	167.16	167.16
Jiangyin New Alumax Composite Material Co. Ltd	Chalco Ruimin Co., Ltd	167.16	167.16
Shandong Fuhai Industrial Co., Ltd	Shandong Fuhai Industrial Co., Ltd	167.16	167.16
Tianjin Zhongwang Aluminium Co., Ltd	Tianjin Zhongwang Aluminium Co., Ltd	167.16	167.16
Xiamen Xiashun Aluminum Foil Co., Ltd	Xiamen Xiashun Aluminum Foil Co., Ltd	167.16	167.16
Yantai Jintai International Trade Co., Ltd	Shandong Nanshan Aluminium Co., Ltd	167.16	167.16
Yinbang Clad Material Co., Ltd	Yinbang Clad Material Co., Ltd	167.16	167.16
Zhengzhou Silverstone Limited	Henan Zhongyuan Aluminum Co., Ltd	167.16	167.16
Zhengzhou Silverstone Limited	Luoyang Xinlong Aluminum Co., Ltd	167.16	167.16
Zhengzhou Silverstone Limited	Shanghai Dongshuo Metal Trade Co., Ltd	167.16	167.16
Zhengzhou Silverstone Limited	Zhengzhou Mingtai Industry Co., Ltd	167.16	167.16
China-Wide Entity		167.16	167.16

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of aluminum sheet from China as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) For the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted average dumping margin listed for that combination in the table; (2) for all combinations of China producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the China producer/exporter combination that supplied that third-country exporter.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise from Nanjie Resources Co., Limited/Yong Jie New Material Co., Ltd./Zhejiang Yongjie Aluminum Co., Ltd.; Zhejiang GKO Aluminium Stock Co., Ltd.; the companies eligible for a separate rate; and the China-wide entity, as discussed above.

In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from the producer/exporter combinations identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

The suspension of liquidation will remain in effect until further notice.

Disclosure and Public Comment

We will disclose to interested parties the calculations performed in this proceeding within five days of the date of announcement of this preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments on the preliminary determination described above may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this proceeding.[18] Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[19]

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each

[15] *See Initiation Notice*, 82 FR at 57217.

[16] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on the Department's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

[17] We preliminarily determine that Henan Mingtai Al Industrial Co., Ltd. and Zhengzhou Mingtai Industry Co., Ltd. are a single entity. *See* Preliminary Decision Memorandum; *see also* Memorandum, ''Preliminary Affiliation and Collapsing Memorandum for Henan Mingtai Al Industrial Co., Ltd. and Zhengzhou Mingtai Industry Co., Ltd.,'' dated concurrently with this notice.

[18] *See* 19 CFR 351.309(b)(2)(c)(i).

[19] *See* 19 CFR 351.309, *see also* 19 CFR 351.303 (for general filing requirements).

argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[20] This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the **Federal Register**.[21] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, we intend to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[22] Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.[23]

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Respondents Mingtai and Yongjie Companies requested that, in the event of an affirmative preliminary determination in this investigation, Commerce postpone its final determination, *i.e.,* no later than 135 days after the publication of the preliminary determination in the **Federal Register**, and that Commerce extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[24] Additionally, the Domestic Industry requested that Commerce postpone its final determination and extend the application of provisional measures from a four-month period to a period not to exceed six months.[25]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) Our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register** and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will issue our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[26]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission (ITC) of our preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(I) of the Act and 19 CFR 351.205(c).

Dated: June 15, 2018.

Gary Taverman,

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

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Preliminary Determination of Critical Circumstances
V. Scope Comments
VI. Scope of the Investigation
VII. Postponement of Final Determination and Extension of Provisional Measures
VIII. Discussion of the Methodology
A. Non-Market Economy Country
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IX. Currency Conversion
X. Adjustment Under Section 777A(F) of the Act
XI. Adjustment for Countervailable Export Subsidies
XII. Disclosure and Public Comment
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XIV. Conclusion

Appendix II

Scope of the Investigation

The merchandise covered by this investigation is aluminum common alloy sheet (common alloy sheet), which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope of this investigation includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core.

Common alloy sheet may be made to ASTM specification B209–14, but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of this investigation is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H–19, H–41, H–48, or H–391 temper. In addition, aluminum can stock has a lubricant

[20] *See* 19 CFR 351.309(c)(2) and (d)(2).

[21] *See* 19 CFR 351.310(c).

[22] *See* 19 CFR 351.303(b)(2)(i).

[23] *See* 19 CFR 351.303(b)(1).

[24] *See* Letter from Mingtai and Yongjie Companies, ''Common Alloy Aluminum Sheet from the People's Republic of China: Request for Postponement of Final Determination,'' dated May 14, 2018.

[25] *See* Letter from the Domestic Industry, ''Common Alloy Aluminum Sheet from the People's Republic of China—Domestic Industry's Request to Extend Deadline for Final Antidumping Determination,'' dated May 18, 2018.

[26] *See* 19 CFR 351.210(b)(2) and (e).

applied to the flat surfaces of the can stock to facilitate its movement through machines used in the manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Further, merchandise that falls within the scope of this investigation may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3030, 7606.91.3060, 7606.91.6040, 7606.92.3060, 7606.92.6040, 7607.11.9090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2018–13423 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–894]

Certain Tapered Roller Bearings From the Republic of Korea: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain tapered roller bearings (TRBs) from the Republic of Korea (Korea) for the period of investigation (POI) of April 1, 2016 through March 31, 2017, are being, or are likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable June 22, 2018.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse and Manuel Rey, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6345 and (202) 482–5518, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2018, Commerce published the *Preliminary Determination* of sales at LTFV of TRBs from Korea.[1] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is adopted by this notice.[2]

Scope of the Investigation

The product covered by this investigation is TRBs from Korea. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation'' in Appendix I of this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended, (the Act) from February through April 2018, we conducted verification of the sales and cost information submitted by Iljin Group[3] and Schaeffler Korea Corporation (Schaeffler) (collectively, the respondents) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.[4]

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for each of the respondents. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually examined, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act. For the final determination, Commerce calculated the ''all others'' rate based on a weighted average of Iljin Group's and Schaeffler's margins using publicly-ranged quantities of their sales of subject merchandise.[5]

[1] *See Certain Tapered Roller Bearings from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less-Than-Fair-Value, Postponement of Final Determination, and Extension of Provisional Measures,* 83 FR 4901 (February 2, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Tapered Roller Bearings from the Republic of Korea,'' (Preliminary Decision Memorandum).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Tapered Roller Bearings from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] Iljin Group is the name used for the collapsed-entity comprised of the following three affiliated companies: Bearing Art Corporation, Iljin Bearing Corporation, and Iljin Global Corporation.

[4] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Verification of Iljin USA Corporation in the Antidumping Duty Investigation of Certain Tapered Roller Bearings from the Republic of Korea,'' dated April 24, 2018; Memorandum, ''Verification of the Sales Response of Schaeffler Group U.S.A., Inc. in the Antidumping Duty Investigation of Tapered Roller Bearings from Korea,'' dated April 25, 2018; Memorandum, ''Verification of the Cost Response of Bearing Art Corporation in the Less-than-Fair-Value Investigation of Tapered Roller Bearings from the Republic of Korea,'' dated May 2, 2018; Memorandum, ''Verification of the Cost Response of Schaeffler Korea Corporation and Schaeffler Group USA Inc., ('Schaeffler') in the Antidumping Duty Investigation of Tapered Roller Bearings from Korea,'' dated May 3, 2018; Memorandum, ''Verification of Bearing Art Corporation in the Antidumping Duty Investigation of Certain Tapered Roller Bearings from the Republic of Korea,'' dated May 9, 2018; Memorandum, ''Verification of Iljin Bearing Corporation in the Antidumping Duty Investigation of Certain Tapered Roller Bearings from the Republic of Korea,'' dated May 10, 2018; and Memorandum, ''Verification of the Sales Response of Schaeffler Korea Corporation in the Antidumping Duty Investigation of Tapered Roller Bearings from Korea,'' dated May 10, 2018.

[5] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Bearing Art Corporation, Iljin Bearing Corporation, Iljin Global Corporation (collectively, Iljin Group)	8.21
Schaeffler Korea Corporation	52.44
All Others	30.25

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of TRBs from Korea, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after February 2, 2018, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.* Further, we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margins indicated in the chart above.[6] These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of TRBs from Korea no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: June 18, 2018.

Gary Taverman,

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

Appendix I

Scope of the Investigation

The scope of this investigation is certain tapered roller bearings. The scope covers all tapered roller bearings with a nominal outside cup diameter of eight inches and under, regardless of type of steel used to produce the bearing, whether of inch or metric size, and whether the tapered roller bearing is a thrust bearing or not. Certain tapered roller bearings include: Finished cup and cone assemblies entering as a set, finished cone assemblies entering separately, and finished parts (cups, cones, and tapered rollers). Certain tapered roller bearings are sold individually as a set (cup and cone assembly), as a cone assembly, as a finished cup, or packaged as a kit with one or several tapered roller bearings, a seal, and grease. The scope of the investigation includes finished rollers and finished cones that have not been assembled with rollers and a cage. Certain tapered roller bearings can be a single row or multiple rows (*e.g.,* two- or four-row), and a cup can handle a single cone assembly or multiple cone assemblies.

Finished cups, cones, and rollers differ from unfinished cups, cones, and rollers in that they have undergone further processing after heat treatment, including, but not limited to, final machining, grinding, and/or polishing. Mere heat treatment of a cup, cone, or roller (without any further processing after heat treatment) does not render the cup, cone, or roller a finished part for the purpose of this investigation. Finished tapered roller bearing parts are understood to mean parts which, at the time of importation, are ready for assembly (if further assembly is required) and require no further finishing or fabrication, such as grinding, lathing, machining, polishing, heat treatment, *etc.* Finished parts may require grease, bolting, and/or pressing as part of final assembly, and the requirement that these processes be performed, subsequent to importation, does not remove an otherwise finished tapered roller bearing from the scope.

Tapered roller bearings that have a nominal outer cup diameter of eight inches and under that may be used in wheel hub units, rail bearings, or other housed bearings, but entered separately, are included in the scope to the same extent as described above. All tapered roller bearings meeting the written description above, and not otherwise excluded, are included, regardless of coating.

Excluded from the scope of this investigation are:

(1) Unfinished parts of tapered roller bearings (cups, cones, and tapered rollers);

(2) cages, whether finished or unfinished;

(3) the non-tapered roller bearing components of subject kits (*e.g.,* grease, seal); and

(4) tapered roller bearing wheel hub units, rail bearings, and other housed tapered roller bearings (flange, take up cartridges, and hanger units incorporating tapered rollers).

Tapered roller bearings subject to this investigation are primarily classifiable under subheadings 8482.20.0040, 8482.20.0061, 8482.20.0070, 8482.20.0081, 8482.91.0050, 8482.99.1550, and 8482.99.1580 of the Harmonized Tariff Schedule of the United States (HTSUS).[7] Parts may also enter under

weighted using each respondent's actual U.S. sale quantity; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each respondent's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all-other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data is available, pursuant to the above-described process, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, ''Calculation of the All-Others Rate for the Final Determination in the Less-Than-Fair-Value Investigation of Certain Tapered Roller Bearings from the Republic of Korea,'' dated June 18, 2018.

[6] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[7] Prior to July 2016, products entering under 8482.20.0061 entered under 8482.20.0060, products entering under 8482.20.0081 entered under

Continued

8482.99.4500. While the HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Margin Calculations
V. Discussion of the Issues
1. Allegation of a Particular Market Situation (PMS) in Korea
2. Affiliation With Hyundai Motor Company (HMC)
3. Using New Prototype Sales in the Calculation of Normal Value (NV) and U.S. Price
4. Reclassifying Certain Prototype Sales as Export Price (EP)
5. Post-Sale Price Adjustments
6. Constructed Export Price (CEP) Offset
7. Calculating Financial Expenses
8. Applying Partial Adverse Facts Available (AFA) to Direct Material Costs
9. Unreported Home Market Sales
10. Level of Trade (LOT) and CEP Offset
11. Home Market Rebates
12. Home Market Billing Adjustments
13. U.S. Movement Expenses in Korea
14. U.S. Movement Expenses in the United States
15. U.S. Warehousing Expenses
16. Calculation of U.S. Duties
17. U.S. Billing Adjustments
18. Rebates Granted on U.S. Sales
19. Borrowing Rate for U.S. Credit Expenses
20. Classifying Certain Sales as EP
21. Calculating Financial Expenses
22. Commerce's Schedule for Submitting Case Briefs
VI. Recommendation

[FR Doc. 2018–13447 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–DS–P

8482.20.0080, and products entering under 8482.99.1550 entered under 8482.99.1540.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–895]

Low Melt Polyester Staple Fiber From the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of low melt polyester staple fiber (low melt PSF) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation (POI) April 1, 2016, through March 31, 2017. In addition, we determine that critical circumstances exist with respect to certain imports of the subject merchandise. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Applicable June 22, 2018.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or Brittany Bauer, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4682 or (202) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2018, Commerce published the *Preliminary Determination* of sales at LTFV of low melt PSF from Korea, in which we also postponed the final determination until June 18, 2018.[1] We invited interested parties to comment on the *Preliminary Determination.* A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is adopted by this notice.[2]

Scope of the Investigation

The product covered by this investigation is low melt PSF from Korea. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation'' in Appendix I of this notice. For a discussion of changes to the scope since the *Preliminary Determination, see* the ''Scope of the Investigation'' section of the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by submitted by parties in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended, (the Act) from February through March 2018, we conducted verification of the sales and cost information submitted by Huvis Corporation (Huvis) and Toray Chemical Korea Inc. (TCK) (collectively, the respondents) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Huvis and TCK.[3]

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for the respondents. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

[1] *See Low Melt Polyester Staple Fiber from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures,* 83 FR 4906 (February 2, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Low Melt Polyester Staple Fiber from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Verification of the Sales Response of Huvis Corporation in the Antidumping Duty Investigation of Low Melt Polyester Staple Fiber from the Republic of Korea,'' dated April 9, 2018; Memorandum, ''Verification of the Cost Response of Huvis Corporation in the Antidumping Duty Investigation of Low Melt Polyester Staple Fiber from the Republic of Korea,'' dated April 12, 2018; Memorandum, ''Verification of the Sales Response of Toray Chemical Korea Inc. in the Antidumping Duty Investigation of Low Melt Polyester Staple Fiber from the Republic of Korea,'' dated April 9, 2018; and Memorandum, ''Verification of the Cost Response of Toray Chemical Korea, Inc. in the Antidumping Duty Investigation of Low Melt Polyester Staple Fiber from the Republic of Korea,'' dated April 6, 2018.

Final Affirmative Determination of Critical Circumstances, in Part

For the *Preliminary Determination,* Commerce found that critical circumstances did not exist for Huvis, but did with respect to imports of low melt PSF from TCK and all other companies.[4] For the final determination, we continue to find that critical circumstances do not exist for Huvis and exist for TCK. However, based on our analysis of import volumes, we now find that critical circumstances do not exist for ''all others.'' For further discussion, *see* the Issues and Decision Memorandum at ''Critical Circumstances.'' Thus, pursuant to section 735(a)(3) of the Act, and 19 CFR 351.206, we find that critical circumstances exist with respect to subject merchandise produced or exported by TCK.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all-other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. TCK is the only respondent for which Commerce calculated an estimated weighted-average dumping margin that is not zero, *de minimis,* or based entirely on facts otherwise available. Therefore, for purposes of determining the ''all-others'' rate, and pursuant to section 735(c)(5)(A) of the Act, we are using the estimated weighted-average dumping margin calculated for TCK, as referenced in the ''Final Determination'' section below.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average dumping margin (percent)
Huvis Corporation	0.00
Toray Chemical Korea Inc	16.27
All Others	16.27

Disclosure

We will disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of low melt PSF, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after February 2, 2018, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.* Further, we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margins indicated in the chart above.[5] Because the estimated weighted-average dumping margin for Huvis is zero, entries of shipments of subject merchandise *both produced and exported* by Huvis will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce is directing CBP to not suspend liquidation of entries of subject merchandise *both exported and produced* by Huvis. However, entries of shipments of subject merchandise from Huvis in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, are subject to the cash deposit requirements at the all-others rate.

For entries made by TCK, in accordance with section 735(c)(4)(B) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of low melt PSF from Korea which were entered, or withdrawn from warehouse, for consumption on or after November 4, 2017, which is 90 days prior to the date of publication of the preliminary determination of this investigation in the **Federal Register**.

With regard to companies covered by the ''all-others'' rate, we will instruct CBP to suspend liquidation of all entries made by companies subject to the all-others rate of low melt PSF from Korea which were entered, or withdrawn from warehouse, for consumption on or after February 2, 2018, the date of the publication of the *Preliminary Determination* of this investigation in the **Federal Register**. However, because we did not find that critical circumstances exist with regard to companies covered by the ''all-others'' rate, in accordance with 735(c)(1)(B) of the Act, we will instruct CBP to lift suspension and to refund any cash deposits made to secure payment of estimated antidumping duties with respect to entries of low melt PSF from Korea entered, or withdrawn from warehouse, for consumption on or after November 4, 2017 (*i.e.,* 90 days prior to the date of publication of the *Preliminary Determination*), but before February 2, 2018, (*i.e.,* the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**).

These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of low melt PSF from Korea no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely

[4] *See Preliminary Determination,* and accompanying Preliminary Decision Memorandum, at 16 to 21.

[5] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: June 18, 2018.

Gary Taverman,

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

Appendix I

Scope of the Investigation

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

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

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Critical Circumstances
IV. Scope of the Investigation
V. Margin Calculations
VI. Discussion of the Issues
Huvis
1. Major Input Rule
2. U.S. Bank Charges
3. Duty Drawback for Huvis
4. Critical Circumstances
5. Corrections Found at Verification
TCK
6. Denier Range Reporting
7. U.S. Destination Reporting
8. TCK's Unpaid Sales
9. Duty Drawback Adjustment for TCK
10. General and Administrative (G&A) Expense Rate for TCK
11. Financial Expense Rate
12. TCK's Affiliated Party Inputs
13. Selling, General and Administrative (SG&A) Expense Rate for Toray International
VII. Recommendation

[FR Doc. 2018–13448 Filed 6–21–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–076]

Certain Plastic Decorative Ribbon From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain plastic decorative ribbon from the People's Republic of China (China). The period of investigation is January 1, 2016, through December 31, 2016.

DATES: Applicable June 22, 2018.

FOR FURTHER INFORMATION CONTACT: Maliha Khan or Nancy Decker, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–0895 or 202–482–0196, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 23, 2018.[1] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018.[2] On March 12, 2018, Commerce postponed the deadline for the preliminary determination of the investigation to the full 130 days permitted under section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2), and the revised deadline is now May 29, 2018.[3]

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are certain plastic decorative ribbon from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[6] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* Commerce is currently evaluating the scope comments filed by the interested parties. Commerce intends to issue its preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, which is currently due no later than July 30, 2018, unless postponed. The preliminary scope decision will be placed on the record of both the AD and CVD investigations, and interested parties will have the opportunity to comment prior to the final CVD determination.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial

[1] *See Certain Plastic Decorative Ribbon from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 83 FR 3114 (January 23, 2018) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

[3] *See* Certain Plastic Decorative Ribbon from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation, 83 FR 10677 (March 12, 2018).

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Plastic Decorative Ribbon from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice.*

contribution by an ''authority'' that confers a benefit on the recipient, and that the subsidy is specific.[7] For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

In making these findings, we relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to our requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.[8] For further information, see ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A) of the Act, Commerce established rates for Joynice Gifts & Crafts Co., Ltd. (Joynice) and Seng San Enterprises Co., Ltd. (Seng Sen) (the two individually investigated exporters/producers of the subject merchandise that participated in this investigation), and for Santa's Collection Shaoxing Co., Ltd. (which is assigned a rate based on AFA) as well as an all-others rate.

In accordance with sections 703(d)(1)(A) and 705(c)(5)(A) of the Act, for companies not individually investigated, Commerce applies an ''all-others'' rate. The all-others rate is normally calculated by weight averaging the subsidy rates of the companies selected for individual examination with those companies' export sales of the subject merchandise to the United States, excluding any zero and *de minimis* rates calculated for the exporters and producers individually investigated, and any rates determined entirely under section 776 of the Act.

In this investigation, Commerce calculated individual countervailable subsidy rates for Joynice and Seng Sen that are not zero, *de minimis,* or based entirely on facts otherwise available. Because we do not have publicly ranged data from all company respondents with which to calculate the all-others rate using a weighted-average of the individual estimated subsidy rates, we calculated the all-others rate using a simple average of the individual estimated subsidy rates calculated for the examined respondents.

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Producer/exporter	Subsidy rate (percent)
Joynice Gifts & Crafts Co., Ltd	14.27
Seng San Enterprises Co., Ltd	12.81
Santa's Collection Shaoxing Co., Ltd	94.67
All-Others	13.54

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation that were entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Furthermore, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Commerce intends to set a separate briefing schedule pertaining to scope issues when it issues the preliminary scope memorandum in this investigation.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If Commerce's final determination is affirmative, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: May 29, 2018.

Gary Taverman,

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

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is certain plastic decorative ribbon having a width (measured at the narrowest span of the ribbon) of less than or equal to four (4) inches in actual measurement, including but not limited to ribbon wound onto itself; a spool, a core or a tube (with or without flanges); attached to a card or strip; wound into a keg- or egg-shaped configuration; made into bows, bow-like items, or other shapes or configurations;

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

and whether or not packaged or labeled for retail sale. The subject merchandise is typically made of substrates of polypropylene, but may be made in whole or in part of any type of plastic, including without limitation, plastic derived from petroleum products and plastic derived from cellulose products. Unless the context otherwise clearly indicates, the word ''ribbon'' used in the singular includes the plural and the plural ''ribbons'' includes the singular.

The subject merchandise includes ribbons comprised of one or more layers of substrates made, in whole or in part, of plastics adhered to each other, regardless of the method used to adhere the layers together, including without limitation, ribbons comprised of layers of substrates adhered to each other through a lamination process. Subject merchandise also includes ribbons comprised of (a) one or more layers of substrates made, in whole or in part, of plastics adhered to (b) one or more layers of substrates made, in whole or in part, of non-plastic materials, including, without limitation, substrates made, in whole or in part, of fabric.

The ribbons subject to this investigation may be of any color or combination of colors (including without limitation, ribbons that are transparent, translucent or opaque) and may or may not bear words or images, including without limitation, those of a holiday motif. The subject merchandise includes ribbons with embellishments and/or treatments, including, without limitation, ribbons that are printed, hot-stamped, coated, laminated, flocked, crimped, die-cut, embossed (or that otherwise have impressed designs, images, words or patterns), and ribbons with holographic, metallic, glitter or iridescent finishes.

Subject merchandise includes ''pull-bows'' an assemblage of ribbons connected to one another, folded flat, and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage, and ''pre-notched'' bows, an assemblage of notched ribbon loops arranged one inside the other with the notches in alignment and affixed to each other where notched, and which the end user forms into a bow by separating and spreading the loops circularly around the notches, which form the center of the bow. Subject merchandise includes ribbons that are packaged with non-subject merchandise, including ensembles that include ribbons and other products, such as gift wrap, gift bags, gift tags and/or other gift packaging products. The ribbons are covered by the scope of this investigation; the ''other products'' (*i.e.,* the other, non-subject merchandise included in the ensemble) are not covered by the scope of this investigation.

Excluded from the scope of this investigation are the following: (1) Ribbons formed exclusively by weaving plastic threads together; (2) ribbons that have metal wire in, on, or along the entirety of each of the longitudinal edges of the ribbon; (3) ribbons with an adhesive coating covering the entire span between the longitudinal edges of the ribbon for the entire length of the ribbon; (4) ribbon formed into a bow without a tab or other means for attaching the bow to an object using adhesives, where the bow has: (a) An outer layer that is either flocked or made of fabric, and (b) a flexible metal wire at the base that is suitable for attaching the bow to a Christmas tree or other object by twist-tying; (5) elastic ribbons, meaning ribbons that elongate when stretched and return to their original dimension when the stretching load is removed; (6) ribbons affixed as a decorative detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise; (7) ribbons that are (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where the ribbon comprises a book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a ''belly band'' around a pair of pajamas, a pair of socks or a blanket; (8) imitation raffia made of plastics having a thickness not more than one (1) mil when measured in an unfolded/untwisted state; and (9) ribbons in the form of bows having a diameter of less than seven-eighths (7/8) of an inch, or having a diameter of more than 16 inches, based on actual measurement. For purposes of this exclusion, the diameter of a bow is equal to the diameter of the smallest circular ring through which the bow will pass without compressing the bow.

Further, excluded from the scope of the antidumping duty investigation are any products covered by the existing antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET Film) from the People's Republic of China (China). *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China and the United Arab Emirates: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates,* 73 FR 66595 (November 10, 2008).

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3920.20.0015 and 3926.40.0010.

Merchandise covered by this investigation also may enter under subheadings 3920.10.0000; 3920.20.0055; 3920.30.0000; 3920.43.5000; 3920.49.0000; 3920.62.0050; 3920.62.0090; 3920.69.0000; 3921.90.1100; 3921.90.1500; 3921.90.1910; 3921.90.1950; 3921.90.4010; 3921.90.4090; 3926.90.9996; 5404.90.0000; 9505.90.4000; 4601.99.9000; 4602.90.0000; 5609.00.3000; 5609.00.4000; and 6307.90.9889. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Respondent Selection
VI. Injury Test
VII. Application of the CVD Law to Imports From China
VIII. Diversification of China's Economy
IX. Subsidies Valuation
X. Benchmarks
XI. Use of Facts Otherwise Available and Adverse Inferences
XII. Analysis of Programs
XIII. Calculation of the All-Others Rate
XIV. ITC Notification
XV. Disclosure and Public Comment
XVI. Verification
XVII. Recommendation

[FR Doc. 2018–13429 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–079]

Cast Iron Soil Pipe From the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

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

DATES: Applicable June 22, 2018.

FOR FURTHER INFORMATION CONTACT: Paul Walker at (202) 482–0413, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2018, the Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigation of imports of cast iron soil pipe from the People's Republic of China (China).[1] Currently, the preliminary determination is due no later than July 5, 2018.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation

[1] *See Cast Iron Soil Pipe from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 83 FR 8053 (February 23, 2018).

within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioners [2] submit a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioners must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On June 1, 2018, the petitioners submitted a timely request that Commerce postpone the preliminary determination in this LTFV investigation.[3] The petitioners stated that they request postponement to, among other things, permit Commerce to issue and receive supplemental questionnaires prior to the preliminary determination.[4]

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination by 50 days (*i.e.,* 190 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than August 24, 2018. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: June 15, 2018.

Gary Taverman,

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

[FR Doc. 2018–13422 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–DS–P

[2] The petitioners are the Cast Iron Soil Pipe Institute and its individual members, AB&I Foundry, Charlotte Pipe & Foundry, and Tyler Pipe.

[3] *See* the petitioners' letter, ''Cast Iron Soil Pipe from the People's Republic of China: Request to Extend the Preliminary Determination,'' dated June 1, 2018.

[4] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–861]

Low Melt Polyester Staple Fiber From Taiwan: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of low melt polyester staple fiber (low melt PSF) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation (POI) April 1, 2016, through March 31, 2017. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Applicable June 22, 2018.

FOR FURTHER INFORMATION CONTACT: Rebecca Janz or Ajay Menon, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2972 or (202) 482–1993.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2018, Commerce published the *Preliminary Determination* of sales at LTFV of low melt PSF from Taiwan, in which we also postponed the final determination until June 18, 2018.[1] We invited interested parties to comment on the *Preliminary Determination.* A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is adopted by this notice.[2]

Scope of the Investigation

The product covered by this investigation is low melt PSF from Taiwan. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation'' in Appendix I of this notice. For a discussion of changes to the scope since the *Preliminary Determination, see* the ''Scope of the Investigation'' section of the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case brief submitted by the petitioner in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended, (the Act) in January and February 2018, we conducted verification of the sales and cost information submitted by Far Eastern New Century Corporation (FENC) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by FENC.[3]

[1] *See Low Melt Polyester Staple Fiber from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 83 FR 4903 (February 2, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Low Melt Polyester Staple Fiber from Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Verification of Far Eastern New Century Corporation in the Antidumping Duty Investigation of Low Melt Polyester Staple Fiber from Taiwan,'' dated March 14, 2018; and Memorandum, ''Verification of the Sales Response of Far Eastern

Continued

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for FENC. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis,* or determined entirely on facts otherwise available under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for FENC, the only individually investigated exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, for purposes of determining the ''all-others'' rate pursuant to section 735(c)(5)(A) of the Act, we are using the estimated weighted-average dumping margin calculated for FENC, as referenced in the ''Final Determination'' section below.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average dumping margin (percent)
Far eastern new century corporation	49.93
All Others	49.93

Disclosure

We will disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of low melt polyester staple fiber, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after February 2, 2018, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.* Further, we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margins indicated in the chart above.[4]

These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of low melt PSF from Taiwan no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: June 18, 2018.

Gary Taverman,

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

Appendix I

Scope of the Investigation

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

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

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Margin Calculations
V. Discussion of the Issues
  1. Treatment of FENC's Corrections Presented Prior to Verification
  2. Revising FENC's Major Input Adjustment to Reflect Cost Verification Findings
VI. Recommendation

[FR Doc. 2018–13449 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Marine Mammal Protection Act Annual Supplemental Data Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

New Century Corporation (FENC) in the Antidumping Investigation of Low Melt Polyester Staple Fiber from Taiwan,'' dated April 2, 2018.

[4] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 21, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Michael Asaro at *Michael.Asaro@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

The Atlantic Large Whale Take Reduction Plan (Plan), developed under the authority of the Marine Mammal Protection Act, seeks to enable the National Marine Fisheries Service (NMFS) to reduce injuries and deaths of large whales, especially right whales, due to incidental entanglement in United States commercial fishing gear. In order to develop fair and effective management measures, the Take Reduction Team (Team) requires comprehensive data on when, where, and how fixed gear vessels fish. While subsets of Plan's vessels report on aspects of their operations, the available data form an incomplete picture. NMFS recognizes that forthcoming changes under select fishery management plans (*e.g.,* the American Lobster Fishery Management Plan) may eventually introduce gear and activity reporting of the type requested. Until those requirements are implemented, however, operators of commercial fishing vessels deploying fixed gear (traps, pots, and gillnets) are requested to complete this annual supplemental data collection form, regardless of fishing location, permit type, or the provision of similar information to other Federal and state agencies. This information will allow NMFS to focus further risk reduction measures in certain areas or fisheries, where needed, to meet the goals of the Plan.

II. Method of Collection

This information will initially be collected using a paper form, which respondents will be asked to return by mail. Respondents can also scan and email, or fax their submission. An electronic form will be developed for future iterations.

III. Data

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Review: Regular submission (new information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 4,604 respondents.

Estimated Time per Response: 45 minutes per year.

Estimated Total Annual Burden Hours: 3,453 hours per year.

Estimated Total Annual Cost to Public: $0.60 per person per year, or $2,762.40 per year in reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 18, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–13466 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Hazard Simplification WFO-Partner Focus Groups

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 21, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to NOAA National Weather Service Analyze, Forecast, and Support Office, Elliott Jacks, Chief of Forecast Services Division, 301–427–9351, *Elliott.Jacks@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

In response to public law H.R. 353, Section 406, NWS conducted several social science engagement activities to assess the current Watch, Warning, and Advisory (WWA) system. There was strong agreement for small adjustments to the current system and some support for an entirely new system. To further explore an alternative system, a public survey was conducted to test knowledge of the current system and a series of ''prototypes'' as an alternative to WWA. Drawing upon these results, NWS plans to conduct focus groups with its forecasters and partners to explore the opportunities and challenges of implementing a new alerting system.

II. Method of Collection

Focus groups will be conducted in person and/or by webinar.

III. Data

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Review: Regular (request for a new information collection).

Affected Public: Business or other for-profit organizations; Federal Government; State, Local, or Tribal Government.

Estimated Number of Respondents: 10–15 people per focus group, 3–4 focus groups per location, 6 locations (180–360 Total respondents).

Estimated Time per Response: Each focus group will last 3–4 hours.

Estimated Total Annual Burden Hours: 1,450.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 18, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–13467 Filed 6–21–18; 8:45 am]

BILLING CODE 3510–KE–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2017–0027]

Recall Effectiveness: Announcement of Request for Information Regarding the Use of Direct Notice and Targeted Notices During Recalls

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of request for information.

SUMMARY: To advance the concepts discussed during the U.S. Consumer Product Safety Commission's (CPSC) Recall Effectiveness Workshop in 2017, the CPSC announces a Request for Information (RFI) from stakeholders to provide information critical to future work on Recall Effectiveness. CPSC asks for responses on a series of questions addressing direct notice and other forms of customer notice. The information provided will help inform CPSC's efforts to continue improving the effectiveness of recalls.

DATES: Submit comments by September 5, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2017–0027, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov*. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above; however, please do not use this method if you are submitting confidential business information or other sensitive information that should not be made public.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov*. If you submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, do not submit it electronically, but send it in hard copy to the Office of the Secretary at the address indicated above. See also section III, below.

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number CPSC–2017–0027, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Joseph F. Williams, Compliance Officer, the Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East-West Hwy., Bethesda, MD 20814; telephone: 301–504–7585; email: *jfwilliams@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. Recall Effectiveness Workshop

On July 25, 2017, the CPSC hosted a Recall Effectiveness Workshop. The goal of the workshop was to explore and develop proactive measures that CPSC and stakeholders can undertake to improve recall effectiveness. Seventy-nine external stakeholders attended the workshop, including various retailers, manufacturers, law firms, consumer interest groups, third party recall contractors and consultants, testing laboratories, and other interested parties. CPSC staff facilitated an open discussion among these participants about ways to increase recall effectiveness and also gathered feedback on how CPSC can potentially improve its recall efforts. Additional details may be found here: *https://www.cpsc.gov/Recall-Effectiveness.*

B. Recall Effectiveness Report

Following the workshop, CPSC staff prepared a report, which was released on February 22, 2018. The report stated that the CPSC staff intends to prioritize stakeholders' suggestions to:

- Collaborate on ways to improve direct notice to consumers; and
- collaborate with firms to explore how technology can be used to enhance recall response.

The report explained the reason for this focus:

''*Direct notice recalls have proven to be the most effective recalls. We intend to work with consumer and industry stakeholders on registration methods or other improvements (e.g., retailer opt-in at checkout, home voice assistants, photo texting, QR codes, and incentives for product registration) to promote direct notice recalls.*''

''*We will continue to explore how technology can be used to enhance recall response in appropriate cases, including enhancing firms' recall marketing strategies, use of social media, and improved methods for in-store communication. We intend to identify and share examples of future recall marketing strategies that are innovative and/or successful.*''

The full Recall Effectiveness Report may be found here: *https://www.cpsc.gov/s3fs-public/Recall_Effectiveness_Workshop_Report-2018.pdf?R1VyLltrl8M_id.2vkAklHoUZjaSCab.*

II. Information Requested

The CPSC seeks information on current methods and systems that recalling firms use to assist in providing direct notice to consumers. The CPSC also requests certain information regarding the use of targeted notices to reach consumers who may have purchased a recalled product.

A. Direct Notice

1. What methods are available for directly notifying consumers of recalls (*e.g.,* mail, email, text)?

2. If you use direct notice for recalls, what response rates do you achieve? Do the response rates differ significantly for different recalls? If so, what factors appear to influence the response rates? Do you follow up with additional direct notice if a customer does not respond? How often? For how long?

3. Do other companies or your company use all available direct notice methods during every product recall? If not, why not?

4. Do e-commerce retailers/third party platforms use direct notice capabilities for every recall of products sold through their site/platform? If not, why not?

5. What costs are associated with direct notice? How do costs vary for different forms of notice? What other factors affect cost?

6. What challenges and barriers prevent companies from pursuing or improving direct notice? Please address:

a. Legal barriers
b. Technological challenges
c. Privacy challenges
d. Security challenges
e. Cost challenges
f. Other challenges

7. What technologies exist or are being developed that would assist a recalling company to acquire direct contact information or capabilities to contact purchasers and/or issue direct notice for recalls?

8. What methods do you use to collect direct contact information at the point of sale?

9. Does your attempt to collect direct contact information depend on the item(s) purchased? Is the cost of the item at all relevant?

10. Have you worked with a third-party entity (*e.g.,* credit card or payment processing companies, product registries, data collection platforms, online retailers) to identify or contact consumers who previously purchased a product subject to a recall? If so, how, and with what types of companies did you work?

11. For retailers that have information on their customers (*e.g.,* retail credit/debit cards, loyalty program, membership registration), can such information be accessed through purchase data to provide direct notice?

12. What would make direct notice more effective (*e.g.,* notice type, number of touches)?

13. How can the CPSC help facilitate direct notice to consumers?

14. What can we learn from marketing efforts (*e.g.,* needed resources, personnel qualifications, channels of communication, evaluating messaging effectiveness, etc.) to better reach consumers for recall purposes?

B. Product Registration

1. What product registration methods are used today to collect consumer information and track purchased/registered products?

2. Why do companies offer product registration? Are product registration programs due to mandatory requirements by CPSC or other agencies, or for other reasons?

3. What are participation rates in product registration? Do you see significant differences in the registration rates for different types of products?

4. What type of information is collected during product registration?

5. Is product registration more or less successful if marketing information is not collected at the same time? Why?

6. What methods are in use or are being developed to increase responses to product registration (*e.g.,* warranties, incentives, voice assistant technology)?

7. When does the personal information collected for product registration get used for marketing purposes?

a. Are opt-in/opt-out choices provided to consumers for marketing? Describe.

8. What technologies exist or are being developed to advance product registration?

9. What would make product registration more effective?

10. How can the CPSC help facilitate or improve product registration rates?

11. Has the ability to register a product online or electronically had an effect on the volume of consumer response to product registration?

C. Targeted Notice

A targeted notice is a notice aimed at a particular group of likely affected consumers, but not at a known purchaser or consumer like direct notice (*e.g.,* targeted search engine ads, paid social media, micro marketing, such as internet radio and targeted use of voice assistant technologies).

1. Have you used any of the targeted methods listed above or others to reach consumers? What success have you seen?

2. Do companies use the information previously collected to assist in issuing targeted recall notices when announcing recalls?

3. What costs are generally associated with targeted methods, including targeted search engine ads, paid social media, micro marketing, such as internet radio, and voice assistant technologies?

4. What challenges and barriers prevent companies from pursuing targeted notices for recalls? Please address:

a. Legal barriers
b. Technological challenges
c. Privacy challenges
d. Security challenges
e. Cost challenges
f. Other challenges

5. What technologies exist or are being developed that can improve the effectiveness of targeted notice?

6. How can the CPSC help facilitate new or improved targeted recall notice campaigns?

7. Are there other forms of recall notice that are worth exploring for more discussion?

D. For Consumers and Other Stakeholders

1. Would you be interested in working directly with the CPSC to explore best practices for implementing product registration, improving current direct notice capabilities, or developing targeted notices?

2. Are there data showing what forms, types, and frequency of messaging consumers are most likely to respond to in direct and targeted notices?

3. How can companies incentivize consumers to register their products or to provide the information needed for direct notice in the event of a recall?

4. What concerns do consumers have regarding the use of their personal information for recall notification purposes? What can firms do to overcome these concerns?

III. Confidentiality

All data submitted is subject to Section 6 of the Consumer Product Safety Act (15 U.S.C. Section 2055) and may be considered confidential, except to the extent otherwise provided by law. Please identify any portion of your submission that you believe is confidential.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–13388 Filed 6–21–18; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2018–HQ–0005]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Air Force Personnel Center, Directorate of Airman & Family Care, Airman & Family Care Division (AFPC/DPFF), announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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 August 21, 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 the AFPC/DPFF, Airman & Family Division, 550 C Street West, ATTN: Mr. Patrick Woodworth, JBSA Randolph AFB, TX 78150, or call Mr. Patrick Woodworth at 210–565–3280.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Air Force Family Integrated Results & Statistical Tracking (AFFIRST) automated system; OMB Control Number 0701–0070.

Needs and Uses: The information collection requirement is necessary to record demographic information on Airman & Family Readiness Center (A&FRC) customers, results of the customer's visits, determine customer needs, service plan, referrals, workshop attendance and other related A&FRC activities and services accessed by the customer. Data is used to determine the effectiveness of A&FRC activities and services (results management) as well as collect and provide return on investment data to leadership. Information is compiled for statistical reporting to bases, major commands, Headquarters United States Air Force, Department of Defense and Congress.

Affected Public: Individuals or Households.

Annual Burden Hours: 56,250.

Number of Respondents: 37,500.

Responses per Respondent: 6.

Annual Responses: 225,000.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are A&FRC customers who seek services from A&FRC. A&FRC employees enter customer demographic/service delivery information into AFFIRST per Air Force Instruction 36–3009, Airman and Family Readiness Centers, paragraphs 3.13.1–3.13.3.

Dated: June 19, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–13426 Filed 6–21–18; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2018–HQ–0014]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice of a modified system of records.

SUMMARY: The Department of the Army is modifying its system of records notice entitled ''Army Career Tracker (ACT), A0350–1b TRADOC''. The Army Career Tracker (ACT) enables Soldiers and Army civilians world-wide with career development and transition resources. ACT provides users with a more efficient and effective way to monitor their career development while allowing leaders to track and advise subordinates on personalized leadership development. As a leader development tool, it integrates data on training, education, and experiential learning from a number of source systems into one personalized and easy to use interface. ACT allows supervisors to track and advise employees on their leadership development and allows career program managers the ability to reach their geographically dispersed careerists. The Total Army Sponsorship Program is also administered through ACT. The sponsorship program provides Soldiers, Army civilians, and their families with resources to facilitate their transition and/or relocation between commands and duty assignments.

DATES: Comments will be accepted on or before July 23, 2018. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate of Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number 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: Ms. Tracy Rogers, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by calling (703) 428–7499.

SUPPLEMENTARY INFORMATION: The Army Career Tracker, initially implemented in

2011, is managed by the U.S. Army Training and Doctrine Command (TRADOC). It was developed under the authority of 5 U.S.C. 4103, Establishment of training programs and 10 U.S.C. 3013, Secretary of the Army. The ACT is a career management and development tool for Army enlisted, Officer, and civilian employees. While use of ACT is required for Soldiers, it is voluntary for the Army civilian workforce. The ACT leverages existing Army systems to capture and present career management data pertaining to training, education, and job assignments; it provides unique capabilities and does not replace or eliminate any other Army system of records. The system allows users to: Search course catalogs in Army training systems to identify courses they want to add to their Individual Development Plans (IDP); create IDP for short and long term goals; map out events, decision points, and outcomes; track progress against known career benchmarks; and receive personalized advice from mentors and leadership. This easy-to-use portal, effectively charts the user's career progression, manages career development activities, and connects the individual to mentors.

Additionally, ACT is the Army enterprise application that automates the sponsorship process for personnel relocations. The system ensures a virtual handshake between transitioning Soldiers and civilians and their designated sponsor prior to departure from the unit of current assignment. Army transitioning personnel utilize ACT to make known their sponsorship needs via the Department of the Army (DA) Form 5434, Sponsorship Program Counseling and Information Sheet, as part of the reassignment management process. The completed DA Form 5434 is transmitted to the gaining unit of assignment to ensure personnel receive information and assistance needed during their relocation. The automated and collaborative functions of the system are used to identify sponsors, send notifications, monitor status, provide reporting mechanism, and conduct individual satisfaction surveys.

This system of records notice is being modified to include four routine uses that were omitted in the previous notice. The additional routine uses are for disclosures to: DoD contractors in the performance of the contract; to the National Archives and Records Administration for records inspection purposes; and to another Federal agency for breach mitigation and notification. In addition, the authorities were updated to include 10 U.S.C. 1056, Relocation Assistance, which is the implementing statute for Army Regulation 600–8–8, The Total Army Sponsorship Program. The categories of records was revised to clarify what information is collected on the DA Form 5434, and the description of the safeguards was expanded to address administrative and physical measures that are currently utilized to protect the system of records. All other changes to this notice are administrative in nature. The DoD is publishing the notice in its entirety to comply with current standards and formatting requirements prescribed in OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.''

The Department of the Army's notices for system of records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy, Civil Liberties, and Transparency Division website at *http://defense.gov/privacy.*

The proposed systems reports, as required by the Privacy Act, as amended, were submitted on April 27, 2018, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication Under the Privacy Act,'' December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: June 19, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER

Army Career Tracker (ACT), A0350–1b TRADOC.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Army commands, installations, and activities. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

SYSTEM MANAGER(S):

Commander, Headquarters, U.S. Army Training and Doctrine Command, Institute of Noncommissioned Officer Professional Development Office (ATCG–NCN), 950 Jefferson Ave., Fort Eustis, VA 23604–5704.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4103, Establishment of training programs; 10 U.S.C. 1056, Relocation assistance programs; 10 U.S.C. 3013, Secretary of the Army; Department of Defense Directive 1322.18, Military Training; Army Regulation (AR) 350–1, Army Training and Leader Development; AR 600–20, Army Command Policy; AR 600–8–8, The Total Army Sponsorship Program; AR 690–950, Career Management; and E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

Army Career Tracker (ACT) is a leadership development tool that integrates training and education into one personalized, easy-to-use website. ACT receives training, education, experiential learning, personnel, and biographical data from several Army information systems and presents a comprehensive and personalized view of Noncommissioned Officer, Officer, and Army civilian career history, course enrollment, course completion, course catalog, and professional development model information. Users can search multiple education and training resources, monitor their career development and receive personalized advice. The system allows civilian and military supervisors, and mentors to monitor the individual's goals and provide them developmental recommendations, notifications and career advice. Supervisors can view records for both their civilian and military employees.

ACT is also used to administer the Total Army Sponsorship Program which helps Soldiers, civilian employees, and families successfully relocate into and out of their commands. Soldiers in the ranks of private through colonel (excluding Soldiers arriving at Initial Military Training and Soldiers making Permanent Change of Station (PCS) moves to student detachments at long-term schools) and civilian employees through grade GS–15, undergoing a PCS move, are offered the opportunity to participate in the advance arrival sponsorship program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of the Army military personnel (active duty, Army National Guard, and Army Reserve), Army Reserve Officers' Training Corps contracted cadets, and Army civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic data to include name, grade/rank/series, Social Security Number (SSN); DoD ID Number; Army

Knowledge Online User Identification; primary email address; personal and duty phone numbers; service component, branch, personnel classification, military status, military occupational specialty; and unit of assignment.

Sponsorship data to include gaining unit and arrival date; contact information while on leave (address, phone number, email address); marital status; family members' name, age, gender, relationship, identification of exceptional family member(s); and a questionnaire to determine information needs pertaining to housing preferences, employment information for spouse, pets in the household, child care needs, and local schools.

Course and training data to include credit hours accumulated; examination and course completion status; professional development model; assignment history; student academic status; curricula, course descriptions and schedules; graduation dates; and individual goals.

RECORD SOURCE CATEGORIES:

The individual, DoD personnel (supervisors, mentors, training and human resources staff). Data is also extracted from: Army Knowledge Online (AKO), Integrated Total Army Personnel Database (ITAPDB), Headquarters Army Civilian Personnel System (HQ ACPERS), Defense Civilian Personnel Data System for National Guard (NG–DCPDS), Reserve Component Management System (RCMS), Army Training Requirements & Resources System (ATRRS), Army Learning Management System (ALMS), GoArmyEd, Force Management System website (FMSWEB), Credentialing Opportunities On-Line (COOL), Partnership for Youth Success (PaYS), Soldier Fitness Tracker (SFT), and Comprehensive Soldier Fitness (CSF).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act if 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

b. To the appropriate federal, state, local, territorial, tribal, or foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

c. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

d. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

e. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

f. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

g. To appropriate agencies, entities, and persons when (1) the DoD suspects or has confirmed that there has been a breach of the system of records; (2) the DoD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

h. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper printouts and electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The retrieval of records may be made by use of the individual's name, SSN, DoD ID Number, or Army Knowledge Online User Identification.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records on local training, individual goals, and sponsorship are maintained until no longer needed for conducting business, but not longer than 6 years, then destroyed. Electronic media is deleted; paper printouts are shredded or burned.

ADMINISTRATIVE, TECHNICAL AND PHYSICAL SAFEGUARDS:

Paper and electronic records are protected in accordance with policies in DoD Manual 5200.01, Volume 4, DoD Information Security Program: Controlled Unclassified Information (CUI). ACT is designed where the PII is viewable only by the affected end user, their selected leader or mentor(s), Army staff, and system administrators. Access to the system is restricted to authorized personnel with Army Knowledge Online (AKO) authorization using sign-on and password, or a Common Access Card (CAC). After an end user is authenticated, they are presented data that is only relevant to them due to role-based security. System administrators are carefully selected and their assignment of their user IDs is managed and audited on a regular basis. ACT's data center uses multiple firewalls and an intrusion detection system (IDS) to protect the data. Furthermore, ACT encrypts both data in transit and data at rest. Records are maintained within secured buildings in areas accessible only to persons having an official need-to-know and who are properly trained and screened.

RECORDS ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Headquarters, U.S. Army Training and Doctrine Command, Institute of Noncommissioned Officer Professional Development Office (ATCG–NCN), 950 Jefferson Ave., Fort Eustis, VA 23604–5704.

Individual should provide full name, SSN or DoD ID number, military status, or other information verifiable from the record itself.

In addition, the requester must provide either a notarized signature or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 32 CFR part 505, the Army Privacy Program and AR 25–22, The Army Privacy Program, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Headquarters, U.S. Army Training and Doctrine Command, Institute of Noncommissioned Officer Professional Development Office (ATCG–NCN), 950 Jefferson Ave., Fort Eustis, VA 23604–5704.

Individuals should provide full name, SSN, or DoD ID number, military status, or other information verifiable from the record itself.

In addition, the requester must provide either a notarized signature or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This system of records notice supersedes all versions previously published in the **Federal Register** (January 24, 2017, 82 FR 8179; May 9, 2011, 76 FR 26714; April 30, 2009, 74 FR 19951).

[FR Doc. 2018–13412 Filed 6–21–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of federal advisory committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Department of Defense Board of Actuaries (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed pursuant to 10 U.S.C. 183(a) and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be found at *http://www.facadatabase.gov/.*

The Board provides the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary for Personnel and Readiness, independent advice and recommendations on matters relating to the Department of Defense (DoD) Military Retirement Fund, the DoD Education Benefits Fund, the DoD Voluntary Separation Incentive Fund, and such other funds as the Secretary of Defense shall specify. The Board shall submit to the Secretary of Defense on an annual basis a report on the actuarial status of each of the following funds and, in doing so, shall: a. Review valuations of the DoD Military Retirement Fund, in accordance with 10 U.S.C. 1465(c), and submit to the President and Congress, not less often than once every four years, a report on the status of that Fund, including such recommendations for modifications to the funding or amortization of that Fund as the Board considers appropriate and necessary to maintain that Fund on a sound actuarial basis; b. Review valuations of the DoD Education Benefits Fund, in accordance with 10 U.S.C. 2006(e), and make recommendations to the President and Congress on such modifications to the funding or amortization of the Fund as the Board considers appropriate to maintain that Fund on a sound actuarial basis; c. Review valuations of the DoD Voluntary Separation Incentive Fund and make recommendations to the President and Congress on such modifications to the funding or amortization of that Fund as the Board considers appropriate to maintain that Fund on a sound actuarial basis; d. Review valuations of such other funds as the Secretary of Defense shall specify for purposes of 10 U.S.C. 183 and make recommendations to the President and Congress on such modifications to the funding or amortization of such funds as the Board considers appropriate to maintain such funds on a sound actuarial basis; and e. Furnish advice and opinions on matters referred to the Board by the Secretary of Defense. The Secretary of Defense shall ensure that the Board has access to such records regarding the DoD Military Retirement Fund, the DoD Education Benefits Fund, the DoD Voluntary Separation Fund, and such funds specified by the Secretary of Defense for purposes of 10 U.S.C. 183 as the Board shall require to determine the actuarial status of such funds.

The Board shall be composed of three members appointed by the Secretary of Defense or the Deputy Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries. All members of the Board are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Members of the Board who are not employees of the United States are entitled to receive pay of the highest rate of basic pay under the General Schedule of subchapter III of chapter 53 of title 5 U.S.C., for each day the member is engaged in the performance of duties vested in the Board. All members are entitled to reimbursement for official Board-related travel and per diem.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: June 19, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–13411 Filed 6–21–18; 8:45 am]

BILLING CODE 5001–06–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: EC06–48–005.
Applicants: Westar Energy, Inc.
Description: Response to May 16, 2018, et al. Data Request(s) of Westar Energy, Inc.
Filed Date: 6/14/18.
Accession Number: 20180614–5178.
Comments Due: 5 p.m. ET 7/5/18.

Docket Numbers: EC18–103–000.
Applicants: WEC Infrastructure LLC, Upstream Wind Energy LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Upstream Wind Energy LLC, et. al.
Filed Date: 6/15/18.
Accession Number: 20180615–5099.
Comments Due: 5 p.m. ET 7/6/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2130–019.
Applicants: Forward Energy LLC.
Description: Triennial Report and Change in Fact Notice of Forward Energy LLC.
Filed Date: 6/15/18.
Accession Number: 20180615–5110.
Comments Due: 5 p.m. ET 8/14/18.

Docket Numbers: ER10–2136–014.
Applicants: Invenergy Cannon Falls LLC.
Description: Triennial Report and Change in Fact Notice of Invenergy Cannon Falls LLC.
Filed Date: 6/15/18.
Accession Number: 20180615–5109.
Comments Due: 5 p.m. ET 8/14/18.

Docket Numbers: ER11–4044–020.
Applicants: Gratiot County Wind LLC.
Description: Triennial Report and Change in Fact Notice of Gratiot County Wind LLC.
Filed Date: 6/15/18.
Accession Number: 20180615–5111.
Comments Due: 5 p.m. ET 8/14/18.

Docket Numbers: ER11–4046–019.
Applicants: Gratiot County Wind II LLC.
Description: Triennial Report and Change in Fact Notice of Gratiot County Wind II LLC.
Filed Date: 6/15/18.
Accession Number: 20180615–5112.
Comments Due: 5 p.m. ET 8/14/18.

Docket Numbers: ER12–164–018.
Applicants: Bishop Hill Energy III LLC.
Description: Triennial Report and Change in Fact Notice of Bishop Hill Energy III LLC.
Filed Date: 6/15/18.
Accession Number: 20180615–5108.
Comments Due: 5 p.m. ET 8/14/18.

Docket Numbers: ER15–1429–009.
Applicants: Emera Maine.
Description: Request for Waiver of Emera Maine.
Filed Date: 6/14/18.
Accession Number: 20180614–5193.
Comments Due: 5 p.m. ET 6/21/18.

Docket Numbers: ER16–1720–007.
Applicants: Invenergy Energy Management LLC.
Description: Triennial Report and Change in Fact Notice of Invenergy Energy Management LLC.
Filed Date: 6/15/18.
Accession Number: 20180615–5114.
Comments Due: 5 p.m. ET 8/14/18.

Docket Numbers: ER18–1310–000.
Applicants: Wheelabrator Millbury Inc.
Description: Report Filing: Report filing to be effective N/A.
Filed Date: 6/15/18.
Accession Number: 20180615–5042.
Comments Due: 5 p.m. ET 7/6/18.

Docket Numbers: ER18–1787–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2018–06–14 Settlements Bucket Tariff Clarifications Amendment to be effective 11/1/2018.
Filed Date: 6/14/18.
Accession Number: 20180614–5150.
Comments Due: 5 p.m. ET 7/5/18.

Docket Numbers: ER18–1788–000.
Applicants: MATL LLP.
Description: Expedited Request of MATL LLP for Waiver with Respect to a Pending Interconnection Request.
Filed Date: 5/23/18.
Accession Number: 20180523–5208.
Comments Due: 5 p.m. ET 6/29/18.

Docket Numbers: ER18–1789–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1276R16 KCPL NITSA NOA to be effective 6/1/2018.
Filed Date: 6/15/18.
Accession Number: 20180615–5071.
Comments Due: 5 p.m. ET 7/6/18.

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: June 15, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13367 Filed 6–21–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2788–017]

Goodyear Lake Hydro, LLC; Notice of Settlement Agreement, Soliciting Comments, and Modification of Procedural Schedule

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Offer of Settlement (Settlement).
b. *Project No.:* 2788–017.
c. *Date filed:* June 14, 2018.
d. *Applicant:* Goodyear Lake Hydro, LLC (Goodyear Lake Hydro).
e. *Name of Project:* Colliersville Hydroelectric Project.
f. *Location:* On the Susquehanna River, in the Town of Milford, Otsego County, New York. The project does not occupy lands of the United States.
g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.
h. *Applicant Contact:* Mr. Kevin Webb, Hydro Licensing Manager; Enel Green Power North America, Inc., 100 Brickstone Square, Suite 300, Andover, MA 01810; (978) 935–6039; *kevin.webb@enel.com.*
i. *FERC Contact:* Emily Carter, (202) 502–6512 or *emily.carter@ferc.gov.*
j. *Deadline for filing Comments:* Comments on the Settlement, and comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions in

response to the Commission's April 16, 2018 Notice of Application Ready for Environmental Analysis (REA Notice) are due within 20 days from the issuance date of this notice. Reply comments are due within 65 days of the issuance date of this notice.

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,* (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–2788–017.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, 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.

k. Goodyear Lake Hydro filed the Settlement on behalf of itself, the United States Department of the Interior—Fish and Wildlife Service, the New York State Department of Environmental Conservation, and Susquehanna River Basin Commission. Goodyear Lake Hydro states that the goal of the Settlement is to provide for the continued operation of the Colliersville Project with the appropriate long-term environmental and recreation protection, enhancement, and mitigation measures that meet the diverse objectives of maintaining a balance of non-power and power values associated with the project. The Settlement provides for the resolution of operational, fisheries, wildlife, recreational, and water quality issues raised by the signatories to the Settlement. Goodyear Lake Hydro states that the agreements in the Settlement constitute an integrated and indivisible set of measures intended to address non-power and power values relating to the licensing of the Colliersville Project and requests that all terms of the Settlement be incorporated as license conditions, without modification, in any subsequent license issued for the project. The signatories to the Settlement also request a 40-year license term for the project. Lastly, the Settlement incorporates, by reference, a Northern Long-Eared Bat and Bald Eagle Protection Plan (Appendix A) and an Invasive Species Management Plan (Appendix B).

l. A copy of the Settlement 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. Copies of the Settlement are also available for inspection and reproduction at the address in item h above.

All filings must (1) bear in all capital letters the title COMMENTS, REPLY COMMENTS, RECOMMENDATIONS, PRELIMINARY TERMS AND CONDITIONS, or PRELIMINARY FISHWAY PRESCRIPTIONS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

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.

m. *Procedural Schedule:* The Commission's April 16, 2018 REA Notice established June 15, 2018 as the deadline for filing comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions regarding Goodyear Lake Hydro's license application. In order to allow adequate time for stakeholder comments regarding the license application and the Settlement, we have modified the comment period to allow stakeholders to submit comments on the Settlement and comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions regarding the license application on the same date, and allow Goodyear Lake Hydro sufficient time to submit reply comments. The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate. If the due date falls on a weekend or holiday, the due date is the following business day.

Milestone	Target date
Filing of comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions (per the REA Notice) and comments on the Settlement.	July 5, 2018.
Reply comments due	August 19, 2018.
Commission Issues EA	November 2018.
Comments on EA	December 2018.

Dated: June 15, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13366 Filed 6–21–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2618–030 and 031]

Woodland Pulp, LLC; 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 Federal Energy Regulatory Commission and is available for public inspection:

a. *Type of Application:* Fishway Operation and Maintenance Plan (P–2618–030) and Fishway Evaluation Plan (P–2618–031).

b. *Project No:* 2618–030 and –031.

c. *Date Filed:* March 22, 2017.

d. *Applicant:* Woodland Pulp, LLC (licensee).

e. *Name of Project:* West Branch Hydroelectric Project.

f. *Location:* The project is located on the West Branch of the St. Croix River in Washington County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* C. Scott Beal, Woodland Pulp, LLC, 144 Main Street, Baileyville, ME 04619.

i. *FERC Contact:* Michael Calloway at 202–502–8041, or *michael.calloway@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 45 days from the issuance of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, and 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,* (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–2618–030 and P–2618–031.

k. *Description of Request:* The licensee filed a Fishway Operation and Maintenance Plan pursuant to Article 409 of the project license and a Fishway Evaluation Plan pursuant to Article 410 of the project license. Both plans only address fish passage and effectiveness evaluation at the project's West Branch development; these plans do not address passage and evaluation at the Sysladobsis development—because of the licensee's pending amendment application (filed January 31, 2017) to remove the Sysladobsis development from the project license. The Fishway Operation and Maintenance Plan filed pursuant to Article 409 describes the fish species that would be passed and how the licensee would operate the fishway to ensure effectiveness. Under Article 409, the licensee and the resource agencies were unable to reach a consensus on which species to pass, therefore, the Commission will evaluate the record to make a determination on this issue. The Fishway Evaluation Plan filed pursuant to Article 410 provides a framework for evaluating the effectiveness of the fishway to those species selected for passage after operation of the fishway commences.

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* using the ''eLibrary'' link. 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 866–208–3676 or email *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, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene 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, protests, or motions to intervene 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; PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; 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 the Fishway Operation and Maintenance Plan and Fishway Evaluation Plan. Agencies may obtain copies of plans directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener 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: June 15, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13364 Filed 6–21–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2618–032]

Woodland Pulp, LLC; 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 Federal Energy Regulatory Commission and is available for public inspection:

a. *Type of Application:* American Eel Study Plan and Proposed Design Plans for American Eel Passage (both under P–2618–032).

b. *Project No:* 2618–032.

c. *Date Filed:* September 26, 2017.

d. *Applicant:* Woodland Pulp, LLC (licensee).

e. *Name of Project:* West Branch Hydroelectric Project.

f. *Location:* The project is located on the West Branch of the St. Croix River in Washington County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* C. Scott Beal, Woodland Pulp, LLC, 144 Main Street, Baileyville, ME 04619.

i. *FERC Contact:* Michael Calloway at 202–502–8041, or *michael.calloway@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 45 days from the issuance of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, and 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,* (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–2618–032.

k. *Description of Request:* The licensee filed an American Eel Migration Study Plan and Proposed Design Plans for American Eel Passage pursuant to Article 401 of the project license and U.S. Fish and Wildlife and Service Fishway Prescription Nos. a(ii), b(ii), a(iii), and b(vii) contained in Appendix A of the license. Both proposals only address American eel passage and effectiveness evaluation at the project's West Branch development; these proposals do not address passage and evaluation at the Sysladobsis development—because of the licensee's pending amendment application (filed January 31, 2017) to remove the Sysladobsis development from the project license. The Proposed Design Plans for American Eel Passage provides a draft design for eel passage, but proposes to suspend passage until after the eel migration studies provide data to inform the design and siting of the eel passage measure. The American Eel Migration Study Plan provides a plan to evaluate eel abundance at various locations, inform design of eel passage facilities, and evaluate effectiveness of the facilities for up to 3 years.

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* using the ''eLibrary'' link. 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 866–208–3676 or email *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, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene 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, protests, or motions to intervene 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; PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; 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 the American Eel Migration Study Plan and the Final Design Plans for American Eel Passage. Agencies may obtain copies of plans directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener 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: June 15, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13365 Filed 6–21–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2790–072]

Boott Hydropower, LLC; 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.:* 2790–072.

c. *Dated Filed:* April 30, 2018.

d. *Submitted By:* Boott Hydropower, LLC (Boott).

e. *Name of Project:* Lowell Hydroelectric Project.

f. *Location:* On the Merrimack River, in Middlesex County, Massachusetts and Hillsborough County, New Hampshire. The project does not occupy any Federal land.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Kevin Webb, Hydro Licensing Manager, Enel Green Power North America, Inc., 100 Brickstone Square, Suite 300, Andover, MA 01810, (978) 935–6039.

i. *FERC Contact:* Steve Kartalia at (202) 502–6131 or email at *stephen.kartalia@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 Massachusetts and New Hampshire State Historic Preservation Officers, as required by section 106 of the 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 Boott 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. Boott 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,* (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 staff's 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.* 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–2790–072.

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 within 60 days of issuance.

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 tribe, 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:

Daytime Scoping Meeting

Date: Tuesday, July 17, 2018.
Time: 10:00 a.m.
Location: UMass Lowell Inn and Conference Center, Grand Ballroom, 50 Warren St., Lowell, MA 01852.
Phone: (978) 934–6918.

Evening Scoping Meeting

Date: Tuesday, July 17, 2018.
Time: 6:00 p.m.
Location: UMass Lowell Inn and Conference Center, Grand Ballroom, 50 Warren St., Lowell, MA 01852.
Phone: (978) 934–6918.

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 licensee and Commission staff will conduct an environmental site review of the project on Wednesday, July 18, 2018, starting at 9:00 a.m. All participants should meet at the Eldred L. Field Powerhouse, located at 145 Pawtucket St., Lowell, MA 01854.

If you plan to attend the environmental site review, please email Kevin Webb of Boott at *kevin.webb@enel.com* on or before July 11, 2018, and indicate how many participants will be attending with you. Participants should park at the UMass Lowell East Campus Garage at 47 Pawtucket St., Lowell (no parking fee). After parking, exit the garage onto Pawtucket St. and follow the street to the right (west) about 500 feet. The entrance to the E.L. Field Powerhouse is through the gate on the right, just before the bridge over the Northern Canal. Boott's safety policies require that participants wear sturdy footwear; no sandals, open-toed shoes, or shorts.

The Lowell Project's facilities are spread out throughout the City of Lowell. Due to limited parking at many locations, Boott will transport participants between facilities by bus. The tour will last for 5 to 6 hours. For any questions concerning the environmental site visit please contact Kevin Webb at (978) 935–6039 or *kevin.webb@enel.com.*

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: June 15, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13368 Filed 6–21–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2018–0378; FRL–9979–73–OGC]

Proposed Stipulated Order of Partial Dismissal, Endangered Species Act Claims

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed stipulated order of partial dismissal; request for public comment.

SUMMARY: In accordance with the Environmental Protection Agency (EPA) Administrator's October 16, 2017, Directive Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements, notice is hereby given of a proposed stipulated order of partial dismissal to address several claims in a lawsuit filed by the Northwest Environmental Advocates (''Plaintiff'') in the United States District Court for the Western District of Washington: *Northwest Environmental Advocates* v. *United States Environmental Protection Agency,* No. 2:14–cv–0196. On September 1, 2015, Plaintiff filed an amended complaint alleging, inter alia, that the United States Environmental Protection Agency (''EPA'') failed to perform duties mandated by the Endangered Species Act (''ESA'') to consult with the Fish & Wildlife Service and the National Marine Fisheries Service (collectively ''the Services'') regarding water quality standards adopted by Washington and approved by the EPA. The proposed stipulated order of partial dismissal would set a deadline for EPA to complete an ESA effects determination for its February 11, 2008, approval of Washington's revisions to the State's ammonia criteria and, as appropriate, request initiation of any necessary ESA consultation with the Services.

DATES: Written comments on the proposed stipulated order of partial dismissal must be received by July 23, 2018.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2018–0378, online at *www.regulations.gov* (EPA's preferred method). For comments submitted at *www.regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA generally will 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: Thomas Glazer, Water Law Office (7426N), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone: (202) 564–0908; email address: *Glazer.Thomas@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Stipulated Dismissal

On February 10, 2014, Plaintiff filed suit in the federal district court for the Western District of Washington. Plaintiff's original Complaint brought five claims alleging violations of ESA section 7, CWA section 303(c), and the Administrative Procedures Act (''APA''). Following EPA's motion to partially dismiss on statute of limitations grounds, NWEA filed an Amended Complaint on September 1, 2015, which alleges four broad sets of claims. Plaintiff's first claim alleges that, on February 11, 2008, EPA approved revised State of Washington Department of Ecology (Washington) water quality standards involving metals conversion factors and ammonia criteria without initiating consultation under ESA section 7(a)(2) in contravention of the ESA. Plaintiffs' second claim alleges that the listing of new species, designation of new critical habit, and Washington's completion of a 2009 study regarding dissolved oxygen all triggered an obligation for EPA to reinitiate consultation on various natural conditions criteria provisions pertaining to temperature and dissolved oxygen that EPA approved on February 11, 2008.

The proposed stipulated order of partial dismissal would resolve these ESA claims. As described in paragraph three of the proposed stipulated order of dismissal, within three years, EPA will complete an ESA effects determination pursuant to 50 CFR 402.14(a) for its February 11, 2008 approval of Washington's revisions to the State's ammonia criteria and, as appropriate, request initiation of any necessary ESA consultation with the Services. If during that time, Washington submits revisions to the ammonia criteria and EPA intends to approve, EPA will complete an effects determination and, if appropriate, request initiation of any necessary ESA consultation with the Services within one year of submission or three years of the Court's approval of the stipulated order of dismissal, whichever is later. Portions of claims three and four would also be dismissed in exchange for commitments by Washington, but EPA is not taking comment on those aspects of the proposed stipulated order of partial dismissal. See the proposed stipulated order of partial dismissal for specific details.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the resolution of the ESA claims contained in the proposed stipulated order of partial dismissal from persons who are not named as parties or intervenors to the litigation in question. If so requested, EPA will also consider holding a public

hearing on whether to enter into the proposed stipulated order of partial dismissal. EPA or the Department of Justice may withdraw or withhold consent to the proposed stipulated order of partial dismissal if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this proposed stipulated order of partial dismissal should be withdrawn, the terms of the proposed stipulated order of partial dismissal will be affirmed and entered with the Court.

II. Additional Information About Commenting on the Proposed Stipulated Order of Partial Dismissal

A. How can I get a copy of the proposed stipulated order of partial dismissal?

The official public docket for this action (identified by EPA–HQ–OGC–2018–0378) contains a copy of the proposed stipulated order of partial dismissal. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available on EPA's website at [Insert URL] and also through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.'' It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket.

EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 11, 2018.

Steven Neugeboren,

Associate General Counsel.

[FR Doc. 2018–13572 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0234; FRL–9979–30–OECA]

Proposed Information Collection Request; Comment Request; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: The Environmental Protection Agency (EPA) issued a document in the **Federal Register** of May 30, 2018, concerning EPA's planned submission of 73 existing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) for review and renewed approval under the Paperwork Reduction Act (PRA). Item number 37, entitled: ''NESHAP for Petroleum Refineries (40 CFR part 63, subpart CC)'' and identified by EPA ICR No. 1692.10 and OMB Control No. 2060–0340, represents the renewal of an existing ICR that is scheduled to expire on May 31, 2019. There was an error in the Docket ID Number. This document corrects that typographical error.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of May 30, 2018, in FR Doc. 2018–11583, on page 24790, in the first column, 31st line, entry ''[37]'' to read:

[37] Docket ID Number: EPA–HQ–OECA–2011–0234; Title: NESHAP for Petroleum Refineries (40 CFR part 63, subpart CC) (Renewal); EPA ICR Number 1692.10; OMB Control Number 2060–0340; Expiration Date: May 31, 2019.

Dated: May 30, 2018.

Martha Segall,

Acting Director, Monitoring, Assistance and Media Programs Division, Office of Compliance.

[FR Doc. 2018–13468 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9039–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7156 or *https://www2.epa.gov/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 06/11/2018 Through 06/15/2018

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20180133, Draft, NMFS, MA, Draft Environmental Impact Statement for Draft Amendment 22 to the Northeast Multispecies Fishery Management Plan, Comment Period Ends: 08/06/2018, Contact: Peter Burns (978) 281–9144.

EIS No. 20180134, Final, USFS, AZ, Final Programmatic Environmental Impact Statement for Revision of the Coronado National Forest Land and Resource Management Plan, Review Period Ends: 09/20/2018, Contact: Rose Robinson (520) 388–8491.

EIS No. 20180135, Final, USAF, CA, KC–46A Main Operating Base #4 (MOB 4) Beddown, Review Period Ends: 07/23/2018, Contact: Jean Reynolds (210) 925–4534.

EIS No. 20180136, Final Supplement, USACE, AK, Alaska Stand Alone Pipeline Project, Review Period Ends: 07/23/2018, Contact: Jason Berkner (907) 753–5778.

EIS No. 20180137, Final, BLM, WY, Normally Pressured Lance Natural Gas Development Project, Review Period Ends: 07/23/2018, Contact: Kellie Roadifer (307) 367–5309.

EIS No. 20180138, Draft, USFS, CA, Eldorado National Forest Over Snow Vehicle Use Designation, Comment Period Ends: 08/06/2018, Contact: Jennifer Marsolais (530) 642–5187.

EIS No. 20180139, Final, USFS, CA, Bordertown to California 120kV Transmission Line, Review Period Ends: 07/23/2018, Contact: Marnie Bonesteel (775) 352–1240.

Amended Notice

Revision to the **Federal Register** Notice published 05/21/2018, extend comment period from 07/05/2018 to 07/20/2018.

EIS No. 20180102, Draft, NMFS, FL, Coral Habitat Areas. Considered for Habitat Areas of Particular Concern Designation in the Gulf of Mexico, Contact: Lauren Waters (727) 209–5991.

Dated: June 18, 2018.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2018–13372 Filed 6–21–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receivership

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for the institution listed below intends to terminate its receivership for said institution.

Fund	Receivership name	City	State	Date of appointment of receiver
10401	Blue Ridge Savings Bank, Inc	Asheville	NC	10/14/2011

The liquidation of the assets for the receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing, identify the receivership to which the comment pertains, and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated at Washington, DC, on June 18, 2018.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–13361 Filed 6–21–18; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 13, 2018.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *First Interstate BancSystem, Inc., Billings, Montana*; to merge with Northwest Bancorporation, Inc. and thereby indirectly acquire Inland

Northwest Bank, both of Spokane, Washington.

Board of Governors of the Federal Reserve System, June 19, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–13474 Filed 6–21–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 19, 2018.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Greta Christianson, Bloomington, Minnesota and Ingrid Langseth, Worthington, Minnesota, individually, and as members of the Christianson/Langseth family shareholder group*; to retain voting shares of FSB Holding Company, Inc., Trimont, Minnesota (FSB), and thereby indirectly retain shares of Farmers State Bank of Trimont, Trimont, Minnesota (Trimont Bank).

Additionally, Beverly Anthony, Trimont, Minnesota, as a member of the Anthony family shareholder control group; to retain shares of FSB, and thereby indirectly retain shares of Trimont Bank.

Board of Governors of the Federal Reserve System, June 19, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–13473 Filed 6–21–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 2018.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org*:

1. *CF Mutual Holding Company and Cincinnati Bancorp, Cincinnati, Ohio*; to acquire 100 percent of the voting shares of Kentucky Federal Savings and Loan Association, Covington, Kentucky, and merge it with Cincinnati Federal, Cincinnati, Ohio.

Board of Governors of the Federal Reserve System, June 19, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–13472 Filed 6–21–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0197; Docket No. 2018–0003; Sequence No. 19]

Information Collection; Use of Products and Services of Kaspersky Lab

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an existing OMB emergency clearance notice.

DATES: Submit comments on or before August 21, 2018.

ADDRESSES: Submit comments identified by Information Collection 9000–0197; Use of Products and Services of Kaspersky Lab, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for the OMB Control number 9000–0197. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0197; Use of Products and Services of Kaspersky Lab''. Follow the instructions on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0197; Use of Products and Services of Kaspersky Lab.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405–0001. ATTN: Ms. Mandell/IC 9000–0197; Use of Products and Services of Kaspersky Lab.

Instructions: Please submit comments only and cite Information Collection 9000–0197; Use of Products and Services of Kaspersky Lab, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after

submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to, nor be subject to, a penalty for failure to comply with a collection of information, unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

DoD, GSA, and NASA requested and OMB authorized emergency processing of an information collection involved in this rule, as OMB Control Number 9000–0197 (FAR case 2018–010, 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities) consistent with 5 CFR 1320.13. DoD, GSA, and NASA have determined the following conditions have been met:

a. The collection of information is needed prior to the expiration of time periods normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act, in view of the deadline for this provision of the NDAA which was signed into law in December 2017 and requires action before the prohibition goes into effect on October 1, 2018.

b. The collection of information is essential to the mission of the agencies to ensure the Federal Government does not purchase prohibited articles, and can respond appropriately if any such articles are not identified until after delivery or use.

c. The use of normal clearance procedures would prevent the collection of information from contractors, for national security purposes.

This requirement supports implementation of Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91). This section prohibits Government use of any hardware, software, or services developed or provided, in whole or in part, by Kaspersky Lab or its related entities. This requirement is implemented in the Federal Acquisition Regulation (FAR) through the clause at FAR 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities.

This clearance covers the following requirement:

FAR 52.204–23 requires contractors to report covered products identified during performance of a contract.

DoD, GSA, and NASA request approval of this information collection in order to implement the law. The information will be used by agency personnel to identify and remove prohibited hardware, software, or services from Government use. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor.

A notice was published in the **Federal Register** at 83 FR 28141, on June 15, 2018, as a part of an interim rule under FAR Case 2018–010, Use of Products and Services of Kaspersky Lab.

B. Annual Reporting Burden

Number of Respondents: 4,882.
Responses per Respondent: 5.
Total Responses: 24,410.
Average Burden Hours per Response: 1.5.
Total Burden Hours: 36,615.

The public reporting burden for this collection of information consists of reports of identified covered articles during contract performance as required by 52.204–23. Reports are estimated to average 1.5 hour per response, including the time for reviewing definitions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the report.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether the estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those entities who will respond, through the use of appropriate technological collection techniques or other forms of information technology (IT).

With respect to the evaluation of burdens, in particular, DoD, GSA, and NASA especially welcome public comments on:

(1) The types of personnel that would be involved in developing and maintaining compliance with prohibition and required reports (*e.g.,* IT security and cyber specialists, attorneys, compliance officers) and assumptions about the amount of labor hours and associated costs required to meet these responsibilities;

(2) The types of system changes specifically required within an entity to comply with this rule, as well as associated costs; and

(3) Steps that an entity will take in order to achieve compliance, as well as associated hours and costs;

(4) Any data that can help to inform the average number of subcontracts that may be affected by this rule.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0197, Use of Products and Services of Kaspersky Lab, in all correspondence.

Dated: June 18, 2018.

William Clark,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Govenrmentwide Policy.

[FR Doc. 2018–13402 Filed 6–21–18; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0198; Docket No. 2018–0003; Sequence No. 20]

Information Collection; Violations of Arms Control Treaties or Agreements With the United States

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an existing OMB emergency clearance notice.

DATES: Submit comments on or before August 21, 2018.

ADDRESSES: Submit comments identified by Information Collection 9000–0198; Violations of Arms Control Treaties or Agreements with the United States, by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments

via the Federal eRulemaking portal by searching for the OMB Control number 9000–0198. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0198; Violations of Arms Control Treaties or Agreements with the United States.'' Follow the instructions on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0198; Violations of Arms Control Treaties or Agreements with the United States.''

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405–0001. ATTN: Ms. Mandell/IC 9000–0198; Violations of Arms Control Treaties or Agreements with the United States.

Instructions: Please submit comments only and cite Information Collection 9000–0198; Violations of Arms Control Treaties or Agreements with the United States, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

DoD, GSA, and NASA requested and OMB authorized emergency processing of an information collection involved in this rule, as OMB Control Number 9000–0198 (FAR case 2017–018, 52.209–13, Violation of Arms Control Treaties or Agreements—Certifications) consistent with 5 CFR 1320.13. DoD, GSA, and NASA have determined the following conditions have been met:

a. The collection of information is needed prior to the expiration of time periods normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act.

b. The collection of information is essential to the mission of the agencies to ensure the Federal Government does not award contracts to offerors, and any entity owned or controlled by the offeror that has engaged in any activity that violates arms control treaties or agreements with the United States.

c. The use of normal clearance procedures would prevent the collection of information from contractors, for national security purposes.

Section 1290 of Public Law 114–328 (codified at 22 U.S.C. 2593e) went into effect on December 23, 2016. The implementation of this FAR case will protect against doing business with entities that engage in any activity that contributed to or is a significant factor in a country's failure to comply with arms control treaties or agreements with the United States. This action is necessary because of statutory requirements relating to a national security function of the United States.

A notice was published in the **Federal Register** at 83 FR 28145, on June 15, 2018, as a part of a interim rule under FAR Case 2017–018, Violations of Arms Control Treaties or Agreements with the United States.

B. Annual Reporting Burden

Number of Respondents: 11,634.

Responses per Respondent: 8.6.

Total Responses: 99,796.

Average Burden Hours per Response: .4 hours.

Total Burden Hours: 40,478.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether the estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those entities who will respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0198, Violations of Arms Control Treaties or Agreements with the United States.

Dated: June 18, 2018.

William F. Clark,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2018–13403 Filed 6–21–18; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3351–FN]

Medicare and Medicaid Programs; Application by The Compliance Team for Continued CMS Approval of Its Rural Health Clinic Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve The Compliance Team (TCT) for continued recognition as a national accrediting organization for Rural Health Clinics (RHCs) that wish to participate in the Medicare or Medicaid programs.

DATES: *Applicable Date:* This notice is effective July 18, 2018 through July 18, 2024.

FOR FURTHER INFORMATION CONTACT:

Christina Mister-Ward, (410) 786–2441.

Monda Shaver, (410) 786–3410.

Marie Vasbinder, 410–786–8665.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a rural health clinic (RHC) provided certain requirements are met by the RHC. Section 1861(aa) and 1905(l)(1) of the Social Security Act (the Act), establish distinct criteria for facilities seeking designation as a RHC. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488, subpart A. The regulations at 42 CFR part 491, subpart A specify the conditions that a RHC must meet to participate in the Medicare program. The scope of covered services and the conditions for Medicare payment for RHCs are set forth at 42 CFR part 405, subpart X.

Generally, to enter into a provider agreement with the Medicare program, a RHC must first be certified by a state survey agency as complying with the

conditions or requirements set forth in 42 CFR part 491. Thereafter, the RHC is subject to regular surveys by a state survey agency to determine whether it continues to meet these requirements.

There is an alternative, however, to surveys by state agencies. Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accrediting organization applying for CMS approval of its accreditation program under 42 CFR part 488, subpart A, must provide us with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. Section 488.5(e)(2)(i) requires an accrediting organization to reapply for continued approval of its accreditation program every 6 years or as determined by CMS. The Compliance Team's (TCT's) current term of approval for its RHC accreditation program expires July 18, 2018.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

In the January 23, 2018 **Federal Register** (83 FR 3152), we published a notice announcing TCT's request for continued approval of its RHC accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and § 488.5, we conducted a review of TCT's application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- The equivalency of TCT's standards for RHCs as compared with CMS's RHC conditions for certification.
- TCT's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of TCT's processes to those of state agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ TCT's processes and procedures for monitoring a RHC determined to be out of compliance with TCT's program requirements. These monitoring procedures are used only when TCT identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the state survey agency monitors corrections as specified at § 488.9(c).

++ TCT's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ TCT's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of TCT's staff and other resources, and its financial viability.

++ TCT's capacity to adequately fund required surveys.

++ TCT's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ TCT's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

IV. Analysis of and Responses to Public Comments on the Proposed Notice With Comment Period

In accordance with section 1865(a)(3)(A) of the Act, the January 23, 2018 proposed notice also solicited public comments regarding whether TCT's requirements met or exceeded the Medicare Condition for Certification (CfC) for RHCs. We received one comment in response to our proposed notice. The comment received expressed support for TCT's RHC accreditation program.

V. Provisions of the Final Notice

Conditions and Survey Requirements

We compared TCT's RCH accreditation requirements and survey process with the Medicare CfCs at 42 CFR part 491, the survey and certification process requirements of parts 488 and 489 and survey process as outlined in the State Operations Manual (SOM). TCT's standards crosswalk was also examined to ensure that the appropriate CMS regulations would be included in citations as appropriate. Our review and evaluation of TCT's RHC application, which was conducted as described in section III. of this final notice, yielded the following areas where, as of the date of this notice, TCT has revised its standards and certification processes so that its processes are comparable to CMS requirements:

- Section 491.2(1), to update its standard for nurse practitioner and accompanying crosswalk to remove the duplicative language ''by the currently certified''.
- Section 491.4, to address staff licensure compliance in its surveyor guidance.
- Sections 491.7(a)(2) through (b)(3), to correct its crosswalk to reflect the correct standard reference ADM 4.0.1.
- Section 491.8(a)(3), to update its standard to address the regulatory requirement that at least one physician assistant or nurse practitioner be employed by the clinic.
- Sections 491.8(c)(1)(i) and 491.9(b)(2), to correct the standard language to clarify the required membership of the group of professional personnel responsible for policy development and implementation.
- Section 491.8(c)(2)(i), to correct erroneously cited CMS regulatory references.
- Section 491.9(b)(4), to update its standard language to clarify the required membership of the group of professional personnel responsible for policy review annually.
- Section 491.10(a)(1), to update its standards and crosswalk to explicitly require the RHC to maintain a clinical record system in addition to maintaining the record system in accordance with written policies and procedures.

• Section 491.12(c)(3)(i), to update its standard to include reference to RHC ''staff'' and to delete reference to ''FQHC.''

• Section 491.12(d)(1)(iv), to update surveyor guidance to include specific examples of acceptable methods for documenting the evaluation of the effectiveness of RHC staff training, and the demonstration of RHC staff knowledge and competency.

• To clearly include frequency of monitoring on-going compliance as a required element for acceptable plan of corrections.

• To clarify its Administrative Policy regarding removal and denial of accreditation.

• To ensure each deficiency is cited at the appropriate level according to the scope and severity of the finding.

• To ensure all provider-submitted plans of correction address all non-compliant practices identified on survey.

• To address the inaccurate reporting of facility and survey data to CMS.

• To provide evidence ensuring staff were educated on its policy related required personal file documents to be located on site at the RHC.

• To provide evidence ensuring staff are educated on its policy related to deficiencies that are corrected onsite.

• To identify patient medical records while protecting the patient's identity during the survey event.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we have determined that TCT's rural health clinic requirements meet or exceed our requirements, and its survey processes are comparable to ours. Therefore, we approve TCT as a national accreditation organization for hospitals that request participation in the Medicare program, effective July 18, 2018 through July 18, 2024.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: June 11, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–13436 Filed 6–21–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3358–PN]

Medicare and Medicaid Programs: Application From the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. (AAAASF) for Continued Approval of its Ambulatory Surgical Center Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Notice with request for comment.

SUMMARY: This proposed notice acknowledges the receipt of an application from the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. for continued recognition as a national accrediting organization for Ambulatory Surgical Centers that wish to participate in the Medicare or Medicaid programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 23, 2018.

ADDRESSES: In commenting, refer to file code CMS–3358–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3358–PN, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3358–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Erin McCoy, (410) 786–2337.
Monda Shaver, (410) 786–3410.
Marie Vasbinder, (410) 786–8665.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from an Ambulatory Surgical Center (ASC) provided certain requirements are met. Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as an ASC. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 416 specify the conditions that an ASC must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for ASCs.

Generally, to enter into an agreement, an ASC must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 416 of our Medicare regulations. Thereafter, the ASC is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by a Centers for Medicare & Medicaid Services (CMS) approved national accrediting organization (AO) that all applicable Medicare conditions are met or exceeded, we may deem those provider entities as having met the requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary of the Department of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program may be deemed to meet the Medicare conditions. An AO applying

for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of AOs are set forth at § 488.5.

The American Association for Accreditation of Ambulatory Surgery Facilities, Inc.'s (AAAASF's) current term of approval for its ASC program expires November 27, 2018.

II. Provisions of the Proposed Notice

A. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.5 require that our findings concerning review and approval of an AO's requirements consider, among other factors, the applying AO's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of AAAASF's request for continued CMS-approval of its ASC accreditation program. This notice also solicits public comment on whether AAAASF's requirements meet or exceed the Medicare conditions for coverage (CfCs) for ASCs.

B. Evaluation of Deeming Authority Request

AAAASF submitted all the necessary materials to enable us to make a determination concerning its request for continued CMS-approval of its ASC accreditation program. This application was determined to be complete on May 1, 2018. Under Section 1865(a)(2) of the Act and our regulations at § 488.5, our review and evaluation of AAAASF will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of AAAASF's standards for ASCs as compared with Medicare's CfCs for ASCs.
- AAAASF's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of AAAASF's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ AAAASF's processes and procedures for monitoring an ASC found out of compliance with AAAASF's program requirements. These monitoring procedures are used only when AAAASF identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the State survey agency monitors corrections as specified at § 488.9(c)(1).

++ AAAASF's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ AAAASF's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of AAAASF's staff and other resources, and its financial viability.

++ AAAASF's capacity to adequately fund required surveys.

++ AAAASF's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ AAAASF's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

C. Notice Upon Completion of Evaluation

Upon completion of our evaluation, including evaluation of public comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

IV. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

Dated: May 29, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–13435 Filed 6–21–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–7050–N2]

Medicare & Medicaid Programs, and Other Program Initiatives, and Priorities; Meeting of the Advisory Panel on Outreach and Education (APOE), June 20, 2018

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Cancellation of meeting.

SUMMARY: On June 1, 2018, we published a **Federal Register** notice (83 FR 25461) announcing a new meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel), which was scheduled for Wednesday, June 20, 2018. This notice announces the cancellation of the June 20, 2018 meeting.

FOR FURTHER INFORMATION CONTACT: Lynne Johnson, Acting Designated Federal Official, Office of Communications, CMS, 7500 Security Boulevard, Mail Stop S1–05–06, Baltimore, MD 21244, 410–786–0897, email *Lynne.Johnson@cms.hhs.gov.*

Additional information about the APOE is available on the internet at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/APOE.html.* Press inquiries are handled through the CMS Press Office at (202) 690–6145.

Dated: June 19, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–13503 Filed 6–20–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Decisions Related to the Development of a Clearinghouse of Evidence-Based Practices in Accordance With the Family First Prevention Services Act of 2018

AGENCY: Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families, HHS, solicits comments by July 22, 2018 on initial criteria and potential candidate programs and services for review in a Clearinghouse of evidence-based practices in accordance with the Family First Prevention Services Act of 2018. The Clearinghouse will identify promising, supported, and well-supported practices for mental health and substance abuse prevention and treatment programs, in-home parent skill-based programs, and kinship navigator programs appropriate for children who are candidates for foster care pregnant or parenting foster youth, and the parents or kin caregivers of those children and youth.

SUPPLEMENTARY INFORMATION: Invitation to Comment: HHS invites comments regarding this Notice. To ensure that your comments have maximum effect, please identify clearly the section of this Notice that your comment addresses.

1.0 Background and Legislative Context

The Family First Prevention Services Act (FFPSA) was signed into law as part of the Bipartisan Budget Act (H.R. 1892) on February 9, 2018. FFPSA enables States to use Federal funds available under parts B and E of title IV of the Social Security Act to provide enhanced support to children and families and prevent foster care placements through the provision of evidence-based mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services. As described in the statutory language, these services and programs are intended ''for children who are candidates for foster care or who are pregnant or parenting foster youth and the parents or kin caregivers of the children''.

FFPSA requires an independent systematic review of evidence to designate programs and services as ''promising,'' ''supported,'' and ''well-supported'' practices, defined as follows in section 471(e)(4)(C):

- Promising Practice: ''A practice shall be considered to be a 'promising practice' if the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that—(1) was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed; and (2) utilized some form of control (such as an untreated group, a placebo group, or a wait list study).''
- Supported Practice: ''A practice shall be considered to be a 'supported practice' if (I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least one study that—(aa) was rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed; and (bb) was a rigorous random-controlled trial (or, if not available, a study using a rigorous quasi-experimental research design); and (cc) was carried out in a usual care or practice setting and (II) the study described in sub-clause (I) established that the practice has a sustained effect (when compared to a control group) for at least 6 months beyond the end of treatment.''
- Well-supported Practice: ''A practice shall be considered to be a 'well-supported practice' if (I) the practice is superior to an appropriate comparison practice using conventional standards of statistical significance (in terms of demonstrated meaningful improvements in validated measures of important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being), as established by the results or outcomes of at least two studies that—(aa) were rated by an independent systematic review for the quality of the study design and execution and determined to be well-designed and well-executed; and (bb) were rigorous random-controlled trials (or, if not available, studies using a rigorous quasi-experimental research design); and (cc) were carried out in a usual care or practice setting and (II) at least one of the studies described in sub-clause (I) established that the practice has a sustained effect (when compared to a control group) for at least 1 year beyond the end of treatment.''

In accordance with FFPSA, practices must also meet the following requirements:

- *Book or manual:* The practice has a book, manual, or other available writings that specify the components of the practice protocol and describe how to administer the practice.
- *No empirical risk of harm:* There is no empirical basis suggesting that, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it.
- *Weight of evidence supports benefits:* If multiple outcome studies have been conducted, the overall weight of evidence supports the benefits of the practice.
- *Reliable and valid outcome measures:* Outcome measures are reliable and valid, and are administrated consistently and accurately across all those receiving the practice.
- *No case data for severe or frequent risk of harm:* There is no case data suggesting a risk of harm that was probably caused by the treatment and that was severe or frequent (section 471(e)(4)(C)(ii) of the Act).

In order to meet these requirements, the Administration for Children and Families (ACF) in the Department of Health and Human Services (HHS) intends to establish and maintain a public Clearinghouse of practices, including culturally specific, or location- or population-based adaptations of practices, identified via a systematic review of evidence on relevant programs and services. In accordance with FFPSA and building from other federal evidence reviews, HHS is developing initial criteria that will be used to designate programs and services as promising, supported, and well-supported practices. HHS will also identify a preliminary list of candidate services and programs that will be considered for systematic review.

This Notice (1) identifies and requests comment on potential initial criteria for (a) identifying eligible programs and services for review by the Clearinghouse, (b) prioritizing eligible programs and services for review, (c) identifying eligible studies aligned with prioritized programs and services, (d) prioritizing eligible studies for rating, (e) rating studies, and (f) rating programs and services as promising, supported, and well-supported practices. This Notice (2) requests comment on potential programs and services that may meet the aforementioned criteria and that should be considered as candidates for systematic review. After comments are received, HHS will revise and publish the initial criteria and a preliminary list of candidate programs and services to be considered for review; and begin to conduct reviews. This Notice is one step in ensuring that activities associated with the development of a Clearinghouse are

transparent and build from the existing knowledge of States, federal agencies, researchers, evaluators, program and service developers, key stakeholders and experts, and the general public.

2.0 Initial Criteria

2.1 *Program or Service Eligibility Criteria.* Programs or services may be eligible for inclusion in the Clearinghouse if they meet the following criteria developed in accordance with FFPSA statutory language [sections 471(e)(1)(B) and 471(e)(1)(c)]:

2.1.1 Types of Programs and Services. HHS intends to limit eligibility to mental health and substance abuse prevention and treatment services, in-home parent skill-based programs (including parenting skills training, parent education, and individual and family counseling), and kinship navigator programs.

2.1.2 Book/Manual/Writings Available. HHS intends to limit eligibility to programs or services that have a book, manual, or other available documentation that specifies the components of the practice protocol and describes how to administer the practice.

2.2 *Program or Service Prioritization Criteria.* Timing and resources may not allow for a detailed review of all programs and services determined to be eligible by the criteria detailed in section *2.1 Program or Service Eligibility Criteria.* Programs or services may be prioritized for review on the basis of the following criteria:

2.2.1 Types of Programs and Services. As noted in 2.1.1. *Types of Programs and Services,* HHS intends to limit eligibility to mental health and substance abuse prevention and treatment services, in-home parent skill-based programs (including parenting skills training, parent education, and individual and family counseling), or kinship navigator programs. This Notice requests comment on the scope of programs and services and topic areas of interest within the aforementioned categories that should be prioritized for inclusion.

2.2.2 Target Population of Interest. HHS intends to prioritize programs or services for review that have been developed or used to target children and families involved in the child welfare system or populations similar to those involved in the child welfare system. This Notice requests comment on populations that may be considered ''similar'' to those involved in the child welfare system.

2.2.3 Target Outcomes. HHS intends to prioritize programs or services for review that aim to impact target outcomes. Target outcomes should be defined in accordance with FFPSA statutory language [section 471(e)(4)(C)] and include those outcomes that ''. . . prevent child abuse and neglect, and reduce the likelihood of foster care placement by supporting birth families and kinship families and improving targeted supports for pregnant and parenting youth and their children.'' These may include, but are not limited to, ''. . . important child and parent outcomes, such as mental health, substance abuse, and child safety and well-being.'' This Notice requests comment on which types of mental health, substance abuse, and child and family outcomes should be considered as 'target outcomes' and requests research evidence to support recommendations of 'target outcomes'. HHS does not intend to include access to service, satisfaction with programs and services, and referral to programs and services as 'target outcomes'.

2.2.4 Number of Impact Studies. HHS intends to prioritize programs or services with at least two studies with non-overlapping analytic samples and distinct implementations examining effectiveness/impact.

2.2.5 In Use/Active. HHS intends to prioritize programs or services currently in use in the U.S. Programs or services that are no longer in operation or have no information available about active implementation will not be prioritized.

2.2.6 Implementation and Fidelity Support. HHS intends to prioritize programs or services that have implementation training and staff support and/or fidelity monitoring tools and resources available to implementers in the United States.

2.2.7 Trauma-Informed. HHS may also prioritize services and programs that have been implemented using a trauma-informed approach. FFPSA statutory language [section 471(e)(4)(B)] states, ''The services or programs to be provided to or on behalf of a child are provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing.'' This Notice requests comment on the feasibility of prioritizing programs and services based on past implementation in accordance with trauma-informed principles.

2.2.8 Delivery Setting for In-Home Parent Skill-Based Programs and Services. HHS intends to prioritize in-home parent skill-based programs and services where the primary service delivery strategy takes place in the caregivers' place of residence.

2.3 *Study Eligibility Criteria.* HHS intends to engage in a broad literature search to identify studies examining prioritized programs and services. This search may include databases, websites, existing literature reviews, and meta-analyses. HHS intends to screen studies for eligibility using the following criteria:

2.3.1 Impact Study. HHS intends to limit eligibility to studies included in government reports and peer-reviewed journal articles that assess effectiveness (*i.e.,* impact) using quantitative methods.

2.3.2 Target Outcomes. HHS intends to limit eligibility to studies that examine the impact of the service or program on at least one 'target outcome', as described in section *2.2.3. Target Outcomes.* As noted above, this Notice requests comment on specific outcomes in accordance with FFPSA statutory language that should be considered 'target outcomes' and requests research evidence to support recommendations of 'target outcomes'.

2.3.3 Conducted in the U.S., U.K., Canada, New Zealand, or Australia. HHS intends to limit eligibility to studies conducted with samples in the U.S., U.K., Canada, New Zealand, or Australia to ensure that the evidence base reflects the populations where programs and services will be implemented.

2.3.4 Study Published in English. HHS intends to limit eligibility to studies published in English.

2.3.5 Published or Prepared in or after 1990. HHS intends to limit eligibility to studies published or prepared in or after 1990.

2.3.6 Usual Care or Practice Setting. HHS intends to limit eligibility to studies carried out in a usual care or practice setting in accordance with FFPSA [section 471(e)(4)(C)]. This Notice requests comment on the definition of usual care or practice settings.

2.4 *Study Prioritization Criteria.* Timing and resources may not allow for a detailed rating of all studies determined to be eligible by the criteria identified in section *2.3 Study Eligibility Criteria.* HHS intends to conduct a high-level scan of eligible studies to determine which should be prioritized for rating. This Notice requests comment on criteria that can be used to prioritize eligible studies for rating.

2.4.1 Implementation Period: FFPSA [section 471(e)(1)(A) and (B)] states that the Secretary may make a payment to a State for providing services or programs ''for not more than a 12-month period''. This Notice requests comment on whether studies with program or service implementation periods of longer than 12 months should be considered for review and if so, whether any other implementation period cutoff should be included as a study prioritization criterion.

2.4.2 Sample of Interest. HHS intends to prioritize studies that include samples of children and families involved in the child welfare system or populations similar to those involved in the child welfare system. This Notice requests comment on populations that may be considered ''similar'' to those involved in the child welfare system.

2.5 *Study Rating Criteria.* HHS intends to rate studies on the following criteria:

2.5.1 Favorable Effects. HHS intends to rate studies based on whether they demonstrate at least one meaningful favorable effect (*i.e.,* positive significant effect) on a 'target outcome' as specified in section *2.3.2 Target Outcomes.* A meaningful effect will be defined using conventional standards of statistical significance (*i.e.,* two-tailed hypothesis test and a specified alpha level of $p < .05$). This Notice requests comment on whether and how ratings should consider the number or magnitude of favorable effects.

2.5.2 Unfavorable Effects. HHS intends to rate studies based on the number of unfavorable effects (*i.e.,* negative significant effects) on either 'target' or non-target outcomes as specified in section *2.3.2 Target Outcomes.* Effects will be defined using conventional standards of statistical significance (*i.e.,* two-tailed hypothesis test and a specified alpha level of $p < .05$). This

Notice requests comment on whether and how studies should also be rated on the number of null effects on 'target outcomes', and on whether and how ratings should consider the number or magnitude of unfavorable effects.

2.5.3 Sustained Favorable Effect. HHS intends for studies with at least one favorable effect on a 'target outcome', as determined by the criteria in *2.5.1 Favorable Effects,* to be rated on whether or not they demonstrate a sustained favorable effect. As noted in section 471(e)(4)(C), a 'supported practice' must have at least one study that demonstrates ''a sustained effect (when compared to a control group) for at least 6 months beyond the end of treatment'' and a 'well-supported practice' must have at least one study that demonstrates ''a sustained effect (when compared to a control group) for at least 1 year beyond the end of treatment.'' HHS intends to classify studies as not demonstrating a sustained favorable effect (*i.e.,* effects are demonstrated for less than 6 months), demonstrating a sustained favorable effect of 6 months or more (but less than 12 months), or demonstrating a sustained favorable effect of 12 months or more.

2.5.4 Rigorous Study Design. HHS intends to rate studies as either high, moderate, or low on the rigor and appropriateness of their study design. Study designs that receive the highest rating will be either Randomized Controlled Trials (RCTs) or rigorous quasi-experimental designs. HHS defines randomized controlled trials as a study design in which sample members are assigned to the program or service and comparison groups by chance. Randomized control designs are often considered the ''gold standard'' of research design because personal characteristics (before the program or service begins) do not affect whether someone is assigned to the program or service or control group. HHS defines a quasi-experimental design as a study design in which sample members are selected for the program or service and comparison groups in a nonrandom way. Similar to criteria considered in other federal evidence clearinghouses, rigorous study designs will be those that are appropriately powered, include an appropriate control group, maintain original assignment to study arms, and are appropriate to combat threats to internal validity. This Notice requests comment on threats to internal validity that should be considered. This Notice requests comment on appropriate thresholds for evaluating and assigning a rating to a study design.

2.5.5 Rigorous Study Analysis. HHS intends to rate studies as either high, moderate, or low on the rigor and appropriateness of their analysis. Study analyses that receive the highest rating may be those that tested and established baseline equivalence, appropriately accounted for overall and differential sample attrition, appropriately accounted for multiple comparisons, and when necessary accounted for clustering. This Notice requests comment on appropriate thresholds for evaluating and assigning a rating to a study analysis.

2.5.6 Reliability, Validity, and Systematic Administration of Outcome Measures. HHS intends to rate studies as either high, moderate, or low on the extent to which 'target outcome' measures are reliable (*i.e.,* the extent to which a measure produces the same results when used repeatedly), valid (*i.e.,* the extent to which a measure captures what it is intended to measure), and were administered consistently and accurately across all those receiving the practice in accordance with FFPSA statutory language [section 471(e)(4)(C)] or receiving the appropriate comparison practice. This Notice requests comment on appropriate thresholds for evaluating and assigning a rating to the reliability, validity, and administration of 'target outcome' measures.

2.6 *Program or Service Rating Criteria.* HHS intends for programs or services to be rated as promising, supported, or well-supported practices if they meet the below criteria that collectively assess the strength of evidence for a practice and build from the individual study criteria described in section *2.5 Study Rating Criteria.* These criteria were developed in accordance with FFPSA statutory language [section 471(e)(4)(C)].

2.6.1 *Promising Practice:* HHS intends to designate a program or service as a 'promising practice' if the program or service has at least one study that demonstrates a favorable effect on a target outcome as described by criterion *2.5.1 Favorable Effects* and achieves, at a minimum, moderate ratings on criteria *2.5.4* through *2.5.6.*

2.6.2 *Supported Practice:* HHS intends to designate a program or service as a 'supported practice' if the program or service has at least one study that demonstrates a favorable effect on a target outcome as described by *2.5.1 Favorable Effects,* demonstrates a sustained favorable effect on a target outcome of at least 6 months beyond the end of treatment as described in *Section 2.5.3 Sustained Favorable Effect,* and achieves the high rating on criteria *2.5.4* through *2.5.6.*

2.6.3 *Well-Supported Practice:* HHS intends to designate a program or service as a 'well-supported practice' if the practice has at least two studies with non-overlapping analytic samples and distinct implementations that demonstrate favorable effects as described by *2.5.1 Favorable Effects,* demonstrate sustained favorable effects of at least 12 months beyond the end of treatment as described in *Section 2.5.3 Sustained Favorable Effect,* and achieve the high rating on criteria *2.5.4* through *2.5.6.*

HHS does not intend to rate a program or service as a 'promising', 'supported', or 'well-supported practice' if there is an empirical basis, as evidenced by multiple unfavorable effects on target or non-target outcomes across reviewed studies, as described in *2.5.2 Unfavorable Effects,* that suggest the overall weight of evidence does not support the benefits of the program or service. This Notice requests comment on approaches for determining that promising, supported, and well-supported practices do not constitute a risk of harm. As described in FFPSA [section 471(e)(4)(C)], ''There is no empirical basis suggesting that, compared to its likely benefits, the practice constitutes a risk of harm to those receiving it'', ''If multiple outcome studies are conducted, the overall weight of evidences supports the benefits of the practice'', and ''There is no case data suggesting a risk of harm that was probably caused by the treatment and that was severe or frequent''.

3.0 Recommendations of Potential Candidate Programs and Services for Review

This Notice requests comment on potential candidate programs and services to consider for the systematic evidence review. Comments should identify how recommended programs and services meet the criteria described in section *2.1 Program or Service Eligibility Criteria.* These criteria include: Types of Programs and Services and Book/Manual/Writings Available. Comments should also identify how recommended programs and services meet the criteria described in section *2.2 Program or Service Prioritization Criteria.* These criteria include: Types of Programs and Services, Target Population of Interest, Target Outcomes, Number of Impact Studies, In Use/Active, Implementation and Fidelity Support, Trauma-Informed, and Delivery Setting for In-Home Parent Skill-Based Programs and Services. In order to leverage new insights from the field, HHS may put forth additional future Notices requesting recommendations of potential candidate programs and services for review.

4.0 Submission of Comments

Comments may be submitted until July 22, 2018 by email to *ffclearinghouse@acf.hhs.gov.*

Naomi Goldstein,

Deputy Assistant Secretary for Planning, Research, and Evaluation.

[FR Doc. 2018–13420 Filed 6–21–18; 8:45 am]

BILLING CODE 4184–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–2066]

Tobacco Products Scientific Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a

forthcoming public advisory committee meeting of the Tobacco Products Scientific Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on September 13, 2018, from 8:30 a.m. to 5 p.m. and on September 14, 2018, from 8 a.m. to 3 p.m.

ADDRESSES: FDA White Oak Conference Center, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Caryn Cohen, Office of Science, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373, email: *TPSAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On September 13 and 14, 2018, the Committee will discuss modified risk tobacco product applications, submitted by R.J. Reynolds Tobacco Company for six products:

- MR0000068: Camel Snus Frost
- MR0000069: Camel Snus Frost Large
- MR0000070: Camel Snus Mellow
- MR0000071: Camel Snus Mint
- MR0000072: Camel Snus Robust
- MR0000073: Camel Snus Winterchill

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before August 29, 2018. Oral presentations from the public will be scheduled between approximately 8 a.m. and 9 a.m. on September 14, 2018. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 16, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 17, 2018.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Caryn Cohen at least 7 days in advance of the meeting (see, **FOR FURTHER INFORMATION CONTACT**).

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 18, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–13405 Filed 6–21–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Mechanism for Time-Sensitive Drug Abuse Research (R21 Clinical Trial Optional).

Date: June 29, 2018.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–827–5820, *hiromi.ono@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Multi-site Clinical Trials.

Date: July 26–27, 2018.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, (301) 827–5817, *mcguireso@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 19, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13417 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Source Selection Meeting for NIAID IRF at Fort Detrick.

Date: July 3, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Dharmendar Rathore, Ph.D., Senior Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G30, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9834, Bethesda, MD 20892–9834, 240–669–5058, *rathored@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 19, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13415 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases, Special Emphasis Panel, Integrated Preclinical/Clinical AIDS Vaccine Development Program, (IPCAVD) (U19).

Date: July 12–13, 2018.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: J. Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G11A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, 240–669–5045, *sundstromj@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Investigator Initiated Program Project Applications (P01).

Date: July 12, 2018.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Priti Mehrotra, Ph.D., Chief, Immunology Review Branch, Scientific Review Program, Division of Extramural Activities, Room #3G40, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–7616, 240–669–5066, *pmehrotra@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Investigator Initiated Program Project Applications (P01).

Date: July 13, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Priti Mehrotra, Ph.D., Chief, Immunology Review Branch, Scientific Review Program, Division of Extramural Activities, Room #3G40, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–7616, 240–669–5066, *pmehrotra@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 19, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13414 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: July 12, 2018.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: Report to the OAR Director; Overview of key upcoming OAR activities; Updates of the HHS HIV/AIDS Treatment and Prevention Guidelines.

Place: National Institutes of Health, 5601 Fishers Lane, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Paul A. Sato, Medical Officer, Office of AIDS Research, Office of the Director, NIH, 5601 Fishers Lane, Room 2E62 Rockville, MD 20852, 240–480–2330, *paul.sato@nih.gov.*

Any interested participants are encouraged to join this meeting at the weblink provided, at least 30 minutes prior to the scheduled start time. Information is also available on the Institute's/Center's home page: *www.oar.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research

Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: June 19, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13419 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Methods of Modulating Erythropoiesis With Arginine Vasopressin Receptor 1B Molecules

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Dental and Craniofacial Research, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patent Applications listed in the Supplementary Information section of this notice to ERYTHRYx Therapeutics, located in Los Angeles, California.

DATES: Only written comments and/or applications for a license which are received by the Office of Technology Transfer and Innovation Access, National Institute of Dental and Craniofacial Research on or before July 9, 2018 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Yun Mei, Technology Transfer and Patent Specialist, Office of Technology Transfer and Innovation Access, National Institute of Dental and Craniofacial Research, National Institutes of Health, BLDG 1 DEM, RM667, 6701 Democracy Blvd., Bethesda, MD 20817; Telephone: (301) 827–4639; Facsimile: (301) 496–1005; Email: *yun.mei@nih.gov*.

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. U.S. Provisional Patent Application No. 61/885,258, filed October 1, 2013 and entitled ''Methods of Modulating Erythropoiesis with Arginine Vasopressin Receptor 1B Molecules'' (HHS Reference No. E–619–2013–0–US–01);

2. PCT Application No. PCT/US2014/058613, filed October 1, 2014 and entitled ''Methods of Modulating Erythropoiesis with Arginine Vasopressin Receptor 1B Molecules'' (HHS Reference No. E–619–2013–0–PCT–02);

3. U.S. Patent Application No. 15/022,531, filed March 16, 2016 and entitled ''Methods of Modulating Erythropoiesis with Arginine Vasopressin Receptor 1B Molecules'' (HHS Reference No. E–619–2013–0–US–03);

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be the United States and the field of use may be limited to ''Use of arginine vasopressin receptor 1B agonists to treat anemia caused by (i) chronic renal failure on dialysis, (ii) receiving myelosuppressive chemotherapy, or (iii) lacking antidiuretic hormone.''

The subject technology is a method of using arginine vasopressin receptor 1B (AVPR1B) agonists to increase the number of red blood cells to treat anemia. The inventors discovered that hematopoietic stem cells express AVPR1B receptor, and these receptors play a key role in promoting hematopoietic stem and progenitor cell proliferation. The number of red blood cells and their precursors significantly increased on day 2 following vasopressin administration, an onset time much faster than erythropoietin (EPO), which is commonly used to stimulate red blood cell production for anemia treatment. EPO takes about a week to manifest its clinical effects. The AVPR1B agonists can be used to jumpstart the hematopoietic system and erythropoietin can be used to sustain the effect.

The subject technology is a repurposing of an existing drug, vasopressin, an AVPR1B agonist, also called antidiuretic hormone. It is a nine-amino acid peptide secreted from the posterior pituitary and used to treat patients with central diabetes insipidus, an uncommon disorder that causes an imbalance of water in the body. This imbalance leads to excretion of large amount of urine (polyuria) and intense thirst even after drinking fluids (polydipsia).

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Institute of Dental and Craniofacial Research receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: June 19, 2018.

David W. Bradley,

Director, Office of Technology Transfer and Innovation Access, National Institute of Dental and Craniofacial Research, National Institutes of Health.

[FR Doc. 2018–13443 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Dr. Barry Buchbinder, 240–627–3678; *barry.buchbinder@nih.gov*. Licensing information and copies of the U.S. patent application listed below may be obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential

Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Recombinant HIV-1 Envelope Protein for Vaccine Use

Description of Technology

In pursuit of an effective vaccine to end the global HIV-1/AIDS pandemic, researchers at the Vaccine Research Center (''VRC'') continue to study the structure of HIV-1. Recently, these researchers have determined the three-dimensional structure of the HIV-1 Envelope trimeric ectodomain (''Env''), comprised of three gp120 and three gp41 subunits, in its prefusion, mature, closed conformation.

The researchers hypothesize that immunization with the prefusion, closed HIV-1 Env protein will elicit a neutralizing immune response. The VRC researchers engineered a portion of the HIV-1 Env trimer to stabilize it in this closed conformation for use as an immunogen.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications

- Vaccine for prevention of HIV-1 infection.
- Therapeutic vaccine for treatment of HIV-1 infection.

Competitive Advantages

- Currently, no licensed HIV-1 vaccine exists.

Development Stage

- In vitro studies characterizing the immunogen and its interaction with HIV antibodies.
- In vivo results including immunogenicity in rabbits and guinea pigs, neutralizing activity of resulting serum.

Inventors: Peter D. Kwong (NIAID), Ivelin S. Georgiev (NIAID), Michael Gordon Joyce (NIAID), Marie L. Pancera (NIAID), Tongqing Zhou (NIAID), Priyamvada Acharya (NIAID), Jason J. Gorman (NIAID), Yongping Yang (NIAID), Aliaksandr A. Druz (NIAID), Guillaume Stewart-Jones (NIAID), Rita Chen (NIAID), Gwo-Yu Chuang (NIAID), Ulrich Baxa (NIAID), John R. Mascola (NIAID), Rebecca M. Lynch (NIAID), Baoshan Zhang (NIAID), Cheng Cheng (NIAID).

Publications: Pancera M., *et al.* Structure and immune recognition of trimeric pre-fusion HIV-1 Env. Nature. 2014 Oct 23; 514(7523):455–61. [PMID: 25296255].

Intellectual Property: HHS Reference Number E–178–2014 includes U.S. Provisional Patent Application No. 62/046,059 filed September 4, 2014; U.S. Provisional Patent Application No. 62/136,480 filed March 21, 2015; PCT Application No. PCT/US2015/048729 filed September 4, 2015; U.S. Patent Application No. 15/508,885 filed March 3, 2017; and EPO Patent Application No. 15766697.5 filed March 29, 2017.

Licensing Contact: Dr. Barry Buchbinder, 240–627–3674; *barry.buchbinder@nih.gov.*

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize HIV-1 immunogens for treating or preventing HIV-1 infection. For collaboration opportunities, please contact Dr. Barry Buchbinder, 240–627–3674; *barry.buchbinder@nih.gov.*

Dated: June 14, 2018.

Suzanne M. Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2018–13416 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Cooperative Agreement (UG1) and Clinical Trial Planning Grant (R34) Applications.

Date: July 13, 2018.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Research Project Grant Applications (R01).

Date: July 25, 2018.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer National Eye Institute National Institutes of Health, Division of Extramural Research 5635 Fishers Lane, Suite 1300, Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: June 19, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13413 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Receptor Profiling and Predictive Toxicology (8937).

Date: July 19, 2018.

Time: 10:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 827–5702, *lf33c.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Synthetic Peptides and Other Drugs of Abuse—Purity Determination, Stability Testing, & Quantitative Analysis (8945).

Date: August 7, 2018.

Time: 10:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 827–5702, *lf33c.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 19, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13418 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.

Date: June 28, 2018.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW, Washington, DC 20001.

Contact Person: Sussan Paydar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 5222, Bethesda, MD 20817, (301) 827–4994, *sussan.paydar@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 18, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13389 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurodevelopmental Disorders.

Date: June 27, 2018.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motivated Behavior.

Date: July 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *selmanom@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; HIV/AIDS Vaccines Study Section.

Date: July 13, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–435–0000, *bdey@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular Mechanisms of Alzheimer's Disease, Synaptic Function, and Neurodevelopment.

Date: July 17, 2018.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–340: Collaborative Program Grant for Multidisciplinary Teams (RM1).

Date: July 17, 2018.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Thomas Beres, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7840, Bethesda, MD 20892, 301–435–1175, *berestm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 18, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13391 Filed 6–21–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0490]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0010

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0010, Defect/Noncompliance Report and Campaign Update Report; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before August 21, 2018.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2018–0490] to the Coast Guard 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.

A copy of the ICR is available through the docket on the internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2018–0490], and must be received by August 21, 2018.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that 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.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Defect/Noncompliance Report and Campaign Update Report.

OMB Control Number: 1625–0010.

Summary: Manufacturers whose products contain defects that create a substantial risk of personal injury to the public or fail to comply with an applicable Coast Guard safety standard are required to conduct defect notification and recall campaigns in accordance with 46 U.S.C. 4310. Regulations in 33 CFR 179 require manufacturers to submit certain reports to the Coast Guard concerning progress made in notifying owners and making repairs.

Need: Under 46 U.S.C. 4310(d) and (e); and 33 CFR 179.13 and 179.15, the manufacturer shall provide the Commandant of the Coast Guard with an initial report consisting of certain information about the defect notification and recall campaign being conducted and follow up reports describing progress. Upon receipt of information from a manufacturer indicating the initiation of a recall, the Recreational Boating Product Assurance Branch assigns a recall campaign number, and sends the manufacturer Coast Guard Forms CG–4917 and CG–4918 for supplying the information.

Forms: CG–4917, Defect/Noncompliance Report and CG–4918, Campaign Update Report.

Respondents: Manufacturers of boats and certain items of ''designated'' associated equipment (inboard engines, outboard motors, sterndrive engines or an inflatable personal flotation device approved under 46 CFR 160.076).

Frequency: Quarterly.

Hour Burden Estimate: The estimated burden has decreased from 207 hours to 16.5 hours a year due to the change in the average number of recall campaigns conducted during the last 21 years.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 19, 2018.

James D. Roppel,

Acting Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2018–13431 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0278]

Notice of Policy Implementing the 2016 Amendments to STCW in Support of the Polar Code

AGENCY: Coast Guard, DHS.

ACTION: Notice of policy; request for comments.

SUMMARY: The Coast Guard is announcing the availability of CG–MMC Policy Letter No. 02–18 titled ''Guidelines for Qualifications of Personnel for Issuing STCW Endorsements for Basic and Advanced Polar Code Operations.'' This policy provides guidance for the issuance of Merchant Mariner Credential endorsements in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, for Basic and Advanced Polar Code Operations. This policy is effective today, but the Coast Guard requests public comments on it.

DATES: This policy is effective on June 22, 2018.

Comments and related material must be received by the Coast Guard on or before September 20, 2018.

ADDRESSES: Policy Letter No. 02–18 is available in docket number USCG–2018–0278 on *http://www.regulations.gov*. You may also submit comments identified at that same online docket. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this policy, contact Cathleen Mauro CG–MMC–1 by phone at (202) 372–1449 or by email at *Cathleen.B.Mauro@uscg,mil*.

SUPPLEMENTARY INFORMATION: The International Maritime Organization (IMO) adopted the International Code for Ships Operating in Polar Waters, commonly referred to as the Polar Code, to address safety and environmental requirements for ships and the level of training required for deck officers serving on them. The Polar Code came into force on January 1, 2017.

The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, (STCW) Convention and Code is the instrument that provides the international standards for seafarer training. Through the work of the IMO's Sub-committee on Human Element, Training and Watchkeeping, amendments to the STCW Convention and Code were developed to define the training requirements supporting the implementation of the Polar Code. These amendments provide minimum standards of competence, sea service and training requirements for certification at the basic and advanced levels. They also contain transitional provisions for mariners with experience operating in polar waters to meet the new requirements. These amendments enter into force on July 1, 2018. After this date, deck officers on ships operating in polar waters will be required to have a Merchant Mariner Credential (MMC) endorsement in Basic or Advanced Polar Code operations.

To address the gap between the time the Polar Code entered into force (January 2017) and the time the supporting STCW amendments enter into force (July 2018), the Coast Guard provided CG–OES Policy Letter No. 01–16, ''Guidelines for Training of Personnel on Ships Subject to the Polar Code'' (81 FR 7552, Feb. 12, 2016).

CG–OES Policy Letter No. 01–16 was an interim measure to ensure there would be sufficiently trained U.S. mariners by the time the Polar Code entered into force. The Coast Guard did not issue endorsements to mariners who completed training in accordance with that policy.

Cognizant of the approaching date that the STCW amendments enter into force, the Coast Guard will issue STCW endorsements in Basic and Advanced Polar Code Operations to mariners who have voluntarily fulfilled the STCW requirements and who request the endorsement. CG–MMC policy letter No. 02–18 provides information on how to request the endorsement. These endorsements are not currently mandated by Coast Guard regulation; however, since the United States is signatory to the STCW Convention, vessel owners and operators should be aware that their vessels are subject to foreign port state control actions including detention if mariners are not compliant with the STCW Convention and Code.

The policy letter is effective today, and the National Maritime Center is now accepting applications for Polar Code Operations endorsements. We request public comments on the policy letter, including the instructions for requesting endorsements, so that we may improve the letter if needed.

Public Participation and Request for Comments

We view public participation as essential to effective policy development, and will consider all comments and material received during the comment period. If you submit a comment, please include the docket number for this action, and indicate the specific section of CG–MMC Policy Letter No. 02–18 to which your comment applies. Please make your comments as specific as possible, and include any applicable supporting data or other information, such as cost information, you may have.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov,* using the instructions on that website. 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. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or if a final rule is published.

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*.

Authority: We issue this notice of policy availability under the authority of 5 U.S.C. 552(a) and 46 U.S.C. 7101.

Dated: June 19, 2018.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2018–13465 Filed 6–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM006200 L99110000.EK0000 XXX L4053RV]

Crude Helium Auction and Sale for Fiscal Year 2019 Delivery

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of auction and sale.

SUMMARY: The Secretary of the Interior (Secretary), through the Bureau of Land Management (BLM) New Mexico State Office, is issuing this Notice to conduct an auction and sale from the Federal Helium Program, administered by the

BLM New Mexico, Amarillo Field Office. The Helium Stewardship Act of 2013 (HSA) requires the BLM to conduct an annual auction and sale of crude helium. The BLM will use the auction and sale process that was established for a previous sale in a **Federal Register** notice dated June 20, 2017.

DATES: The schedule for the auction and sale process is:

July 18, 2018—FY 2019 helium auction held in Amarillo, Texas
July 20, 2018—FY 2019 helium auction results published on the BLM website
July 25, 2018—Invoices for auction sent on or before this date; payments due 30 days from invoice
July 27, 2018—Invitation for offers (IFO) posted for helium sale
August 3, 2018—Bids due from IFO
August 6, 2018—Award announcements published on the BLM website
August 10, 2018—Invoices for sale sent on or before; payments due 30 days from invoice
September 30, 2018—Helium transferred to buyers' storage accounts

If a high bidder does not submit its payment for helium won at auction by September 15, 2018, volumes will be offered for sale proportionally to the bidders who participated in the Conservation Helium Sale, but who did not receive their requested volume of helium.

ADDRESSES: The July 18, 2018, helium auction will be held in the main conference room of the Amarillo Field Office, 801 South Fillmore, Suite 500, Amarillo, TX 79101. Supplementary documents referenced in this Notice are available at the BLM helium operations website at: *www.blm.gov/programs/energy-and-minerals/helium,* see the Helium Stewardship, HSA Implementation page of the website.

FOR FURTHER INFORMATION CONTACT: Samuel R.M. Burton, Amarillo Field Manager, telephone: 806–356–1000, email: *sburton@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339. The FRS is available 24 hours a day, 7 days a week, to leave a message. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

A. Purpose and Background

In October 2013, Congress passed the HSA. The HSA requires the Department of the Interior, through the BLM Director, to offer for auction and sale annually a portion of the helium reserves owned by the United States and stored underground at the Cliffside Gas Field near Amarillo, Texas.

On July 23, 2014, the BLM published a ''Final Notice for Implementation of Helium Stewardship Act Sales and Auctions'' in the **Federal Register** (79 FR 42808) (2014 Final Notice). The 2014 Final Notice contained information about the HSA, definitions of terms used in the Notice, the reasons for the action, and a process for conducting the auctions and sales in FY 2014.

On August 24, 2015, the BLM published a ''Notice of Final Action: Crude Helium Sale and Auction for Fiscal Year 2016 Delivery'' in the **Federal Register** (80 FR 51304) (2015 Final Notice). The Final Notices for FY 2015 and FY2016 further refined the process the BLM used in FY 2017 for conducting the auction and sale of crude helium. The BLM will use the process set forth in the June 20, 2017 Final Notice (82 FR 28090) for the auction and sale of crude helium to occur in FY 2018 for FY 2019 delivery.

All previous Final Notices are available from the Helium Stewardship, HSA Implementation page of the BLM helium website at *www.blm.gov/programs/energy-and-minerals/helium.*

B. Volumes Offered in the FY 2019 Helium Auction and Sale

Table 1 identifies the volumes to be offered for auction and sale in FY 2018 for FY 2019 delivery.

TABLE 1—PROJECTED VOLUMES FOR AUCTION AND SALES FOR FY 2019 DELIVERY

Fiscal year (FY)	Forecasted production capability (NITEC study)	In-kind sales (sales to federal users)	Total remaining production available for sale/auction or delivery	Volume available for auction	Volume available for non-allocated sale	Volume available for sale
	MMcf *	MMcf	MMcf	MMcf	MMcf	MMcf
FY 2019	825	130	345 ***	240 **	10	95

* MMcf means one million cubic feet of gas measured at standard conditions of 14.65 per square inch atmosphere (psia) and 60 degrees Fahrenheit.
** 70 percent of total production capacity after deducting in-kind (rounded).
*** Volumes offered fulfill the requirement of the HSA to reach Phase C.

C. FY 2019 Helium Auction

1.01 What is the minimum FY 2019 auction price and the FY 2019 sales price? The minimum FY 2019 auction price is $110 per Mcf (one thousand cubic feet of gas measured at standard conditions of 14.65 psia and 60 degrees Fahrenheit). The BLM will announce the FY 2019 sale price after the auction has concluded, and the BLM completes its analysis of the auction information. The BLM will use this information to publish the crude helium price for FY 2019. The BLM publishes this crude helium price, effective October 1, 2018, in order to provide a consistent index to the world-wide helium market.

1.02 What will happen to the helium offered but not sold in the helium auction? Any volume of helium offered, but not sold in the FY 2019 auction, will be added to the helium available for sale and will be offered in the FY 2019 sale.

1.03 When will the auction and sale take place? The BLM will offer helium for FY 2019 according to the following schedule:

July 18, 2018—FY 2019 helium auction held in Amarillo, Texas
July 20, 2018—FY 2019 helium auction results published on the BLM website
July 25, 2018—Invoices for auction sent on or before this date; payments due 30 days from invoice
July 27, 2018—Invitation for offers (IFO) posted for helium sale
August 3, 2018—Bids due from IFO
August 6, 2018—Award announcements published on the BLM website
August 10, 2018—Invoices for sale sent on or before; payments due 30 days from invoice
September 30, 2018—Helium transferred to buyers' storage accounts (in accordance with Section 1.08)

If the high bidder does not submit its payment for helium won at auction by September 15, 2018, volumes will be offered for sale proportionally to the bidders who participated in the Conservation Helium Sale, but who did

not receive their requested volume of helium.

1.04 What is the auction format? The auction will be a live auction, held in the main conference room of the Amarillo Field Office at 1 p.m. Central Time, on July 19, 2018. The address is 801 South Fillmore, Suite 500, Amarillo, TX 79101. Anyone meeting the HSA definition of a qualified bidder may participate in the auction. The logistics for the auction and the pre-bid qualification form is included in a document entitled, ''FY 2019 Helium Auction Notice and Guide'' on the Helium Stewardship page of the BLM Helium Program website at *www.blm.gov/programs/energy-and-minerals/helium.* Questions related to the auction can be submitted by phone to the BLM at 806–356–1000.

1.05 Who is qualified to purchase helium at the auction? Only qualified bidders, as defined in 50 U.S.C. 167(9), may participate in and purchase helium at the auction. The BLM will make the final determination of who is a qualified bidder using the HSA's definition of a qualified bidder, regardless of whether or not that person was previously determined to be a qualified bidder.

1.06 How many helium lots does the BLM anticipate offering at the FY 2019 auction? The BLM anticipates auctioning 240 MMcf in a total of 14 lots for delivery in FY 2019. The lots would be divided as follows:

6 lots of 25 MMcf each; and
5 lots of 15 MMcf each; and
3 lots of 5 MMcf each.

1.07 What must I do to bid at auction? The BLM has described the live auction procedures, including detailed bidding instructions and pre-bid registration requirements, in a document entitled, ''FY 2019 Auction Notice and Guide'' available on the BLM's helium page at *www.blm.gov/programs/energy-and-minerals/helium.* The ''FY 2019 Auction Notice and Guide'' is located in the Helium Stewardship, HSA Implementation page of the BLM Federal Helium Program website.

1.08 When will helium that is purchased at sale or won at auction be available in the purchaser's storage account? The BLM will transfer the volumes won in the FY 2019 auction or purchased at the FY 2019 sale to the buyer's storage accounts on September 30, 2018.

D. FY 2019 Helium Sale

2.01 Who will be allowed to purchase helium in the FY 2019 sale? The crude helium sale will be separated into two distinct portions, a non-allocated portion and an allocated portion. The non-allocated portion will be ten percent of the total amount offered for sale for FY 2019, and will be available to those storage contract holders who do not have the ability to accept delivery of crude helium from the Federal Helium Pipeline (as defined in 50 U.S.C. 167(2)) as of May 30, 2018. The allocated portion will be 90 percent of the total amount offered for sale for FY 2019, and will be available to any person (including individuals, corporations, partnerships, or other entities) with the ability to accept delivery of crude helium from the Federal Helium Pipeline (as defined in 50 U.S.C. 167(2)).

2.02 How will helium sold in the FY 2019 sale be allocated among those participating in the non-allocated sale? The non-allocated sale will be made available to all qualified offerors not eligible to participate in the allocated sales. The minimum volume that can be requested is 1 MMcf. The total volume available for the non-allocated portion of the sale is 10 MMcf. Any volumes not sold at auction will be distributed between the non-allocated (10 percent) and the allocated sale (90 percent). Any volumes not purchased at the non-allocated sale will be sold in the allocated portion.

2.03 How will the helium sold in the FY 2019 sale be allocated among the persons who have operational capacity to accept delivery of crude helium from the Federal Helium Pipeline? Any person wishing to participate in the allocated portion of the FY 2019 sale needs to report its excess refining capacity and operational capacity a minimum of 14 calendar days prior to the sale, using the Excess Refining Capacity form. The form can be downloaded at *www.blm.gov/programs/energy-and-minerals/helium.* The form is located in the Helium Stewardship, HSA Implementation page of the website. Each person participating in the sale will then be allocated a proportional share based upon that person's operational capacity.

2.04 How does a person apply for access to the Federal Helium Pipeline for the purpose of taking crude helium? The steps for taking crude helium are provided in the BLM's Helium Operations website at *www.blm.gov/programs/energy-and-minerals/helium.* The steps are contained in a document entitled, ''How to Establish a Storage Contract and Pipeline Connection Point,'' located in the Federal Helium Operations/Helium Storage page of the website. Reporting forms can be downloaded at the same website address. Reporting forms are located in the Helium Stewardship, HSA Implementation page of the BLM Federal Helium Program website, and show the requirements and due dates for each report. The length of time required to apply for and obtain access to the Federal Helium Pipeline can vary based on the person's plans for plant construction, pipeline metering installation, and other variables. The BLM is available to provide technical assistance, including contact information for applying for access and meeting any applicable National Environmental Policy Act requirements.

E. Delivery of Helium in FY 2019

3.01 When will I receive the helium that I purchase in a sale or win based on a successful auction bid? Helium purchased at the FY 2019 sale or won at the FY 2019 auction will be delivered starting September 30, 2018, in accordance with the crude helium storage contract. The intent is to ensure delivery of all helium purchased at sale or auction up to the BLM's production capability for the year.

3.02 How will the BLM prioritize delivery? The HSA gives priority to Federal in-kind helium (*i.e.,* helium sold to Federal users) (50 U.S.C. 167d(b)(1)(D)) and (b)(3)). After meeting that priority, the BLM will make delivery on a reasonable basis, as described in the crude helium storage contract, to ensure storage contract holders who have purchased helium at sale or won helium at auction have the opportunity during the year to have that helium produced or refined in monthly increments.

F. Background Documents

Supplementary documents referenced in this Notice are available at the BLM helium operations website at: *www.blm.gov/programs/energy-and-minerals/helium.* They are located in the Helium Stewardship, HSA Implementation page of the website, and include the following documents:

a. This **Federal Register** Notice for FY 2019 Delivery;

b. The HSA (50 U.S.C. 167);

c. FY 2019 Helium Auction Notice and Guide;

d. 2016 Storage Contract (template for information only);

e. Determination of Fair Market Value Pricing of Crude Helium;

f. Storage Fees;

g. Required Forms for Helium Reporting; and

h. FY 2014 through FY 2018 **Federal Register** Notices for Helium Auctions and Sales.

Authority: The HSA of 2013 (Pub. L. 113–40) codified to various sections in 50 U.S.C. 167–167q.

Aden L. Seidlitz,

Bureau of Land Management, Acting State Director, New Mexico.

[FR Doc. 2018–13469 Filed 6–21–18; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X.LLUT920000.L71220 0000.ER0000.LVTFJX496770.241A; AZA–34941]

Notice of Intent To Amend a Portion of the Arizona Strip Field Office Resource Management Plan Related to the Kanab Creek Area of Critical Environmental Concern, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM), Arizona Strip Field Office, St. George, Utah, intends to amend a portion of the Arizona Strip Field Office (ASFO) Resource Management Plan (RMP) related to the Kanab Creek Area of Critical Environmental Concern (ACEC). The BLM will incorporate the analysis for the RMP amendment into a Federal Energy Regulatory Commission (FERC) Environmental Impact Statement (EIS) for the Lake Powell Pipeline Project. FERC is the lead agency and the BLM is a cooperating agency. FERC's EIS will analyze the proposed Lake Powell Pipeline Project and the proposed RMP amendment to consider allowing development of the Lake Powell Pipeline within the Kanab Creek ACEC. By this notice the BLM is announcing the beginning of the scoping process to solicit public comments and identify issues pursuant to BLM's land use planning regulations.

DATES: This notice initiates the public scoping process for the RMP amendment with an associated EIS. Comments on issues may be submitted in writing until July 23, 2018. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM website at: *http://www.blm.gov/arizona.* In order to be included in the analysis, all comments must be received prior to the close of the 30-day public scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the Kanab Creek ACEC RMP amendment by any of the following methods:

- *Website: https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do.*
- *Email: BLM_AZ_ASFO_comments@blm.gov.*
- *Fax:* 435–688–3258.
- *Mail:* BLM, Arizona Strip Field Office, Attention: Lorraine Christian/Kanab Creek ACEC RMP Amendment, 345 East Riverside Drive, St. George, Utah 84790–6714.

Documents pertinent to this proposal may be examined at the Arizona Strip Field Office at the address above.

FOR FURTHER INFORMATION CONTACT: Lorraine Christian, BLM Arizona Strip Field Manager, telephone: 435–688–3200; email: *lmchrist@blm.gov.* Contact Ms. Christian to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The planning area is located in Coconino and Mohave Counties, Arizona. Only a small portion (900 acres) of the Kanab Creek ACEC would be affected by the proposed Lake Powell Pipeline route, but an RMP amendment is required in order to address inconsistencies between the management direction in the current RMP, the proposed route for the pipeline, and an existing utility corridor designated under the Energy Policy Act of 2005.

Approximately 1 mile of the proposed pipeline would run within an existing utility corridor, designated by the BLM pursuant to Section 368 of the Energy Policy Act of 2005, which overlaps a portion of the ACEC. Approximately 0.5 mile of the proposed pipeline would run inside the ACEC, but outside the existing utility corridor; this pipeline route is proposed due to steep rugged terrain which could be avoided by routing the pipeline outside of the utility corridor. The ASFO RMP encourages new utility rights-of-way (ROW) to be located within the utility corridor to the greatest extent possible. However, the ASFO RMP also established ACECs as ''avoidance areas'' for new ROWs. The BLM proposes to amend the ASFO RMP to: (1) Resolve the conflict between the designated Section 368 utility corridor and the ACEC decisions; and (2) Determine whether to allow the proposed Lake Powell Pipeline outside of the utility corridor, and if so, change the visual resource management class for that portion of the ACEC from Class II (where changes to the landscape should be low) to either Class III or Class IV in order to be compatible with utility development.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the RMP amendment area have been identified by BLM personnel; Federal, State, and local agencies; and other stakeholders. These issues include: Cultural resources, specifically tribal resources and values; special status species; riparian habitat; visual resources; special designations (*i.e.,* Kanab Creek ACEC); and lands and realty, specifically the existing designated utility corridor—Corridor No. 113–116. The analysis will also consider mitigation.

Preliminary planning criteria include: (1) The BLM will continue to manage the Kanab Creek ACEC in accordance with FLPMA and other applicable laws and regulations; (2) The BLM will continue to manage Utility Corridor No. 113–116 in accordance with FLPMA and other applicable laws and regulations; and (3) The amendment process will follow the FLPMA planning process.

You may submit comments on issues and planning criteria in writing to the BLM at any ASFO RMP amendment public-scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. You should submit comments by the close of the 30-day scoping period or within 15 days after the last public meeting, whichever is later.

The BLM will coordinate the processes of fulfilling requirements of NEPA and Section 106 of the National Historic Preservation Act (54 U.S.C. 306108), as provided in 36 CFR 800.2(d)(3).

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local

agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personally identifying information—may be made publicly available at any time. While you can ask the BLM in your comment to withhold your personally-identifying information from public review, we cannot guarantee that we will be able to do so.

The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed. The BLM will evaluate all identified issues, and will place them into one of three categories:

1. Issues to be resolved in the RMP amendment;

2. Issues to be resolved through policy or administrative action; or

3. Issues beyond the scope of this RMP amendment.

An explanation will be provided in FERC's Draft EIS as to why an issue was placed in category two or three. The public is also encouraged to help identify any issues that should be addressed in the RMP. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the RMP amendment in order to consider the variety of resource issues and concerns identified, as well as to develop alternatives to the proposed RMP amendment. Specialists with expertise in the following disciplines will be involved in the planning process: Archaeology and cultural resources, tribal issues, wildlife, visual resources, lands, realty, and special area designations.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Lorraine M. Christian,

Arizona Strip Field Manager.

[FR Doc. 2018–13432 Filed 6–21–18; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD0100000 L13140000.NB0000 18X]

Notice of Availability of the Final Environmental Impact Statement for the Normally Pressured Lance (NPL) Natural Gas Development Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared the NPL Final Environmental Impact Statement (Final EIS) for the NPL project in the BLM Pinedale and Rock Springs Field Offices.

DATES: The BLM will not issue a final decision on the proposal for a minimum of 30 days after the date that the Environmental Protection Agency publishes its Notice of Availability (NOA) in the **Federal Register**.

ADDRESSES: The NPL Final EIS is available for public review at the BLM Pinedale Field Office, 1625 West Pine Street, Pinedale, Wyoming; the BLM High Desert District Office, 280 Highway 191 North, Rock Springs, Wyoming; and the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming. The document may also be reviewed online at *http://tinyurl.com/hloulms.*

FOR FURTHER INFORMATION CONTACT: Kellie Roadifer, NPL EIS Project Manager, BLM Pinedale Field Office, PO Box 768, Pinedale, WY 82941, (307) 367–5309, *kroadife@blm.gov.* Persons who use telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The NPL project is located immediately south and west of the existing Jonah Gas Field in Sublette County, Wyoming. The project area lies within the BLM Wyoming High Desert District (HDD) and spans the Pinedale Field Office (PFO) in the north and Rock Springs Field Office (RSFO) to the south.

The project encompasses approximately 141,000 acres of public, State, and private lands. Approximately 96% of the project area is on BLM-administered public lands. Within the NPL project area, there are both unitized and non-unitized development areas.

Jonah Energy LLC, the current operator after purchasing Encana Oil and Gas Inc.'s leasehold interest in the project, is proposing up to 3,500 directionally drilled wells (depth range from 6,500 to 13,500 feet) over a 10-year period. Under Jonah Energy's proposal, most wells would be co-located on multi-well pads, with no more than four well pads per 640 acres in areas outside of Greater Sage-grouse Priority Habitat Management Areas (PHMA). There would be only one disturbance per 640 acres inside PHMA. On average, each well pad would be 18 acres in size. Regional gathering facilities would be utilized instead of placing compressors at each well pad. Associated access roads, pipelines, and other ancillary facilities would be co-located where possible to further minimize surface disturbance.

There are approximately 48,036 acres of PHMA, 27,292 acres of Greater Sage-grouse Winter Concentration Area (WCA), and 1,259 acres of Sagebrush Focal Areas (SFAs) within the NPL project area. All of the SFA is within the Rock Springs Field Office.

Cooperating agencies for this EIS include the State of Wyoming, with active participation from many state agencies including the Wyoming Game and Fish Department, State Historic Preservation Office, the Wyoming Department of Environmental Quality and the Wyoming Department of Agriculture. Local cooperating agencies include Sweetwater, Lincoln and Sublette Counties, and the Sublette County Conservation District.

The Notice of Intent to prepare the EIS was published on April 12, 2011 (70 FR 20370), initiating a 30-day formal public scoping period. Public scoping meetings were held in Pinedale, Rock Springs, and Marbleton, WY. Public scoping comments were used to identify issues that informed the formulation of alternatives and framed the scope of analysis for the NPL EIS.

A total of 1,238 scoping comments were received, with 29 resource issues identified. Key issues identified during scoping informed the formulation of alternatives and framed the scope of analysis for the NPL Final EIS. The issues include:

- *Air Quality:* Potential project and cumulative impacts on air quality, including air quality-related values.
- *Regulatory Setting:* Permits, authorization, conformance with other plans, laws, policies and guidance.

▪ *Social and Economic impacts:* Jobs, housing, Federal mineral royalties, and quality of life.

▪ *Mitigation (including Compensatory Mitigation):* When and how it applies to individual resource protection measures.

▪ *Reclamation and Monitoring:* The effect of currently used practices including seed mixes, revegetation, use of reference sites including ecological site descriptions.

▪ *Wildlife Habitat, particularly Greater sage-grouse and pronghorn antelope:* The project's potential to further fragment wildlife habitats and diminish the value of those habitats for many species.

In response to the scoping comments received, the BLM developed three alternatives to the Proposed Action: The No Action Alternative, utilizing existing standard stipulations and examining the project area under the historical rate of development of around three wells per year; Alternative A, utilizing a phased approach moving through existing leased oil and gas units and responding to identified wildlife issues; and Alternative B, which addressed a broad range of resource concerns in response to issues identified during scoping.

Alternatives A and B each analyzed the same rate of development as the Proposed Action, as well as the use of regional gathering facilities. However, in addition to varying resource protection measures, each alternative analyzed differing densities of development between one to four well pads per 640 acres, depending on the resource considerations of the project area. Additionally, Alternative A analyzed the merits of developing the project area in three geographically defined phases, occurring sequentially, and taking into consideration existing oil and gas units.

Interim and final reclamation activities would be implemented under all alternatives to return the landscape to its previous condition in conformance with the NPL Reclamation Plan and the relevant Resource Management Plans (RMP).

All alternatives conform to the Pinedale Field Office Resource Management Plan Record of Decision (2008) and the Rock Springs Field Office Green River Resource Management Plan Record of Decision (1997), as amended by the Record of Decision and Approved Resource Management Plan Amendments for the Rocky Mountain Region, Including the Greater Sage-Grouse Sub-Region of Wyoming (2015).

The Draft EIS Notice of Availability was published on July 7, 2017 (129 FR 31628), opening a 45-day public comment period. Public meetings were held on July 25, 2017 in Pinedale, and July 26, 2017 in Rock Springs. Over 1,000 individual comment letters were received. Comments included identified issues associated with each alternative, including feasibility and sufficiency of the analysis and impacts to specific resources as a result of each alternative. Comments were considered and incorporated as appropriate into the Final EIS; however, the analysis of the alternatives and the identified impacts did not significantly change.

The Final EIS is consistent with the BLM's obligations under the Federal Land Policy and Management Act.

Authority: 40 CFR 1506.6 and 40 CFR 1506.10.

Mary Jo Rugwell,

BLM Wyoming State Director.

[FR Doc. 2018–13273 Filed 6–21–18; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–029]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 28, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 731–TA–1369–1372 (Final) (Fine Denier Polyester Staple Fiber from China, India, Korea, and Taiwan). The Commission is currently scheduled to complete and file its determinations and views of the Commission by July 13, 2018.
5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: June 19, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–13528 Filed 6–20–18; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Unither Manufacturing LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 23, 2018. Such persons may also file a written request for a hearing on the application on or before July 23, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on April 24, 2018, Unither Manufacturing LLC, 331 Clay Road, Rochester, New York 14623 applied to be registered as an importer of methylphenidate (1724), a basic class of controlled substance listed in schedule II.

The company plans to import the listed substance solely for updated

analytical testing purposes for EU customer requirements. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: June 13, 2018.

John J. Martin,

Assistant Administrator.

[FR Doc. 2018–13410 Filed 6–21–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP Docket No. 1746]

Meeting of the Public Safety Officer Medal of Valor Review Board

AGENCY: Office of Justice Programs, Bureau of Justice Assistance (BJA), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting (via WebEx/conference call-in) of the Public Safety Officer Medal of Valor Review Board to consider a range of issues of importance to the Board, to include but not limited to: The MOV Charter renewal; Bylaws; membership/terms; nomination eligibility; the conflict of interest policy and procedures; the pending 2016–2017 MOV ceremony; the 2017–2018 nominations, program outreach and marketing efforts; potential updates to the administrative system; and other issues of interest to the Board. The meeting date and time is listed below.

DATES: Tuesday, August 7, 2018, 1:00 p.m. to 2:00 p.m. EST.

ADDRESSES: This meeting will take place via WebEx/conference call-in.

FOR FURTHER INFORMATION CONTACT: Gregory Joy, Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531, by telephone at (202) 514–1369, toll free (866) 859–2687, or by email at *Gregory.joy@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

This meeting/conference call is open to the public at the offices of BJA. For security purposes, members of the public who wish to participate must register at least seven (7) days in advance of the meeting/conference call by contacting Mr. Joy. All interested participants will be required to meet at the Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street NW, Washington, DC, 20531, and will be required to sign in at the front desk. **Note:** Photo identification will be required for admission. Additional identification documents may be required.

Access to the meeting/conference call will not be allowed without prior registration. Anyone requiring special accommodations should contact Mr. Joy at least seven (7) days in advance of the meeting. Please submit any comments or written statements for consideration by the Review Board in writing at least seven (7) days in advance of the meeting date.

Gregory Joy,

Policy Advisor/Designated Federal Officer, Bureau of Justice Assistance.

[FR Doc. 2018–13460 Filed 6–21–18; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of Disability Employment Policy

Proposed Information Collection Request

AGENCY: Department of Labor (DOL).

ACTION: Notice.

SUMMARY: The U.S. Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. 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. Currently, the Office of Disability Employment Policy (ODEP) of the Department of Labor (DOL) is soliciting comments concerning the proposed collection of information for the *Retaining Employment and Talent After Injury/Illness Network (RETAIN) Demonstration Projects and Evaluation.*

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Submit comments on or before August 21, 2018.

ADDRESSES: Submit written comments to the Office of Disability Employment Policy, Room S–1303, 200 Constitution Avenue NW, Washington, DC 20210, Attention: Juston Locks, Workforce Research Analyst, Division of Policy Planning and Research.

Telephone number: (202) 693–7880.

Fax: (202) 693–7888.

Email: locks.juston@dol.gov.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name 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 be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Juston Locks, Workforce Research Analyst, Division of Policy Planning & Research, Office of Disability Employment Policy, U.S. Department of Labor, Room S–1303, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693–7880 (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) 693–7880 (this is not a toll-free number). TTY/TTD callers may dial (202) 693–7881 to obtain information or to request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

In FY 2018, the Department of Labor and the Social Security Administration are collaborating to develop and test promising stay-at-work/return-to-work (SAW/RTW) early intervention strategies and evaluate outcomes for individuals who are at risk of experiencing work disability.[1] Each year, millions of American workers leave the workforce after experiencing

[1] For the purposes of RETAIN, the term ''work disability'' is defined as an illness, injury, or medical condition that has the potential to inhibit or prevent continued employment or labor force participation, and ''federal disability benefits'' refers specifically to the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs. See *https://www.ssa.gov/disability/* for more information on SSDI and SSI.

an injury or illness.[2] The Occupational Safety and Health Administration (OSHA) estimates that 4 million nonfatal work-related injuries and illnesses occur annually, and the National Safety Council (NSC) estimates that there were over 14 million nonfatal, off-the-job injuries and illnesses in 2014 alone.[3] According to NSC, over three times as many injuries requiring medical attention occur off-the-job compared to those that occur on-the-job. Indeed, some experts estimate that non-occupational injuries and illnesses are roughly eight times as common as occupational ones.[4] Hundreds of thousands of these workers go on to receive state or federal disability benefits.[5] The socio-economic impacts of these injuries and illnesses on individuals, employers, and all levels of government can be significant and long-lasting.

SAW/RTW programs succeed by returning injured workers to productive work as soon as medically possible by providing interim part-time or light duty work and accommodations, as necessary. The RETAIN Demonstration Projects are modeled after promising programs currently operating in Washington State, including the Centers of Occupational Health and Education (COHE),[6] the Early Return to Work (ERTW),[7] and the Stay at Work programs.[8] While these programs operate within the state's workers' compensation system and are available only to individuals experiencing work-related injuries or illnesses, the RETAIN Demonstration Projects provide opportunities to improve SAW/RTW outcomes for individuals with both occupational and non-occupational injuries and illnesses.

The primary goals of the RETAIN Demonstration Projects are:

1. To increase employment retention and labor force participation of individuals who acquire, and/or are at risk of developing, work disabilities; and

2. To reduce long-term work disability among project participants, including the need for federal disability benefits (*i.e.,* Social Security Disability Insurance [SSDI] and Supplemental Security Income [SSI]).

The ultimate purpose of the demonstration is to validate and bring to scale evidence-based strategies to accomplish these goals.

By September 2018, up to eight states will receive funding through a cooperative agreement to create systems changes by developing and implementing partnerships and strategies to test the effects of the provision of comprehensive, coordinated health and employment-related services and supports to injured or ill workers who have acquired, or are at risk of developing, a work disability. Awards will be made in two phases. In Phase 1, up to eight states will receive awards to complete start-up activities and launch a small pilot. In Phase 2, up to four of those states will receive awards to scale up their pilot to full implementation. Only Phase 1 awardees will be eligible to compete for Phase 2 awards.

The purpose of the RETAIN employee participant information collection is to understand and assess RETAIN program start-up, pilot projects, and full implementation.

II. Review Focus

DOL is interested in comments that:

- Evaluate whether the proposed collection of information is necessary, and 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.

III. Current Actions

Agency: Department of Labor, Office of Disability Employment Policy.

Title: Retaining Employment and Talent After Injury/Illness Network (RETAIN) Demonstration Projects Baseline Data Collection and Reporting.

Baseline Employee Participant Data Collection

Total Respondents (Employee Participants): 10,667.

Years 1–3 Total Respondents: 4,000 + 16,000 + 12,000 = 32,000.

Average Annual Respondents: 32,000 / 3 = 10,667.

Frequency: Rolling basis.

Average Time per Response: Once pilots are launched and throughout implementation, RETAIN employee participants will spend approximately 20 minutes (0.33 hour) submitting baseline information at the time of enrollment.

Estimated Total Burden Hours: The cumulative hours of burden due to the baseline employee participant data collection is approximately 1,320 hours in the first year (zero hours for the first three quarters and 1,320 in the fourth quarter) and approximately 5,280 hours in the second year and approximately 3,960 hours in the third year. This is an average of 3,520 hours of burden per year.

ESTIMATED HOURS OF BURDEN DUE TO BASELINE PARTICIPANT DATA COLLECTION—YEARS 1–3

Awardee	Employee participants	
	Number of respondents	Hours/ response
State 1	7,000	0.33
State 2	7,000	0.33
State 3	7,000	0.33
State 4	7,000	0.33
State 5	1,000	0.33
State 6	1,000	0.33
State 7	1,000	0.33
State 8	1,000	0.33
Year 1, Qtrs 1–3 Total	0	0
Year 1, Qtr 4 Total	4,000	1,320
*Year 2, Qtrs 1 and 2 Total	4,000	1,320
*Year 2, Qtrs 3 and 4	12,000	3,960
**Year 3	12,000	3,960
Three-year total	32,000	10,560

*Year 2 will include six months of the pilot for eight states and six months of full implementation for the four states competitively selected for Phase 2 awards.

**In Year 3, the full 12 months will focus on full-scale implementation in the four Phase 2 states.

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.

[2] Bardos, Maura, Hannah Burak, and Yonatan Ben-Shalom. ''Assessing the Costs and Benefits of Return-to-Work Programs.'' Final report submitted to the U.S. Department of Labor, Office of Disability Employment Policy. Washington, DC: Mathematica Policy Research, March 2015.

[3] U.S. Department of Labor, Occupational Safety and Health Administration, 2012, ''Injury and Illness Prevention Programs White Paper.'' Available online at <*https://www.osha.gov/dsg/InjuryIllnessPreventionProgramsWhitePaper.html*>. and National Safety Council. 2016, ''Injury Facts, 2016 Edition.'' Itasca, IL: Author.

[4] Neuhauser, F. 2016. ''The Myth of Workplace Injuries: or Why We Should Eliminate Workers' Compensation for 90% of Workers and Employers.'' *IAIABC Perspectives.* Accessed online at *https://www.iaiabc.org/iaiabc/Perspectives.asp.*

[5] Social Security Administration, ''Annual Statistical Report on the Social Security Disability Insurance Program, 2016.'' SSA Publication No. 13–11826. Washington, DC: Social Security Administration, October 2017.

[6] *http://www.lni.wa.gov/ClaimsIns/Providers/ProjResearchComm/OHS/default.asp.*

[7] *http://www.lni.wa.gov/ClaimsIns/Insurance/Injury/LightDuty/Ertw/Default.asp.*

[8] *http://lni.wa.gov/Main/StayAtWork/.*

Comments submitted in response to this Notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Signed: at Washington, DC, this 15th day of June 2018.

Jennifer Sheehy,

Deputy Assistant Secretary, Office of Disability Employment Policy.

[FR Doc. 2018–13437 Filed 6–21–18; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Fair Labor Standards Act Special Employment Provisions

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Wage and Hour Division (WHD) sponsored information collection request (ICR) revision titled, ''Fair Labor Standards Act Special Employment Provisions,'' 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 July 23, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201711-1235-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–WHD, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Fair Labor Standards Act (FLSA) Special Employment Provisions information collection. FLSA special employment provisions relate to restrictions on industrial homework and to the use of special certificates that allow for the employment of categories of workers who may be paid less than the statutory minimum wage to the extent necessary to prevent curtailment of their employment opportunities. This information collection has been classified as a revision, because the Department proposes to revise forms WH–226 (Application for Authority to Employ Workers with Disabilities at Special Minimum Wages) and WH–226A (Supplemental Data Sheet for Application for Authority to Employ Workers with Disabilities at Special Minimum Wages). The proposed changes would provide an electronic platform the public may use to submit Forms WH–226 and WH–226A. The substance of the proposed electronic forms is substantially the same with minor word changes to accommodate the type of submission (electronic versus paper). FLSA sections 11(d) and 14(a) and 14(b) authorize this information collection. *See* 29 U.S.C. 211(d), 214(a), 214(b).

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 1235–0001. The current approval is scheduled to expire on December 31, 2019; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 9, 2016 (82 FR 78861).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1235–0001.

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–WHD.

Title of Collection: Fair Labor Standards Act Special Employment Provisions.

OMB Control Number: 1235–0001.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 336,607.

Total Estimated Number of Responses: 1,345,357.

Total Estimated Annual Time Burden: 693,807 hours.

Total Estimated Annual Other Costs Burden: $2,482.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 18, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–13424 Filed 6–21–18; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Attestation for Employers Seeking To Employ H–2B Nonimmigrant Workers Under Section 543 of the Consolidated Appropriations Act, 2017

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Attestation for Employers Seeking to Employ H–2B Nonimmigrant Workers Under Section 543 of the Consolidated Appropriations Act, 2017,'' 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 July 23, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201802-1205-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Attestation for Employers Seeking to Employ H–2B Nonimmigrant Workers Under Section 543 of the Consolidated Appropriations Act, 2017 information collection. As set forth in the Temporary Rule, *Exercise of Time-Limited Authority to Increase the Fiscal Year 2017 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program,* employers seeking authorization to employ workers under a time-limited authority were required to complete and submit Form ETA–9142–B–CAA. *See* 82 FR 32987 (July 19, 2017) The authority to issue any new visas under the 2017 Act has expired, and employers are no longer permitted to submit the form; however, an employer must still retain records to support its attestation. This ICR revises the collection to remove the filing provisions while retaining the recordkeeping requirements. Consolidated Appropriations Act of 2017 section 543 authorizes this information collection. *See* Public Law 115–31 section 543.

This proposed 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 if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 21, 2017 (82 FR 60629).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0530. 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–ETA.

Title of Collection: Attestation for Employers Seeking to Employ H–2B Nonimmigrant Workers Under Section 543 of the Consolidated Appropriations Act, 2017.

OMB Control Number: 1205–0530.

Affected Public: Private Sector—businesses or other for-profits, not-for-profit institutions, farms.

Total Estimated Number of Respondents: 2,298.

Total Estimated Number of Responses: 2,298.

Total Estimated Annual Time Burden: 2,298 hours.

Total Estimated Annual Other Costs Burden: $104,674.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–13425 Filed 6–21–18; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standard

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 23, 2018.

ADDRESSES: You may submit your comments, identified by ''docket

number'' on the subject line, by any of the following methods:

1. *Email: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (phone), *barron.barbara@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2018–015–C.

Petitioner: Spartan Mining Company, LLC, 500 Lee Street East, Suite 701 (25301), P.O. Box 2548, Charleston, West Virginia 25329.

Mine: Road Fork #52 Mine, MSHA I.D. No. 46–09522, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard as it relates to vertical oil and gas wells at the Road Fork #52 mine. The petitioner states that:

(1) The Road Fork #52 mine extracts coal from the Pocahontas No. 3 coal seam. The Road Fork #52 mine will operate two continuous miner sections producing coal 5 to 6 days per week.

(2) In addition to the horizontal coalbed methane wells, there are many vertical oil and gas wells which exist in the reserve area of the Road Fork #52 mine.

(3) Road Fork #52 mine will employ the continuous mining room and pillar method of mining. It is anticipated that each vertical wellbore will be mined through only once in any seam.

(4) With respect to vertical mines, the petitioner proposes to modify 30 CFR 75.1700 as provided for below. The modifications requested would allow petitioner to mine through vertical wellbores as encountered and whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to § 75.1700 for plugged oil or gas wells penetrating the Pocahontas No. 3 Coal Seam and other mineable coal seams.

(a) The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging and replugging;

(1) A diligent effort will be made to clean the borehole to the original total depth. If this depth cannot be reached, the borehole will be cleaned out to a depth which would permit the placement of at least 200 feet of expanding cement below the base of the lowest mineable coalbed.

(2) When cleaning the borehole, a diligent effort will be made to remove all the casing in the borehole. If it is not possible to remove all casing, the casing which remains will be perforated, or ripped, at intervals spaced close enough to permit expanding cement slurry to infiltrate the annulus between the casing and the borehole wall for a distance of at least 200 feet below the base of the lowest mineable coalbed.

(3) If the cleaned-out borehole produces gas, a mechanical bridge plug will be placed in the borehole in a competent stratum at least 200 feet below the base of the lowest mineable coalbed, but above the top of the uppermost hydrocarbon-producing stratum. If it is not possible to set a mechanical bridge plug, a substantial brush plug may be used in place of the mechanical bridge plug.

(4) Logs will be made consisting of a caliper survey directional deviation survey and logs suitable for determining the top and bottom of the lowest mineable coalbed and potential hydrocarbon producing strata and the location for the bridge plug.

(5) If the uppermost hydrocarbon-producing stratum is within 200 feet of the base of the lowest mineable coalbed, properly placed mechanical bridge plugs or a suitable brush plug, described in subparagraph (a)(3) above, will be used to isolate the hydrocarbon-producing stratum from the expanding cement plug. Nevertheless, a minimum of 200 feet of expanding cement will be placed below the lowest mineable coalbed.

(6) The wellbore will be completely filled and circulated with a gel that inhibits any flow of gas, supports the walls of the borehole, and increases the density of the expanding cement. This gel will be pumped through open-end tubing that extends to approximately 20 feet above the bottom of the cleaned out area of the borehole or bridge plug.

(b) The petitioner proposes to use the following procedures when plugging oil and gas wells to the surface:

(1) A cement plug will be set in the wellbore by pumping an expanding cement slurry down the tubing to displace the gel and fill the borehole to the surface. As an alternative, the cement slurry may be pumped down the tubing so that the borehole is filled with Portland cement or a Portland cement-fly ash mixture from approximately 100 feet above the top of the lowest mineable coalbed to the surface with an expanding cement plug extending from at least 200 feet below the lowest mineable coalbed to the bottom of the Portland cement. There will be at least 200 feet of expanding cement below the base of the lowest mineable coalbed.

(2) A small quantity of steel turnings, or other small magnetic particles, will be embedded in the top of the cement near the surface to serve as a permanent magnetic monument of the borehole.

(c) The petitioner proposes the following procedures when using the vent pipe method for plugging oil and gas wells:

(1) A 4½-inch or larger vent pipe will be run into the wellbore to a depth of 100 feet below the lowest mineable coalbed and wedged to a small diameter pipe, if needed, which will extend to approximately 20 feet above the bottom of the cleaned out area of the borehole or bridge plug.

(2) A cement plug will be set in the wellbore by pumping an expanding

cement slurry, Portland cement, or a Portland cement-fly ash mixture down the tubing to displace the gel so that the borehole is filled with cement. The borehole and the vent pipe will be filled with expanding cement to a minimum of 200 feet below the base of the lowest mineable coalbed. The top of the expanding cement will extend upward to approximately 100 feet above the top of the lowest mineable coalbed.

(3) All fluid will be evacuated from the vent pipe to facilitate testing for gases. During the evacuation of fluid, the expanding cement will not be disturbed.

(4) The top of the vent pipe will be protected to prevent liquids or solids from entering the wellbore, but permit ready access to the full internal diameter of the vent pipe when necessary.

(d) The petitioner proposes to use the following procedures when plugging oil or gas wells for subsequent use as degasification boreholes:

(1) A cement plug will be set in the wellbore by pumping an expanding cement slurry down the tubing to displace the gel and provide at least 200 feet of expanding cement below the lowest mineable coalbed. The top of the expanding cement will extend upward to about the top of the coalbed being mined. This distance will be based on the average height of the roof strata breakage for the mine.

(2) To facilitate methane drainage, degasification casing of suitable diameter, slotted or perforated throughout its lower 150 to 200 feet, will be set in the borehole to a point 10 to 30 feet above the top of the expanding cement.

(3) The annulus between the degasification casing and the borehole wall will be cemented from a point immediately above the slots or perforations to the surface.

(4) The degasification casing will be cleaned out for its total length.

(5) The top of the degasification casing will be fitted with a wellhead equipped as required by the DM. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(e) The petitioner proposes to use the well plugging procedures described above and the cut-through procedures described below whenever the petitioner reduces the safety barrier diameter to a distance less than the DM would approve pursuant to § 75.1700, or proceeds with an intent to cut-through a plugged well.

(1) The petitioner will notify the DM or his designee prior to reducing the safety barrier to a distance less than the DM would approve pursuant to § 75.1700 or proceeding with an intent to cut through a plugged well.

(2) Mining through a plugged well will be done on a shift approved by the DM or designee.

(3) Prior to mining through a plugged well, the petitioner will notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(4) Drivage sites will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. The drivage sites will not be more than 50 feet from the well.

(5) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mining-through will be available when either the conventional or continuous mining method is used. The fire hose will be located in the last open crosscut of the entry or room. All fire hoses will be ready for operation during the mining-through.

(6) Sufficient supplies of roof support and ventilation materials will be available and located at the last open crosscut. In addition, an emergency plug and/or plugs will be available in the immediate area of the mine-through.

(7) At least the quantity of air required by the approved mine ventilation plan, but not less than 6,000 cubic feet per minute for scrubber equipped continuous miners or not less than 9,000 cubic feet per minute for continuous miner sections using auxiliary fans or line brattice only, will be used to ventilate the working face during the mining- through operation.

(8) Equipment will be checked for permissibility and serviced on the shift prior to mining-through the well and the water line maintained to the tail piece with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(9) The methane monitor on the continuous mining machine will be calibrated on the shift prior to mining-through the well.

(10) When mining is in progress, tests for methane will be made with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through. During the actual cutting through process, no individual will be allowed on the return side until mining-through has been completed and the area has been examined and declared safe.

(11) The working place will be free from accumulations of coal dust and coal spillages, and rock dust will be placed on the roof, rib and floor within 20 feet of the face when mining through or near the well on the shift or shifts during which the cut-through will occur.

(12) When the wellbore is intersected, all equipment will be deenergized and the place thoroughly examined and determined safe before mining is resumed. Any well casing will be removed and no open flames will be permitted in the area until adequate ventilation has been established around the wellbore.

(13) After a well has been intersected and the working place determined safe, mining will continue inby the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

(14) No person will be permitted in the area of the mining-through operation except those actually engaged in the operation, company personnel, representatives of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(15) The mining-through operation will be under the direct supervision of a certified official. Instructions concerning the mining-through operation will be issued only by the certified official in charge.

(16) MSHA personnel may interrupt or halt the mining-through operation when it is necessary for the safety of the miners.

(17) A copy of the petition will be maintained at the mine and be available to the miners.

(18) The petitioner will file a plugging affidavit setting forth the persons who participated in the work, a description of the plugging work, and certification by the petitioner that the well has been plugged as described.

(19) Within 60 days after the proposed decision and order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the DM. These proposed revisions will include initial and refresher training regarding compliance with the terms and conditions in the PDO.

(f) Prior to mining through a vertical wellbore of a well, in addition to complying with the modifications described above, the petitioner will verify that the following procedures have been performed on the well:

(1) If water is present, it will be bailed from the vertical section of the wellbore, as close to the coal seam elevation as practical using normal bailing equipment.

(2) The surface wellhead will be maintained open to bring the vertical section of the wellbore to outside atmospheric pressure.

(g) In addition, the petitioner proposes to do the following:

(1) Install drivage sites within 80 feet of the mine-through point.

(2) Provide firefighting equipment near the working face, including two 10—pound fire extinguishers, 240 pounds of rock dust, and fire hose of sufficient length to reach the working face and capable of delivering at least 50 gallons per minute of water at minimum pressure of 50 pounds per square inch.

(3) Supply a quantity of at least 9,000 CFM of intake air at the face, but no less than the approved ventilation plan amount, of intake air at the face.

(4) Calibrate the continuous miner methane monitor on one of the five production shifts prior to the shift during which the mine-through is anticipated.

(5) Test for methane with a hand-held methane detector at least every 10 minutes during the time mining is conducted within 30 feet of the wellbore.

(6) Deenergize all equipment and thoroughly examine the area when the wellbore is intersected.

(7) Continue hand-held methane detector tests at least every 10 minutes during production shifts until mining has progressed 20 feet past the initial mine-through point once the area has been determined to be safe and mining has resumed.

(h) Only company personnel, personnel from MSHA, and personnel from the appropriate West Virginia agency will be permitted in the area of the mine-through operation.

(i) The mine-through operation will be under the direct supervision of the certified official. Instructions concerning the mine-through operation will be issued only by a certified official.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection from the potential hazards against which the existing standard was intended to guard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2018–13396 Filed 6–21–18; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. 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. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Rehabilitation Maintenance Certificate (OWCP–17). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before August 21, 2018.

ADDRESSES: You may submit comments by mail, delivery service, or by hand to Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210; by fax to (202) 354–9647; or by Email to *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) and the Longshore and Harbor Workers' Compensation Act (LHWCA). These acts provide vocational rehabilitation services to eligible workers with disabilities. 5 U.S.C. 8111(b) of the FECA provides that OWCP may pay an individual undergoing vocational rehabilitation a maintenance allowance, not to exceed $200 a month. 33 U.S.C. 908(g) of the LHWCA provide that person(s) undergoing such vocational rehabilitation shall receive maintenance allowances as additional compensation. Form OWCP–17 is used to collect information necessary to determine the amount of any maintenance allowance to be paid. This information collection is currently approved for use through November 30, 2018.

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;

* 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 submissions of responses.

III. Current Actions: The Department of Labor seeks the approval for the extension of this currently approved information collection in order to carry out its responsibility to assure payment of compensation benefits to injured workers at the proper rate.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Rehabilitation Maintenance Certificate.

OMB Number: 1240–0012.

Agency Number: OWCP–17.

Affected Public: Individuals or households.

Total Respondents: 370.

Total Annual Responses: 3,452.

Average Time per Response: 10 minutes.

Estimated Total Burden Hours: 575.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $1,830.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 18, 2018.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, US Department of Labor.

[FR Doc. 2018–13438 Filed 6–21–18; 8:45 am]

BILLING CODE 4510–CR–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8943–MLA; ASLBP No. 07–859–03–MLA–BD01]

Crow Butte Resources, Inc. (North Trend Expansion Project); Notice of Atomic Safety and Licensing Board Reconstitution

Pursuant to 10 CFR 2.313(c) and 2.321(b), the Atomic Safety and Licensing Board in the above-captioned *North Trend Expansion Project* license amendment proceeding is hereby reconstituted as follows: Administrative Judge Richard E. Wardwell is appointed to serve in place of Administrative Judge Frederick W. Oliver, who will retire at the end of this month; and Administrative Judge Nicholas G. Trikouros is appointed to serve in place of Administrative Judge Richard F. Cole, who passed away in December 2014.[1]

All correspondence, documents, and other materials shall continue to be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302 *et seq.*

Rockville, Maryland, June 18, 2018.

Edward R. Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2018–13387 Filed 6–21–18; 8:45 am]

BILLING CODE 7590–01–P

[1] Only two judges have been sitting on this Licensing Board since Judge Cole's passing. This Notice restores the number of sitting judges to three.

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0114]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Correction

In Notice document 2018–12506 beginning on page 28456 in the issue of Tuesday, June 19, 2018, make the following correction:

On page 28464, in the second column, the seventh and eighth paragraphs should read as follows:

''Date of amendment request: April 13, 2018. A publicly-available version is in ADAMS under Accession No. ML18103A252.

Description of amendment request: The amendment request proposes to change Technical Specifications (TSs) Limiting Condition for Operation 3.5.5 to not require the Passive Residual Heat Removal Heat Exchanger to be operable in Mode 5 during vacuum fill operations. Additionally, the requested amendment proposes to change Surveillance Requirement (SR) 3.5.7.1 regarding operability requirements for the In-containment Refueling Water Storage Tank and associated flow paths and proposes to add an additional SR 3.5.7.2 to address operability requirements that are not required during vacuum fill operations. Finally, the requested amendment proposes conforming changes to the Updated Final Safety Analysis Report, Appendix 19E, Subsection 2.3.2.4.''

[FR Doc. C1–2018–12506 Filed 6–21–18; 8:45 am]

BILLING CODE 1301–00–D

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4; Improvements to Main Control Room Post-Accident Radiological Consequences

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic AP1000 design control document (DCD) and is issuing License Amendment Nos. 123 and 122 to Combined Licenses (COL), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (the licensee); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information that is requested in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on April 20, 2018.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC dockets to Jennifer Borges; 301–287–9127; email: *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 access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced. The request for the amendment and exemption was submitted by letter dated August 31, 2017 (ADAMS Accession No. ML17243A352) and supplemented by letters dated February 9, 2018 and March 8, 2018 (ADAMS Accession Nos. ML18040A488 and ML18067A648).
- *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: Paul Kallan, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2809; email: *Paul.Kallan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NRC is granting exemptions from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR) and issuing License Amendment Nos. 123 and 122 to COLs, NPF–91 and NPF–92,

respectively, to the licensee. The exemptions are required by paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' appendix D, to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. With the requested amendment, the licensee proposes to departs from Tier 2 information in the Updated Final Safety Analysis Report (which includes the plant-specific Design Control Document (DCD) Tier 2 information) and involves related changes to plant-specific Tier 1 (and associated COL Appendix C) information, and COL Appendix A Technical Specifications. Specifically, the amendment changes the plant-specific nuclear island non-radioactive ventilation system, the main control room emergency habitability system, and post-accident operator dose analyses. These changes maintain compliance with General Design Criterion (19), which requires that main control room personnel dose does not exceed 5 roentgen equivalent man (rem) total effective dose equivalent for the duration of a design basis accident.

Part of the justification for granting the exemptions was provided by the review of the amendments. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemptions and issued the amendments concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemptions met all applicable regulatory criteria set forth in 10 CFR 50.12, 10 CFR 52.7, and Section VIII.A.4 of appendix D to 10 CFR part 52. The license amendments were found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML18085A628.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML18085A622 and ML18085A623, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML18085A624 and ML18085A626, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP, Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated August 31, 2017, and supplemented by letters dated February 9, 2018, and March 8, 2018, the licensee requested from the Commission an exemption from the provisions of 10 CFR part 52, appendix D, section III.B, as part of license amendment request (LAR) 17–023, ''Improvements to Main Control Room Post-Accident Radiological Consequences.''

For the reasons set forth in Section 3.1, ''Evaluation of Exemption,'' of the NRC staff's safety evaluation, which can be found in ADAMS under Accession No. ML18085A628, the Commission finds that:

A. The exemption is authorized by law;

B. The exemption presents no undue risk to public health and safety;

C. The exemption is consistent with the common defense and security;

D. Special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. The special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. The exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined Licenses as described in the licensee's request dated August 31, 2017, as supplemented by letters dated February 9, 2018, and March 8, 2018. This exemption is related to, and necessary for, the granting of License Amendment Nos. 123 and 122, which is being issued concurrently with this exemption.

3. As explained in Section 5.0, ''Environmental Consideration,'' of the NRC staff's safety evaluation (ADAMS Accession No. ML18085A628), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. These exemptions are effective as of the date of its issuance.

III. License Amendment Request

By letter dated August 31, 2017, and supplemented by letters dated February 9, 2018, and March 8, 2018, the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on October 24, 2017 (82 FR 49234). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on August 31, 2017, and supplemented on February 9, 2018 and March 8, 2018.

The exemptions and amendments were issued on April 20, 2018, as part of a combined package to the licensee (ADAMS Accession No. ML18085A620).

Dated at Rockville, Maryland, this 19th day of June 2018.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Licensing Branch 4, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.

[FR Doc. 2018–13404 Filed 6–21–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018–253; CP2018–254]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 25, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service has filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The requests(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2018–253; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 9 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 15, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Matthew R. Ashford; *Comments Due:* June 25, 2018.

2. *Docket No(s).:* CP2018–254; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1D Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 15, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Matthew R. Ashford; *Comments Due:* June 25, 2018.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–13382 Filed 6–21–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83456; File No. SR–LCH SA–2018–003]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Liquidity Risk Management

June 18, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 4, 2018, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (the ''Proposed Rule Change'') described in Items I, II and III below, which Items have been primarily prepared by LCH SA. The Commission is publishing this notice to solicit comments on the Proposed Rule Change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

LCH SA is proposing to amend its Risk Management Procedures (the ''Procedures'') to adopt a Liquidity Risk Modelling Framework (the ''Framework''), which describes the Liquidity Stress Testing framework by which the Collateral and Liquidity Risk Management department (''CaLRM'') of LCH Group Holdings Limited (''LCH Group'') assures that LCH SA has enough cash available to meet any financial obligations, both expected and unexpected, that may arise over the liquidation period for each of the clearing services that LCH SA offers.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

LCH SA currently maintains a number of well-developed policies and procedures designed to manage its

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] LCH SA, a wholly owned subsidiary of LCH Group, manages its liquidity risk pursuant to, among other policies and procedures, the Group Liquidity Risk Policy and the Group Liquidity Plan applicable to each entity within LCH Group.

In addition to its CDSClear service, LCH SA provides clearing services in connection with cash equities and derivatives listed for trading on Euronext (EquityClear), commodity derivatives listed for trading on Euronext (CommodityClear), and tri-party Repo transactions (RepoClear).

liquidity risk, *i.e.,* the risk that LCH SA will not have enough cash available, in extreme but plausible circumstances, to settle margin payments or delivery obligations when they become due, in particular upon the default of a clearing member. Such policies and procedures include, among others: (i) The Group Liquidity Risk Policy; (ii) the Group Liquidity Plan; (iii) the Group Financial Resource Adequacy Plan; (iv) the Group Collateral Risk Policy; (v) the Group Investment Risk Policy; and (vi) the LCH SA Collateral Control Framework. As described below, the proposed Framework would complement these existing policies and procedures and develop further the Group Liquidity Risk Policy.

In brief, the Framework: (i) Identifies LCH SA's sources of liquidity and corresponding liquidity risks; (ii) identifies LCH SA's liquidity requirements with respect to its members and its interoperable central counterparty (''CCP'');[4] (iii) describes the metrics and limits that LCH SA monitors; and (iv) describes the scenarios under which these metrics are computed.

The proposed Framework first identifies the main sources of liquidity available to LCH SA, cash and non-cash collateral, and assigns non-cash collateral to one of three tiers.[5] Tier 1 assets are limited to those securities that are deemed to be of sufficient quality and demand to generate liquidity at little or no loss in the event of a default of a clearing member or a major market stress. LCH SA is able to pledge these securities to the Banque de France to generate cash on the same day. Only Tier 1 assets are included as liquidity resources in liquidity stress testing.[6]

The proposed Framework then highlights the three principal events under which LCH SA would require liquidity: (i) The default of one or more clearing members; (ii) the default of CC&G; and (iii) operational liquidity needs (each defined below).

The proposed Framework also examines liquidity needs arising from members' defaults, liquidity needs arising from an interoperating central counterparty's default (currently CC&G), and the manner in which operational liquidity requirements are determined. Liquidity needs arising from members' defaults are those needs arising from fulfilment of the settlement of the securities of the defaulted clearing member; posting of variation margin to non-defaulting members on the positions held by the defaulted clearing member(s); the value of bonds pledged at the Banque de France; haircuts by the European Central Bank on securities posted by the defaulting Clearing Member; and investment losses. Liquidity needs arising from interoperating CCPs' defaults are those needs arising from the service closure of the Italian Clearing activity (*e.g.* reimbursement of the margins and default funds related to the Italian clearing activity, cash settlement of the Italian repo positions). Operational liquidity is defined as the amount of liquidity that LCH SA is required to hold to satisfy liquidity needs related to the operational management of LCH SA in a stressed environment that does not lead to a member's default. Such liquidity requirements arise from a number of factors, including the need to repay excess cash posted by members, the need to repay margin when margin requirements are reduced, and the substitution of cash collateral and European Central Bank eligible securities.

The proposed Framework next describes the metrics used to determine LCH SA's liquidity needs that are calculated each day over a five-day period. Such metrics include: (i) The liquidity coverage ratio; (ii) a monthly rolling average liquidity buffer; (iii) a daily minimum liquidity buffer; and (iv) required cash collateral.

With respect to the liquidity coverage ratio, the proposed Framework explains how the liquidity coverage ratio is determined for each of the clearing services that LCH SA offers in a Cover 2 scenario, *i.e.,* the liquidity risk arising from the default of at least two clearing group members to which LCH SA has the largest exposures during the 5 days following default. The Cover 2 amount is computed by aggregating the liquidity risks related to clearing members within the same group across all of LCH SA's services. The two largest group members are chosen according to the liquidity needs related to these members. The liquidity requirements are generated by three risk drivers: The settlement risk, market risk and the ECB haircut. For the CDSClear service, LCH SA determines the liquidity risk by considering variation margin modelled at member level by applying the most punitive CDS spread widening stress scenario for both ITraxx Main and CrossOver (currently the historical scenario considering the 2007 crisis). The Framework focuses on the principal risks for which LCH SA must assure that it has sufficient liquidity.

Finally, the Framework describes the reverse stress test that LCH SA runs at least quarterly. The reverse stress test is designed to help determine the limits of the models and of the liquidity risk management framework by modelling extreme market conditions that go beyond what are considered plausible market conditions over a 5-day time horizon. LCH SA stresses seven risk factors independently, and also considers these risk factors together in two combined reverse stress test scenarios, the Behavioural and Macro-economic.

2. Statutory Basis

LCH SA has determined that the Proposed Rule Change is consistent with the requirements of Section 17A of the Act[7] and regulations thereunder applicable to it. The Framework implements the provisions of Section 17A(b)(3)(F) of the Act,[8] which require, *inter alia,* that the rules of a clearing agency ''assure the safeguarding of securities and funds that are in its custody or control or for which it is responsible.'' Further, Regulation 17dA–22(e) requires a clearing agency to maintain and enforce written policies and procedures reasonably designed to ''measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency.''[9] Consistent with these provisions, the Framework assures that the clearing agency maintains sufficient liquid resources to effect the settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios.[10]

[4] LCH SA has an interoperability agreement with Cassa di Compensazione e Garanzia (''CC&G''), an Italian CCP, pursuant to which LCH SA's clearing members and CC&G's clearing members are able to benefit from common clearing services without having to join the other CCP. Each CCP is a clearing member of the other one with a particular status when accessing the clearing system of the other counterparty.

[5] Securities comprising non-cash collateral are comprised of the following components: (i) Margin collateral, *i.e.,* non-cash collateral pledged by clearing members for margin cover; (ii) Collateral and Liquidity Management (''CaLM'') collateral, *i.e.,* direct securities holdings that are part of the CaLM's investment activities; and (iii) clearing settlement collateral, *i.e.,* collateral resulting from the physical settlement of contracts on behalf of a defaulting clearing member.

[6] Tier 2 assets are those securities that have a market and may be financed but are of lesser quality than Tier 1 assets. Tier 3 assets are deemed to have little or no liquidity value in the event of a default or major market stress or are deemed to be too illiquid to be converted in the timeframe that a CCP would require.

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(e)(7).

[10] The proposed Framework is also consistent with LCH SA's obligations under the European Markets Infrastructure Regulation (''EMIR''); Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade reporting.

In particular, EMIR Article 44 provides, in part:

Continued

B. Clearing Agency's Statement on Burden on Competition

LCH SA does not believe the Proposed Rule Change would have any impact, or impose any burden, on competition. The Proposed Rule Change does not address any competitive issue or have any impact on the competition among central counterparties. LCH SA operates an open access model, and the Proposed Rule Change will have no effect on this model.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the Proposed Rule Change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LCH SA–2018–003 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–LCH SA–2018–003. 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 such filings will also be available for inspection and copying at the principal office of LCH SA and on LCH SA's website at *http://www.lch.com/asset-classes/cdsclear.*

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–LCH SA–2018–003 and should be submitted on or before July 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13378 Filed 6–21–18; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

"A CCP shall at all times have access to adequate liquidity to perform its services and activities. . . . A CCP shall measure, on a daily basis, its potential liquidity needs [taking] into account the liquidity risk generated by the default of at least the two clearing members to which it has the largest exposures."

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83458; File No. SR–Phlx–2018–47]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 1101A, Terms of Option Contracts

June 18, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2018, Nasdaq PHLX LLC ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1101A, Terms of Option Contracts.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt new Commentary .06 to Exchange Rules 1101A, to codify that the Exchange will defer to The Options Clearing Corporation ("OCC") in determining settlement prices for index options when OCC elects to do so in accordance with its own rules and bylaws. Such OCC-determined settlement prices may be determined in a manner that differs from the settlement price procedures under the Exchange's own rules.

Exchange Rule 1101A(d) currently states that the Rules of the Options Clearing Corporation specify that, unless the Rules of the Exchange provide otherwise, the current index

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

value used to settle the exercise of an index options contract shall be the closing index value for the day on which the index options contract is exercised in accordance with the Rules of the Options Clearing Corporation or, if such day is not a business day, for the most recent business day. Exchange Rule 1101A(e) currently states that the current index value at the expiration of an A.M.-settled index option shall be determined, for all purposes under Exchange rules and OCC rules, on the last day of trading in the underlying securities prior to expiration, by reference to the reported level of such index as derived from first reported sale (opening) prices of the underlying securities on such day, *except* that in the event that the primary market for an underlying security is open for trading on that day, but that particular security does not open for trading on that day, the price of that security, for the purposes of calculating the current index value at expiration, shall be the last reported sale price of the security.

The Exchange proposes to add new Commentary .06 to Rule 1101A to make clear that the Exchange's settlement price procedures shall not be used if the current index value at expiration is fixed in accordance with OCC rules and by-laws. This language recognizes that OCC is authorized under its rules and by-laws to take certain actions relating to settlement in the event of the unavailability or inaccuracy of the current underlying interest value.[3] An option holder's contract with OCC is governed by OCC rules and by-laws. The proposed language makes clear that Exchange rules concerning settlement value calculation would *not* apply in the event that OCC exercises its authority to determine settlement prices under OCC rules and by-laws. In that case, the Exchange would defer to OCC.

Proposed Rule 1101A Commentary .06 is based in part upon Chapter XIV, Section 10(g) of the Nasdaq rulebook, Chapter XIV, Section 10(g) of the BX rulebook, and ISE Rule 2008(g).[4]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] 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.

OCC may elect to use various procedures in the event it exercises its authority to set settlement prices.[7] By adopting the proposed rule, the Exchange would acknowledge clearly that OCC may, under its rules and by-laws, establish settlement prices for expiring index options that may differ from the settlement prices that would otherwise be provided for in Exchange rules, thereby protecting investors and the public interest by reducing potential for confusion in that regard.

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. On the contrary, the Exchange believes that the proposed amendment will benefit investors, market participants, and the marketplace in general by stating that the Exchange will defer to OCC in the determination of settlement prices when and if OCC exercises its authority under its own settlement price procedures in accordance with its rules and by-laws.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing to immediately eliminate any perceived conflict between the Exchange's settlement price rules and OCC's rules and by-laws regarding the establishment of settlement prices. The Exchange noted that the proliferation of expiration dates resulting from new index option weekly listings has increased the possibility that unforeseen events may occur on an expiration date, thereby necessitating that OCC determine settlement prices. As such, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change operative upon filing.[13]

[3] *See* OCC By-Laws Article XVII, Section 4(a), which provides in relevant part that if OCC shall determine that the primary market for one or more index components did not open or remain open for trading (or that any such components did not open or remain open for trading on such market(s)) on a trading day at or before the time when the current index value for that trading day would ordinarily be determined, or that a current index value or other value or price to be used as, or to determine, the exercise settlement amount (a ''required value'') for a trading day is otherwise unreported, inaccurate, unreliable, unavailable or inappropriate for purposes of calculating the exercise settlement amount, then, in addition to any other actions that OCC may be entitled to take under OCC's bylaws and rules, the OCC is empowered to take any or all of a range of permitted actions with respect to any series of options on such index, including fixing the exercise settlement amount.

[4] These rules generally provide that the exchanges' settlement price rules will not apply when the settlement price is determined in accordance with OCC rules and bylaws.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] OCC By-Laws Article XVII, Section 4(a)(2) provides in relevant part that if OCC elects to exercise its authority under Section 4(a), it may, among other actions, fix the exercise settlement amount using the reported price or value for the relevant security(ies), at the close of regular trading hours on the last preceding trading day for which such a price or value was reported by the reporting authority. Section 4(a)(2) provides that OCC may elect instead to fix the exercise settlement amount using other prices, such as the reported price or value for the relevant security(ies) at the opening of regular trading hours on the next trading day for which such an opening price or value is reported by the reporting authority.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] In addition, Rule 19b–4(f)(6)(iii) 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay, the Commission has considered the proposed

Continued

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) of the Act [14] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–47 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–Phlx–2018–47. 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 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–Phlx–2018–47, and should be submitted on or before July 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13380 Filed 6–21–18; 8:45 am]

BILLING CODE 8011–01–P

rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83457; File No. SR–FICC–2018–004]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Introduce a Floor to the Calculation of the Fails Charges and Make Other Changes

June 18, 2018.

On May 8, 2018, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2018–004, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on May 17, 2018.[3] The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission approves the proposed rule change.

I. Description of the Proposed Rule Change

The proposed rule change would update FICC's Government Securities Division (''GSD'') Rulebook (''GSD Rules'') and FICC's Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules'') [4] to (i) introduce a floor of one percent to the calculation of the existing fails charge rules, (ii) clarify the target rate that may be used in the fails charge calculations under certain circumstances, and (iii) make certain technical changes to the fails charge provisions to ensure consistent use of defined terms.[5] The proposed rule change would also update the MBSD Rules to clarify that a cap applies to the MBSD fails charge.[6] Each of these proposed changes are described below.

A. Proposed One Percent Floor

In a securities transaction, a settlement fail occurs when the seller does not deliver the securities to the buyer on the agreed upon settlement date. FICC states that although settlement fails are generally not treated as contractual default events, provided that the failing seller delivers the securities soon after the settlement date, persistent elevated levels of settlement fails create market inefficiencies and increase credit risk for market participants.[7]

To help mitigate settlement fails, FICC maintains a fails charge in both the GSD Rules and the MBSD Rules.[8] However, FICC states that under the current GSD Rules and MBSD Rules, the respective fails charge calculations could result in a zero charge.[9] Specifically, under the GSD version of the current fails charge, if the federal funds target rate would rise to three percent, then the calculation of the charge would result in a zero charge.[10] Similarly, under the MBSD version of the current fails charge, if the federal funds target rate would rise to two percent, then the calculation of the charge would result in a zero charge.[11] To address this issue, FICC proposes to amend the GSD Rules and the MBSD Rules to add a one percent floor to the respective GSD and MBSD fails charge calculations.[12]

FICC's proposal comes in response to a recent announcement by the Treasury Market Practices Group (''TMPG''),[13] in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83222 (May 11, 2018), 83 FR 23032 (May 17, 2018) (SR–FICC–2018–004) (''Notice'').

[4] The GSD Rules and the MBSD Rules are *available at http://www.dtcc.com/legal/rules-and-procedures.*

[5] Notice, 83 FR at 23032–34.

[6] *Id.*

[7] *See* Notice, 83 FR at 23033. *See also Frequently Asked Questions: TMPG Fails Charges* (April 23, 2018) at 1, *available at https://www.newyorkfed.org/medialibrary/microsites/tmpg/files/TMPG-Fails-Charge-FAQ-04-23-2018.pdf (''FAQ'').*

[8] GSD Rule 11; MBSD Rule 12, *supra* note 4.

[9] *Id.;* Notice, 83 FR at 23034.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] The TMPG was formed in 2007, under the sponsorship of the Federal Reserve Bank of New York, to help address settlement fails and other issues affecting the U.S. Government debt and mortgage-backed securities markets. *The Treasury Market Practices Group: Creation and Early Initiatives* (August 2017) at 3, *available at https://*

which the TMPG proposed the same change to its recommended best practices to help ensure that there is always a minimum fails charge amount.[14] The TMPG states that its recommendation of a one percent floor is driven by the concern that market participants would discontinue their fails charge operational processes in a prolonged zero charge scenario.[15] Adding the one percent floor would help maintain a fails charge during elevated federal funds target rate levels, and thereby help ensure that market participants do not discontinue their fails charge operational processes.[16]

FICC states that as one of the largest participants in U.S. Government securities market, it is imperative that FICC implement the TMPG's recommendation to help maintain consistency and symmetry within the market.[17]

B. Federal Funds Level Target Range Clarification

Pursuant to TMPG guidelines, if the Federal Open Market Committee (''FOMC'') specifies a target range in lieu of a target level, the lower limit of the target range announced by the FOMC would be used in the calculation of the fails charge.[18] Further, if the FOMC were to terminate its policy of specifying or announcing a federal funds rate target level or range, then the rate used to calculate the fails charge would be a successor rate and source recommended by the TMPG.[19]

While FICC states that it would follow the TMPG guidelines in this regard,[20] this practice is currently not stated in the fails charge rule provisions in each of the GSD Rules and the MBSD Rules. Therefore, FICC proposes to update the relevant provisions to reflect that FICC would follow this practice if those circumstances arose.[21] Additionally, FICC proposes to add defined terms for ''FOMC'' and ''TMPG'' in each of GSD Rule 1 and MBSD Rule 1.[22]

C. Technical Changes

FICC proposes to make a technical change regarding references to the federal funds rate in the fails charge calculation in both the GSD Rules and the MBSD Rules. Specifically, FICC would replace current term ''Target Fed funds target rate'' in Section 14 of GSD Rule 11 and the current term ''fed funds target rate'' in MBSD Rule 12 with the new term ''target level for the federal funds rate,'' which is the term used by the TMPG in its guidance.[23] FICC states that this non-substantive change would enhance clarity across the GSD Rules and MBSD Rules and enhance consistency with the TMPG guidance.[24]

FICC also proposes to amend certain terms in the fails charge provisions of both the GSD Rules and MBSD Rules in order to use defined terms and to enhance clarity and consistency within the rules. Specifically, in GSD Rule 11, Section 14, and in MBSD Rule 12, FICC would replace the term ''Fedwire'' with the defined term ''FedWire.'' [25] In MBSD Rule 12, FICC would replace each reference to the terms ''pool delivery obligation'' and ''pool deliver obligation'' with the defined term ''Pool Deliver Obligation.'' [26] In MBSD Rule 12, FICC would capitalize the word ''contractual'' in the term ''contractual Settlement Date.'' [27] Finally, FICC would replace the term ''business day'' with the capitalized and defined term ''Business Day.'' [28]

D. MBSD Fails Charge Cap Clarification

While the GSD Rules expressly set forth the fails charge cap (*i.e.,* three percent per annum), the MBSD Rules currently do not.[29] The MBSD fails charge cap follows the same convention as the GSD fails charge cap, which is the percentage that is applied to the target federal funds rate.[30] For MBSD, this cap is two percent per annum.[31] FICC proposes to clarify the MBSD fails charge provision by adding language regarding the two percent per annum cap on the fails charge.[32]

E. Implementation Timeframe

FICC proposes to implement the proposed changes on July 2, 2018.[33] FICC states that it would announce such implementation date by Important Notice.[34]

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization.[35] The Commission believes the proposal is consistent with Act, specifically Section 17A(b)(3)(F) of the Act [36] and Rule 17Ad–22(e)(23)(ii) [37] under the Act.

A. Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency, such as FICC, be designed to promote the prompt and accurate clearance and settlement of securities transactions.[38]

As discussed above, the proposed rule change would update both the GSD Rules and the MBSD Rules of FICC to add a one percent floor to the respective GSD and MBSD fails charge calculations. In the absence of such a floor, during periods of elevated target levels for the federal funds rate, the current GSD and MBSD fails charge calculations could result in a zero charge to a seller that fails to deliver securities to a buyer promptly.

As discussed above, persistent elevated levels of settlement fails can create market inefficiencies and increase credit risk for market participants, which could negatively affect the prompt and accurate clearance and settlement of securities transactions. Fails charges are designed to address such negative effects by encouraging market participants to complete their securities settlement obligations promptly.

FICC's proposal to implement a one percent floor to the fails charge calculations would advance FICC's efforts to discourage settlement fails by ensuring that the fails charge calculation would not produce a zero charge, particularly during periods of elevated target levels for the federal funds rate. In turn, ensuring that the respective

www.newyorkfed.org/medialibrary/media/research/staff_reports/sr822.pdf. The TMPG is a group of market professionals that periodically issues recommended trading practices for market participants. *Id.*

[14] *See* Press Release, Federal Reserve Bank of New York, *Treasury Market Practices Group Seeks Public Comment on Proposed Updates to its Fails Charge Practice Recommendation* (February 28, 2018), *available at https://www.newyorkfed.org/medialibrary/Microsites/tmpg/files/PressRelease_022818*.

[15] *Id.*

[16] *Id.*

[17] Notice, 83 FR at 23034.

[18] *U.S. Treasury Securities: Fails Charge Trading Practice* (July 13, 2016) at 3, *available at https://www.newyorkfed.org/medialibrary/microsites/tmpg/files/Fails-Charge-Trading-Practice-2016-07-13.pdf* (''Fails Charge Trading Practice'').

[19] *Id.*

[20] Notice, 83 FR at 23034.

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] GSD Rule 11; MBSD Rule 12, *supra* note 4.

[30] *Id.*

[31] MBSD Rule 12, *supra* note 4.

[32] Notice, 83 FR at 23034.

[33] *Id.*

[34] *Id.*

[35] 15 U.S.C. 78s(b)(2)(C).

[36] 15 U.S.C. 78q–1(b)(3)(F).

[37] 17 CFR 240.17Ad–22(e)(23)(ii).

[38] 15 U.S.C. 78q–1(b)(3)(F).

GSD and MBSD fails charge calculations do not produce a zero charge would encourage market participants to maintain their fails charge operational processes. Accordingly, the Commission finds that the proposed rule change is designed to help ensure that settlement in the applicable markets covered by FICC's processes occurs on a timely basis, and thereby promotes the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[39]

B. Rule 17Ad–22(e)(23)(ii) Under the Act

Rule 17Ad–22(e)(23)(ii) under the Act requires each covered clearing agency[40] to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency.[41]

As discussed above, the proposed rule change would update both the GSD Rules and the MBSD Rules to clarify the target rate that may be used in the fails charge calculations under certain circumstances and make certain technical changes to the fails charge provisions to ensure consistent use of defined terms. The proposed rule change also would update the MBSD Rules to clarify that a cap applies to the MBSD fails charge.

These clarifications are designed help ensure that the GSD and MBSD fails charges are transparent and clear to market participants. Increasing transparency and clarity around these charges would help market participants better understand the operation of the fails charges, and thereby provide market participants with increased predictability and certainty regarding their obligations to FICC. Accordingly, the Commission finds that the proposed rule change would help establish, implement, and maintain FICC's rules in a manner reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in FICC, consistent with Rule 17Ad–22(e)(23)(ii) under the Act.[42]

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act[43] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR–FICC–2018–004 be, and hereby is, *approved.*[44]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13379 Filed 6–21–18; 8:45 am]

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[39] *Id.*

[40] A ''covered clearing agency'' means, among other things, a clearing agency registered with the Commission under Section 17A of the Act (15 U.S.C. 78q–1 *et seq.*) that is designated systemically important by the Financial Stability Oversight Committee (''FSOC'') pursuant to the Payment, Clearing, and Settlement Supervision Act of 2010 (12 U.S.C. 5461 *et seq.*). *See* 17 CFR 240.17Ad–22(a)(5)–(6). Because FICC is a registered clearing agency with the Commission that has been designated systemically important by FSOC, FICC is a covered clearing agency.

[41] 17 CFR 240.17Ad–22(e)(23)(ii).

[42] *Id.*

[43] 15 U.S.C. 78q–1.

[44] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[45] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0128]

Pipeline Safety: Meeting of the Voluntary Information-Sharing System Working Group

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting of the Voluntary Information-sharing System (VIS) Working Group. The VIS Working Group will convene to discuss and identify recommendations to establish a voluntary information-sharing system.

DATES: The public meeting will be held on August 23, 2018, from 8:30 a.m. to 5:00 p.m. ET. Members of the public who wish to attend in person should register no later than August 16, 2018. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, may notify PHMSA by August 16, 2018. For additional information, see the **ADDRESSES** section.

ADDRESSES: The meeting will be held at the U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590. The meeting agenda and additional information will be published on the following VIS Working Group registration page at: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=135.*

The meetings will not be webcast; however, presentations will be available on the meeting website and posted on the E-Gov website, *https://www.regulations.gov/,* under docket number PHMSA–2016–0128 within 30 days following the meeting.

Public Participation: This meeting will be open to the public. Members of the public who attend in person will also be provided an opportunity to make a statement during the meetings.

Written comments: Persons who wish to submit written comments on the meetings may submit them to the docket in the following ways:

E-Gov website: https://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays.

Instructions: Identify the docket number PHMSA–2016–0128 at the beginning of your comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, consider reviewing DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477), or view the Privacy Notice at *https://www.regulations.gov* before submitting comments.

Docket: For docket access or to read background documents or comments, go to *https://www.regulations.gov* at any time or to Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following

statement: ''Comments on PHMSA–2016–0128.'' The docket clerk will date stamp the postcard prior to returning it to you via the U.S. mail.

Privacy Act Statement

DOT may solicit comments from the public regarding certain general notices. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Services for Individuals With Disabilities: The public meeting will be physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Cheryl Whetsel at *cheryl.whetsel@dot.gov.*

FOR FURTHER INFORMATION CONTACT: For information about the meeting, contact Dr. Christie Murray by phone at 202–366–4996 or by email at *christie.murray@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The VIS Working Group is an advisory committee established in accordance with Section 10 of the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016 (Pub. L. 114–183), the Federal Advisory Committee Act of 1972 (5 U.S.C., App. 2, as amended), and 41 CFR 102–3.50(a).

II. Meeting Details and Agenda

The VIS Working Group agenda will include briefings on topics such as mandate requirements, integrity management, data types and tools, in-line inspection and other direct assessment methods, geographic information system implementation, subcommittee considerations, lessons learned, examples of existing information-sharing systems, safety management systems, and more. As part of its work, the committee will ultimately provide recommendations to the Secretary, as required and specifically outlined in Section 10 of Public Law 114–183, addressing:

(a) The need for, and the identification of, a system to ensure that dig verification data are shared with in-line inspection operators to the extent consistent with the need to maintain proprietary and security-sensitive data in a confidential manner to improve pipeline safety and inspection technology;

(b) Ways to encourage the exchange of pipeline inspection information and the development of advanced pipeline inspection technologies and enhanced risk analysis;

(c) Opportunities to share data, including dig verification data between operators of pipeline facilities and in-line inspector vendors to expand knowledge of the advantages and disadvantages of the different types of in-line inspection technology and methodologies;

(d) Options to create a secure system that protects proprietary data while encouraging the exchange of pipeline inspection information and the development of advanced pipeline inspection technologies and enhanced risk analysis;

(e) Means and best practices for the protection of safety and security-sensitive information and proprietary information; and

(f) Regulatory, funding, and legal barriers to sharing the information described in paragraphs (a) through (d).

The Secretary will publish the VIS Working Group's recommendations on a publicly available DOT website and in the docket. The VIS Working Group will fulfill its purpose once its recommendations are published online.

PHMSA will publish the agenda on the PHMSA meeting page at: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=135*, once it is finalized.

Issued in Washington, DC, on June 18, 2018, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2018–13383 Filed 6–21–18; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Procedures To Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies Under Section 312 of the Fair and Accurate Credit Transactions Act

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection as required by the Paperwork Reduction Act of 1995.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, ''Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies under Section 312 of the Fair and Accurate Credit Transactions Act.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by July 23, 2018.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0238, 400 7th Street SW, suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0238'' in your comment. In general, the OCC will publish your comment on *www.reginfo.gov* without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0238, U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by email to *oira_submission@omb.eop.gov.*

You may review comments and other related materials that pertain to this information collection [1] following the close of the 30-Day comment period for this notice by any of the following methods:

- Viewing Comments Electronically: Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab.

[1] On April 2, 2018, the OCC published a 60-Day notice for this information collection.

Underneath the ''Currently under Review'' section heading, from the drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0238'' or ''Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies under Section 312 of the Fair and Accurate Credit Transactions Act.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: Mary H. Gottlieb, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, suite 3E–218, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests and requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC is asking OMB to extend its approval for this collection.

Title: Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies under Section 312 of the Fair and Accurate Credit Transactions Act (FACT Act).

OMB Control No.: 1557–0238.

Type of Review: Regular.

Description: Section 312 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) required the issuance of guidelines for use by furnishers regarding the accuracy and integrity of the information about consumers that they furnish to consumer reporting agencies and regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines. Section 312 also required the issuance of regulations identifying the circumstances under which a furnisher must reinvestigate disputes about the accuracy of information contained in a consumer report based on a direct request from a consumer.

Twelve CFR 1022.42(a) requires furnishers to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of consumer information that they provide to a consumer reporting agency (CRA).

Section 1022.43(a) requires a furnisher to conduct a reasonable investigation of a dispute initiated directly by a consumer in certain circumstances. Furnishers are required to have procedures to ensure that disputes received directly from consumers are handled in a substantially similar manner to those complaints received through CRAs.

Section 1022.43(f)(2) incorporates the statutory requirement that a furnisher must notify a consumer by mail or other means (if authorized by the consumer) not later than five business days after making a determination that a dispute is frivolous or irrelevant. Section 1022.43(f)(3) incorporates the statute's content requirements for the notices.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 1,133 respondents.

Estimated Total Annual Burden: 185,603 hours.

The OCC issued a notice for 60 days of comment on April 2, 2018, 83 FR 14104. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC'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 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.

Dated: June 18, 2018.

Karen Solomon,

Acting Senior Deputy Comptroller and Chief Counsel.

[FR Doc. 2018–13384 Filed 6–21–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0113]

Agency Information Collection Activity: Application for Fee or Roster Personnel Designation

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 23, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0113'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Office of Quality, Privacy and Risk (OQPR), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0113'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 CFR 36.4301.

Title: Application for Fee or Roster Personnel Designation.

OMB Control Number: 2900–0113.

Type of Review: Extension of a currently approved collection.

Abstract: VA uses fee basis appraisers to appraise residential real estate and

recommend value for loan purposes. A fee appraiser is a qualified person requested by the Secretary to render an estimate of the reasonable value of a property, or of a specified type of property, within a stated area for the purpose of justifying the extension of credit to an eligible veteran (38 CFR 36.4301). The fee appraiser's estimate of value is reviewed by a VA staff appraiser or lender's staff appraisal reviewer who uses the data to establish the VA reasonable value (38 U.S.C. 3710(b)(4), (5), (6) and 3731(f)(1)), which becomes the maximum loan guaranty amount an eligible veteran can obtain.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 83 FR 08606 on April 25, 2018, page 18131.

Affected Public: Private Sector.

Estimated Annual Burden: 1,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 2,000 per year.

By direction of the Secretary.

Cynthia D. Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–13398 Filed 6–21–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0618]

Agency Information Collection Activity Under OMB Review: Application by Insured Terminally Ill Person for Accelerated Benefit

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 23, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to ''OMB Control No. 2900–0618'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov*. Please refer to ''OMB Control No. 2900–0618'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Application by Insured Terminally Ill Person for Accelerated Benefit Form SGLI 8284.

OMB Control Number: 2900–0618.

Type of Review: Reinstatement of a previously approved collection.

Abstract: VA has amended regulations for the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs to add accelerated death benefit (Accelerated Benefit) provisions that permit terminally ill policyholders access to the death benefits of their policies before they die. Traditionally, an individual purchases life insurance in order to safeguard his or her dependents against major financial loss due to his or her death. Life insurance serves to replace the lost income of an insured and to provide for his or her final expenses. In recent years, the insurance industry has recognized the financial needs of terminally ill policyholders and has begun offering policies with accelerated benefit provisions. A recent statutory amendment (Section 302 of the Veterans Programs Enhancement Act of 1998, Pub. L. 105–368, 112 Stat. 3315, 3332–3333) added section 1980 to Title 38, United States Code, which extends an accelerated benefit option to terminally ill persons insured in the SGLI and VGLI programs. This form expired due to high volume of work and staffing changes.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 83 FR 56 on March 22, 2018, pages 12653 and 12654.

Affected Public: Individuals and Households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden per Respondent: 12 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 200.

By direction of the Secretary.

Cynthia D. Harvey-Pryor,

Department Clearance Officer, Office of Privacy, Quality and Risk, Department of Veterans Affairs.

[FR Doc. 2018–13397 Filed 6–21–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 83 Friday,

No. 121 June 22, 2018

Part II

Securities and Exchange Commission

17 CFR Parts 200, 230, 239, et al.

Optional Internet Availability of Investment Company Shareholder Reports; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 230, 239, 240, 249, 270, and 274

[Release Nos. 33–10506; 34–83380; IC–33115; File No. S7–08–15]

RIN 3235–AL42

Optional Internet Availability of Investment Company Shareholder Reports

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting new rule 30e–3 under the Investment Company Act of 1940. Subject to conditions, new rule 30e–3 will provide certain registered investment companies with an optional method to satisfy their obligations to transmit shareholder reports by making such reports and other materials accessible at a website address specified in a notice to investors. We are also adopting amendments to rule 498 under the Securities Act of 1933 and our fund registration forms to require that during a certain transition period funds that choose to implement the new delivery method for shareholder reports provide prominent disclosures in prospectuses and certain other shareholder documents that will notify investors of the upcoming change in transmission format for a period of two years. New rule 30e–3 and the amendments to rule 498 and our registration forms address the fact that some investors may wish to receive shareholder reports in paper. As such, the new rule incorporates a set of protections so that investors who prefer to receive reports in paper will continue to receive them in that format. These protections include, among others, a minimum length phase-in period that ends no earlier than December 31, 2020 and notice requirements that must be implemented and followed beginning January 1, 2019, or the date shares are first publicly offered, if a registered investment company would want to use new rule 30e–3 as of January 1, 2021. The rule requires that a paper notice be sent to an investor each time a current shareholder report is accessible online. The notice must include instructions for how an investor can elect—at any time—to receive all future reports in paper, or request to receive particular reports in paper on an *ad hoc* basis. We are also adopting related amendments to certain other rules and forms. This optional method is intended to modernize the manner in which periodic information is made available to investors, which we believe will improve investors' experience while reducing expenses associated with printing and mailing shareholder reports that are borne by investment companies and ultimately their investors.

DATES: This rule is effective January 1, 2019, except:

- Amendatory Instructions 5 and 25 to 17 CFR 230.498 and Form N–CSR (referenced in 17 CFR 249.331 and 274.128), which are effective January 1, 2021; and
- Amendatory Instructions 6, 13, 16, 18, 20, 22, and 24 to 17 CFR 230.498, 17 CFR 270.30e–3, Form N–1A (referenced in 17 CFR 239.15A and 274.11A), Form N–2 (referenced in 17 CFR 239.14 and 274.11a–1), Form N–3 (referenced in 17 CFR 239.17a and 274.11b), Form N–4 (referenced in 17 CFR 239.17b and 274.11c), and Form N–6 (referenced in 17 CFR 239.17c and 274.11d), which are effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: J. Matthew DeLesDernier and John Lee, Senior Counsels; or Michael C. Pawluk, Senior Special Counsel, at (202) 551–6792, Investment Company Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the ''Commission'') is adopting: New rule 30e–3 [1] under the Investment Company Act of 1940 (''Investment Company Act'');[2] amendments to Forms N–1A,[3] N–2,[4] N–3,[5] N–4,[6] and N–6 [7] under the Investment Company Act and the Securities Act of 1933 (''Securities Act'');[8] amendments to Form N–CSR [9] under the Investment Company Act and the Securities Exchange Act of 1934 (''Exchange Act'');[10] amendments to rule 498 [11] under the Securities Act; amendments to rule 14a–16 [12] under the Exchange Act; and amendments to Section 800 of 17 CFR part 200.[13]

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[1] 17 CFR 270.30e–3.

[2] 15 U.S.C. 80a–1 *et seq.* Unless otherwise noted, all references to statutory sections are to the Investment Company Act, and all references to rules under the Investment Company Act are to Title 17, Part 270 of the Code of Federal Regulations [17 CFR part 270].

[3] 17 CFR 239.15A and 17 CFR 274.11A.

[4] 17 CFR 239.14 and 17 CFR 274.11a–1.

[5] 17 CFR 239.17a and 17 CFR 274.11b.

[6] 17 CFR 239.17b and 17 CFR 274.11c.

[7] 17 CFR 239.17c and 17 CFR 274.11d.

[8] 15 U.S.C. 77a *et seq.*

[9] 17 CFR 249.331 and 17 CFR 274.128.

[10] 15 U.S.C. 78a *et seq.*

[11] 17 CFR 230.498.

[12] 17 CFR 240.14a–16.

[13] 17 CFR 200.800.

I. Introduction

Today we are adopting rule 30e–3 under the Investment Company Act,[14] a rule that provides registered management companies and any separate series thereof and certain registered unit investment trusts (''UITs'') [15] with an optional method to satisfy requirements to transmit shareholder reports by posting those reports online if they meet certain conditions.[16] In order to rely on the rule, funds will be required to make their reports and other required materials publicly accessible, free of charge, at a website address specified in a notice to shareholders,[17] and meet certain other conditions specified in the rule. In recognition of the fact that some investors may wish to receive their shareholder reports in paper, the rule incorporates a set of protections designed to preserve the ability of these investors to do so. Thus, the rule accommodates the preferences of all investors regarding their preferred means of communication—whether they wish to receive reports in paper or electronically, or simply to be notified that the reports are available online. To that end, we are also adopting an extended transition period with staged effective dates, and the earliest that a fund could rely on the rule to satisfy shareholder report transmittal requirements is January 1, 2021.

This new option is intended to modernize the manner in which funds deliver periodic information to investors. We believe it will improve investors' ability to access and use this information (for example, by providing investors with access to at least a full year of complete portfolio holdings information in one location), while reducing expenses associated with printing and mailing that are borne by funds, and ultimately, by their investors. The rule draws on the Commission's experience of more than twenty years with use of the internet as a medium to provide documents and other information to investors.[18] The rule also draws on the Commission's investor testing efforts and other empirical research concerning investors' preferences about methods of delivery for required disclosure documents and use of the internet for financial and other purposes generally.[19]

We continue to search for better ways of providing investors with the disclosure that they need to evaluate funds in which they are considering investing or currently hold shares. As part of these general efforts, we are also issuing a Request for Comment directed at investors regarding ways in which fund disclosure, including shareholder reports, may be improved.[20] We are also issuing a second Request for Comment on the processing fees charged by intermediaries for distributing fund shareholder reports and other materials to investors.[21]

A. Public Comment

We received over 1,000 comments on the Proposing Release, the vast majority of which specifically commented on

[14] Rule 30e–3 was proposed in May 2015 as part of the Commission's broader Investment Company Reporting Modernization proposal. *See* Investment Company Reporting Modernization, Investment Company Act Release No. 31610 (May 20, 2015) [80 FR 33590 (June 12, 2015)] (''Proposing Release''). As part of the proposal, we also proposed new forms (Form N–CEN and Form N–PORT), amendments to Regulation S–X, and other amendments to modernize the reporting and disclosure of information by registered investment companies. In October 2016, the Commission adopted final rules related to the proposal, with the exception of rule 30e–3. *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] (''Reporting Modernization Adopting Release'').

[15] Unless the context otherwise requires, for ease of reference, throughout this release ''fund'' or ''funds,'' individually or collectively, refers to registered management companies (and any separate series thereof) and UITs.

[16] The final rule applies to reports required by rule 30e–1 (reports of registered management companies) and reports required by rule 30e–2 (reports to shareholders of registered UITs, substantially all of the assets of which consist of securities issued by a management company). *See* rule 30e–3(a); rule 30e–1(a); rule 30e–2(a).

[17] Interests in securities issued by insurance company separate accounts organized as UITs are typically referred to as accumulation units, not shares. For convenience, however, in this release owners of interests in securities issued by UITs, whether the issuer is a separate account or otherwise, are referred to as shareholders, and accumulation units are referred to as shares.

[18] *See, e.g.,* Use of Electronic Media for Delivery Purposes, Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)] (''1995 Release'') (providing Commission views on the use of electronic media to deliver information to investors, with a focus on electronic delivery of prospectuses, annual reports, and proxy solicitation materials); Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information, Investment Company Act Release No. 21945 (May 9, 1996) [61 FR 24644 (May 15, 1996)] (''1996 Release'') (providing Commission views on electronic delivery of required information by broker-dealers, transfer agents, and investment advisers); Use of Electronic Media, Investment Company Act Release No. 24426 (Apr. 28, 2000) [65 FR 25843 (May 4, 2000)] (''2000 Release'') (providing updated interpretive guidance on the use of electronic media to deliver documents on matters such as telephonic and global consent, issuer liability for website content, and legal principles that should be considered in conducting online offerings).

See also Securities Offering Reform, Securities Act Release No. 8591 (July 19, 2005) [70 FR 44722 (Aug. 3, 2005)] (''Securities Offering Reform'') (adopting rule 172 under the Securities Act providing an ''access equals delivery'' framework under which issuers and intermediaries can satisfy their final prospectus delivery obligations); Shareholder Choice Regarding Proxy Materials, Investment Company Act Release No. 27911 (July 26, 2007) [72 FR 42222 (Aug. 1, 2007)] (''Shareholder Choice Regarding Proxy Materials Release'') (adopting rule amendments requiring issuers to post their proxy materials on a specified website and provide shareholders with a notice of internet availability of the materials); Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546 (Jan. 26, 2009)] (''Summary Prospectus Release'') (permitting the use of a summary prospectus by registered open-end management investment companies); Interactive Data for Mutual Fund Risk/Return Summary, Investment Company Act Release No. 28617 (Feb. 11, 2009) [74 FR 7748 (Feb. 19, 2009)] (''XBRL Release'') (requiring open-end funds to provide the risk/return section of their prospectus in interactive data format using eXtensible Business Reporting Language (''XBRL'')); Amendments to Rules Requiring Internet Availability of Proxy Materials, Securities Act Release No. 9073 (Feb. 22, 2010) [75 FR 9073 (Feb. 26, 2010)] (''Internet Availability of Proxy Materials Release'') (providing additional flexibility regarding the format of the notice of internet availability of proxy materials); Reporting Modernization Adopting Release, *supra* note 14; Inline XBRL Filing of Tagged Data, Securities Act Release No. 10323 (Mar. 1, 2017) [82 FR 14282 (Mar. 17, 2017)] (''Inline XBRL Release'') (proposing the use of the Inline XBRL format for the submission of operating company financial statement information and mutual fund risk/return summaries); Exhibit Hyperlinks and HTML Format, Securities Act Release No. 10322 (Mar. 1, 2017) [82 FR 14130 (Mar. 17, 2017)] (''Exhibit Hyperlinks and HTML Format Release'') (requiring exhibit hyperlinks and filings in HTML format); FAST Act Modernization and Simplification of Regulation S–K, Securities Act Release No. 10425 (Oct. 11, 2017) [82 FR 50988 (Nov. 2, 2017)] (''FAST Act Regulation S–K Release'') (proposing amendments to modernize and simplify certain disclosure requirements in Regulation S–K, and related rules and forms).

[19] For example, in 2011, the Commission engaged a consultant to conduct investor testing regarding shareholder reports. The consultant's report concerning that testing (''Investor Testing of Mutual Fund Shareholder Reports'') is in the comment file for this rule (*available at www.sec.gov/comments/s7-08-15/s70815.shtml*). Separately, Commission staff prepared a study of investor financial literacy pursuant to Section 917 of the Dodd-Frank Act. Materials relating to this study, including the staff's report, are available at *http://www.investor.gov/publications-research-studies/sec-research.*

In addition, in 2007, the Commission engaged a consultant to conduct focus group interviews and a telephone survey concerning investors' views and opinions about various disclosure documents filed by companies, including mutual funds. The consultant's report concerning the focus group testing and related transcripts are in the comment file for this rule (*available at www.sec.gov/comments/s7-08-15/s70815.shtml*). The consultant's report concerning the telephone survey is available at *http://www.sec.gov/pdf/disclosuredocs.pdf.*

[20] Fund Retail Investor Experience and Disclosure Request for Comment, Investment Company Act Release No. 33113 (June 5, 2018) (''Disclosure Request for Comment''). Comments are requested by October 31, 2018; *see infra* Section I.C.

[21] Request for Comments on the Processing Fees Charged by Intermediaries for Distributing Materials Other Than Proxy Materials to Fund Investors, Investment Company Act Release No. 33114 (June 5, 2018) (''Processing Fee Request for Comment''). Comments are requested by October 31, 2018; *see infra* Section I.C.

proposed rule 30e–3.[22] While some commenters provided comments on specific aspects of the proposal, most focused on whether the Commission should adopt the rule at all. Commenters supporting the proposed rule cited benefits including those related to website transmission generally, the proposed rule's consistency with internet usage trends, savings to funds and ultimately investors from the reduction in printing and mailing costs, and environmental benefits. In many cases, these commenters recommended modifications to the proposed rule to increase cost savings and other benefits under the rule and to provide clarity regarding how the rule would operate in certain contexts.[23]

Commenters opposed to the proposed rule focused on concerns such as the impact on certain demographic groups that may have limited access to the internet, the proposed rule's use of implied consent, the extent to which cost savings under the proposed rule would not be as great as anticipated by the Commission, and the adverse impact on certain third parties such as the paper industry and mail carriers.

B. Overview of Final Rule and Transmission Framework Generally

After consideration of the comments we received, we are adopting rule 30e–3 with several modifications designed to respond to investor protection concerns, provide additional flexibility and clarity in the operation of this transmission regime, and further increase cost savings for investors. Some key elements of the new transmission framework under rule 30e–3 include:

- *Use of Rule is Optional.* We note that this new method of transmission is optional—funds that wish to transmit shareholder reports in paper or pursuant to the Commission's existing electronic delivery guidance[24] will continue to be able to satisfy their regulatory obligations by those methods.
- *Use of Rule With Respect to Investors Who Have Opted Into Electronic Delivery.* The rule will not require changes to existing methods of delivering shareholder reports electronically. The rule does not supercede or modify the Commission's existing guidance regarding electronic delivery of fund shareholder reports. Funds and intermediaries may continue to rely on the Commission's guidance to electronically transmit reports to investors who have elected to receive reports electronically.[25]
- *Preservation of Preference for Paper Reports.* Recognizing that some investors may wish to receive their shareholder reports in paper, the final rule—as did the proposed rule—incorporates a set of protections designed to preserve the ability of investors to receive paper reports on a per report or ongoing basis if that is their preferred means of communication.[26]
- *Website Availability of Reports and Other Information.* As proposed, the shareholder report and other required materials must be made publicly accessible and free of charge at a website address specified in a notice to investors.[27]
- *Notice.* Substantially as proposed, investors must be provided with a paper notice of the website availability of the shareholder report (''Notice'') that contains instructions by which investors will be able to request a paper or email copy. The final rule allows funds greater flexibility than the proposal in the design of the Notice by permitting it to contain additional information including, for example, content from the shareholder report that the fund considers helpful to investors, instructions on how investors can elect electronic delivery of reports and other materials, and pictures, logos, or similar design elements so long as the design is not misleading and the information is clear.[28]
- *New Extended Transition Period.* To inform investors in advance of the change of transmission method, and to accommodate systems and operations changes by funds, intermediaries and service providers necessary to implement the new optional transmission regime, we are adopting an extended transition period.[29] This extended transition period replaces the proposed requirement to send an ''Initial Statement'' 60 days in advance of reliance on the rule with respect to an investor.
- *Filing of Notice.* We have modified the proposal by adopting amendments to Form N–CSR to require the filing of Notices that incorporate disclosures from the shareholder report.[30] This requirement should help further inform Commission regulatory efforts with respect to how the content of shareholder reports can be improved and should help our monitoring for compliance with the rule.
- *Guidance Regarding Financial Intermediaries.* We are also providing guidance, as requested by commenters, to clarify the operation of the rule in the context of financial intermediaries such as broker-dealers.[31]

C. Other Actions

We are committed to continuously improving the content and delivery of information to investors, including through efforts that encourage the use of technology to provide investors with the tools they need to evaluate their investments, and reducing costs and other regulatory burdens where appropriate. To that end, today we are taking two related actions intended to further these goals.

First, we approved amendments to rules of the New York Stock Exchange (''NYSE'') regarding processing fees paid to financial intermediaries for the delivery of shareholder reports and Notices under ''notice and access'' rules such as rule 30e–3 to investors holding shares through certain financial intermediaries.[32] The NYSE rule

[22] *See infra* Section II.A. The comment letters on the Proposing Release (File No. S7–08–15) are available *at https://www.sec.gov/comments/s7-08-15/s70815.shtml.*

[23] *See infra* Sections II.B.2 (application to UITs with transmission obligations under rule 30e–2), II.C (shares held through certain financial intermediaries).

[24] *See* 1995 Release, *supra* note 18; 1996 Release, *supra* note 18; 2000 Release, *supra* note 18.

[25] For example, a fund or intermediary will not be required to send those investors, electronically or otherwise, a notice required by the rule. Some investors who receive shareholder reports pursuant to rule 30e–3 may in the future elect delivery under the Commission's electronic delivery guidance. The final rule requires funds to include in notices instructions regarding how an investor can elect to receive shareholder reports or other documents by electronic delivery if the fund offers electronic delivery. *See* rule 30e–3(c)(1)(v)(C).

[26] *See infra* Sections II.B.2.c, II.B.2.d.

[27] *See infra* Section II.B.2.a.

[28] *See infra* Section II.B.2.b; note 191 (reminding funds of their obligations with respect to the antifraud provisions of the federal securities laws).

[29] *See infra* Sections II.B.2.d, II.B.2.f, II.E.

[30] *See infra* Section II.B.2.b.v.

[31] *See infra* Section II.C.

[32] *See* Exchange Act Release Nos. 83378 (June 5, 2018) (Order Affirming Action by Delegated Authority Approving SR–NYSE–2016–55 and Discontinuing Stay); 79370 (Nov. 21, 2016) [81 FR 85655 (Nov. 28, 2016)] (Stay Order); 79355 (Nov. 18, 2016) [81 FR 85291 (Nov. 25, 2016)] (Approval Order) (''NYSE Approval Order''); 78589 (Aug. 16, 2016) [81 FR 56717 (Aug. 22, 2016)] (Notice). NYSE rule 451 outlines three types of processing fees discussed by commenters in connection with the proposal: (i) The ''interim report'' fee (a processing unit fee of $0.15 per account, whether a report is delivered in paper, or delivery is ''suppressed'' because the report is delivered electronically or not delivered because of ''householding'' or other reasons); (ii) the ''preference management'' fee (a $0.10 fee assessed for each suppressed account—*e.g.,* accounts receiving shareholder reports by email or householded accounts); and (iii) a ''notice and access'' fee (an incremental fee charged at declining marginal levels based on the number of all financial intermediary accounts through which fund securities are beneficially owned; there are five marginal fee tiers (in $0.05 increments) per account beginning with the $0.25 per account tier and decreasing to $0.05 per account tier). *See* NYSE rule 451.90.3–451.90.5; *see also* NYSE rules 465 and 451.10 (noting applicability of fees under NYSE

amendments state that ''notice and access'' processing fees, which previously applied only to proxy distributions where an issuer elects to utilize notice and access for a proxy distribution,[33] may also apply to transmission of shareholder reports under rule 30e–3 to beneficial owners who purchase their fund shares through broker-dealer intermediaries.[34] The amendments clarify, however, that the ''notice and access'' fee will not be charged for any account with respect to which a fund pays a ''preference management'' fee in connection with a distribution of shareholder reports.[35] In addition, the NYSE rule amendments clarify that, for purposes of determining the amount of notice and access fees to be charged, the number of accounts should be computed by aggregating shares of any class of stock of the issuer eligible to receive the same distribution.[36]

Second, today we also are issuing two releases requesting comment on issues related to shareholder reports. In the first release, we are requesting comment on enhancing fund disclosures to improve the investor experience and to help investors make more informed investment decisions.[37] This release requests feedback directly from fund investors on the delivery, design and content of fund disclosure.

In the second release, we are requesting comment on the processing fees charged by intermediaries for distributing fund shareholder reports and other materials to investors.[38] For example, we are requesting comment on the current processing fee structure, including the application of various processing fees and rates thereof under the NYSE rules, transparency of these fees, practices related to the payment of these fees and remittances received by financial intermediaries for delivery of fund documents (including shareholder reports), and the appropriateness of these fees in cases where intermediaries are separately paid shareholder servicing fees from fund assets.

II. Discussion

A. General Comments Regarding Rule 30e–3

Most commenters on the proposal focused on whether we should adopt rule 30e–3 and particularly its optional method of satisfying requirements to transmit shareholder reports by making them available on websites. We discuss below general comments received on the proposal, as well as why we have determined to adopt the rule. Specific comments on the particular provisions of the rule as proposed are discussed in more detail in Sections II.B.2–II.E below.

1. Increased Internet Usage

Commenters supporting the rule cited the benefits of allowing transmission of shareholder reports by making them accessible on websites, including improving the overall accessibility of the information [39] and expanding the possibilities for innovative visual displays and layered disclosure.[40] Commenters pointed to trends towards increasing internet usage, with some commenters highlighting that 94% of households owning mutual funds had some form of internet access in 2014, up from 68% in 2000.[41] Commenters also noted that internet usage has increased among previously underserved demographic groups.[42]

A number of commenters stated that website disclosure is consistent with many investors' preferences.[43] One commenter stated that shareholder use of the internet to conduct fund transactions had increased sharply since 2005, with 89% of the transactions processed by its fund family for direct shareholders made through electronic means in 2014.[44] Similarly, another commenter stated that ''with increased ease of access, investors also increasingly prefer enhanced availability of financial information on the internet.'' [45] This commenter provided survey results from 2013 finding that 82% of U.S. households owning mutual funds used the internet

rule 451 to distribution of interim and annual reports).

[33] *See* rule 14a–16 under the Exchange Act which permits issuers, that comply with the requirements of the rule, to distribute proxy material electronically through the ''notice and access'' method. 17 CFR 240.14a–16.

[34] *See* NYSE rule 451.90(5). The Commission notes that the NYSE rule states that the ''notice and access fees'' in NYSE rule 451.90(5) apply to the ''distribution of investment company shareholder reports pursuant to any 'notice and access' rules adopted by the [Commission].'' We believe that rule 30e–3 qualifies as such a rule.

[35] *Id.*

[36] *Id.*

[37] *See* Disclosure Request for Comment, *supra* note 20.

[38] *See* Processing Fee Request for Comment, *supra* note 21.

[39] *See, e.g.,* Comment Letter of Capital Research and Management Company (Aug. 11, 2015) (''Capital Research Comment Letter I''); Comment Letter of Capital Research and Management Company (May 7, 2018) (''Capital Research Comment Letter II''); Comment Letter of Simpson Thacher & Bartlett LLP (Aug. 11, 2015) (''Simpson Thacher Comment Letter''); Comment Letter of Interactive Data Pricing and Reference Data LLC (Aug. 10, 2015) (''Interactive Data Comment Letter''); Comment Letter of Investment Company Institute (Aug. 12, 2015) (''ICI Comment Letter I'') (noting many investors now prefer enhanced availability of information on the internet).

[40] *See* Comment Letter of Investment Company Institute (July 8, 2016) (''ICI Comment Letter II'') (''Paper reports are unable to help investors navigate layered information or access more detailed information. The internet offers the ultimate a la carte menu: Those who want more extensive information can get it; those who do not can access or be provided the essential information they need, in a form they are likely to use.''); *see also* Recommendation of the Investor Advisory Committee Regarding Promotion of Electronic Delivery and Development of a Summary Disclosure Document for Delivery of Investment Company Shareholder Reports (Dec. 7, 2017) (''Investment Advisory Committee Recommendation''); Comment Letter of the Consumer Action and National Consumers League to Anne Sheehan, Chairman of the Investor Advisory Committee (Dec. 1, 2017), *available at https://www.sec.gov/comments/265-28/26528-2748128-161587.pdf.*

[41] *See, e.g.,* Comment Letter of the Committee of Annuity Insurers (Aug. 11, 2015) (''CAI Comment Letter I''); Capital Research Comment Letter I; ICI Comment Letter I.

[42] *See, e.g.,* ICI Comment Letter I (noting widespread use of the internet among various age groups, education levels and income levels and highlighting a 2014 ICI study that ''found the following with respect to internet access in mutual fund owning households: (1) Head of household age 65 or older, 86% have access; (2) education level of high school diploma or less, 84% have access; and (3) household income of less than $50,000, 84% have access''); ICI Comment Letter II (highlighting a 2015 survey showing that 85% of all Americans had access to the internet); CAI Comment Letter I (stating that ''very widespread internet access holds true even for those demographic groups that may generally be assumed to have relatively less internet access than most'').

[43] *See, e.g.,* Capital Research Comment Letter I; Comment Letter of CFA Institute (Aug. 10, 2015) (''CFA Institute Comment Letter'') (''We support this proposal to modernize the system for providing reports and believe most investors will view this as positively.''); ICI Comment Letter II (stating ''the Commission's proposal aligns much more effectively with shareholder preferences for information access than the current outdated system'').

[44] *See* Comment Letter of T. Rowe Price Associates, Inc. (Aug. 21, 2015) (''T. Rowe Price Comment Letter I'') (comparing this with data from 2005 when 65% of transactions processed with direct shareholders were made through electronic means); Comment Letter of T. Rowe Price Associates, Inc. (Apr. 17, 2018) (''T. Rowe Price Comment Letter II'') (noting that in 2017, 87% of their interactions ''with personal and workplace investors took place digitally via mobile applications or the Web'').

See also FINRA Investor Education Foundation, Investors in the United States 2016 (Dec. 2016), *available at http://www.usfinancialcapability.org/downloads/NFCS_2015_Inv_Survey_Full_Report.pdf* (''FINRA 2016 Investors Study''). While the FINRA 2016 Investors Study does not distinguish fund shareholder reports from other disclosure materials regarding investments (nor does it specify what disclosure materials are contemplated in this survey *e.g.,* shareholder reports, summary prospectuses, statutory prospectuses, account statements, etc.), it presents general investor survey data regarding investor disclosure preferences: 49% of respondents prefer paper documents physically mailed, 27% of respondents prefer electronic documents by email, 14% prefer in-person meetings with a broker/adviser, and 6% prefer that documents are accessed on the internet (not via email).

[45] *See* ICI Comment Letter I.

for financial purposes.[46] Several commenters also believed that the rule as proposed included appropriate protections for investors preferring paper by preserving the option for fund investors to continue receiving paper reports.[47]

A number of commenters in opposition to the proposed rule, however, suggested that the rule could have adverse effects on investors.[48] Specifically, several commenters argued that internet access and use among Americans was not universal.[49] Some commenters provided data showing that approximately 25–30% of Americans do not have a computer with broadband internet access in their homes.[50] Some commenters noted that particular demographic groups may be less likely to use the internet.[51] Some commenters drew on the results of studies we noted in the Proposing Release, which indicate that, in 2013, 41% of seniors 65 and older do not use the internet and that, in 2014, 34% of seniors 65 and older own mutual funds.[52] Some commenters suggested that some people are less likely to use the internet specifically for financial purposes, to research funds, or to receive shareholder reports and other disclosure.[53]

2. Use of ''Implied Consent''

A number of commenters addressed the use of ''implied consent'' to allow for website transmission of shareholder reports. One commenter pointed to behavioral research that suggested implied consent is a ''weak'' reflection of actual willingness and that the introduction of new processes (*e.g.,* website transmission) may block ''psychologically effective access'' to shareholder reports.[54] Another commenter stated that implied consent is inadequate because the proposed method for obtaining implied consent ''does not justify the conclusion that implied consent is gained for investors'' and that most investors preferred paper communications.[55] Some commenters noted that certain federal agencies do not permit implied consent for electronic delivery of certain materials.[56] Commenters also pointed to a 2013 survey that asked if the government or firms in the private sector should force consumers to shift from paper to electronic content in which 73% of respondents said it is wrong to expect anyone to go online to interact with government agencies.[57] Some commenters opposed to the implied consent provisions in proposed rule 30e–3 suggested that the proposed Initial Statement (from which consent would be inferred under the proposed rule) [58] could be inadvertently discarded or missed by investors.[59]

We also received a number of comments stating that website transmission of shareholder reports should not be the default transmission option.[60] Others expressed concerns with having to use personal printers to print shareholder reports,[61] and one commenter expressed concern that funds would eventually charge investors for paper shareholder reports.[62]

On the other hand, we received several comments stating that the proposed rule better aligns with investor preferences for access to financial information,[63] and recommending that

[46] *See id.*

[47] *See, e.g.,* CFA Institute Comment Letter (''We believe the proposed conditions for using this option are appropriate to accommodate those investors wishing to receive paper reports.''); Comment Letter of State Street Corporation (Aug. 11, 2015) (''State Street Comment Letter'') (''We believe there are adequate safeguards in Rule 30e–3 which would allow shareholders who desire a hardcopy to still receive one.''); Comment Letter of Jonathan F. Zeschin, Independent Trustee and Board Chair of Matthews Asia Funds (Sept. 27, 2016) (''[T]hose few shareholders who prefer to receive written reports in the mail can still do so, and the proposed rule includes appropriate notices and other safeguards for those shareholders.''); Comment Letter of Independent Directors Council (May 10, 2016) (''IDC Comment Letter'') (''It is important to bear in mind that the proposed rule includes appropriate safeguards for those shareholders who may still prefer to receive written reports in the mail.''); Comment Letter of Fidelity Equity and High Income Funds (Apr. 24, 2017) (''Fidelity Comment Letter II'') (''Accordingly, investors ultimately would retain the ability to determine the manner in which they receive their shareholder reports and those who desire paper delivery would be appropriately protected.'').

[48] *See, e.g.,* Comment Letter of Sen. Susan M. Collins, Sen. Angus S. King, Jr., and Rep. Bruce Poliquin (Aug. 10, 2016) (''Collins, King and Poliquin Comment Letter'') (''Our concern, is that the safeguards in the proposed rule will not adequately ensure that those who rely on paper delivery will continue to have access to this important information.''); Comment Letter of David T. Herrod (Aug. 1, 2015) (''I feel an electronic default option would be detrimental to me as well as thousands of other investors.''); Comment Letter of Thomas G. Umenhofer (July 20, 2015) (''Not all Mutual Fund participants have access to computers or the internet, but do have access to the USPS. By implementing Rule 30e–3, you will be disadvantaging many mutual fund participants.'').

[49] *See, e.g.,* Comment Letter of Zane Hollenberger (July 27, 2015) (contending that internet access was not universal and would serve as a ''poor replacement'' for timely receipt of personal financial information through the mail); Comment Letter of John R. Dyce, President of the Ohio State Association of Letter Carriers (July 28, 2015) (''Significant portions of this country's population lack access to electronic services.''); Comment Letter of National Rural Letter Carriers' Association (Aug. 5, 2015) (''National Rural Letter Carriers' Comment Letter'') (''[T]he proposed rule would disadvantage the elderly, those with disabilities, and racial and ethnic minorities as these groups are far less likely than other Americans to have regular access to the internet.'').

[50] *See, e.g.,* Comment Letter of American Forest and Paper Association (Aug. 7, 2015) (''American Forest and Paper Comment Letter''); Comment Letter of Forest Resources Association Inc. (Aug 10, 2015) (''Forest Resources Comment Letter''); Comment Letter of Consumer Action and National Consumers League (Apr. 12, 2016) (''Consumer Action and Consumers League Comment Letter''). *See also* Comment Letter of Broadridge Financial Solutions, Inc. (Aug. 11, 2015) (''Broadridge Comment Letter I'') (noting that ''growth in internet usage is driven in part by a greater penetration of mobile devices whose use to access regulatory reports on the internet would add costs to investors'').

[51] *See, e.g.,* American Forest and Paper Comment Letter; Comment Letter of Best Cutting Die Company (Aug. 6, 2015) (''Many 'seniors' are not computer literate, and may not even own, or have access to a computer.''); Comment Letter of Consumer Action (Jan. 8, 2016) (''Consumer Action Comment Letter'') (stating that seniors and minorities would be disadvantaged by the proposal given statistics showing these groups may be less likely to have access to the internet); National Rural Letter Carriers' Comment Letter (''internet access in some rural parts of the country remains limited and many of our customers must rely on the mail for their investment reports.'').

[52] *See* Proposing Release, *supra* note 14, at 33627; *see, e.g.,* American Forest and Paper Comment Letter; Comment Letter of Eric Skogseth, EVP of Bay State Envelope (July 16, 2015); Comment Letter of Lydia J. Morgan, CEO of Morgan Printers, Inc. (June 12, 2015). *But see* ICI Comment Letter I (discussing the results of a 2014 ICI survey showing that, among Americans 65 or older, those who own mutual funds are more likely to have internet access).

[53] *See, e.g.,* Broadridge Comment Letter I.

[54] *See id.*

[55] *See* American Forest and Paper Comment Letter.

[56] *See, e.g.,* American Forest and Paper Comment Letter (stating that the Internal Revenue Service does not allow financial organizations to use implied consent to enroll investors in electronic delivery of tax documents); Comment Letter of Domtar (Aug. 3, 2015) (''The SEC should follow other federal agencies in requiring recipients to take an affirmative action for e-delivery of important investment documents.''). With respect to electronic delivery (where documents or website links thereto are emailed directly to an investor's individual email address), the Commission also does not permit implied consent. *See* 1995 Release, *supra* note 18; *cf.* Comment Letter of L.A. Schnase (July 2, 2015) (''Schnase Comment Letter'') (supporting the proposal, but expressing concern about the ''piecemeal approach'' the Commission is taking to the regulatory scheme governing electronic deliveries).

[57] *See, e.g.,* American Forest and Paper Comment Letter; Consumer Action Comment Letter. The proposed rule, however, would not have required electronic transmission of shareholder reports, and investors would not have been required to go online to interact with the Commission or any other government agency.

[58] *See* proposed rule 30e–3(c).

[59] *See* Collins, King and Poliquin Comment Letter; Comment Letter of Karen Hibdon (July 31, 2015).

[60] *See, e.g.,* Comment Letter of Barry Daniels (June 12, 2015); Comment Letter of Larry Hensley, Process Engineer, Glatfelter (Aug. 3, 2015); Comment Letter of Craig Timm (Aug. 10, 2015).

[61] *See, e.g.,* Comment Letter of Bob Broadbear (July 20, 2015); Comment Letter of Marina Joyce (June 12, 2015); Comment Letter of Forest2Market (Aug. 7, 2015).

[62] *See* Comment Letter of Robert C. Tugwell (Aug. 10, 2015).

[63] *See, e.g.,* ICI Comment Letter II (''[F]ewer than half of mutual fund shareholders still review some printed materials for information about their fund

we broaden the use of implied consent in certain ways.[64] One of these commenters noted that the proposal, which would allow investors to ''opt into'' paper delivery, would allow funds to more readily accommodate the preferences of all investors.[65] Several commenters also noted that this approach was consistent with prior Commission efforts to improve accessibility of information for the benefit of investors.[66]

3. Cost Savings

Many commenters supporting the proposed rule stated that the rule would result in reduced printing and mailing costs for funds (and ultimately fund investors).[67] Several commenters provided estimates of costs relating to potential cost savings under rule 30e–3.[68] One commenter indicated that its fund group spends approximately $3.8 million annually to print and mail shareholder reports to direct fund investors, and estimated that the proposed rule would result in savings of up to 50% of that amount.[69] Another commenter estimated annual industry costs for print and mail delivery of shareholder reports at $344 million and suggested that, if the proposed rule was adopted, it had the potential to save fund shareholders on a net basis an estimated $140 million within the first three years and $89 million per year after the first year.[70]

One commenter claimed that the cost savings realized from proposed rule 30e–3 would likely not be passed on to investors and would not have a noticeable impact on investor costs even if it were passed on to investors.[71] Another commenter suggested that the cost savings would benefit a relatively small number of mutual funds and be less significant than in the notice and access approach used in the proxy statement context, which the commenter compared to the proposed rule.[72] This commenter stated that the proposed rule would result in greater processing fees for fund shares held through certain intermediaries. This commenter also suggested that cost savings could be better realized through the continued growth of electronic delivery under the Commission's existing guidance, which the commenter suggests is already common and projected to reach 59% of all transmissions of shareholder reports in 2018.[73] The commenter estimated that fund companies currently expend $354 million for printing and mailing of shareholder reports and projected printing and mailing costs of $382 million in 2018 under the existing requirements.[74] The commenter estimated that aggregate net savings under the proposed rule would be about $18 million, or $0.02 per report, in 2018.[75]

Finally, several commenters highlighted that the potential cost savings for funds and investors resulting from the proposed rule may depend in part on the application of the NYSE processing fees that funds pay to financial intermediaries.[76] As noted earlier, today we approved amendments to NYSE rules regarding processing fees paid to financial intermediaries that would clarify the application of certain fees under the rule 30e–3 framework.[77]

4. Regulatory Consistency

Some commenters also supported the proposed rule as consistent with other regulatory frameworks adopted by the Commission and other regulatory bodies that encourage website availability as a means to satisfy disclosure obligations.[78] For example, one commenter stated that the proposed rule was consistent with prior Commission efforts to modernize the manner in which information is provided to investors and to improve accessibility by taking advantage of technology for the benefit of investors.[79] Others asserted that the notice and access model under the proposed rule was similar to the model adopted by another federal agency in 2014 for certain financial institutions to satisfy privacy

investments, and over two-thirds of these individuals likewise access online materials to gather information on their fund investments.'').

[64] *See, e.g.,* Comment Letter of Allianz Life Insurance of North America (Aug, 11, 2015) (''Allianz Comment Letter'') (recommending that the Commission expand proposed rule 30e–3 to allow broader electronic delivery of certain documents, including prospectuses, using implied consent); ICI Comment Letter I (recommending that the Commission permit investors' implied consent to cover all series and funds in a fund complex and all funds held through a single financial intermediary).

[65] *See* ICI Comment Letter I.

[66] *See, e.g., id.; see also* Comment Letter of The Dreyfus Corporation (Aug. 11, 2015) (''Dreyfus Comment Letter'').

[67] *See, e.g.,* Comment Letter of BlackRock, Inc. (Aug. 11, 2015) (''BlackRock Comment Letter''); Comment Letter of the Center for Capital Markets Competitiveness (Sept. 6, 2016) (''CCMC Comment Letter''); Comment Letter of Confluence Technologies, Inc. (Aug. 11, 2015) (''Confluence Comment Letter''); ICI Comment Letter I; ICI Comment Letter II; IDC Comment Letter; Comment Letter of Mutual Fund Directors Forum (Aug. 11, 2016); Schnase Comment Letter; Comment Letter of the Securities Industry and Financial Markets Association (Aug. 11, 2015) (''SIFMA Comment Letter''); Comment Letter of the Asset Management Group of the Securities Industry and Financial Markets Association (Aug. 11, 2015) (''SIFMA AMG Comment Letter''); Simpson Thacher Comment Letter; T. Rowe Price Comment Letter I; T. Rowe Price Comment Letter II; Comment Letter of Vanguard (Aug. 11, 2015) (''Vanguard Comment Letter''); Capital Research Comment Letter II.

[68] Another commenter cited a third party's estimate of $320 million in savings from the Commission's e-proxy initiative in 2014. *See* Confluence Comment Letter (citing estimates published by Broadridge in Analysis of Distribution and Voting Trends Fiscal Year Ended June 30, 2014). The commenter further stated that ''[b]y changing the default, Rule 30e–3 will result in a greater percentage of electronic delivery, which in turn will lower fund expenses, lower fund expense ratios, and generate higher returns, a benefit to all investors, both those comfortable with electronic delivery and those who require continued physical delivery.''

[69] *See* T. Rowe Price Comment Letter I.

[70] *See* ICI Comment Letter I (stating further that if the Commission adopted the commenter's suggested changes to the rule, potential net savings could instead total $465 million within the initial three-year timeframe). In a subsequent comment letter, the commenter revised its estimates to account for another commenter's interpretation of how NYSE processing fees would be applied to a rule 30e–3 framework. *See* Comment Letter of Investment Company Institute (Mar. 14, 2016) (''ICI Comment Letter III'') (stating that based on this interpretation, the net savings would be less than the ICI Comment Letter I projections; and estimating that even if ICI's recommended ''postcard'' modification were incorporated in the final rule, there would be a net cost of $84 million in the initial year and a subsequent net savings of $83 million per each subsequent year).

[71] *See* Comment Letter of Consumer Federation of America (July 29, 2015).

[72] *See* Broadridge Comment Letter I (contending that, based on its interpretation of New York Stock Exchange regulated rates, approximately 5% of fund report distribution jobs that Broadridge processes would result in a savings of $10,000 or more). We believe that in light of the NYSE Approval Order regarding processing fees paid to financial intermediaries for the delivery of shareholder reports and other documents to investors holding shares through certain financial intermediaries, the facts supporting the assumptions underlying this commenter's analysis have changed. *See supra* note 32.

[73] *See* Broadridge Comment Letter I; Comment Letter of Broadridge Financial Solutions, Inc. (Jan. 13, 2016) (''Broadridge Comment Letter II''). This commenter subsequently submitted presentation materials in connection with a meeting with Division of Investment Management staff, which included survey data in support of their projections. *See* Memorandum from the Division of Investment Management re: Meeting with Broadridge (Sept. 27, 2017) (including attachments thereto containing the survey data presented) (''Broadridge Meeting Memo I''); Memorandum from the Division of Investment Management re: Meeting with Broadridge (Apr. 13, 2018) (''Broadridge Meeting Memo II'')

[74] *See* Broadridge Comment Letter I; Broadridge Comment Letter II.

[75] Broadridge Comment Letter I.

[76] *See, e.g.,* ICI Comment Letter II; Broadridge Comment Letter I.

[77] *See supra* Section I.C.

[78] *But see supra* note 56 and accompanying text (noting some commenters that stated that certain federal agencies do not permit implied consent for electronic delivery of certain materials).

[79] *See, e.g.,* ICI Comment Letter I. *But see* Schnase Comment Letter (supporting the proposal, but arguing that the Commission should go further and ''allow funds to use the web to satisfy their delivery obligations for prospectuses, [statements of additional information] and other investor documents in addition to shareholder reports . . . .'').

notice transmission requirements.[80] In addition, one commenter highlighted regulatory regimes in foreign jurisdictions that permit a transmission framework for shareholder reports similar to that under the proposed rule.[81]

5. Environmental Benefits

Some commenters highlighted the environmental benefits associated with the reduction of paper reports under the rule, including fewer trees needed to make paper and a reduction in landfill waste.[82] Some of these commenters also stated that the proposed rule is consistent with certain national and international initiatives regarding environmental issues, including The American Business Act on Climate Pledge[83] and The Paris Agreement[84] to combat climate change.[85] Some commenters suggested, however, that environmental benefits of the proposed rule are overstated, citing environment-friendly initiatives previously undertaken by the paper industry.[86]

6. Reliability and Security Concerns

A number of commenters also expressed a preference for transmission of paper shareholder reports because of the reliability and security of information delivered by the U.S. Postal Service.[87] We note that, under the rule as proposed and final rule 30e–3, paper Notices would be mailed to investors, and those investors who prefer to have their shareholder reports mailed to them will continue to be able to receive them in that manner by making a request to permanently receive all future reports in paper, or by requesting individual reports in paper whenever they desire.

We also received a number of comments expressing cybersecurity concerns related to the proposed rule. The vast majority of these comments, however, did not appear to fully appreciate the method of transmission proposed under the rule (*e.g.,* paper notice of the website availability of the reports rather than electronic delivery of the reports by email or other means) or the information that would be made available (*e.g.,* shareholder reports rather than account statements that may have personal information).[88]

We are sensitive to these issues and acknowledge the importance of protecting the security of personal information. However, we do not believe that this new method of transmission would meaningfully increase the cybersecurity risks, such as identity thefts or ''phishing'' attacks, noted by these commenters. Rule 30e–3, as proposed and adopted, does not present email ''phishing'' attack concerns because investors will not receive email communications as a result of the rule. Rather, shareholder reports would be posted on a public website, and investors would be provided with a paper notice regarding their availability. The final rule does not require that a Notice contain any personally identifiable information. If a fund were to choose to include this information in a Notice, the fund should take measures to protect this information just as funds do today regarding other mailings, like account statements, that may contain sensitive information.[89]

7. Investor Advisory Committee

In December 2017, the Investor Advisory Committee[90] issued a recommendation regarding the promotion of electronic delivery and the development of a summary disclosure document for the delivery of fund reports.[91] The recommendation provided, among other things, that the Commission explore: (i) Methods to encourage a transition to electronic delivery that respect investor preferences and that increase the likelihood that investors will see and read important disclosure documents; and (ii) development of a summary, layered disclosure document for annual

[80] *See, e.g.,* CAI Commenter Letter; ICI Comment Letter I. Referring to a rule adopted by the Bureau of Consumer Financial Protection (commonly known as the Consumer Financial Protection Bureau and referenced herein as the ''Bureau''). The rule that the Bureau adopted in 2014 permitted financial institutions to post the required privacy notice online if they met certain conditions, including the financial institution notifying consumers by mail on an annual basis about the availability of the notice. *See* Amendment to the Annual Privacy Notice Requirement Under Gramm-Leach-Bliley Act (Regulation P), Bureau of Consumer Financial Protection (Oct. 20, 2014), *available at http://files.consumerfinance.gov/f/201410_cfpb_final-rule_annual-privacy-notice.pdf.*

In December 2015, Congress amended the Gramm-Leach-Bliley Act (''GLBA'') as part of the Fixing America's Surface Transportation Act. These amendments to the GLBA provide an exception under which financial institutions that meet certain conditions are not required to provide annual privacy notices to customers. Because the Bureau determined that the alternative delivery method was no longer necessary in light of this new statutory exception, the Bureau proposed in June 2016 to remove the alternative delivery method from its regulations implementing the GLBA. *See* Amendment to the Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act (Regulation P), Bureau of Consumer Financial Protection (June 29, 2016), *available at http://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/amendment-annual-privacy-notice-requirement-under-gramm-leach-bliley-act-regulation-p/.*

[81] *See* ICI Comment Letter II. This commenter suggested that the proposed rule was consistent with a global movement toward online financial disclosure and cited three foreign regimes as examples of this movement. These examples include: (1) The European Union, where funds are permitted to post shareholder reports on a website, with paper annual or semi-annual reports available by mail on request; (2) Canada, where funds send a negative consent letter to shareholders on an annual basis and shareholders may request a copy of the shareholder report by mail if desired; and (3) Australia, where funds can make shareholder reports available on a website, as long as in the first year of doing so they notify shareholders, explain how to access the website, and provide the option to request a mailed copy of the report.

[82] *See, e.g.,* Comment Letter of Environmental Paper Network (Oct. 4, 2016) (proposed rule would reduce landfill waste and resources associated with processing, printing, and transportation, which ultimately would reduce greenhouse gas emissions, water consumption and pollution, air pollution, wood and energy use, and solid waste); ICI Comment Letter II (estimating that the proposed rule would save approximately 2 million trees each year); Comment Letter of the Committee of Annuity Insurers (July 22, 2016) (''CAI Comment Letter II'') (noting that several members of the Committee indicated that they each send approximately 1 billion pages per year to contract owners in connection with their regulatory obligation to delivery annual and semi-annual reports to contract owners).

[83] *See* ICI Comment Letter II (citing the American Business Act on Climate Pledge).

[84] *See id.* (citing the United Nations Framework Convention on Climate Change, the Paris Agreement).

[85] *See, e.g.,* ICI Comment Letter II; BlackRock Comment Letter.

[86] *See, e.g.,* Comment Letter of Doug Delaney (Aug. 7, 2015); Comment Letter of Mark A. Heyde (Aug. 7, 2015); Comment Letter of Shane Johnson (June 12, 2015). Many other commenters argued that the proposed rule would harm the paper industry and postal workers. *See, e.g.,* Comment Letter of Kathy Watters (July 20, 2015); Comment Letter of James Sandstrom (Aug. 7, 2015) (''Sandstrom Comment Letter''); Comment Letter of PDF Print Communications Inc. (Aug. 10, 2015).

[87] *See, e.g.,* Comment Letter of Richard Griffin (July 28, 2015); Comment Letter of Tom Jones (July 28, 2015); Comment Letter of Michael J. Flynn (Aug. 4, 2015).

[88] *See, e.g.,* Comment Letter of Kenneth J. Janulewicz (July 27, 2015); Comment Letter of Mary Wells (Aug. 17, 2015); Comment Letter of Jacquelyn Mangold (July 29, 2015).

[89] *See, e.g.,* Regulation S–P [17 CFR 248.30] (requiring written policies and procedures that address administrative, technical, and physical safeguards for the protection of customer records and information); Privacy of Consumer Financial Information (Regulation S–P), Exchange Act Release No. 42974 (June 22, 2000) [65 FR 40334 (June 29, 2000)] (adopting Regulation S–P); Disposal of Consumer Report Information, Exchange Act Release No. 50781 (Dec. 2, 2004) [69 FR 71322 (Dec. 8, 2004)] (adopting requirements for proper disposal of consumer report information and records).

[90] Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act added Section 39 to the Securities Exchange Act of 1934, which establishes the Investor Advisory Committee. The Committee advises and consults with the Commission on regulatory priorities, issues, and initiatives and submits findings and recommendations to the Commission. 15 U.S.C. 78pp(a). The Commission reviews the findings and recommendations of the Committee and issues a public statement assessing the finding or recommendation and disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation. 15 U.S.C. 78pp(g).

[91] *See* Investment Advisory Committee Recommendation, *supra* note 40.

shareholder reports that incorporates key information from the report along with prominent notice regarding how to obtain a copy of the full report, and would be designed to be delivered either by mail or by email (depending on the investors' delivery preferences). The Committee also recommended that the Commission seek comment on the appropriate content and format of such a disclosure document and engage in investor testing or encourage testing by industry members.

B. Adoption of Rule 30e–3 and Related Amendments

1. Overview

After consideration of the comments discussed above, we are adopting rule 30e–3 with several modifications designed to address preservation of investor preferences, cost, and administrability of the rule. Rule 30e–3 is intended to modernize the manner in which shareholder reports and other information are made available to investors and reduce expenses associated with printing and mailing that are currently borne by funds, and ultimately, fund investors.[92]

Reliance on the rule is optional. Funds are permitted to satisfy their delivery obligations by mailing shareholder reports in paper, delivering reports pursuant to the Commission's electronic delivery guidance, providing notice and website accessibility pursuant to rule 30e–3, or any combination of the foregoing, so long as the conditions of the applicable transmission methods are met. We believe that a fund is in the best position to choose whether or not to implement the rule after considering the costs and benefits of the rule, including consideration of the needs and preferences of the fund's particular investors.[93] As discussed below, the final rule has been modified from the proposal to provide increased flexibility for funds to implement the rule according to their particular circumstances and the preferences of their investors. For example, these modifications permit funds to include in the Notice additional information from shareholder reports that they may deem helpful when notifying investors of the availability of reports.

The rule is consistent with our prior initiatives to harness the benefits of the internet and other new technologies for investors,[94] and is consistent with similar initiatives of other regulators (both domestic and foreign).[95] Furthermore, as we discussed in the Proposing Release, investor testing and internet usage trends have highlighted the evolution of investor preferences about electronic delivery of information, and shown that many investors would prefer enhanced availability of fund information on the internet.[96] Given both current levels and trends in increasing internet access and use—in particular with the significant increase in the use of the internet as a tool for disseminating financial information among all age groups—we believe that it is appropriate to permit the internet availability of shareholder reports to satisfy transmission obligations, subject to certain conditions including protections for investors who continue to prefer reports in paper form.[97]

We recognize that it is critical for investors to continue to receive disclosure through means that are convenient and accessible for them.[98] We believe that the final rule's conditions include appropriate protections for those who lack internet access or who simply prefer paper reports. Investors who lack internet access or prefer paper reports will be

[92] If any provision of this rule, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or the application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

[93] We understand that internet access and use is not uniformly distributed geographically. *See infra* note 97. In considering whether use of the rule is appropriate, we encourage each fund, in consultation with its intermediaries, to consider the prevalence of internet access and use across its investor base.

[94] *See supra* note 18.

[95] *See supra* notes 78–81 and accompanying text. *But see supra* note 56 and accompanying text (noting that some commenters stated that certain federal agencies do not permit implied consent for electronic delivery of certain materials); *supra note* 80 (noting that because of provisions in the Fixing America's Surface Transportation Act that amended the GLBA to provide an exception under which financial institutions that meet certain conditions are not required to provide annual privacy notices to customers, the Bureau determined that the alternative delivery method for the annual privacy notice requirement was no longer necessary in light of this new statutory exception).

[96] For example, investor testing sponsored by the Commission and conducted in 2011 (''2011 Investor Testing'') suggested that an investor looking for a fund's annual report is most likely to seek it out on the fund's website, rather than request it by mail or phone or by retrieving it from the Commission's Electronic Data, Gathering, Analysis, and Retrieval System (''EDGAR''). Proposing Release, *supra* note 14, at 33626–27. Many investors indicated that they would prefer that fund information be made available in both electronic and paper versions, with a plurality of respondents preferring electronic transmission by email with the option to easily request a paper copy of a particular report, though a significant minority indicated that they would still prefer to receive a paper copy through the mail. *Id.* at 33627.

According to the most recent U.S. census data, approximately 77.2% of U.S. households had some form of internet access in their home in 2015 and 86.8% have a computer (*e.g.,* desktop, laptop, tablet or smartphone). *See* Camille Ryan & Jamie M. Lewis, Computer and internet Usage in the United States: 2015 (Sept. 2017), *available at https://www.census.gov/content/dam/Census/library/publications/2017/acs/acs-37.pdf; see also* Sarah Holden, Daniel Schrass & Michael Bogdan, Ownership of Mutual Funds, Shareholder Sentiment, and Use of the internet, 2017 (Oct. 2017), *available at https://www.ici.org/pdf/per23-07.pdf* (''[i]n mid-2017, 95 percent of households owning mutual funds had internet access, up from about two-thirds in 2000'' and ''86 percent of mutual fund-owning households with a household head aged 65 or older had internet access in mid-2017''); Andrew Perrin & Maeve Duggan, Americans' internet Access: 2000–2015 (June 2015), *available at http://assets.pewresearch.org/wp-content/uploads/sites/14/2015/06/2015-06-26_internet-usage-across-demographics-discover_FINAL.pdf* (finding in 2015, 84 percent of all U.S. adults use the internet).

But see Broadridge Meeting Memo I (citing studies on investor delivery preference for shareholder reports and mandatory disclosures regarding investments, which depending on the particular study, found 43% to 55% of investors preferred paper delivery).

Understanding that an investor's experience when accessing a shareholder report may differ between a mobile device and a laptop, we request comment about investor experiences and preferences for fund disclosures on mobile devices in the Disclosure Request for Comment. *See supra* note 20.

[97] Since the 2011 Investor Testing, third-party studies and surveys indicate access to and use of the internet has continued to increase rapidly, including among demographic groups that have previously been less likely to use the internet. *See, e.g., supra* notes 41–42 and accompanying text; *see also* Pew Research Center, *Who's Not Online and Why,* at 2 (Sept. 25, 2013), *available at http://pewinternet.org/Reports/2013/Non-internet-users.aspx.* The Pew Research Center study, conducted in 2013, found that only 15% of American adults ages 18 and older do not use the internet or email—falling from 26% in 2011, when the Commission's investor testing was conducted, and from 36% a decade before in 2001. *See* Pew Research Center, *Older Adults and Technology Use,* at 1 (Apr. 3, 2014), *available at http://www.pewinternet.org/2014/04/03/older-adults-and-technology-use/.* These researchers also found that in 2016, 67% of adults over the age of 64 used the internet, a 55% increase since 2000. *See* Pew Research Center, *Tech Adoption Climbs Among Older Adults,* at 2 (May 17, 2017), *available at http://assets.pewresearch.org/wp-content/uploads/sites/14/2017/05/16170850/PI_2017.05.17_Older-Americans-Tech_FINAL.pdf; see also* Investment Company Institute, 2017 Investment Company Fact Book, *available at https://www.ici.org/pdf/2017_factbook.pdf* (''2017 ICI Fact Book'') at 129 (stating that 92% of U.S. households owning mutual funds had internet access in mid-2016).

These trends have also extended to use of the internet for financial purposes. For example, a recent survey by the Investment Company Institute found that in 2017, 95% of U.S. households owning mutual funds had internet access (up from about two-thirds in 2000), with widespread use of the internet among various age groups, education levels and income levels, including access by 86% of mutual fund owning households headed by someone age 65 or older. *See* Ownership of Mutual Funds, Shareholder Sentiment, and Use of the internet, *supra* note 96, at 18.

[98] Proposing Release, *supra* note 14, at 33627. In the Proposing Release, we noted concerns that some investors who prefer to receive shareholder reports in paper and some demographic groups of investors that may be less likely to use the internet might not fully understand the actions they would need to take under the proposed rule to continue to receive their reports in paper. *See id.*

able to continue to receive them by mail:

- First, the final rule provides that investors who prefer to receive reports in paper may continue to do so, either by making a one-time request to receive all future reports in paper, or by requesting individual reports in paper whenever they desire.
- Second, as outlined below in Sections II.B.2.f and II.E, we are adopting an extended transition period with staged effective dates. During the extended transition period, the earliest that Notices may be transmitted to investors in lieu of paper reports is January 1, 2021. In general, funds will be required to provide two years of notice to shareholders before relying on the rule. Therefore, funds that begin providing notice at the start of 2019 will complete the two-year notice period, and may begin relying on the rule, on January 1, 2021. In addition, funds that are newly offered during the period of January 1, 2019 through December 31, 2020 may rely on the rule starting January 1, 2021, if they provide notice to shareholders starting with their first public offering. Funds that are newly offered on January 1, 2021 and thereafter would not be subject to the condition and could therefore rely on the rule immediately without providing any advance notice through required statements. All other funds may not rely on the rule until they have completed a full two year notice period or until January 1, 2022, whichever comes first.

Although we are eliminating the Initial Statement requirement, we nonetheless believe that it is important that investors receive sufficient notice of the change in transmission method and sufficient opportunity to express their delivery preference. Therefore, the extended transition period is designed to ensure that investors receive disclosures during the extended transition period and to provide funds electing to make use of this optional method and financial intermediaries time to educate investors of the coming change through disclosures on prospectuses and certain other fund documents and through other means. It will also provide funds and financial intermediaries with time to implement any necessary operations and systems changes. Finally, the Commission staff will also use this extended transition period to engage in educational and investor outreach efforts.

We believe these protections will mitigate the various concerns raised by commenters regarding this new optional method for funds to satisfy requirements to transmit shareholder reports.[99] For example, the additional disclosures on shareholder documents about the forthcoming internet availability of reports, as well as other educational efforts undertaken by funds, financial intermediaries, and Commission staff should decrease the possibility that an investor will be unaware of the change in transmission method and will result in many investors receiving considerably more notice of the change in transmission than they would have under the proposed rule. An investor in a mutual fund, for example, that seeks to begin relying on the rule before January 1, 2022 would be notified about six times compared to the proposal, which did not have an extended transition period and would have required only that one Initial Statement be sent 60 days in advance of a change in transmission method.[100] We believe that the required disclosures, which must be made using plain English principles, also mitigate concerns that some investors might not fully understand what they need to do to continue to receive paper reports. To the extent an investor does not prefer or is unable to access shareholder reports via the internet, he or she can request paper copies of shareholder reports, either on a permanent or *ad hoc* basis.

2. Conditions of Rule 30e–3

New rule 30e–3 provides that a registered management company (and any separate series thereof) or UIT may satisfy its obligation to transmit a report required by rule 30e–1 or rule 30e–2, respectively, if certain conditions set forth in the rule are satisfied.[101] These conditions generally relate to: (a) Availability of the report and other materials; (b) notice to investors of the website availability of the report; and (c) delivery of paper copies of materials upon request. Rule 30e–3 also requires transmission of paper reports to investors electing a delivery preference to receive them in that format.[102] Finally, rule 30e–3 will also include a temporary condition relating to form amendments applicable during an extended transition period.[103] The specific provisions of the rule are discussed in more detail in the sections that follow.

These conditions are generally consistent with similar conditions in other rules adopted by the Commission, including its rules regarding the use of a summary prospectus and internet availability of proxy materials.[104] For example, funds offering electronic delivery typically send investors an email notifying them of the online availability of the report or other information, along with a link to the website address where the document is available.[105] Similarly, the Notice required under rule 30e–3 may satisfy shareholder report transmission obligations in part by containing a link to where the document may be accessed on the internet.

Rule 30e–3 provides funds an optional means of satisfying shareholder report transmission obligations under rule 30e–1 and rule 30e–2.[106] Some commenters recommended, however, that the rule be clarified as to its application to UITs, as UITs and not the underlying funds held by such UITs are the entities with transmission obligations under rule 30e–2.[107] In response to this recommendation, the final rule clarifies, by use of terminology and otherwise, that the operative conditions of rule 30e–3 extend to a UIT seeking to meet its transmission obligations under rule 30e–2.[108]

[99] *See supra* notes 54–62 and accompanying text.

[100] *See infra* Section II.B.2.d. During the extended transition period, an investor in a mutual fund, for example, that seeks to begin relying on the rule before January 1, 2022 would receive approximately six notices of the upcoming change over a two-year period because each year, investors will receive notice on the summary prospectus or statutory prospectus, as well as the semi-annual and annual report to shareholders.

[101] Rule 30e–3(a). The rule could also be used to satisfy any obligation to transmit an amendment to a report required by rule 30e–1 or 30e–2 by satisfying the same conditions. An amendment to a shareholder report could also be transmitted through other permitted means, such as in paper through the mail.

[102] Rule 30e–3(f).

[103] Rule 30e–3(j); *see infra* Sections II.B.2.f, II.E.

[104] *See* rule 498 under the Securities Act (permitting the use of a summary prospectus) [17 CFR 230.498]; rule 14a–16 under the Exchange Act (internet availability of proxy materials) [17 CFR 240.14a–16].

[105] *See* 1995 Release, *supra* note 18. Under rule 498, the requirement to send an electronic copy of a document by email may be satisfied by sending a direct link to the document on the internet; provided that a current version of the document is directly accessible through the link from the time that the email is sent through the date that is six months after the date that the email is sent and the email explains both how long the link will remain useable and that, if the recipient desires to retain a copy of the document, he or she should access and save the document. *See* rule 498(f)(1) under the Securities Act [17 CFR 230.498(f)(1)].

[106] Rule 30e–3(a).

[107] *See, e.g.,* CAI Comment Letter I; ICI Comment Letter II.

[108] For example, in a change from the proposal, the rule uses the defined term ''Company'' to refer collectively to the entities with obligations under rules 30e–1 and 30e–2. *See* rule 30e–3(h)(1) (defining ''Company'' to mean a Fund required to transmit a report to shareholders pursuant to rule 30e–1 or a UIT required to transmit a report to shareholders pursuant to rule 30e–2). For purposes of the rule, ''Fund'' is defined to mean a registered management company and any separate series of the management company. *See* rule 30e–3(h)(2).

a. Availability of Shareholder Report and Other Materials

We are adopting generally as proposed, except as indicated below, certain requirements relating to the availability of the shareholder report and other materials for funds relying on rule 30e–3. Specifically, in order to satisfy transmission obligations under rule 30e–1 or rule 30e–2, the current report to shareholders must be publicly accessible, free of charge, at a specified website address.[109] In a change from the proposal, the final rule requires that the report must be accessible from the date the fund transmits the report as required by rule 30e–1 or 30e–2, at least until the date the fund next transmits a shareholder report required by rule 30e–1 or rule 30e–2.[110] This requirement is intended to provide investors with the opportunity for ongoing access to the shareholder report until, at a minimum, the date that the next report is transmitted.[111]

Funds are not currently required to send first- and third-quarter portfolio holdings information to investors or make that information accessible on their websites. To provide investors with convenient access to the most recent four quarters of portfolio holdings, the rule requires that, in addition to posting the most current shareholder report, the following fund documents must also be posted at the specified website: (1) Any report with respect to the fund for the prior reporting period that was transmitted to shareholders of record pursuant to rule 30e–1 or rule 30e–2, if any; [112] (2) the fund's complete portfolio holdings as of the close of the period covered by the current or prior report if the report includes a summary schedule of investments; [113] and (3) for funds other than money market funds and small business investment companies (''SBICs''),[114] the complete portfolio holdings as of the close of the fund's most recent first and third fiscal quarters, if any, after the date on which its registration statement became effective, within 60 days after the close of that period.[115] Money market funds and SBICs are expressly excluded from the rule's posting requirement provisions for fiscal quarter-specific portfolio holdings schedules because money market funds are required currently to post certain portfolio holdings and other information on their websites pursuant to rule 2a–7,[116] and because SBICs are not required to file reports on Form N–Q today and are not required to file reports on Form N–PORT.[117]

The fund's prior shareholder report and portfolio holdings information for its first and third fiscal quarters are required to be publicly accessible in the same manner and for the same time period as the current shareholder report.[118] We are adopting this requirement to provide investors with easy access to a full year of complete portfolio holdings information in one location (*i.e.,* the website on which the report transmitted under the rule is made accessible), rather than requiring investors to access the fund's reports on Form N–PORT (or Form N–Q) for those periods separately.

To conform the format and content of the portfolio holdings schedules for the first and third quarters to those schedules presented in the fund's shareholder reports for the second and fourth quarters, the rule requires the schedules for the first and third quarters to be presented in accordance with the schedules set forth in §§ 210.12–12 through 12–14 of Regulation S–X, which need not be audited.[119]

In a change from the proposal, the final rule requires that if a report required to be posted includes a summary schedule of investments,[120] the fund's complete portfolio holdings as of the close of the period covered by the report must also be posted at the specified website.[121] In the Proposing Release, we stated that for funds relying on the proposed rule, use of the summary schedule may be unnecessary,[122] and in particular, may be potentially confusing or cumbersome to investors seeking to access the fund's complete portfolio holdings.[123] For

[109] Rule 30e–3(b)(1).

[110] *Id.* Rules 30e–1 and 30e–2 require that a report be transmitted within 60 days after the close of the period covered by the report. *See* rule 30e–1(c); rule 30e–2(a). Under the proposal, (1) the report would have been required to be accessible on the website from the date the report was transmitted to investors, and (2) the Notice relating to the report would have been required to be transmitted within 60 days of the close of the related reporting period. *See* proposed rule 30e–3(b), (d). As discussed below, we have modified the final rule to permit the Notice to be delivered up to 70 days after the close of the reporting period. However, we believe the report should nonetheless be available at the same time that reports are transmitted to investors, either in paper or electronically, in order that reports covering a complete year are available on the website at all times.

[111] *See* 1995 Release, *supra* note 18 (noting that to satisfy access requirements under the Commission's electronic delivery guidance, ''as is the case with a paper document, a recipient should have the opportunity to retain the information or have ongoing access equivalent to personal retention'').

[112] Rule 30e–3(b)(1)(ii). If a fund is transmitting a report for its first operational semi-annual period, the fund could rely on rule 30e–3 to transmit that report, despite not having made a prior report publicly accessible, provided that it meets the other required conditions.

[113] Rule 30e–3(b)(1)(iii). In a change from the proposal, this provision provides that a fund's complete portfolio holdings for its most recent second and fourth fiscal quarters must be posted at the specified website if a report required to be posted at the specified website (*i.e.,* a current report to be transmitted pursuant to rule 30e–3 or the report for the prior fiscal period) includes a summary schedule of investments.

[114] SBICs are unique investment companies that operate differently and are subject to a different regulatory regime than other management companies. They are ''privately owned and managed investment funds, licensed and regulated by the Small Business Administration (''SBA''), that use their own capital plus funds borrowed with an SBA guarantee to make equity and debt investments in qualifying small businesses.'' *See* SBA, SBIC Program Overview, *available at https://www.sba.gov/content/sbic-program-overview.*

[115] Rule 30e–3(b)(1)(iv). Under this requirement, the portfolio holdings as of the fiscal quarter following the period of the report will be required to be posted at the specified website when available. For example, a fund with a December 31 fiscal year end wishing to rely on rule 30e–3 to transmit its annual report to shareholders will also be required to ensure that its complete portfolio holdings for the first quarter of the next year is made similarly available within 60 days after the end of the first quarter.

[116] *See* rule 2a–7(h)(10).

[117] *See* rule 30b1–9; *see also supra* note 14. Until they are required to submit reports on Form N–PORT, management companies other than SBICs are required to file portfolio schedules as of the end of the first and third fiscal quarters on Form N–Q. *See* rule 30b1–5. *See also* Investment Company Reporting Modernization, Investment Company Act Release No. 32936 (Dec. 8, 2017) [82 FR 58731 (Dec. 14, 2017)] (delaying rescission of Form N–Q and certain other effective dates for final rules and other amendments adopted as part of the Reporting Modernization Adopting Release).

[118] Rule 30e–3(b)(1).

[119] Rule 30e–3(b)(1)(iii)–(iv); 17 CFR 210.12–12 through 12–14. These materials are required to be filed as exhibits to Form N–PORT, regardless of whether the fund intends to rely on the rule to satisfy its shareholder report transmission obligations. *See* Part F of Form N–PORT [referenced in 17 CFR 274.150].

[120] In lieu of providing a complete schedule of portfolio investments as part of the financial statements included in its shareholder report, a fund may provide a summary schedule of portfolio investments. *See, e.g.,* Instruction 1 to Item 27(b)(1) of Form N–1A. Pursuant to rule 12–12B of Regulation S–X, the summary schedule generally must list separately the 50 largest issuers and any other issuer the value of which exceeded one percent of the net asset value of the fund at the close of the period. *See* rule 12–12B, n.3 of Regulation S–X [17 CFR 210.12–12B].

[121] Rule 30e–3(b)(1)(iii). Similarly to the other quarterly portfolio holdings required to be posted to the website, the portfolio holdings for the second and fourth quarters must be presented in accordance with rules 12–12 through 12–14 of Regulation S–X, but need not be audited.

[122] We noted, for example, that a fund currently using the summary schedule as a means to reduce fund printing and mailing costs may decide instead to include a complete portfolio schedule in the shareholder report due to more limited cost savings if the report is posted on its website in reliance on the proposed rule. Proposing Release, *supra* note 14, at 33631.

[123] We noted, for example, that under the proposed rule, an investor that wishes to view the complete portfolio holdings would first receive a notice of the availability of the report, then take the

Continued

these reasons, we proposed amendments to our registration forms that would have restricted funds relying on proposed rule 30e–3 from providing a summary schedule in their shareholder reports in lieu of a complete schedule.[124] We requested comment, however, as to whether the final rule should restrict funds relying on the proposed rule from using a summary schedule.

One commenter recommended that funds retain the ability to use the summary schedule of investments if they rely on the proposed rule.[125] This commenter noted that it understood the Commission's concern that investors may have to take additional steps to access the complete portfolio schedule, but believed the policy rationale supporting allowing the summary schedule remained the same as when the Commission first implemented the summary schedule.[126]

We continue to be concerned that use of a summary schedule of investments with rule 30e–3 would be potentially confusing or cumbersome for investors seeking access to the complete portfolio schedule. At the same time, we acknowledge that a fund may choose to use a summary schedule for cost considerations or otherwise, and we continue to believe that the summary schedule can help investors focus on a fund's principal holdings and thereby better evaluate the fund's risk profile and investment strategy. The restriction contained in proposed rule 30e–3 effectively would have required a fund using the summary schedule to create and distribute two separate reports to shareholders (*i.e.,* one containing the summary schedule for investors receiving the report in paper, and another containing a complete schedule of portfolio investments for purposes of rule 30e–3).

To avoid the related administrative cost and other burdens associated with such a scenario, and at the same time help to provide investors with easy access to the complete portfolio schedule, the final rule requires, in a change from the proposal, that if a report required to be posted at the specified website (*i.e.,* a current report to be transmitted pursuant to rule 30e–3 or the report for the prior fiscal period) includes a summary schedule of investments, the fund's complete portfolio holdings as of the close of the period covered by the report must also be posted at the specified website.[127] This will provide investors with a year of complete portfolio schedules on the specified website, regardless of whether the fund chooses to utilize a summary schedule of investments in its reports.

Like the schedule of investments required to be included with shareholder reports (and filed as part of reports on Form N–CSR), quarterly schedules of portfolio holdings currently required to be reported on Form N–Q, and monthly schedules of portfolio holdings that will be required to be reported on Form N–PORT,[128] the portfolio holdings schedules specified by the rule are required to be presented in accordance with schedules set forth under Regulation S–X.[129] Accordingly, we anticipate that most funds have established procedures in place to update and monitor the website posting of similar types of portfolio schedule disclosures. These requirements are also intended to provide disclosures that are easily understood and familiar to investors, because these disclosures will contain similar information and be presented in a similar manner as those currently included in shareholder reports.

As proposed, the final rule also requires compliance with certain conditions designed to ensure the accessibility of shareholder reports and other required materials.[130] First, the website address at which the shareholder reports and other required portfolio information are made accessible may not be the address of the Commission's electronic filing system.[131] Second, the materials required to be posted on the website must be presented in a format or formats convenient for both reading online and printing on paper, and persons accessing the materials must be able to permanently retain (free of charge) an electronic copy of the materials in this format.[132] These conditions are designed to ensure that shareholder reports and other information posted on a website pursuant to the rule are user-friendly and allow investors the same ease of reference and retention abilities they would have with paper copies of the information.

The rule includes a safe harbor provision that would allow a fund to continue relying on the rule even if it did not satisfy the posting condition of the rule for a temporary period of time.[133] In order to rely on this safe harbor, a fund must have reasonable procedures in place to ensure that the required materials are posted on the specified website in the manner required by the rule and take prompt action to correct noncompliance with these posting requirements.[134] The rule requires prompt action as soon as

step to access the report on the fund's website, only to have to take a subsequent step to request or otherwise access the complete schedule. Proposing Release, *supra* note 14, at 33631. Currently, for funds using the summary schedule of investments, unless voluntarily posted on the fund's website, the fund's complete portfolio holdings are only available by telephonic request, or by accessing the fund's report on Form N–CSR for that period on the Commission's EDGAR system. *See, e.g.,* Instruction 1 to Item 27(b) of Form N–1A; Item 6(a) of Form N–CSR.

[124] *See* proposed amendments to Item 27(b) of Form N–1A; Item 24, Instruction 7 of Form N–2; Item 28(a), Instruction 7(i) of Form N–3.

[125] *See* ICI Comment Letter I.

[126] *See id.* The Commission adopted rules permitting the use of a summary schedule of investments in 2004. *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) [69 FR 11244 (Mar. 9, 2004)]. In that release, the Commission stated that the summary schedule was ''designed to streamline shareholder reports and help investors to focus on a fund's principal holdings, and thereby better evaluate the fund's risk profile and investment strategy.'' *Id.* at 11248.

[127] Rule 30e–3(b)(1)(iii).

[128] *See supra* note 117 and accompanying text. The information reported on Form N–PORT for the third month of each fund's fiscal quarter will be made publicly available 60 days after the end of the fund's fiscal quarter. The Commission does not intend to make public the information reported on Form N–PORT for the first and second months of each fund's fiscal quarter that is identifiable to any particular fund or adviser; however, the Commission may use information reported on Form N–PORT in its regulatory programs, including examinations, investigations, and enforcement actions. Form N–Q will be rescinded May 1, 2020. Larger fund groups will begin submitting reports on Form N–PORT by April 30, 2019, and smaller fund groups by April 30, 2020. *See* Reporting Modernization Adopting Release, *supra* note 14; Investment Company Reporting Modernization, Investment Company Act Release No. 32936, *supra* note 117.

[129] *See* Items 1 and 6 of Form N–CSR; Item 1 of Form N–Q; Part F of Form N–PORT.

[130] These requirements are largely similar to the accessibility requirements of rule 498 under the Securities Act, which allows funds to use a summary prospectus, and rule 14a–16 under the Exchange Act, which requires issuers and other soliciting persons to furnish proxy materials by posting these materials on a public website and notifying shareholders of the availability of these materials and how to access them. *See* rule 14a–16 under the Exchange Act [17 CFR 240.14a–16].

[131] Rule 30e–3(b)(2). The Commission's electronic filing system for fund documents is EDGAR. Rule 498 under the Securities Act sets forth a similar requirement. *See* 17 CFR 230.498(b)(1)(v)(A).

[132] Rule 30e–3(b)(3)–(4).

[133] *See* rule 30e–3(b)(5). The rule provides that the conditions in paragraphs (b)(1) through (b)(4) of the rule (*i.e.,* the posting requirements) shall be deemed to be met, notwithstanding the fact that the materials required by paragraph (b)(1) of the rule are not available for a period of time in the manner required by the posting requirements, so long as certain conditions are met. *See id.* Four commenters supported the safe harbor provision of the proposed rule. *See* BlackRock Comment Letter; ICI Comment Letter I, Comment Letter of OppenheimerFunds (Aug. 11, 2015) (''OppenheimerFunds Comment Letter''); State Street Comment Letter. Moreover, we did not receive any comment letters objecting to the safe harbor provision.

[134] *See* rule 30e–3(b)(5)(i) and (ii).

practicable following the earlier of the time at which the fund knows or reasonably should have known that the required documents are not available in the manner prescribed by the posting requirements of the rule. We are adopting this safe harbor because, as we explained in the Proposing Release, there may be times when, due to events beyond a fund's control, such as system outages or other technological issues, natural disasters, acts of terrorism, pandemic illnesses, or other circumstances, a fund may be temporarily not in compliance with the posting requirements of the rule.[135]

One commenter recommended that the final rule clarify that the materials required to be posted could be posted on a third-party website or landing page, similar to what is allowed under the current process for notice and access for proxy materials.[136] The rule as proposed, and as adopted today, does not require that the website be maintained by any particular party. Instead, the rule requires that the required materials be posted at the website specified in the Notice.[137] Similar flexibility regarding the website on which required materials must be posted exists in our current rules relating to the use of a summary prospectus.[138]

b. Notice

Rule 30e–3 requires funds relying on the rule with respect to an investor to send a paper Notice notifying the investor of the availability of the report.[139] The requirements for a Notice largely mirror the notice requirements under the Commission's rules mandating the posting of proxy materials online.[140] We are adopting the Notice requirement generally as proposed, but with certain modifications in response to issues raised by commenters. In particular, the final rule permits the Notice to include additional content beyond what would have been permitted under the proposed rule.

While most commenters focused on technical aspects of the Notice, one commenter encouraged the Commission to consider eliminating the Notice requirement altogether, which the commenter believed would lead to additional cost savings and environmental benefits.[141] Another commenter recommended that the Notice be sent annually, rather than semi-annually, and that the final rule permit the Notice to be sent to investors 90 days after the fiscal year end rather than 60 days as proposed.[142] A third commenter recommended requiring that the Notice be sent by email.[143] Finally, another commenter recommended that the rule allow investors to elect to receive notices by email.[144]

We continue to believe that it is important for all investors to receive the Notice, as it will contemporaneously alert them to the availability of a shareholder report online and will provide them with information on how to obtain a paper copy of the report. Therefore, we are adopting as proposed the Notice requirements as to format (*i.e.,* the Notice must be paper).[145] We are requiring the Notice to be in paper because, even though an investor may have provided an email address (*e.g.,* as part of opening an account), there may be instances where that investor provided his or her email address for certain limited purposes without necessarily opting to receive shareholder reports or notices of reports through email.

In a change from the proposal, the final rule extends from 60 days to 70 days the period of time in which the Notice must be sent to investors after the close of the period covered by the related report.[146] We proposed a 60-day period because, as we explained in the Proposing Release, that is the period currently required for transmission of reports, whether in paper or electronically.[147] After consideration of the comments we received, including comments recommending that we permit the Notice to accompany other important account materials,[148] we believe a 70-day period will accommodate such changes to the Notice in the final rule and achieve additional cost savings and operational efficiencies.

First, in a change from the proposal and as discussed below, we are permitting the Notice to accompany other materials, including a shareholder's account statement. Because shareholder reports are generally prepared at or shortly before the end of the 60 days following the close of the reporting period, and account statements (whether monthly, quarterly, or annual) are typically prepared and mailed within a few days after the close of the applicable month end, a Notice would generally not be able to accompany an account statement mailing if the Notice is sent out within 60 days following the close of the reporting period.[149]

Second, as also discussed below, we are permitting the Notice to include content from the shareholder report, and also requiring any such Notices to be filed with the Commission as part of a fund's report on Form N–CSR. Extending the time period to 70 days permits funds additional time to prepare Notices after finalizing their related shareholder reports, and matches up with the 70-day filing period for reports on Form N–CSR.[150]

i. Information That Must Be Included in the Notice

As under the proposal, the Notice must be in plain English so that investors can easily understand it.[151] The final rule also requires funds to include certain statements and information in the Notice, if applicable, and permits funds to include certain

[135] *Compare* rule 498(e)(4) under the Securities Act (providing a similar safe harbor under the summary prospectus rule for the same reasons) [17 CFR 230.498(e)(4)], with rule 30e–3(b)(5). Providing for this safe harbor by rule may obviate the need to provide exemptive relief by order from the rule's conditions under catastrophic circumstances, as from time to time we have done. *See, e.g.,* Exchange Act Release No. 81760 (Sept. 28, 2017) [82 FR 46335 (Oct. 4, 2017)] (exemptive relief for individuals and entities affected by Hurricanes Harvey, Irma, or Maria); Securities Act Release No. 10416 (Sept. 27, 2017) [82 FR 45722 (Oct. 2, 2017)] (Regulation Crowdfunding and Regulation A relief and assistance for individuals and entities affected by Hurricanes Harvey, Irma, or Maria).

[136] *See* SIFMA Comment Letter.

[137] *See* rule 30e–3(b)(1).

[138] *See* rule 498(e)(1) under the Securities Act (requiring in the case of the summary prospectus, that the required documents be available at the website specified on the cover page or beginning of the summary prospectus) [17 CFR 230.498(e)(1)].

[139] *See* rule 30e–3(c). As discussed above, funds relying on the rule to satisfy delivery obligations with respect to investors who currently receive paper shareholder reports would not have to rely on rule 30e–3 with respect to those shareholders who have elected to receive reports electronically. *See supra* note 18 and accompanying text.

[140] *See* rule 14a–16 under the Exchange Act [17 CFR 240.14a–16].

[141] *See* BlackRock Comment Letter.

[142] *See* OppenheimerFunds Comment Letter.

[143] *See* State Street Comment Letter.

[144] *See* Simpson Thacher Comment Letter.

[145] Rule 30e–3(c).

[146] *Id.*

[147] *See* Proposing Release, *supra* note 14; rules 30e–1(c), 30e–2(a).

[148] *See, e.g.,* Comment Letter of Charles Schwab Investment Management, Inc. (Aug. 12, 2015) (''Schwab Comment Letter''); Dreyfus Comment Letter.

[149] For example, pursuant to rule 30e–1, a fund would be required to transmit a report for a period ended March 31 by May 30. Permitting the fund 70 days to transmit a Notice would enable the fund, if it so chose, to combine it with the investor's May account statement mailing.

[150] Reports on Form N–CSR must be filed within 10 days after the shareholder report is sent to shareholders, and the shareholder report must be sent within 60 days after the close of the period covered by the report. *See* rule 30b2–1(a) [17 CFR 270.30b2–1(a)]; rule 30e–1(c).

[151] Rule 30e–3(c)(1), (d).

additional information, generally as follows:

• As was proposed, the Notice must contain a prominent legend in bold-face type stating that an important report to shareholders is available online and in paper by request, and in a change from the proposal, the Notice may include information identifying the fund, its sponsor (including any investment adviser or sub-adviser to the fund), a variable annuity or variable life insurance contract or insurance company issuer thereof, or a financial intermediary through which shares of the fund are held; [152]

• as was generally proposed (but with certain modifications), the Notice must state that the report contains important information about the fund, including as proposed its portfolio holdings and, in a change from the proposal, its financial statements;[153]

• in a change from the proposal, the Notice may include a brief listing of other types of information contained in the report; [154]

• as was proposed, the Notice must state that the report is available on the internet or, upon request, by mail, and encourage shareholders to access and review the report; [155]

• as was proposed, the Notice must include the website address where the shareholder report and other required portfolio information is posted (*i.e.,* the ''landing page'' to those materials), but in a change from the proposal, the final rule eliminates the proposed requirement that the Notice include the website address for individual reports; [156]

• as was generally proposed (with certain modifications), the Notice must include a toll-free (or collect) telephone number to contact the fund or the shareholder's financial intermediary [157] and (A) provide instructions describing how a shareholder may request, at no charge, a paper or email copy of the shareholder report or other materials required to be made accessible online, and an indication that the shareholder will not receive a paper copy of the report unless requested,[158] (B) explain that the shareholder can at any time in the future elect to receive paper reports and provide instructions describing how a shareholder may make that election (*e.g.,* by contacting the fund or the shareholder's financial intermediary),[159] and (C) if applicable, include instructions describing how a shareholder can elect to receive shareholder reports or other documents and communications by electronic delivery; [160]

• in a change from the proposal, the Notice may include other methods by which a shareholder can contact the fund or the shareholder's financial intermediary (*e.g.,* by email or through a website) and may include information needed to identify the shareholder; [161] and

• in a change from the proposal, the Notice is not required to be accompanied by a reply card.[162]

We requested comment on whether the proposed disclosures in the Notice, including the required statement that the report contains important information about the fund, were appropriate. One commenter suggested that the content of the Notice be enhanced to require disclosures relating to ''important information, such as [f]und performance and portfolio manager insights,'' noting that enhanced disclosures could encourage investors to access their shareholder reports.[163] We agree that such additional disclosures could encourage investors to access their reports, so we have modified and expanded the proposed required statement in the Notice that the report to shareholders contains important information about the fund, including its portfolio holdings, to add a reference to the fund's financial statements.[164] In addition, the final rule permits the statement to also include a brief listing of other types of information contained in the report. For example, the statement could also note that the report contains fund performance and portfolio manager insights as suggested by the commenter, or other types of information such as expense information.[165]

Some commenters recommended modifications to the proposed website address requirements. One commenter suggested that the rule not require the Notice to include a specific website address, which would allow the industry more flexibility in implementing the rule.[166] Another commenter suggested that the rule not require website addresses for individual reports.[167] That commenter stated that: (1) Such a requirement was too complex and costly to administer, as new reports are posted and old ones are taken down; (2) website addresses would be long and difficult to key in from the paper Notice; and (3) such requirement was inconsistent with our rules regarding the internet availability of proxy materials, which only requires a website address for a landing page and with which investors may already be familiar.

After consideration of these comments, we have determined to eliminate from the final rule the proposed requirement that the Notice include the website address for individual reports. We agree with those commenters suggesting that such a requirement could result in unnecessary administrative burdens, and believe that limiting the website link to the landing page, where the shareholder report and other required materials are available, meets our objective of directing investors to the shareholder report in an easily accessible manner. The address used must be specific enough to lead investors directly to the documents that are required to be accessible under the rule's conditions, but may be a central site with prominent links to each document. The website may not be the home page or section of the website other than on which the documents are posted.[168] Thus, an investor must be able to navigate from the landing page to each of the required documents with a single click or tap.

To access their reports, investors will be required to key in the website address provided in the Notice. Some

[152] Rule 30e–3(c)(1)(i). We have modified this requirement to provide more flexibility to funds in recognition of the fact that investors can acquire interests in funds through a variety of distribution channels.

[153] Rule 30e–3(c)(1)(ii).

[154] *Id.*

[155] Rule 30e–3(c)(1)(iii).

[156] Rule 30e–3(c)(1)(iv). The website address must be specific enough to lead investors directly to the documents that are required to be posted online under the rule. The website address could be a central site with prominent links to each document, but could not be a home page or section of the website other than where the documents are posted. In addition to the website address, the Notice may contain any other equivalent method or means to access the documents. *See id.*

[157] Rule 30e–3(c)(1)(v).

[158] Rule 30e–3(c)(1)(v)(A).

[159] Rule 30e–3(c)(1)(v)(B).

[160] Rule 30e–3(c)(1)(v)(C).

[161] Rule 30e–3(c)(2). For example, this information could include a control number unique to that shareholder.

[162] Although the final rule does not require a reply card as a method of communication, a fund could choose to use reply cards.

[163] *See* Comment Letter of Fidelity Investments (Aug. 10, 2015) (''Fidelity Comment Letter I''); *see also* Investment Advisory Committee Recommendation; Broadridge Meeting Memo I.

[164] Rule 30e–3(c)(1)(ii). Similar statements are required for other documents. For example, Form N–1A requires the back cover page of the statutory prospectus of an open-end fund to include a statement to the effect that the fund's annual report contains a discussion of the market conditions and investment strategies that significantly affected the fund's performance during its last fiscal year. *See* Item 1(b)(1) of Form N–1A.

[165] Rule 30e–3(c)(1)(ii). As discussed below, the final rule separately permits the Notice to include content from the related shareholder report. *See infra* Section II.B.2.b.ii.

[166] *See* Fidelity Comment Letter I.

[167] *See* SIFMA Comment Letter I.

[168] Rule 30e–3(c)(1)(iv).

investors could have difficulty accessing their reports if, for example, the address to the landing page is made up of a long string of unrelated or special characters. Short and intuitive website links to the landing page and other innovative solutions could mitigate this problem.

In a change from the proposal, the final rule also provides that the Notice may include, in addition to a website address, other equivalent methods or means to facilitate shareholder access to the shareholder report and other required materials.[169] Such methods or means could include, for example, inclusion of a Quick Response Code (QR code) or similar means to access the required website address or link.[170]

We proposed that the Notice not only be required to include a toll-free telephone number that an investor can use to notify the fund that he or she wishes to receive paper reports in the future, but also a reply form that is pre-addressed with postage-paid as an alternative means by which the investor can notify the fund of his or her preference.[171] Commenters generally opposed the reply card requirement, asserting that reply cards have a low response rate[172] that does not justify their cost.[173] Commenters urged that a toll-free telephone number would be an equally effective means for an investor to express his or her preference and would be more cost-effective than a reply card.[174]

After considering the comments we received, we have determined not to require funds to include a reply card.[175] We have been persuaded by commenters that the low response rates experienced from this means of communication coupled with the expense associated with this method do not justify the inclusion of a reply card.

However, the final rule permits the Notice to include additional means by which an investor can contact the fund or the investor's financial intermediary.[176] Because funds and financial intermediaries have extensive direct experience with the types of communication methods preferred by their investors, we believe that the rule should provide flexibility to permit additional methods of communication, and we encourage the inclusion of additional means besides the required toll-free (or collect) telephone number, such as email addresses, dedicated web pages, etc. To further facilitate the use of other means of communication, the final rule permits the Notice to include any information needed to identify the shareholder so that shareholders may express their shareholder report transmission preference with ease.[177] This information could include, for example, control numbers, account numbers, etc. As noted earlier, if a fund were to choose to include this information in a Notice, the fund should take appropriate measures to protect this information just as funds do today regarding other mailings, like account statements, that may contain sensitive information.

In providing the required toll-free (or collect) telephone number and other means, we encourage the use of methods that allow shareholders to express their preference as conveniently as possible, such as by limiting the need for investors to speak with multiple representatives or navigate through multiple telephone menus or web pages, or otherwise minimizing the steps necessary to express a preference. To record investor preferences, a fund might, for example, provide an automated system, live representatives, a toll-free (or collect) telephone number that is dedicated solely for this purpose, or a prompt for investors when they access their shareholder account information online, such as through the use of a pop-up.

In light of the principle that effective rulemaking should not end with rule adoption, the staff will review, and report to the Commission on, the implementation of rule 30e–3 to evaluate whether funds are employing processes that effectively facilitate investor election of delivery preferences, including the ease through which investors may elect delivery preferences, taking into account, among other things, the continued development of delivery mechanisms and the evolving array of retail investor preferences. For example, the staff's review would include an evaluation of the number of investors who have elected paper delivery, whether such election is on an ad hoc basis or permanent basis, the means through which the election was made (telephone, online or otherwise), and the overall investor experience relating to the election of delivery preferences. The purpose of such review would be to better inform the Commission and the staff on whether funds are implementing processes that effectively facilitate investors making elections consistent with investors' preferences and on whether any further action should be taken to facilitate investor election of delivery preferences.

Some commenters recommended that the final rule permit the Notice to include disclosures informing investors how they can affirmatively consent to electronic delivery of shareholder reports and other documents.[178] After further consideration of these comments, we believe that the Notice should provide the recipient investor with information on how to obtain shareholder reports in the investor's preferred format (*i.e.,* in paper or by email via electronic delivery). Therefore, the final rule requires the Notice to include, if applicable, instructions describing how an investor can elect to receive shareholder reports or other documents or communications by electronic delivery.[179]

[169] *Id.*

[170] A QR code is a two-dimensional barcode containing information that is machine-readable. For example, some smartphones could scan a QR code with information of a specific Uniform Resource Locator (''URL'') and then be directed to that website. Although the final rule eliminates the requirement that the Notice include the direct website address for the report itself, a fund, could, pursuant to this provision, choose to include a link that takes an investor directly to the report.

[171] *See* proposed rule 30e–3(d)(1)(vi). As proposed, the reply card would have been required to include the information that the fund would need to identify the investor.

[172] *See* ICI Comment Letter I (estimating return rates as low as 2%).

[173] One commenter indicated that eliminating reply cards would reduce aggregate printing and mailing costs associated with rule 30e–3 from $127 million per mailing (of Notices or Initial Statements) to between $81 million (if funds elect to use postcards) and $118 million (if funds elect to use envelopes), which represents a reduction of 7% to 36%. *See* ICI Comment Letter I.

Another commenter indicated that including a reply form that is pre-addressed with postage paid would cost approximately $1,325,000 in the aggregate per year. *See* T. Rowe Price Comment Letter I.

Another commenter estimated cost savings from the elimination of reply cards to be approximately $10 million. *See* Broadridge Meeting Memo II.

[174] *See, e.g.,* Comment Letter of Dechert LLP (Aug. 12, 2015) (''Dechert Comment Letter''); ICI Comment Letter I; Comment Letter of Mediant Communications (Aug. 12, 2015) (''Mediant Comment Letter''); SIFMA Comment Letter; T. Rowe Price Comment Letter I; Capital Research Comment Letter I.

[175] *See* rule 30e–3(c)(1)(v).

[176] *See* rule 30e–3(c)(2). In lieu of the reply card, some commenters suggested that the rule permit flexibility in how shareholders could express their delivery preference and/or require alternative means of shareholders expressing this preference, such as by email (*see, e.g.,* Dechert Comment Letter; State Street Comment Letter) or fax (*see, e.g.,* State Street Comment Letter). *See* Dechert Comment Letter; State Street Comment Letter; BlackRock Comment Letter; CAI Comment Letter I, ICI Comment Letter I; MFS Comment Letter; SIFMA Comment Letter.

[177] *See* rule 30e–3(c)(2).

[178] *See, e.g.,* ICI Comment Letter I; OppenheimerFunds Comment Letter; SIFMA Comment Letter.

[179] *See* rule 30e–3(c)(1)(v)(C). This provision would require, if applicable, instructions not only on how to elect electronic delivery of regulatory documents like a shareholder report, but on how to elect electronic delivery of other types of communications (*e.g.,* announcements, news

Continued

Finally, in a change from the proposal, the final rule permits a Notice to include pictures, logos, or similar design elements so long as the design is not misleading and the information is clear.[180] A similar provision exists in the rules governing the content of the Notice of internet Availability of Proxy Materials.[181] While we did not receive any comments that suggested this modification to the proposal,[182] we believe that this provision promotes our general goal of highlighting the Notice for investors' attention by permitting the addition of content that alerts investors to the Notice itself, and by extension the shareholder report, without obscuring important information contained in the Notice.

ii. Option To Include Content From Report in Notice

The Notice is designed to alert investors to the availability of a shareholder report online and to provide investors with information on how to obtain paper reports if that is their preference. As we noted in the Proposing Release, we believe it is important to limit the total information included in the Notice, in order to ensure that information regarding the availability of a shareholder report does not become obscured. Therefore, we proposed that the rule limit the information contained in the Notice to the information required by the rule, but requested comment on whether we should require that the Notice not contain any additional information other than that specified by the rule.[183]

In addition to the comments described above regarding types of additional information that should be permitted in the Notice (*e.g.,* instructions on how to elect electronic delivery of documents), we received comments recommending that the final rule should expand the legend in the Notice to include additional information about the fund.[184] One commenter recommended that the Notice should require in a standardized format certain additional content found in the report (for example, a fund's top ten holdings, performance line graph, total return performance, expense information, and/or portfolio composition).[185] Other commenters recommended that the Commission should explore the development of a document more akin to a ''summary shareholder report'' that incorporates layered disclosure principles.[186]

After consideration of these comments, we believe that permitting—but not requiring as a condition to use this optional method—the inclusion of certain additional information in the Notice is appropriate so long as it is limited to content from the shareholder report for which Notice is being given.[187] We have modified the final rule accordingly to permit registered management companies (but not UITs) to include content from the report in a Notice.[188] To avoid obscuring the information required to be in the Notice (*i.e.,* the required legends, website address, etc.), under the final rule, additional content from the shareholder report included in the Notice must be placed after the information specified by paragraph (c)(1) of the rule.[189]

We are persuaded that permitting additional flexibility regarding the content of the Notice is appropriate, and may result in funds crafting Notices that convey to investors certain key content from the shareholder report, while also encouraging investors to access the shareholder report for more detailed information.[190] Information contained in shareholder reports that we believe may be communicative and appropriate—albeit not required—for inclusion in the Notice could be, for example: One or more graphical representations of holdings; a list of the fund's top holdings (*e.g.,* top five or ten holdings); performance information; the type of fund; a brief statement of the fund's investment objectives and strategies; the expense ratio or an expense example; and the name and title of the fund's portfolio manager(s).

Providing funds the flexibility to include in the Notice certain information from the shareholder report is intended to allow them to identify and provide content they believe is particularly informative to their investors. Funds that decide to include additional information from the report in their Notices generally should consider the appropriateness of such information, the benefits to investors, and the cost impacts associated with adding information to the Notice. When including content from the report in a Notice, funds have obligations with respect to the antifraud provisions of the

articles, and other ''investor relations'' communications).

[180] *See* rule 30e–3(c).

[181] *See* rule 14a–16(g)(3) under the Exchange Act [17 CFR 240.14a–16(g)(3)]; *see also* rule 421(d)(3) under the Securities Act [17 CFR 230.421(d)(3)].

[182] While not expressly recommending this modification to the proposal in its comment letters, one commenter designed a sample ''enhanced notice'' that included design elements such as pictures and logos that would be consistent with this modification. *See* Broadridge Meeting Memo I.

[183] *See* proposed rule 30e–3(d)(3).

[184] *See, e.g.,* Fidelity Comment Letter I (recommending that the legend be expanded to alert shareholders that the report contains information such as fund performance and holdings information and portfolio manager's insights).

[185] *See* Broadridge Meeting Memo I (recommending an ''enhanced notice,'' which this commenter suggests could be preceded by a Commission pilot to ''accelerate benefits and be made available to any and all investment companies that wish to use [the enhanced notice]''); Broadridge Meeting Memo II.

[186] *See* Comment Letter of Consumer Action (Dec. 1, 2017); *see also* Investment Advisory Committee Recommendation (''[T]he [Investor Advisory Committee] recommends that the Commission explore development of a summary disclosure document for annual shareholder reports that incorporates key information from the report along with prominent notice regarding how to obtain a copy of the full report. The summary document should be designed to be delivered either by mail or by email, depending on the investors' delivery preferences. It should also incorporate a layered disclosure approach, including the ability of those getting the document electronically to click through to more detailed disclosure on a particular topic.'').

[187] Similarly, in cases where shareholder reports are delivered electronically via email, we note that such emails would not be precluded from including content from the related report under the Commission's electronic delivery guidance. *See* 1995 Release, *supra* note 18; 1996 Release, *supra* note 18; 2000 Release, *supra* note 18.

[188] *See* rule 30e–3(c)(3). UITs subject to rule 30e–2 are principally separate accounts offering variable annuities and variable life insurance policies that do not prepare or transmit shareholder reports for the separate accounts themselves. Rather, under rule 30e–2 they are required to transmit the shareholder reports of the underlying funds in which they invest, which may be numerous and in many cases are unaffiliated. Because of this two-tier structure, the final rule limits the provision permitting inclusion of additional content from shareholder reports to reports required by rule 30e–1.

[189] *Id.*

[190] This approach draws from certain aspects of the Investor Advisory Committee Recommendation. For example, the Investor Advisory Committee recommended that ''the Commission explore development of a summary disclosure document for annual shareholder reports that incorporates key information from the report along with prominent notice regarding how to obtain a copy of the full report.'' *See* IAC Recommendation, *supra* note 40. While the final rule does not require a summary disclosure document, and does not mandate any particular content, it permits funds to add to the Notice content from the shareholder report and similarly requires that the Notice include a prominent legend regarding how to obtain a copy of the report.

Additionally, the Investor Advisory Committee recommended that ''the Commission engage in investor testing of the proposed [summary document and layered] disclosure, or encourage testing by industry members, to ensure that the proposed approach delivers the expected benefits of reducing costs for funds and distributors without sacrificing disclosure quality.'' *Id.*

Consistent with the Investor Advisory Committee Recommendation, we note that the Fund Retail Investor Experience and Disclosure Request for Comment, as well as investor testing of disclosure alternatives, are two key initiatives the Commission is using to assess our current disclosure framework for funds and to consider possible changes to that framework. *See* Disclosure Request for Comment, *supra* note 20. Regarding this investor testing, the Commission's Office of the Investor Advocate (''OIAD'') is engaging in investor testing through its Policy Oriented Stakeholder and Investor Testing for Innovative and Effective Regulation (''POSITIER'') initiative. *See* Disclosure Request for Comment, *supra* note 20.

federal securities laws.[191] In this regard, inclusion of only certain elements of performance information required to be included in reports raises certain considerations. If a fund chooses to include in the Notice performance information from the report, the content should include all information required with respect to the particular performance item in accordance with applicable presentation requirements.[192]

While the final rule does not prescribe a specific page limit, funds generally should limit optional content to a relatively brief amount to avoid detracting from the primary purpose of the Notice and to encourage investors to access the shareholder report itself. As discussed further below, we are requiring funds that choose to transmit Notices with additional information from the shareholder report to file such Notices as part of their reports on Form N–CSR.[193] As discussed above, we believe it is important that information regarding the availability of a shareholder report does not become obscured, and to address this concern, we are requiring that the information that is required to be in the Notice (*i.e.,* the required legends, website address, etc.) must be presented before any additional content from the shareholder report is included in the Notice to ensure that the required legends and website address are positioned prominently in the Notice.

iii. Materials That May Be Combined With or Accompany the Notice

To further ensure that the information contained in the Notice would not be obscured, the rule as proposed would have prohibited the Notice from being incorporated into or combined with another document,[194] or sent along with other shareholder communications (with the exception of the fund's current summary prospectus, prospectus, statement of additional information, or Notice of internet Availability of Proxy Materials under rule 14a–16 under the Exchange Act).[195] We received a number of comments on this aspect of the proposed rule, with commenters requesting additional flexibility in what materials or documents could be combined with, or accompany, the Notice.

Some commenters recommended that the final rule permit the use of a single, consolidated Notice for funds within the same fund complex or for funds held in the same intermediary contract or account.[196] Commenters noted that such an approach would have the benefits of increasing the likelihood of investor review[197] and reductions in costs.[198] One commenter recommended that a consolidated Notice be permitted for funds from different fund complexes,[199] while another recommended that the final rule permit consolidated Notices for funds held through a variable insurance product.[200]

Some commenters recommended that the final rule permit the Notice to be incorporated into the summary prospectus and account statements, stating it would provide additional visibility due to investor interest in those documents.[201] A number of commenters recommended that other materials should be permitted to accompany the Notice, including account statements,[202] new account applications,[203] new account welcome kits,[204] notices from other funds with the same fiscal year end,[205] dividend checks,[206] transaction confirmations,[207] and in the case of variable insurance products, the variable annuity contract or life insurance policy and the related contract prospectuses or statements of additional information.[208] Commenters stated that investors would be more likely to read Notices bundled with other materials,[209] and that additional cost savings would result.[210]

After consideration of the comments, we have modified the final rule to permit the use of consolidated Notices.[211] In addition to reduced costs, we believe that a single, consolidated Notice could be effective in alerting a shareholder to the online availability of shareholder reports for multiple funds. We note that if a consolidated Notice is used, a fund must draft the Notice to incorporate all elements required by the rule with respect to each report covered by the Notice. For example, if the website address for one report covered by the Notice does not include the materials required for one or more other funds covered by the Notice, then additional website addresses would be required so that all required materials for the funds covered by the Notice are made appropriately accessible. In such case, we believe it should be clear to investors which website address is associated with each report covered by the consolidated Notice.

We have also modified the final rule to permit the Notice to accompany additional materials beyond a current summary prospectus, statutory prospectus, statement of additional information, or Notice of internet Availability of Proxy Materials. As with consolidated Notices, we believe that permitting Notices to accompany other documents not only could result in additional cost savings (*i.e.,* reduced mailing expenses), but could be effective in alerting a shareholder to the Notice if the other documents are likely to be read by investors. Under the final rule, a Notice may accompany one or more Notices for other funds.[212] In the case of a fund that is available as an investment option in a variable annuity or variable life insurance contract, the

[191] *See, e.g.,* Section 17(a) under the Securities Act [15 U.S.C. 77q]; Section 10(b) under the Exchange Act [15 U.S.C. 78j(b)] and rule 10b–5 thereunder [17 CFR 240.10b–5]; and Section 34(b) of the Investment Company Act [15 U.S.C. 80a–33(b)].

[192] For example, a fund could include either the complete line graph or complete performance table required by the applicable form (*see, e.g.,* Item 27(b)(7)(ii) of Form N–1A requiring an open-end management company's report to include (A) a line graph, and (B) annual total returns table).

[193] *See* Item 1(b) of Form N–CSR.

[194] *See* proposed rule 30e–3(d)(2).

[195] *See* proposed rule 30e–3(d)(4).

[196] *See* CAI Comment Letter I; Fidelity Comment Letter I; ICI Comment Letter I; OppenheimerFunds Comment Letter; Schwab Comment Letter.

[197] *See* ICI Comment Letter I.

[198] *See* ICI Comment Letter I; OppenheimerFunds Comment Letter.

[199] *See* Fidelity Comment Letter I.

[200] *See* CAI Comment Letter I. This commenter also recommended that the consolidated Notice be permitted to specify either a single website or multiple websites at which required documents were available for different funds.

[201] *See, e.g.,* Capital Research Comment Letter I; State Street Comment Letter.

[202] *See.,e.g.,* Dreyfus Comment Letter; ICI Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; Schwab Comment Letter; T. Rowe Price Comment Letter I.

[203] *See, e.g.,* ICI Comment Letter I.

[204] *See, e.g.,* ICI Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; T. Rowe Price Comment Letter I.

[205] *See, e.g.,* Capital Research Comment Letter I; ICI Comment Letter I.

[206] *See, e.g.,* ICI Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; T. Rowe Price Comment Letter I.

[207] *See, e.g.,* T. Rowe Price Comment Letter I.

[208] *See, e.g.,* CAI Comment Letter I; ICI Comment Letter I.

[209] *See, e.g.,* ICI Comment Letter I; MFS Comment Letter; T. Rowe Price Comment Letter I.

[210] *See, e.g.,* Dreyfus Comment Letter; ICI Comment Letter I; T. Rowe Price Comment Letter I.

[211] *See* rule 30e–3(c)(4).

[212] *See* rule 30e–3(c)(5)(i), (ii). Under the final rule, a Notice for a fund may accompany a summary prospectus, statutory prospectus or statement of additional information for other funds because (1) rule 498 under the Securities Act does not prohibit a summary prospectus for one fund from accompanying a summary prospectus, statutory prospectus or statement of additional information for another fund, and (2) the final rule permits the Notice for one fund to accompany a Notice for another fund, and for a Notice to incorporate or combine one or more other Notices. *See* rule 498 under the Securities Act [17 CFR 230.498]; rule 30e–3(c)(5)(i), (ii).

Notice may accompany the contract or the contract's statutory prospectus and statement of additional information.[213] We have also modified the final rule to permit the Notice to accompany the investor's account statement. Like consolidated Notices, we believe that permitting Notices to accompany account statements could result in additional cost savings. Moreover, we believe that an investor who is likely to read account statements would also be likely to become aware of the accompanying Notice and the content therein.[214] We believe that the Notice would not be unduly obscured if accompanied by these materials because it is accompanying materials personalized to the receiver,[215] but decline to permit the Notice to accompany other materials suggested by commenters.

iv. Householding

Similar to the Commission's rules on householding prospectuses, shareholder reports, and proxy statements and information statements,[216] as proposed, final rule 30e–3 allows one Notice to be sent to shareholders who share an address so long as the conditions set forth in rule 30e–1(f), rule 30e–2(b), rule 14a–3(e) under the Exchange Act, or rule 14c–3(c) under the Exchange Act are satisfied.[217] We received no comments on this requirement, and are adopting the requirement as proposed.

v. Requirement To File Form of Notice

We proposed to require that a form of the Notice be filed with the Commission not later than 10 days after the Notice is sent to shareholders.[218] We anticipated that this filing would have occurred on a new EDGAR submission type that would have been created by the Commission, and stated our belief that the Notice filing requirement would have assisted us in overseeing compliance with the rule.

Commenters generally opposed filing the Notice semi-annually as part of a separate filing. Some commenters recommended that the Notice be filed instead as an exhibit to Form N–CEN or Form N–CSR.[219] Commenters also recommended eliminating the filing requirement, and indicated that the Commission could ensure compliance in a less costly manner using its examination program.[220]

After further consideration of these comments, we have modified the final rule as follows. Notices that do not contain content from the report (as permitted by paragraph (c)(3)) would not be required to be filed with the Commission because we do not expect those Notices to change significantly from period to period.[221] We also believe that our staff can evaluate for compliance with the Notice provisions of the rule through the Commission's examination program.

On the other hand, Notices that contain content from the report as permitted by paragraph (c)(3) would be required to be filed with the Commission as part of the fund's report on Form N–CSR.[222] We believe it is appropriate for the Commission to review the disclosure in these Notices in conjunction with its overall review of shareholder reports and other disclosure filings. In requiring that they be filed with the Commission, the staff will be able to monitor for compliance with the rule, as well as for general industry trends in the use of these Notices as part of its ongoing disclosure review and other activities.

c. Delivery of Paper Copy Upon Request

As a condition to reliance on the rule, we proposed to require that the fund or UIT (or a financial intermediary through which shares of the fund or UIT may be purchased or sold) must send, at no cost to the requestor and by U.S. first class mail or other reasonably prompt means, a paper copy of the most recent annual and semi-annual reports of the fund (or underlying fund in the case of a UIT), and portfolio holdings of the fund (or underlying fund in the case of a UIT) as of its most recent first and third fiscal quarters, to any person ad hoc requesting copies of any such documents within three business days after receiving a request for a paper copy.[223] This requirement is intended to allow investors to receive shareholder reports and portfolio information in paper, if they prefer, even if they are receiving Notices under the rule,[224] and we are adopting it generally as proposed. However, we have modified the final rule from the proposal to eliminate the reference in this provision to financial intermediaries given the guidance in this release regarding the operation of the rule in the context of financial intermediaries.[225]

d. Investor Elections To Receive Future Reports in Paper

While we believe that many investors would prefer internet availability of shareholder reports based on investor

[213] Rule 30e–3(c)(5)(iii). Thus, Notices for underlying funds offered under a contract may (either as individual Notices or as a consolidated Notice) accompany (1) the contract, (2) the contract's statutory prospectus and statement of additional information, and (3) summary prospectuses, statutory prospectuses, statements of additional information, and Notices of internet Availability of Proxy Materials for one or more underlying funds. *See also* rule 498(c) under the Securities Act (permitting, under certain conditions, a summary prospectus for a fund that is available as an investment option in a variable annuity or a variable life insurance contract to be bound together with the statutory prospectus for the contract and summary prospectuses and statutory prospectuses for other investment options available in the contract) [17 CFR 230.498(c)].

[214] Rule 30e–3(c)(5)(iv).

[215] *See, e.g.,* rule 498(c) under the Securities Act [17 CFR 230.498(c)].

[216] *See, e.g.,* rule 154 under the Securities Act (permitting householding of prospectuses) [17 CFR 230.154]; rules 30e–1(f) and 30e–2(b) (permitting householding of shareholder reports); rules 14a–3(e) and 14c–3(c) under the Exchange Act (permitting householding of annual reports to security holders, proxy statements and information statements, and Notices of internet Availability of Proxy Statements) [17 CFR 240.14a–3(e); 17 CFR 240.14c–3(c)]. *See generally* Delivery of Disclosure Documents to Households, Investment Company Act Release No. 24123 (Nov. 4, 1999) [64 FR 62540 (Nov. 16, 1999)] (adopting householding rules with respect to prospectuses and shareholder reports); Delivery of Proxy Statements and Information Statements to Households, Investment Company Act Release No. 24715 (Oct. 27, 2000) [65 FR 65736 (Nov. 2, 2000)] (adopting householding rules with respect to proxy statements and information statements).

[217] Rule 30e–3(c)(6).

[218] *See* proposed rule 30e–3(d)(6).

[219] *See, e.g.,* Dechert Comment Letter; ICI Comment Letter I; T. Rowe Price Comment Letter I.

[220] *See, e.g.,* Dechert Comment Letter; Invesco Comment Letter; SIFMA AMG Comment Letter.

[221] We expect this to be the case given the nature of the information required in the Notice, along with the general restriction on including information other than that required by the rule.

[222] Item 1(b) of Form N–CSR (requiring the filing of a copy of each notice transmitted to stockholders in reliance on rule 30e–3 that contains disclosures specified by paragraph (c)(3) of that rule).

[223] Proposed rule 30e–3(f). One commenter questioned fund firm practices regarding delivery of paper shareholder reports upon request. *See* Broadridge Comment Letter II. A second commenter disputed the premise and sampling methodology conducted by the first commenter, stating that fund firms have ''specific, highly effective processes in place to handle requests under Rule 498.'' *See* ICI Comment Letter III. The Commission is not aware of investors having systemic issues related to fund firm practices regarding delivery of paper shareholder reports upon request.

[224] *See, e.g.,* 1995 Release, *supra* note 18 (stating 'that ''as a matter of policy, where a person has a right to receive a document under the federal securities laws and chooses to receive it electronically, that person should be provided with a paper version of the document if any consent to receive documents electronically were revoked or the person specifically requests a paper copy (regardless of whether any previously provided consent was revoked).''). A similar requirement is found in rule 498 under the Securities Act governing the use of a summary prospectus. *See* rule 498(f) [17 CFR 230.498(f)].

[225] *See* rule 30e–3(e), (i); proposed rule 30e–3(f); *infra* Section II.C. For clarity, the final paragraph (e) of rule 30e–3 operates independently of final paragraph (f) of rule 30e–3. *Compare* rule 30e–3(e) (requiring funds to deliver a paper report in response to a shareholder's ad hoc request) and rule 30e–3(f) (requiring funds to deliver paper reports to a shareholder, who has elected a shareholder preference to receive paper reports). *See also infra* Section II.B.2.d.

testing and internet usage trends, we also acknowledge that there will be investors who continue to prefer receiving shareholder reports in paper.[226] In order to maintain the ability of those investors to receive paper copies of their shareholder reports, the final rule prohibits reliance on the rule to transmit a report to a shareholder if such shareholder has notified the fund (or the shareholder's financial intermediary) that the shareholder wishes to receive paper copies of shareholder reports at any time after the fund has notified the shareholder of its intent to rely on the rule or provided a Notice to the shareholder.[227]

Under the proposal, rule 30e–3 would have permitted use of the rule as to a particular investor only if the investor either previously affirmatively consented to this method of transmission, or was determined to have provided implied consent (if affirmative consent was not received) by sending an Initial Statement to investors.[228] To obtain implied consent, the proposed rule would have required that the Initial Statement inform the investor that future shareholder reports would be made available on a website until the investor provided notification that he or she wished to receive paper copies of the reports in the future.[229] If such notification was not received within 60 days after sending the Initial Statement, the rule could be relied upon with respect to that investor provided that the other conditions of the rule were met.[230]

Comments were mixed regarding the Initial Statement and the proposal's use of both affirmative and implied consent. Some commenters recommended removing provisions of the proposed rule that allow affirmative consent and provide solely for implied consent.[231] One of these commenters stated that these affirmative consent provisions would add cost and complexity in tracking affirmative consents ''as an additional step separate from the notice'' and noted that the current ''notice and access'' system for the delivery of proxy materials does not contain such a feature.[232] In contrast, other commenters expressed concerns about permitting internet availability of shareholder reports to be the default method of satisfying transmission obligations to investors for those funds that elect to rely on the rule based on implied consent.[233] Some of these commenters suggested that affirmative consent would be a more appropriate means to assess investor preferences for internet availability or paper transmission of shareholder reports.[234]

One commenter suggested that the final rule eliminate the Initial Statement requirement altogether.[235] That commenter argued that the Initial Statement is unnecessary because both the Initial Statement and the Notice serve to inform investors of report availability and the right to receive paper reports. The commenter further argued that elimination of the Initial Statement requirement would streamline customer communications regarding delivery preferences, reduce unnecessary fund and investor expenses, and align the requirements of the rule with the Commission's rule regarding internet availability of proxy materials (rule 14a–16 under the Exchange Act).[236]

After considering comments, we have eliminated the proposed Initial Statement from the final rule. Instead, we are adopting an extended transition period. During the extended transition period, an investor in a mutual fund, for example, that seeks to begin relying on the rule before January 1, 2022 would receive approximately six notices of the upcoming change over a two-year period (each year, investors will receive notice on the summary prospectus or prospectus, as well as the semi-annual and annual report to shareholders.). The extended transition period is an appropriate, effective, and cost-efficient method of funds informing shareholders of the change in transmission format in lieu of the proposed Initial Statement provisions.[237]

In addition, the extended transition period will provide time for funds, financial intermediaries, and Commission staff to undertake efforts to raise investor awareness of the change in transmission method before funds are permitted to begin relying on the rule. These efforts, combined with the requirement that Notices be transmitted in lieu of paper reports informing investors of their ability to receive paper reports, will help ensure that all investors—including those who hold only funds that first choose to rely on the rule on or after January 1, 2022—nonetheless are made aware of the change in transmission method and the option to receive reports in the manner they prefer. We believe that upon the completion of this extended transition period it is appropriate to begin allowing all funds to rely on the rule.

Permanent Elections for Paper Reports

Although the final rule replaces the proposed provisions relating to the Initial Statement with the extended transition period, the final rule also includes provisions enabling an investor to elect to receive future shareholder reports in paper after making a one-time election. Specifically, the rule provides that a fund may not rely on rule 30e–3 to satisfy its obligations to transmit a report if at any time after the fund has notified the investor of its intent to rely on the rule or provided a Notice to the investor, the investor has notified the fund (or the investor's financial intermediary) that the investor wishes to receive paper copies of shareholder reports.[238]

[226] *See supra* notes 96–97 and accompanying text.

[227] Rule 30e–3(f)(1).

[228] Proposed rule 30e–3(c). These proposed conditions are substantially similar to certain of the conditions relating to the Commission's rules on ''householding'' prospectuses, shareholder reports, and proxy statements and information statements to investors who share an address. *See, e.g.,* rule 154 under the Securities Act [17 CFR 230.154]; rules 30e–1 and 30e–2 under the Investment Company Act [17 CFR 270.30e–1; 17 CFR 270.30e–2]; rules 14a–3 and 14c–3 under the Exchange Act [17 CFR 240.14a–3; 17 CFR 240.14c–3]. For purposes of the householding rules, consent may be written or implied.

While the householding rules require that consent (other than implied consent) be ''in writing,'' we did not propose a similar ''in writing'' requirement because, consistent with the Commission's guidance on electronic delivery, consent may be provided in a number of ways, including in writing, electronically, or telephonically. *See* 1995 Release, *supra* note 18 (noting that one method for satisfying evidence of delivery is to obtain informed consent from an investor to receive information through a particular medium); 1996 Release, *supra* note 18 (stating that informed consent should be made by written or electronic means); 2000 Release, *supra* note 18 (stating Commission's view that an issuer or market intermediary may obtain an informed consent telephonically, as long as a record of that consent is retained).

[229] Proposed rule 30e–3(c)(1). The proposed rule defined ''Initial Statement'' as the statement described in paragraph (c)(1) of the rule. *See* proposed rule 30e–3(h)(2).

[230] Proposed rule 30e–3(c)(4).

[231] *See* SIFMA Comment Letter (further noting that ''[t]he current system of notice and access for the delivery of proxy materials relies entirely on an implied consent approach, and in our experience that approach has been successful in accurately capturing the preferences of clients, who have the option of requesting paper copies on either a one-time or on-going basis''); Comment Letter of InveShare, Inc. (Feb. 11, 2016) (''InveShare Comment Letter'').

[232] *See* SIFMA Comment Letter.

[233] *See supra* notes 54–59 and accompanying text.

[234] *See, e.g.,* American Forest and Paper Comment Letter.

[235] *See* Fidelity Comment Letter I.

[236] *Id.*

[237] *See infra* Section II.B.2.f.

[238] *See* rule 30e–3(f)(1). In the Proposing Release, we requested comment as to whether funds should be able to re-solicit implied consent for shareholders who had previously elected paper delivery and if we should prescribe a minimum time period for doing so. One commenter believed we should, but did not suggest a particular waiting period. *See* State Street Comment Letter. Given that the final rule eliminates the Initial Statement requirement to obtain implied consent, we no

Continued

Beginning as early as January 1, 2019, funds will track investor preferences for paper copies of reports. We have adopted this date for two reasons. First, this date provides funds, financial intermediaries, and other service providers with a period of time to update systems to begin tracking investor paper preferences for shareholder reports.[239] Second, this approach will allow investors who currently receive paper copies of reports to continue to receive them in that format without interruption. Therefore, if a fund intends to rely on the rule to transmit reports before January 1, 2022, the fund's investors will generally have a two year period to notify their fund of their preference and avoid any interruption of their paper deliveries.[240] Funds that newly offer their shares to the public after January 1, 2019, but include the notice in the relevant disclosure documents from the date of their first public offering will be able to rely on the rule beginning January 1, 2021. Although this may result in a shorter notice period to shareholders of these funds, we believe this is appropriate because these funds will have been offered to investors solely with the expectation that the fund will rely on the rule.

Application of Investor Elections for Paper Reports Across Multiple Positions

Under the proposed rule, each fund, including each series of a registrant offering multiple series, would have needed to obtain separate consent as to an investor, regardless of whether consent was obtained from that investor by other series offered by that registrant. An investor preferring paper copies also would have needed to deny or revoke consent for each fund, including each series, for which the shareholder preferred to receive paper copies of reports. In the Proposing Release we requested comment on whether consent should be obtained separately as to each fund, or whether consent that is applied to one fund could be inferred as to other funds held by the investor. We also requested comment on whether there were any special considerations relating to investors who invest through intermediaries.[241]

Commenters who addressed this issue uniformly recommended that consent should be permitted to be inferred with respect to all funds held by an investor within a fund complex [242] or with a financial intermediary,[243] including funds held by contract owners through a variable insurance product.[244] These commenters noted that requiring consent for each individual fund position could cause investor confusion and possibly overwhelm investors if separate Initial Statements per fund position were required to be sent.[245] Another commenter stated that tracking consents on a fund-by-fund basis might be too burdensome for funds, especially in the case of funds offering exchange privileges.[246] Some commenters stated that applying investor preferences across all funds held within a fund complex or held in a particular account or financial intermediary would provide regulatory consistency with the Commission's electronic delivery guidance [247] and with the Commission's e-proxy rules.[248]

After consideration of the issues raised by commenters, we agree that applying the investor's election for paper reports at the investor account level,[249] rather than the fund position level, is consistent with other delivery preference requirements with which investors, intermediaries, and funds are already familiar. Therefore, the final rule provides that if an investor has notified a fund complex or UIT (or the investor's financial intermediary) that the investor wishes to receive paper copies of shareholder reports, the investor will be deemed to have requested paper copies with respect to (i) any and all current and future funds held through an account or accounts with (A) the fund's transfer agent or principal underwriter or agent thereof for the same ''group of related investment companies'' as such term is defined in rule 0–10 under the Investment Company Act; [250] or (B) a financial intermediary; and (ii) any and all funds held currently and in the future in a separate account funding a variable annuity or variable life insurance contract.[251]

e. Prospectuses and Statements of Additional Information Transmitted Under Rule 30e–1(d)

Rule 30e–1(d) permits an open-end management investment company to transmit a copy of its prospectus or statement of additional information in place of its shareholder report, if it includes all of the information that would otherwise be required to be contained in the shareholder report.[252] Under rule 30e–3 as proposed, the rule would not be available to a fund seeking

longer need to consider a minimum waiting period for re-soliciting implied consent.

One commenter suggested that the current system of notice and access for the delivery of proxy materials relies entirely on an implied consent approach. *See* SIFMA Comment Letter. While the commenter is correct that rule 14a–16 under the Exchange Act does not require delivery of a notice similar to the Initial Statement, the rule also does not incorporate the concept of implied consent. *See* rule 14a–16(j)(4) under the Exchange Act (requiring the registrant to maintain records of security holder requests to receive materials in paper or via email for future solicitations, and to provide copies of the materials to a security holder who has made such a request until the security holder revokes such request rule 30e–1(f)) [17 CFR 240.14a–16(j)(4)].

[239] We discuss these operational considerations and others with respect to financial intermediaries below in Section II.C.

[240] For most investors, this period before January 1, 2022 will result in an extended opportunity to notify their fund of their preference for paper reports and receive them in that format without interruption as compared to the proposed rule. Under the proposed rule, there would not have been an extended transition period during which prominent disclosures would have been included in shareholder documents notifying investors of the upcoming change in transmission format. A fund would have been permitted under the proposed rule to send Notices to an investor 60 days after sending an Initial Statement to that investor. *See* proposed rule 30e–3(c).

[241] *See* Proposing Release, *supra* note 14, at 33632.

[242] *See, e.g.,* BlackRock Comment Letter; Schwab Comment Letter; ICI Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; State Street Comment Letter.

[243] *See, e.g.,* BlackRock Comment Letter; Schwab Comment Letter; Fidelity Comment Letter I; ICI Comment Letter I; Invesco Comment Letter; Mediant Comment Letter; OppenheimerFunds Comment Letter; SIFMA Comment Letter.

[244] *See* CAI Comment Letter I.

[245] *See* ICI Comment Letter I.

[246] *See* State Street Comment Letter.

[247] *See* MFS Comment Letter.

[248] *See* Fidelity Comment Letter I (recommending that account level preferences, and not fund level preferences, should be adopted in the final rule, noting that ''most funds and broker dealers maintain shareholder delivery preferences at the account level (account or multiple accounts under the same SSN or TIN) and not at the fund level. Delivery preference requirements at the fund level is inconsistent with existing account level preference management requirements under the Proxy Rule, electronic delivery and other account level preferences (*e.g.,* letters and alerts).''); SIFMA AMG Comment Letter (recommending that consents be permitted at the customer or account level rather than on a fund-by-fund basis in noting that ''[c]urrent consent collection databases used for electronic delivery of disclosure and other documents generally collect information at the account level. For example, an account holder with the same name and address would be solicited to consent to electronic delivery of shareholder reports with respect to all funds held in the account of the account holder. The requirement of sub-section (c) of proposed Rule 30e–3 to collect consents on a fund-by-fund basis would require reprogramming or completely new consent collection techniques and databases. We believe the cost of implementing these changes may be a significant impediment to funds relying on Rule 30e–3 to transmit reports to shareholders who have not yet provided affirmative consent to electronic delivery over the Commission's existing electronic delivery guidance.'').

[249] The election could be applied, for example, if fund shares are held by an investor in one or more accounts with the same registration (*i.e.,* names, social security numbers, and/or tax identification numbers).

[250] 17 CFR 270.0–10.

[251] Rule 30e–3(f)(2). *See also infra* Section II.C.

[252] *See* rule 30e–1(d).

to transmit a copy of its currently effective statutory prospectus or statement of additional information, or both, as permitted by rule 30e–1(d).[253] We received no comments on this aspect of the proposed rule and are adopting it as proposed.[254]

f. Extended Transition Period

Rather than making the rule effective immediately and requiring an Initial Statement, as proposed, we are adopting an extended transition period with staged effective dates.[255] During the extended transition period, the earliest that Notices may be transmitted to investors in lieu of paper reports is January 1, 2021. In general, funds will be required to provide two years of notice to shareholders before relying on the rule, if relying on the rule before January 1, 2022.[256] Therefore, funds that begin providing notice at the start of 2019 will complete the two-year notice period, and may begin relying on the rule, on January 1, 2021. Funds that are newly offered during the period from January 1, 2019 through December 31, 2020 may rely on the rule starting January 1, 2021, if they provide notice to shareholders starting with their first public offering. Funds that are newly offered beginning January 1, 2021 and thereafter may rely on the rule immediately without providing advance notice. All other funds may not rely on the rule until they have completed the full two year notice period or until January 1, 2022, whichever comes first.

The extended transition period is designed so that investors will receive disclosures to alert them to the change in the transmission method and allow them to express their delivery preference while also providing funds and financial intermediaries a period of time to educate investors of the coming change through disclosures on prospectuses and certain other fund documents and through other means. It will also provide funds and financial intermediaries with time to implement any necessary operations and systems changes. Finally, the Commission staff will also use this extended transition period to engage in educational and investor outreach efforts. As discussed above, after consideration of comments received on the proposal, we believe that the enhanced disclosure requirements during this extended transition period are a more appropriate and effective method of providing investors with advance notice of a fund's intent to rely on rule 30e–3 than the proposed Initial Statement requirement.[257]

Except as specified below, a fund generally may rely on rule 30e–3 to transmit a report to an investor before January 1, 2022, only after providing required statements over a two-year period as follows:

Beginning January 1, 2021

- *Existing funds with public shareholders prior to January 1, 2019*—if the fund includes the required statements on each applicable document required to be delivered or transmitted to shareholders for the period beginning on January 1, 2019 and ending on December 31, 2020.[258]
- *Funds that begin offering shares publicly during period January 1, 2019 through December 31, 2020*—if the fund includes the required statements on each applicable document required to be delivered or transmitted to shareholders for the period beginning on the date the fund first publicly offers its shares and ending on December 31, 2020.[259]
- *Funds that begin offering shares publicly January 1, 2021* and *thereafter*—would not be subject to the condition and could therefore rely on the rule immediately without providing any advance notice through required statements.[260]

Between January 1, 2021 and January 1, 2022

A fund may otherwise begin to rely on rule 30e–3 before January 1, 2022 if the fund includes the required statement on the applicable disclosure documents for a period of two years prior to beginning to rely on the rule.[261]

3. Related Amendments

In connection with our adoption of rule 30e–3, we are also adopting related amendments to certain of our rules and forms. First, we are adopting, as proposed, amendments to rule 498 under the Securities Act, which concerns the use of a summary prospectus,[262] to require funds relying on rule 30e–3 to include as part of the legend on the cover page or beginning of the fund's summary prospectus the website address required to be included in the Notice.[263] We received no comments on this aspect of the proposal. The website address that leads to shareholder report information could be the same as the website address that leads to prospectus information, provided that the other conditions of each rule are met, or different so long as both addresses are provided as part of the legend.[264] This requirement is intended to provide investors an additional reminder of the website availability of shareholder reports.

Second, in a change from the proposal, the final rule permits a summary prospectus to include instructions describing how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.[265] We received a number of comments on fund investors' increasing internet usage and receipt of electronically delivered materials.[266] We are persuaded by these comments. Accordingly, the final rule will permit a summary prospectus to include electronic delivery election instructions, consistent with our belief that this provision will promote our general goal of providing investors with their preferred format of materials, and is parallel and consistent with conditions set forth in rule 30e–3 that ensure investors who prefer paper copies have instructions regarding how to communicate that preference.[267]

Third, we are amending rule 498 under the Securities Act, as proposed, to include a Notice required by rule 30e–3 among the materials that are permitted to have equal or greater prominence when accompanying a summary prospectus prepared in reliance on rule 498.[268] Similarly, we are amending rule 14a–16 under the Exchange Act, generally as proposed, to include a Notice required by rule 30e–3 among the materials that are permitted

[253] *See* proposed rule 30e–3(g).

[254] Rule 30e–3(g).

[255] *See* rule 30e–1(j).

[256] For purposes of paragraph (i) of the rule, a ''required statement'' means the statement regarding a fund's intent to rely on rule 30e–3 specified by (i) its applicable registration form, and (ii) in the case of a fund that uses a summary prospectus, rule 498. *See* rule 30e–3(i)(2). *See also infra* Section II.B.3 for a discussion of the related disclosure amendments.

[257] *See supra* Section II.B.2.d.

[258] Rule 30e–3(i)(1)(ii).

[259] *Id.* We believe it is appropriate to permit such funds to rely on the rule on January 1, 2021 because investors in such funds will be alerted to the change in transmission method both when they purchased shares in the fund and each time a shareholder report is delivered to them other than in reliance on rule 30e–3.

[260] Rule 30e–3(i)(1)(i)(B).

[261] Rule 30e–3(i)(1)(ii).

[262] *See* rule 498 under the Securities Act [17 CFR 230.498].

[263] *See* rule 498(b)(1)(v)(A) under the Securities Act [17 CFR 230.498(b)(1)(v)(A)].

[264] *See id.*

[265] *See* rule 498(b)(1)(vi) under the Securities Act [17 CFR 230.498(b)(1)(vi)].

[266] *See supra* Section II.A.1.

[267] *See supra* Sections II.B.2.c, II.B.2.d. Similarly, Notices under final rule 30e–3 would include instructions describing how a shareholder can elect to receive shareholder reports or other documents and communications by electronic delivery. *See* rule 30e–3(c)(1)(v)(C).

[268] Rule 498(f)(2) under the Securities Act [17 CFR 230.498(f)(2)].

to accompany a Notice of Internet Availability of Proxy Materials.[269] We received no comment on these proposed amendments.

Fourth, to notify investors of the upcoming change in transmission format, and in a change from the proposal, we are also amending rule 498 and certain fund registration forms to require that funds intending to rely on rule 30e–3 prior to January 1, 2022 include prominent disclosures on the cover page or beginning of their summary prospectuses; on the front cover page of their statutory prospectuses; and on the front cover page or beginning of their annual and semi-annual reports, for two years during the three-year period between January 1, 2019 and December 31, 2021.[270] With the exception of newly-formed funds, funds would generally provide these disclosures as follows:

- *Open-End Funds.* Open-end funds would be required to provide the cover page disclosure on at least six documents sent to investors during this time: One per year on the fund's summary prospectus or statutory prospectus, at least one per year on the fund's annual report to shareholders, and one per year on the fund's semi-annual report to shareholders.
- *Closed-End Funds.* Closed-end funds would be required to provide the cover page disclosure on at least four documents during this time: One per year on the fund's annual report to shareholders and one per year on the fund's semi-annual report to shareholders, as well as on their prospectuses unless the fund relies on rule 8b–16(b) under the Investment Company Act.[271]
- *Variable Insurance Products.* Variable annuity and variable life insurance contracts registered on Forms N–4 and N–6, respectively, would be required to provide the cover page disclosure on at least two contract prospectuses during this time.[272]

In addition to providing advance notice to investors of their fund's expected use of the rule, these disclosures are intended to provide important information to both current and prospective investors that gives them an overview of the change in delivery format options, including the fact that reports will be made available on a website and that they will be able to retain delivery of their reports in paper if they should so desire. We believe that these disclosure requirements help to mitigate commenters' concerns regarding the use of the Initial Statements as a condition to reliance on the rule. We encourage the use of graphical indicators such as flags or other design elements to further draw investor attention to these disclosures. Beginning January 1, 2022, these cover page disclosures will no longer be required.

C. The Role of Certain Financial Intermediaries[273]

As acknowledged in our proposal and stated by commenters, most fund investors are not direct shareholders of record, but instead engage an investment professional and hold their fund investments as beneficial owners[274] through accounts with intermediaries such as broker-dealers.[275] As a result, today intermediaries commonly assume responsibility for distributing issuer materials to beneficial owners, including shareholder reports. In the case of broker-dealers, distribution of shareholder reports to beneficial owners is generally governed by self-regulatory organization (''SRO'') rules, which state that broker-dealer member firms are required to distribute annual reports, as well as ''interim reports,'' to beneficial owners on behalf of issuers, so long as an issuer (*i.e.,* the fund) provides satisfactory assurance that the broker-dealer will be reimbursed for expenses (as defined in SRO rules) incurred by the broker-dealer for distributing the materials.[276]

Certain commenters expressed concerns regarding potential complexities and costs for broker-dealers to administer proposed rule 30e–3.[277] As discussed above and in response to these commenter concerns,

[269] Rule 14a–16(f)(2)(iii) under the Exchange Act [17 CFR 240.14a–16(f)(2)(iii)]. The final amendment to rule 14a–16(f)(2)(iii) excludes the proposed reference to the Initial Statement. *See id. See also* rule 30e–3(c)(5) (permitting a Notice to accompany a Notice of Internet Availability of Proxy Materials).

[270] *See* new paragraphs (b)(1)(vi) and (b)(1)(vii) of rule 498; new paragraph (a)(5) to Item 1 of Form N–1A; new paragraph (d)(8) to Item 27 of Form N–1A; new paragraph 1.l to Item 1 of Form N–2; new instruction 6.g to Item 24 of Form N–2; new paragraph (a)(xi) to Item 1 of Form N–3; new instruction 6(vii) to Item 28(a) of Form N–3; new paragraph (a)(x) to Item 1 of Form N–4; new paragraph (a)(6) to Item 1 of Form N–6.

[271] 17 CFR 270.8b–16(b) (providing an exemption for closed-end funds from the requirement to annually update their registration statement, so long as certain disclosures are included in their annual report to shareholders, or for dividend reinvestment plan descriptions, transmitted as permitted under rule 8b–16).

[272] Most issuers of variable annuities and variable life insurance policies amend their registration statements annually and hence send updated prospectuses to their contract owners at least once per year. Issuers of variable annuity and variable life insurance contracts that no longer amend their registration statements and do not distribute updated prospectuses to contract owners rely on staff no-action letters issued by the Division of Investment Management (*see, e.g.,* Great-West Life & Annuity Insurance Co., SEC Staff No-Action Letter (pub. avail. Oct. 23, 1990)). Consistent with this no-action position, such issuers may rely on rule 30e–3 prior to January 1, 2022 if comparable notice is provided to contract owners during the extended transition period when providing them with prospectuses and shareholder reports for underlying funds in which the separate account invests.

In addition, we understand that a small number of issuers of variable life insurance policies continue to register their securities on Form S–6 [17 CFR 239.16]. Such issuers may rely on rule 30e–3 prior to January 1, 2022 if comparable notice is provided on prospectuses (or supplements thereto) delivered to policyholders during the extended transition period.

[273] For purposes of this Section II.C., in using the term ''financial intermediaries'' we are referring to intermediaries such as banks, brokers, and dealers who maintain securities accounts for others. *See, e.g.,* Exchange Act rule 17Ad–20 (defining the term ''securities intermediary'' to mean a clearing agency registered under Exchange Act Section 17A [15 U.S.C. 78q–1] or a person, including a bank, broker, or dealer, that in the ordinary course of its business maintains securities accounts for others in its capacity as such).

[274] The discussion in this section of ''beneficial owners'' refers to beneficial owners whose names and addresses do not appear directly in issuers' stock registers (*e.g.,* on fund transfer agent recordkeeping systems) because their securities are held in street name accounts registered in the name of the intermediary. ''Street name'' accounts are also known as ''omnibus accounts.''

[275] In the Proposing Release, we requested comment on the impact of the proposed rule regarding shareholders holding fund shares through intermediated accounts. *See* Proposing Release, *supra* note 14, at Section II.D.6. By one estimate, approximately 75% of accounts are currently held through brokers and other intermediaries, excluding positions held in employer-sponsored plans. *See* SIFMA Comment Letter (citing estimate provided by Broadridge Financial Services, Inc.).

[276] *See* NYSE rule 465(2); NYSE rule 451(a)(1)–(2); Financial Industry Regulatory Authority (''FINRA'') rule 2251(e)(1)(C); FINRA rule 2251.01. As discussed above, today we approved amendments to NYSE rules that provide additional clarification with respect to the application of certain processing fees that may be charged in the transmission of shareholder reports, including fees that may be applied for reports provided electronically pursuant to a notice and access rule such as rule 30e–3. *See supra* notes 32–36 and accompanying text.

[277] *See e.g.,* SIFMA Comment Letter (stating that the proposed rule did not address the role and obligations of broker-dealers to administer the notice process for clients, and would present logistical challenges and some components would unnecessarily increase complexity and cost without sufficient benefit to mutual funds and their investors; also recommending that the Commission set an effective date for the new rule that provides sufficient time for broker-dealers to develop new infrastructure and internal procedures, and suggesting a transition period of at least 24 months following the effective date of the new rule); Broadridge Comment Letter I (stating that the proposed rule did not acknowledge the essential role broker-dealers would play in making the rules work in practice and that an additional method of delivery for fund reports would add cost and complexity to processing; further noting that the processing complexities of the proposed rule are similar to those of proxies and opining that the proposal did not appropriately contemplate or measure these extra costs).

we have modified the final rule 30e–3(e) to eliminate the proposed reference to financial intermediaries in that provision given the guidance we are providing today regarding the operation of the rule in the context of financial intermediaries.[278]

Multiple commenters requested that the Commission clarify intermediaries' role with respect to delivering Initial Statements and Notices under proposed rule 30e–3, as well as their role in delivering paper copies of shareholder reports to fund beneficial owners upon request.[279] Commenters also requested clarity on how beneficial owners who hold fund shares through accounts with intermediaries can communicate their election to receive paper copies of shareholder reports.[280] With respect to beneficial owners holding fund positions from more than one fund complex in intermediated accounts, commenters further requested whether beneficial owners would be able to communicate their preferences on an account-level basis instead of on a fund-by-fund basis.[281] Commenters also asked that the Commission clarify how intermediaries will be reimbursed by funds for the services they would provide,[282] as well as confirm that an intermediary or other third party service provider could host the website on which the materials would be accessible.[283]

After consideration of the comments we received, including concerns raised regarding the role of financial intermediaries, we have made several modifications to the rule designed to respond to investor protection concerns, streamline and clarify the operation of the transmission regime, provide additional flexibility, and further increase cost savings for investors. For example, we have eliminated the requirement to send an Initial Statement and reply cards under the final rule. In addition, the final rule permits flexibility with respect to the preparation and mailing of Notices, and requires that elections to receive paper reports apply on an account-level basis, instead of a fund by fund basis.

In response to commenters' concerns regarding broker-dealer activities under the new rule 30e–3 framework, below we provide guidance addressing the processes that could be followed by broker-dealers and other intermediaries that deliver shareholder reports to beneficial owners. To remind funds and others of the guidance provided in this release, we have added a note to final rule 30e–3 indicating that this release contains a discussion of how the conditions and requirements of the rule may apply in the context of investors holding fund shares through financial intermediaries.[284]

Financial intermediaries already perform many functions similar to those outlined in rule 30e–3. For example, intermediaries currently forward to beneficial owners a variety of materials from funds and other issuers of securities, including shareholder reports. Many intermediaries operate websites that host shareholder reports and other materials relating to a beneficial owner's investments. Intermediaries today also collect and maintain investor preferences as to delivery format (*i.e.,* whether a beneficial owner receives reports or other documents—including materials prepared by the intermediary such as account statements and confirmations—in paper or has elected electronic delivery of some or all of those materials), and monitor for potential householding arrangements and collect related consents for their customers. As a result, we believe many intermediaries generally may be able to leverage existing infrastructure and adapt systems and processes currently used for the delivery of documents and other information to their customers.[285]

1. Distribution of Notices to Beneficial Owners

SRO rules require broker-dealers to distribute shareholder reports to beneficial owners.[286] We believe that a broker-dealer, at the fund's request, could also distribute Notices required under rule 30e–3 if the broker-dealer distributes the materials in a manner consistent with the rule. We understand that today, funds and broker-dealers routinely develop detailed implementation plans and other parameters for fulfillment of paper and electronic delivery of fund materials (such as shareholder reports, prospectuses, and proxy materials) and other shareholder servicing and compliance-related matters for beneficial owners. We believe that such plans and parameters also could provide a basic framework for the delivery of Notices under rule 30e–3.[287]

The rule permits flexibility in the preparation and delivery of Notices. For example, a Notice could relate solely to an individual fund, or multiple Notices can be combined together to create a consolidated Notice.[288] In addition, the rule permits a Notice to be sent with other documents, including other Notices and account statements.[289] As with funds, a broker-dealer could likewise forward Notices to beneficial owners in any of the aforementioned scenarios.[290]

A fund may determine that for cost or other reasons, it would be preferable for the broker-dealer to prepare and distribute a consolidated Notice for beneficial owners who may be invested in multiple funds offered by one or more fund complexes.[291] In addition, a

[278] *See supra note* 225 and accompanying text.

[279] *See, e.g.,* ICI Comment Letters I and II; Broadridge Comment Letter I; CSIM Comment Letter; Fidelity Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; SIFMA Comment Letter.

[280] *See* SIFMA Comment Letter; Schwab Comment Letter; Broadridge Comment Letter I; ICI Comment Letter I.

[281] *See* SIFMA Comment Letter; ICI Comment Letter I.

[282] *See, e.g.,* ICI Comment Letter I; Invesco Comment Letter; SIFMA Comment Letter.

[283] *See, e.g.,* SIFMA Comment Letter; Broadridge Comment Letter I; InveShare Comment Letter; *see also infra* note 307 (detailing commenters' discussion and requests for clarification about intermediary website hosting).

[284] *See* Note to rule 30e–3.

[285] Two commenters suggested that the framework for rule 30e–3 as proposed was similar to that for the notice and access framework for the delivery of proxy materials. *See* SIFMA Comment Letter, Broadridge Comment Letter I. Although both frameworks involve a notice and access framework, the proxy framework involves additional complexities relating to the process of voting security holdings—considerations not applicable in the case of rule 30e–3, particularly after the modifications we have made to the final rule as discussed above. Instead, we believe that the existing framework for the delivery of fund documents other than proxy materials (*e.g.,* prospectuses, summary prospectuses, shareholder reports, ad hoc requests for paper documents, etc.) is the more appropriate analogous framework.

[286] *See supra* note 276 and accompanying text.

[287] Funds and broker-dealers could work together to establish or modify their plans and parameters. Such discussions also may prompt changes to existing servicing arrangements and/or compliance and oversight activities, particularly where funds determine that broker-dealers will prepare and transmit consolidated Notices in lieu of those prepared by funds (*see infra* notes 291–293 and accompanying text) or establish or use their own website in lieu of funds' (or a third party's) to provide access to the shareholder materials for their customers (*see infra* paragraph accompanying note 307).

[288] *See* rule 30e–3(c)(4).

[289] *See* rule 30e–3(c)(5).

[290] In the case of fund-generated Notices that do not have a telephone number or other contact information for the broker-dealer, a broker-dealer could include a cover page or other similar communication that provides the beneficial owner with contact and other information for the broker-dealer, as is often done today when annual reports or other fund documents are forwarded to beneficial owner customers. This contact information could be used by the beneficial owner to, for example, elect to receive all future reports in paper or elect electronic delivery of the report and other documents or communications.

[291] For example, because the final rule permits a Notice to accompany other materials (*e.g.,* an account statement), a combined mailing could reduce mailing costs relative to sending the Notice in a separate mailing without any accompanying documents.

broker-dealer may similarly prefer to prepare such Notices for its customers, given that its customers may have come to expect consolidated communications at the account level rather than the position level.[292] Moreover, Notices prepared by a broker-dealer may better generally match fund investors' expectations because a broker-dealer—and not the fund—typically processes a beneficial owner's fund-related requests.[293]

Notices prepared by broker-dealers generally should be consistent with paragraph (c) of rule 30e–3. For example, as discussed in the section below,[294] a broker-dealer preparing a Notice may wish to include the broker-dealer's own toll-free telephone number, as well as instructions about how the beneficial owner could notify the broker-dealer regarding his or her report delivery preferences.[295]

2. Beneficial Owner Elections for Paper Reports

The final rule prohibits reliance on the rule if a shareholder has expressed a preference that the shareholder wishes to receive paper copies of shareholder reports.[296] Broker-dealer firms generally should track their customer elections to receive paper reports. Consistent with today's framework under which broker-dealer firms facilitate delivery of shareholder reports to their customers, we believe that broker-dealer firms could provide information to the fund (or fulfillment service provider) regarding the number of paper copies of shareholder reports, and fund-prepared Notices, needed by the broker-dealer to fulfill its customers' delivery preferences.

In response to concerns raised by commenters regarding the burdens and costs of tracking elections to receive paper reports on a fund by fund basis,[297] and in a change from the proposal, the rule has been modified so that an election to receive paper reports will apply to any and all current and future funds held through an account or accounts with a financial intermediary.[298] We believe that tracking paper report elections on an account basis should simplify the operation of the rule, as well as the design and implementation of systems to track shareholder report paper elections for both broker-dealers and funds.

Today, paper copies of statutory prospectuses or statements of additional information may be requested by beneficial owners on an ad hoc basis in cases where a fund uses a summary prospectus.[299] Paper copies of disclosure documents (including shareholder reports) may also be requested where a client has elected electronic delivery for some, but not all communications.

We note that the rule's approach of delivering Notices, together with the option of permitting shareholders to request paper copies on either an ad hoc or ongoing basis, is generally similar to the operational approach currently used by many broker-dealers (and funds) for the delivery of fund materials, including proxy materials. We believe that existing systems for default electronic delivery could be leveraged by broker-dealers in implementing the final rules in order to establish new processes and procedures for delivery of shareholder reports at a lower cost than would be the case if such systems did not already exist.[300] In particular, elimination of the proposed Initial Statement in the final rule reduces the operational complexities with respect to use of the rule, which we believe may make it easier for existing systems to be leveraged. We recognize, however, that some broker-dealers may decide instead to create new systems.

To facilitate beneficial owners' elections to receive future reports in paper, a broker-dealer firm generally should provide information on how to contact the firm (or if applicable, the fund) in conjunction with the delivery of Notices. For Notices prepared by the broker-dealer firm, the Notice could contain the toll-free telephone number of the firm and other methods by which beneficial owners could contact the firm. If the broker-dealer firm is delivering Notices prepared by a fund, the firm could include with the Notice information containing the toll-free telephone number of the firm and other methods by which beneficial owners could contact the firm.[301]

A commenter also requested a transition period of at least 24 months following the effective date of the rule to allow time to address new systems, processes and procedures required to comply with the rule.[302] In response to these and other concerns raised by commenters, and other considerations discussed below on the effective date of the rule, we are adopting an extended effective date of January 1, 2019 to provide funds, financial intermediaries, and other service providers with an adequate period of time to modify systems and operations to accommodate the new transmission framework. Broker-dealers generally should track investor elections for paper copies of shareholder reports after first transmitting a notification of a fund's intent to rely on the rule, beginning as early as January 1, 2019, or the first time a Notice is provided to the shareholder.[303]

3. Website Availability of Materials

The final rule does not require that the website where the required materials are available be maintained by any particular party. Instead, the rule provides that the required materials must be posted at the website specified in the Notice.[304] This approach is consistent with similar flexibility provided under the current rules relating to the use of a summary prospectus.[305] In addition, electronic

[292] Commenters stated that the ability for broker-dealers to prepare their own Initial Statements, including incorporating their own contact information, may assist beneficial owners in communicating their delivery preferences in the manner in which they are generally accustomed. We believe the same may be true of Notices. *See, e.g.,* ICI Comment Letter I (stating that ''investors are used to receiving consolidated communications from intermediaries''); SIFMA Comment Letter (''As a practical matter, for accounts held in street name through brokers . . . proposed Rule 30e–3 would necessarily have to be carried out by such brokers.''); InveShare Comment Letter (''Clients furthermore expect that each brokerage firm will provide a consolidated and uniform source of information and support with respect to multiple securities included in a given client account.'').

[293] *See supra* notes 274–275 and accompanying text.

[294] *See infra* Section II.C.2.

[295] We also believe that a broker-dealer should generally specify that a request to receive paper copies of reports will be deemed to be a request with respect to each fund whose shares are held in the beneficial owner's account.

[296] *See* rule 30e–3(f)(1).

[297] *See, e.g.,* State Street Comment Letter.

[298] *See* rule 30e–3(f)(2).

[299] As discussed above in Section II.B.3., we believe that beneficial owner ad-hoc requests for paper reports or other required materials would continue to be fulfilled by funds when requested (as they are today) or such customer requests could be fulfilled directly by the broker-dealer.

[300] *See, e.g.,* SIFMA Comment Letter (describing operation execution of proposed rule 30e–3 in terms of re-tooling established systems or creating new systems); Broadridge Comment Letter I (describing ongoing systems development in light of proposed rule 30e–3 including potentially adding new control number and consent systems).

[301] For example, this information could be provided on a cover sheet to the delivered Notice, or on an account statement delivered with the Notice. *See* rule 30e–3(c)(5)(iv) (permitting Notices to accompany a shareholder's account statement).

[302] *See* SIFMA Comment Letter.

[303] *See* Section II.B.2.d. As discussed, the final rule has been streamlined and simplified, in an effort to reduce complexity and related implementation burdens and costs. Broker-dealers also will have an extended transition period of an additional two years to coordinate with funds on the design and implementation of Notices, which may be transmitted beginning January 1, 2021.

[304] *See* rule 30e–3(b)(1).

[305] *See* rule 498(e)(1) under the Securities Act (requiring in the case of the summary prospectus, that the required documents be available at the

delivery elections for shareholder reports and other documents can be fulfilled by making fund reports and other materials accessible on websites hosted by the fund, the broker-dealer firm, or a third-party service provider of the fund or intermediary.[306] Thus, a variety of existing infrastructure arrangements for hosting reports and other materials may be leveraged in providing website availability of shareholder reports to beneficial owners under rule 30e–3.

Commenters observed that it could be more efficient for a broker-dealer to establish its own website (or utilize a central third-party website) on which shareholder materials would be hosted, and identify this website (as opposed to each fund or fund family's website) in any Notices prepared by the broker-dealer.[307] A fund, as the party ultimately responsible for the content and delivery of shareholder reports under Commission rules, may agree to the use of a broker-dealer or third party website to provide electronic access to shareholder reports and other materials applicable to a beneficial owner's account if the reports and others materials are posted in a manner consistent with the requirements of rule 30e–3.[308] We also acknowledge, as noted by commenters, that allowing the use of a control number or QR code (or similar login process) to access a broker-dealer's website (or other central third-party website) could help investors to more efficiently access the fund reports and other materials relevant to them, rather than directing an investor that holds various fund positions to multiple fund complex websites where such documents are publicly available.[309]

D. Extension of Similar Delivery Framework to Other Documents

While rule 30e–3 as proposed would apply only to shareholder reports, we also requested comment in the Proposing Release on whether we should permit a similar framework to satisfy delivery obligations for summary or statutory prospectuses.[310] Citing cost reductions and other reasons, a number of commenters recommended that we extend a similar framework to other materials, including prospectuses,[311] variable insurance product materials,[312] and notices required under rule 19a–1 and related exemptive orders.[313] One commenter suggested that the Commission should adopt rules allowing funds to use the internet to satisfy delivery requirements across all investor documents.[314] Some commenters also suggested that the Commission amend rule 172 under the Securities Act to apply the rule's ''access equals delivery'' framework to funds and variable insurance products.[315]

While we appreciate these recommendations, we believe that the appropriate incremental step is rule 30e–3, as adopted. As discussed above, we are seeking comment on the content, delivery, and design of fund disclosure as well as the processing fees for delivering fund shareholder reports and other materials to investors, and may consider in the future an electronic or notice and access delivery framework for documents other than shareholder reports.[316]

E. Effective Dates

1. Rule 30e–3

In the Proposing Release, we stated that because the use of proposed rule 30e–3 would be optional, we believed that a compliance period was unnecessary and expected that funds would be able to rely on the rule immediately after the effective date provided they first transmit an Initial Statement.[317] We requested comment on the proposed compliance dates, and a commenter suggested that the Commission set an effective date six months after date of publication in the **Federal Register** and allow for a transition period of 24 months from the rule's effective date to allow the conditions of the rule to apply gradually (such as applying the rule first to new accounts, and then to existing accounts).[318]

After further consideration, we are adopting an extended transition period with staged effective dates for rule 30e–3 and the related amendments we are adopting today. While rule 30e–3 will become effective on January 1, 2019, the rule provides that a fund may only begin transmitting Notices pursuant to the rule beginning January 1, 2021.[319] For most funds seeking to rely on the rule before January 1, 2022, a temporary condition will require the funds to prominently disclose information on the cover pages of certain documents prior to their reliance on the rule, as discussed in more detail in this release.[320]

We are adopting a delayed effective date of January 1, 2019 to provide funds, broker-dealers and other financial intermediaries, and service providers with an adequate period of time to modify systems and operations to accommodate the new transmission framework. Beginning as early as January 1, 2019, however, funds and intermediaries will begin to track investor elections for paper copies of the shareholder report.[321]

website specified on the cover page or beginning of the summary prospectus) [17 CFR 230.498(e)(1)].

[306] Pursuant to the Commission's existing electronic delivery guidance, beneficial owner elections for electronic delivery of shareholder reports and other documents continue to grow, with one commenter noting that electronic delivery has grown from 19% of fund report deliveries in 2010 to over 50% as of June, 2018. *See supra* note 73 and accompanying text.

[307] *See, e.g.,* SIFMA Comment Letter (requesting clarification that the use of a single third party website or landing page where investors can access all relevant materials is permitted); Broadridge Comment Letter II, at Attachment B (discussing the ability for an investor to access shareholder reports on a fund's or a broker's website and the ability for such website to be customized by the fund or broker to provide an enhanced user experience for the investor); InveShare Comment Letter (noting that investors are used to using a single web page to locate documents, where documents are listed in an orderly manner).

[308] For example, if a broker-dealer were to establish its own website, it should generally follow procedures similar to those described in rule 30e–3(b)(2)–(5). Use of a broker-dealer or third party website may be a more user friendly, efficient, and cost effective way to provide electronic access to reports and other materials. For example, a consolidated Notice prepared by the broker-dealer that directs beneficial owners to their account page through a single website address (rather than multiple website addresses for beneficial owners who own funds from multiple complexes) may make it easier for beneficial owners to access these reports than accessing multiple reports available on separate websites. We note that today, such reports may be accessed from a broker-dealer website, where they reside, or through re-direction to a central website, or the fund's website. We also note that many broker-dealers provide beneficial owners with links to fund websites for accessing documents delivered via electronic delivery and for otherwise accessing these documents from their online accounts with their broker-dealer as noted above. Thus, in certain circumstances, it may be more cost effective for the shareholder report and other materials to be hosted on the fund's website or a central third-party website.

[309] *See supra* notes 169–170 and accompanying text.

[310] *See* Proposing Release, *supra* note 14, at 33633.

[311] *See, e.g.,* CAI Comment Letter I; Capital Research Comment Letter I; Fidelity Comment Letter; ICI Comment Letter I; Comment Letter of Independent Directors Council (Aug. 11, 2015); Invesco Comment Letter; OppenheimerFunds Comment Letter; Schwab Comment Letter; SIFMA AMG Comment Letter; State Street Comment Letter; Vanguard Comment Letter.

[312] *See* Allianz Comment Letter; *see also* CAI Comment Letter I.

[313] *See* Comment Letter of Eaton Vance Investment Managers (Aug. 11, 2015).

[314] *See* Schnase Comment Letter.

[315] *See* Allianz Comment Letter; CAI Comment Letter I.

[316] *See* Disclosure Request for Comment, *supra* note 20; Processing Fees Request for Comment, *supra* note 21.

[317] Proposing Release, *supra* note 14, at 33654.

[318] *See* SIFMA Comment Letter.

[319] *See* rule 30e–3(i).

[320] *Id.; see supra* Section II.B.2.f; *infra* Section II.E.2.

[321] *See* rule 30e–3(f). The need to track an investor's preference would be triggered by the first

Continued

2. Disclosure Amendments

As discussed above, we are also requiring funds to provide prominent disclosures on the cover page or beginning of their summary prospectuses, and cover pages of their statutory prospectuses, and annual and semi-annual reports, informing investors of the change in delivery format options if the funds intend to rely on the rule prior to January 1, 2022.[322] These amendments to rule 498 and Forms N–1A, N–2, N–3, N–4, and N–6 will be effective January 1, 2019 for a temporary period of three years (*i.e.,* between January 1, 2019 and December 31, 2021). Effective January 1, 2022, these disclosures will no longer be required, and the related requirements in rule 498 and Forms N–1A, N–2, N–3, N–4, and N–6 will be removed. Additional amendments to rule 498, including an amendment to permit the inclusion of information about electronic delivery, will become effective January 1, 2019 and will remain effective indefinitely.

3. Other Amendments

As also discussed above, we are permitting funds to include content from the shareholder report in the Notice under rule 30e–3(c)(3), provided that funds that choose to transmit Notices with additional information from the shareholder report file those Notices as part of their reports on Form N–CSR.[323] To that end, we are amending Form N–CSR to provide instructions for funds to file such Notices. The amendments to Form N–CSR are effective January 1, 2021.

We are also amending rule 14a–16 under the Exchange Act to include a Notice required by rule 30e–3 among the materials that are permitted to accompany a Notice of internet Availability of Proxy Materials.[324] The amendments to rule 14a–16 will be effective January 1, 2021.

We are amending Section 800 of 17 CFR part 200 to display control numbers assigned to information collection requirements for rule 30e–3 by the Office of Management and Budget pursuant to the Paperwork Reduction Act. This amendment is effective January 1, 2019.

4. Communications With Investors During the Extended Transition Period

As noted earlier, we are persuaded by commenters that the proposed provisions of the rule regarding affirmative and implied consent through use of an Initial Statement would add unnecessary complexity to the implementation of the rule without a corresponding benefit.[325] Instead, we believe that the extended transition period provides a less burdensome framework to alert investors to the change in transmission format.[326]

Although we are requiring most funds, as a condition to relying on rule 30e–3 before January 1, 2022, to include the required disclosures regarding the upcoming change on prospectuses and shareholder reports, we also encourage funds and financial intermediaries (*e.g.,* broker-dealers, insurance companies issuing variable insurance products) to take advantage of the extended transition period to engage with their investors to communicate the forthcoming change through additional appropriate means. Such engagement could further enhance investors' awareness of the upcoming change in delivery method, and provide additional opportunity for investors to select the delivery method most appropriate for their individual circumstances.

We believe that this engagement with investors could build upon funds' and intermediaries' existing efforts to ask investors to elect electronic delivery. It is our understanding that funds and intermediaries periodically solicit investors to opt-into electronic delivery of account and fund related documents, including shareholder reports, in lieu of receiving documents in paper. We are aware that some of these efforts have included:

- *Dedicated electronic delivery website pages* that explain the benefits of electronic delivery (for example, electronic delivery is faster, economical, convenient, secure, and environmentally friendly) and provide instructions and website links that facilitate enrolling in electronic delivery (*e.g.,* by obtaining online access and logging into an account held directly with the fund or through an intermediary and selecting communications preferences). These website pages may include frequently asked questions and information on how to contact a service representative (by phone or email) to facilitate enrollment, and may also highlight how to receive paper copies of materials upon request, how to update or cancel enrollment, and the procedures followed when an email address provided is invalid or otherwise fails.
- *Paper mailing campaigns* that provide information similar to the above, including the mailing of inserts that accompany the monthly or quarterly account statement or other regulatory mailings or marketing materials sent to investors.
- *Email campaigns* that are targeted to investors who have not consented to electronic delivery, but have provided email addresses to funds or their intermediaries on account applications or when obtaining online access.
- *Online account alerts or pop-ups* that remind investors who have logged into their account page of the availability of electronic delivery and prompt investors to take action.
- *Engagement by phone* through call scripts which prompt fund or intermediary customer service representatives to highlight electronic delivery options and guide interested investors through the enrollment process.
- *Elimination of small balance account service fees and other incentives* for investors who sign up for electronic delivery of documents, in lieu of receiving paper documents.

We believe that the levels of internet access and electronic availability and delivery of financial information will continue to increase[327] as a result of the various efforts described above and general trends in technology and demographic changes. We also continue to believe that electronic delivery and website availability of disclosures are methods that have the potential to significantly improve the communication of information to investors. For example, many fund websites include additional information aside from disclosure documents and other information mandated under our rules such as educational materials, interactive calculators, and investment research tools and materials. Funds and intermediaries will be able to engage with their investors on the benefits of enrolling in electronic delivery and accessing information online, both during the extended transition period and thereafter, and to continue to improve the user-friendliness and content of their websites.

notice the fund provides to the investor that it intends to rely upon the rule to transmit shareholder reports. *Id.* For example, a fund that intends to rely on rule 30e–3 on January 1, 2021 would need to track investor preferences the first time it transmits or delivers a document that includes the required cover page disclosure discussed above. *See supra* Section II.B.2.f. A fund that will rely on rule 30e–3 on January 1, 2022 or thereafter would need to track investor preferences beginning the first time it transmits a Notice.

[322] *See supra* Section II.B.2.f.

[323] *See supra* Section II.B.2.

[324] *See id.*

[325] *See supra* Section II.A.2.

[326] *See supra* Section II.B.2.f.

[327] *See supra* notes 39–47 and accompanying text.

III. Economic Analysis

A. Introduction

We are mindful of the importance of assessing the costs and benefits of our rules. Section 2(b) of the Securities Act, Section 3(f) of the Exchange Act, and Section 2(c) of the Investment Company Act require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in (or, with respect to the Investment Company Act, consistent with) the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[328] Additionally, Exchange Act Section 23(a)(2) requires us, when adopting rules under the Exchange Act, to consider, among other things, the impact that any new rule would have on competition and not to adopt any rule that would impose a burden on competition that is not necessary or appropriate in furtherance of the Exchange Act.[329]

At the outset, the Commission notes that, where possible, it has sought to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from new rule 30e–3, the amendments to various rules and registration forms, and their reasonable alternatives. The economic effects of new rule 30e–3 are dependent on a number of factors, including the number of funds that rely on the rule; for those funds that rely on the rule, the number of investors that ultimately select paper transmission; the extent to which funds currently rely on Commission guidance to transmit shareholder reports electronically; the extent to which investors currently have opted into electronic delivery;[330] and the extent to which investors become more aware of the website availability of portfolio investment and other information, view the information, and use the information to make investment decisions.

New rule 30e–3 allows funds to satisfy shareholder report transmission requirements by making such reports publicly accessible on a website if they meet certain conditions. This new option is designed to modernize the manner in which periodic information is made available to investors. We believe it will improve the information's overall accessibility while reducing expenses associated with printing and mailing that are borne by funds, and ultimately, by their investors. The rule also draws on the Commission's investor testing efforts and other empirical research concerning investors' preferences about methods of delivery for required disclosure documents and use of the internet for financial and other purposes generally.[331]

Further, printing and mailing expenses associated with shareholder reports are typically passed on to fund investors through fund expense ratios. Currently, if investors with a preference for electronic delivery do not take the necessary step of affirmatively electing electronic delivery pursuant to the Commission's current guidance on electronic delivery, the shared costs associated with printing and mailing reports incurred by investors will be higher than if shareholder reports were delivered in paper form only to those investors that have a preference for paper delivery. The new rule, however, creates an optional regulatory structure that eliminates the need for investors to take the step to affirmatively elect electronic delivery and enables funds to make website availability of shareholder reports the default, which will reduce the printing and mailing costs shared by investors while still accommodating the interests of those investors who prefer paper copies.[332]

As we discuss in greater detail below, we estimate that aggregate cost savings, net of compliance costs, after the first year of reliance on rule 30e–3 would be approximately $141.4 million per year, or approximately 55% of the annual printing and mailing costs under the existing requirements.[333] The share of net cost savings realized by funds that will be actually passed through to investors will affect the net impact of the rule on investors. Given that printing and mailing expenses are fund expenses, we expect that these savings will generally be fully passed along to investors, except perhaps in certain circumstances (*e.g.,* where the fund is operating under an expense limitation arrangement).

For purposes of the estimates below, we aggregate printing and mailing costs for positions held directly and positions held in street name. We assume that the printing and mailing costs are incurred, and cost savings realized, by funds. As discussed above, intermediaries and other third parties incur printing and mailing costs on behalf of funds in instances of positions held in street name, and such intermediaries and other third parties are expected to incur a portion of the aggregate costs and cost savings from rule 30e–3.[334] By one estimate, approximately 75% of accounts are currently held through brokers and other intermediaries.[335] We expect that intermediaries and other third parties will continue to pass through most or all shareholder report printing and mailing costs to funds under rule 30e–3, as currently intermediaries and other third parties who perform these functions on behalf of funds under existing requirements pass through printing and mailing costs incurred.

Due to the optional nature of the rule, we expect that, in general, each fund will only rely on the rule if the benefits to that fund exceed the costs. We have provided estimates of the aggregate costs associated with printing and mailing shareholder reports. However, as discussed in further detail below, in certain cases the Commission is unable to quantify other economic effects, such as how the availability of shareholder reports online will affect investors' use

[328] 15 U.S.C. 77b(b), 15 U.S.C. 78c(f), 15 U.S.C. 80a–2(c), and 15 U.S.C. 80b–2(c).

[329] 15 U.S.C. 78w(a)(2).

[330] *See supra* note 18.

[331] *See supra* notes 18, 96, and 97 and accompanying text.

[332] We believe that the change from generally requiring investors to ''opt-in'' if they wish to receive electronic instead of paper copies of shareholder reports, to—as under the new rule—''opt-out'' if they wish to receive paper copies instead of electronic copies will increase the ability of funds to deliver shareholder reports electronically. Although the preferences of investors will not change dependent on the form of consent, economic theory and empirical evidence suggest the likelihood that investors receive electronic transmissions of fund reports will be greater under opt-out consent rather than opt-in consent. *See, e.g.,* Richard H. Thaler and Shlomo Bernatzi, *Save More Tomorrow™: Using Behavioral Economics to Increase Employee Saving,* Journal of Political Economy, Vol. 112:1, S164–S187 (2004); Richard H. Thaler and Cass R. Sunstein, *Libertarian Paternalism,* The American Economic Review, Vol. 93:2, 175–179 (2003). Thaler and Sunstein argue that a ''status quo'' bias results in the continuance of existing arrangements even if better options are available. The authors illustrate their argument with higher rates of initial enrollments in employee savings plans when enrollment is automatic as compared to when employees must first complete an enrollment form. The free-riding problem can also contribute to an inefficiently higher rate of paper use under the existing rules. The free-riding problem may arise because while investors must incur effort (albeit small) to switch from paper to electronic delivery under the current rules, those investors that fail to switch from paper still benefit from the aggregate printing and mailing cost savings due to other investors having switched to electronic delivery, thus, an inefficiently low proportion of investors may take the step to switch from paper to electronic delivery.

Under the final rule, which makes website availability the default, some investors with a preference for paper reports may fail to request paper because of the ''status quo'' bias discussed above. *See infra* Section III.D.2. We lack the data to estimate the number of such investors. There is considerable evidence of investor preferences for enhanced availability of fund information on the internet rather than in paper form. *See supra* note 19.

[333] *See infra* note 373 and *infra* Section III.C.1.

[334] *See supra* Section II.C.

[335] *See supra* note 275.

of the information, because the Commission lacks the information necessary to provide a reasonable estimate. Where the Commission is unable to quantify the economic effects, the discussion is qualitative in nature and includes, where possible, descriptions of the direction of these effects.

B. Economic Baseline and Affected Parties

The baseline from which we analyze the economic effects of rule 30e–3, as well as the related rule and registration form amendments, is the current set of regulatory requirements under which funds transmit shareholder reports to investors. The baseline also includes the current practice of many funds to make some or all of these reports—or other materials listing portfolio investment information—accessible on their websites. The baseline reflects the fact that some funds transmit these materials electronically today, pursuant to Commission guidance that permits such a transmission method on a shareholder-by-shareholder ''opt-in'' basis, provided that certain other conditions are met.[336] The baseline also reflects the recently adopted rules and forms and rule and form amendments modernizing the reporting and disclosure of information by registered investment companies,[337] as well as rules established by exchanges related to the transmission of shareholder reports to investors, including the NYSE rule amendments regarding processing fees paid to financial intermediaries.[338]

The parties that could be affected by new rule 30e–3 are funds that currently are or would be required to transmit shareholder reports under rule 30e–1 or 30e–2; shareholders of funds; financial intermediaries and other third parties involved in the distribution of shareholder reports to beneficial owners of funds on behalf of funds; and current and future users of fund portfolio investment information, including investors and third-party information providers. Some commenters have also suggested that the rule may have effects on the environment, the paper industry, and mail carriers.[339]

The assets of all registered investment companies exceeded $19 trillion at year-end 2016, having grown from about $5.8 trillion at the end of 1998.[340] Approximately 95.8 million individuals own shares of registered investment companies, representing 55.9 million or 44.4% of U.S. households.[341] Based on industry statistics and staff analysis of Commission filings, we estimate that, as of December 2017, the number of funds that could be affected by rule 30e–3 is 12,630, including 9,360 mutual funds, 1,821 exchange-traded funds (1,829 ETFs less 8 UIT ETFs), 711 closed-end funds, 14 funds that could file registration statements or amendments to registration statements on Form N–3, and 724 UITs.[342] For the reasons discussed below, we continue to estimate, as we did in the proposal, that the number of affected funds that will rely on rule 30e–3 comprises 90% of the number of all funds.[343] Thus, the number of affected funds reflecting updates to the industry data figures is 11,367.[344]

Rules 30e–1 and 30e–2 generally require funds to transmit reports to shareholders at least semi-annually, with holdings as of the end of the second and fourth fiscal quarters disclosed in the fund's semi-annual and annual reports, respectively.[345] Holdings as of the end of the first and third fiscal quarters are currently disclosed in reports on Form N–Q filed with the Commission, which are available on EDGAR.[346] Funds are not required to send first- and third-quarter portfolio holdings information to investors or make that information accessible on their websites.

In addition to providing paper copies of shareholder reports to investors, some funds may voluntarily, or because of other requirements, make some or all of these reports—or other materials listing portfolio holdings at particular times—accessible on websites. For example, rule 498 under the Securities Act, which concerns the use of a summary prospectus, requires that shareholder reports be made publicly available on a website if a summary prospectus is used.[347]

Under existing Commission guidance, funds can transmit shareholder reports or other documents electronically in lieu of paper delivery if they satisfy certain conditions relating to investor notice, access, and evidence of delivery. The Commission's guidance indicates that one way evidence of delivery can be demonstrated as to an investor is if an investor has agreed to electronic transmission on an affirmative ''opt-in'' basis.

Some shareholder reports are currently transmitted electronically under this guidance. One commenter estimated that 43% of reports to street name holders are delivered electronically and projected that 59% of reports to street name holders will be delivered electronically in 2018.[348] By one estimate, approximately 75% of accounts are currently held through brokers and other intermediaries.[349]

While these figures demonstrate that electronic delivery is used for a significant proportion of shareholder reports (which affects the baseline printing and mailing costs across funds under the existing requirements), because a fund is not required to report to the Commission the extent to which it relies on Commission guidance, we lack information to estimate the percentage of funds that solely or predominantly rely on electronic delivery under existing Commission guidance. We recognize, consistent with the comments we have received, that electronic delivery of reports to some investors under existing Commission guidance may continue to reduce printing and mailing costs in the future, regardless of whether rule 30e–3 is adopted.[350]

In the Proposing Release, we estimated aggregate annual printing and mailing costs under the existing requirements to be approximately $116.4 million.[351] Based on the estimates provided by commenters,[352]

[336] *See supra* note 25 and accompanying text.

[337] *See* Reporting Modernization Adopting Release, *supra* note 14.

[338] *See supra* notes 32–34 and accompanying text.

[339] *See supra* Section II.A.5.

[340] *See* 2017 ICI Fact Book, *supra* note 97, at 8.

[341] Among mutual fund-owning households, 63% held funds outside employer-sponsored retirement accounts, with 19% owning funds only outside such plans. *See* 2017 ICI Fact Book, *supra* note 97, at 121

[342] *See infra* note 476.

[343] *See* Proposing Release, *supra* note 14, at n.800. *See also infra* note 477 and accompanying and following text.

[344] *See infra* note 478.

[345] *See supra* note 16.

[346] *See supra* note 117 for a discussion of the changes recently adopted by the Commission.

[347] *See infra* note 474 and accompanying text.

[348] *See* Broadridge Comment Letter I. The commenter also estimated that the rate of electronic delivery of reports held in street name would reach 54% by June 2017 and 59% by June 2018. However, the commenter noted that ''e-delivery rates for direct-sold accounts lag those of the street.'' *See* Broadridge Meeting Memo I.

Another commenter stated that for accounts held directly, ''an informal sampling of some of our members with direct-at-fund business showed an average e-delivery rate of about 40 percent.'' *See* ICI Comment Letter I.

[349] *See supra* note 275.

[350] *See, e.g.,* Broadridge Comment Letter I.

[351] $116,368,583. *See* Proposing Release, *supra* note 14, at n.707. Printing and mailing costs (inclusive of processing fees) were estimated to be approximately $10,354 ($31,061 ÷ 3) per fund, and approximately $6,667 ($20,000 ÷ 3) per UIT. *See* Proposing Release, *supra* note 14, nn.777, 790.

[352] One commenter estimated aggregate industry printing and mailing costs under the existing requirements, providing an estimate of $344 million. *See supra* note 70 and accompanying text. Another commenter provided an estimate of $354 million (projected to be $382 million in 2018) for fund positions held in street name, which the

we recognize that printing and mailing costs under the existing requirements estimated in the proposal may have been understated and we are doubling our estimated share of printing and mailing costs under existing requirements in the external costs of rules 30e–1 and 30e–2. Based on this change to the assumptions in our estimate and the use of updated industry figures on the number of funds, our revised estimate of aggregate annual printing and mailing costs under the existing requirements is approximately $256.2 million.[353] The revised estimate is close to the average of the estimate in the proposal and the average of aggregate cost estimates based on commenter estimates.[354]

C. Benefits

Rule 30e–3, to the extent that it is relied upon by funds, will likely provide benefits to both current and prospective investors. First, the rule is expected to benefit funds and their investors by reducing aggregate expenses related to the delivery of paper shareholder reports. Second, we believe that the rule may facilitate investor review of periodic information by increasing its overall accessibility. We discuss these benefits in greater detail below.

The expected benefits described below will not necessarily be distributed uniformly across all funds that choose to rely on rule 30e–3. First, funds that currently have low printing and mailing costs—for example, because they have shorter shareholder reports or lower per-page printing costs—will realize smaller net cost savings from rule 30e–3. Similarly, funds that deliver many of their shareholder reports electronically in reliance on existing Commission guidance will realize smaller net cost savings from rule 30e–3, although they may still realize net cost savings associated with those investors who do not opt into electronic delivery. Further, even if the net cost savings from rule 30e–3 are small, investors and funds may still realize some benefits from website accessibility of first- and third-quarter portfolio holdings information that currently may be found only on EDGAR.

Second, when funds presently rely on rule 498, which among its requirements includes website posting of shareholder reports when using a summary prospectus, the potential benefits to investors of having the shareholder report available in an electronic format alongside other fund information will likely be smaller. However, funds that presently rely on rule 498 may still realize net cost savings from no longer printing and mailing as many shareholder reports. The use of rule 30e–3 by funds that presently rely on rule 498 will also result in the benefits to investors of website accessibility of fund portfolio holdings information for the first and third fiscal quarters.

Funds that choose to rely on rule 30e–3 could be at a competitive advantage if investors choose funds based on their preference for website availability, either because investors prefer to view shareholder reports electronically or because funds that rely on rule 30e–3 could have lower expense ratios due to savings of printing and mailing costs. Additionally, as discussed above, some commenters discussed potential benefits of rule 30e–3 for the environment.[355]

As discussed in Section II.E above, in a change from the proposal, we are adopting an extended transition period with staggered effective dates for new rule 30e–3 and the other amendments adopted today. This extended transition period would defer the realization of the benefits discussed above. However, it would provide the separate benefit of enabling investors more time to become informed of the potential forthcoming change in the delivery manner of their shareholder reports and also provide funds, financial intermediaries, and service providers with a period of time to modify systems and operations to accommodate the new shareholder report delivery framework.

As discussed in Section II.B.3 above, in a change from the proposal, we are also amending rule 498 to permit a summary prospectus to include a description of how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.[356] This provision is expected to enhance investor awareness of how to request shareholder reports and related fund materials in the investor's preferred format while enabling additional efficiencies in shareholder report delivery for funds. To the extent that the option to include with a summary prospectus instructions describing how investors may elect electronic delivery will increase the likelihood that investors with a preference for electronic delivery communicate their preference to the fund, this amendment to rule 498 is expected to contribute to increased reliance on electronic delivery under the existing Commission guidance. Consistent with the printing and mailing cost savings, this would result in benefits to funds, and in turn, investors, from the final rules. Further, if electronic delivery facilitates increased investor access to, and review of, fund information, this amendment to rule 498 may result in better informed investor decisions and more efficient allocation of investor capital. If investors increasingly elect electronic delivery as a result of this amendment to rule 498, the magnitude of the benefits incremental to reliance on rule 30e–3 from printing and mailing cost savings and increased investor review will decrease. We lack the information to quantify the increase in electronic delivery use that would be incremental

commenter estimated comprised approximately 75% of all fund positions. *See supra* note 74 and accompanying text. If printing and mailing costs for fund positions held directly are similar to those for funds held in street name, aggregate printing and mailing costs would be $354 million ÷ 0.75 = $472 million. We recognize that average printing and mailing costs for fund positions held directly could be higher if such funds rely less on electronic delivery. *See supra* note 348. The average of the estimate of aggregate costs provided by the first commenter and the estimate of aggregate costs based on the information provided by the second commenter is ($344 million + $472 million) ÷ 2 = $408 million. Several other commenters provided estimates of their own costs of printing and mailing shareholder reports but did not provide sufficient information to estimate aggregate industry costs. *See, e.g.,* T. Rowe Price Comment Letter I (indicating that its fund group spends approximately $3.8 million annually to print and mail shareholder reports to direct fund investors); Schwab Comment Letter (stating that annual printing and mailing costs to deliver the annual and semi-annual shareholder reports to shareholders of all of its funds are approximately $4 million); MFS Comment Letter (stating that its annual printing and mailing costs were $7.2 million); Capital Research Comment Letter I (stating that its annual printing and mailing costs for semi-annual shareholder reports were approximately $17.7 million and for annual reports—approximately $28 million but clarifying that, since the summary prospectus is included with its annual shareholder reports, the amount attributable to annual shareholder reports is approximately $14.8 million); Capital Research Comment Letter II (estimating the cost for mailing production expense, postage expense, freight expense and print and design expense for semi-annual and annual shareholder reports for the period from July 2016 to June 2017 at approximately $28 million); Blackrock Comment Letter (estimating its printing and distribution costs to be approximately $30 million per year).

[353] *See infra* note 544 and accompanying text. Printing and mailing costs (inclusive of processing fees) were estimated to be approximately $10,354 ($31,061 ÷ 3) per fund, and approximately $6,667 ($20,000 ÷ 3) per UIT. *See* Proposing Release, *supra* note 14, nn.777, 790. Doubling those estimates results in printing and mailing costs of approximately $20,707.33 ($31,061 × ⅔) per fund and approximately $13,333.33 ($20,000 × ⅔) per UIT.

Using 2017 industry figures, we estimate that there are 11,906 funds and 724 UITs. *See infra* note 476. Thus, aggregate annual printing and mailing costs under the existing requirements (($31,061 × ⅔) × 11,906 + ($20,000 × ⅔) × 724) = $256,194,844.

[354] ($116.4 million + $408 million) ÷ 2 = $262.2 million. *See supra* notes 351–352.

We are unable to determine how likely it is that the costs would be close to the lower or upper bound of the range, thus, we present the midpoint of the range for reference.

[355] *See supra* Section II.A.5.

[356] *See supra* note 265 and accompanying text.

to this amendment to rule 498 and thus how the magnitude of the benefits expected from this amendment to rule 498 will compare to the reduction in the benefits incremental to the reliance of funds on rule 30e–3.

1. Cost Savings

We anticipate that funds relying on rule 30e–3, and their investors, will benefit from gains in the efficiency and a reduction in the expenses related to the distribution of paper shareholder reports. Although the rule will have minimal effect, if any, on the expenses associated with the preparation of reports, we expect that the expenses associated with printing and mailing of shareholder reports will be substantially reduced. By reducing fund expenses, printing and mailing cost savings are expected to increase the portion of investor money that is retained in the fund rather than used to cover expenses, resulting, over time, in a net positive effect on the level of capital invested in funds. Furthermore, to the extent that reductions in fund expenses due to printing and mailing cost savings have a positive effect on fund performance and attract new investors or additional capital from existing investors, the rule may result in further capital formation benefits. We are unable to precisely estimate the magnitude of capital formation effects that may result from our projected cost savings under the rule because the magnitude of such effects may be affected by the extent of pass-through of cost savings and by other factors that affect the flow of investor capital into mutual funds, including other components of fund returns, overall market returns, and returns on investments other than funds.

Specifically, because the new rule provides a structure for making website accessibility of shareholder reports and other materials the default delivery method, funds relying on rule 30e–3 will only incur printing and mailing costs as necessary to accommodate those investors opting for paper, and printing and mailing costs associated with Notices delivered to investors who have not made such an election.

As we have recognized in the past, affirmative shareholder consent can be difficult to obtain even for practices that many shareholders may prefer,[357] resulting, under the existing regime, in more investors receiving paper copies than may be truly reflective of preferences and thus higher shared costs associated with that excess paper distribution. While it is still possible under the new rule that some investors may not take the affirmative steps necessary to express their transmission preference—in this case, to request paper delivery—investors in the fund will not share any unnecessary printing and mailing costs for those investors, as the default is website accessibility. Under the new rule, funds relying on rule 30e–3 will only incur costs of distribution of paper reports and other materials for those investors who request delivery in that format.

In the Proposing Release, we estimated approximately $105 million in annual (gross) cost savings if the proposed rule were adopted.[358] Net of annual costs of compliance with rule 30e–3, which we estimated to be approximately $32 million after the first year,[359] annual net savings were estimated to be approximately $73 million in the aggregate, or approximately 63% of printing and mailing costs under the existing requirements, as estimated in the Proposing Release.[360]

Several commenters provided alternative estimates of potential cost savings associated with the printing and mailing of shareholder reports under the proposed rule.[361] For example, one commenter asserted that electronic delivery is already common and thus concluded that fund companies would only save about $18 million [362] in 2018, which would represent approximately a 4.7% net reduction in ongoing printing and mailing costs projected by the commenter under the existing rules.[363] Another commenter estimated savings over the first three years after implementation, netting out initial costs, of $140 million.[364] This commenter also projected ongoing annual savings after the first year of $89 million, which would represent approximately a 25.9% reduction in existing costs as estimated by the commenter.[365] This commenter also suggested that, should the Commission remove the postage-paid reply form requirement, net savings could reach $465 million over the first three years and ongoing annual savings could reach $182 million after the first year, or approximately a 53% reduction in existing costs as estimated by the commenter.[366]

Another commenter estimated that the proposed rule would result in savings of up to 50%.[367] Another commenter stated that the commenter's annual printing and mailing costs to deliver the annual and semi-annual shareholder reports to shareholders of all of its funds are approximately $4 million and projected annual cost savings under the proposed rule to be $1.7 million,[368] which would amount to a reduction of approximately 43%. We note that commenter methodologies with regard to projected cost savings varied, and thus, commenter estimates may not be directly comparable to each other or to our estimates.

After considering the estimates and information provided by commenters about the potential factors that may affect net cost savings on an ongoing basis, and after considering the changes made in the final rule from the proposal, we have revised the estimates of annual gross cost savings and annual costs of relying on rule 30e–3.

First, we have revised our estimate of gross annual cost savings for the funds that rely on rule 30e–3, estimated to be $105 million in the proposal.[369] We continue to estimate, as we did in the proposal, that 90% of funds will rely on rule 30e–3,[370] resulting in gross annual cost savings of 90% of the annual printing and mailing costs under the existing requirements. However, as discussed in greater detail in Section III.B above, after considering commenters' estimates and updated industry figures on the number of funds, we have revised our estimate of printing and mailing costs under the existing requirements to approximately $256.2 million.[371] As a result, we now estimate

[357] *See* Investment Company Act Release No. 22884 (Nov. 13, 1997) [62 FR 61933, 61935 (Nov. 20, 1997)] (concerning implied consent to delivery of disclosure documents to households); *see also supra* note 332.

[358] $104,731,725. *See* Proposing Release, *supra* note 14, at n.815.

[359] $31,531,880. *See* Proposing Release, *supra* note 14, at n.717.

[360] $104,731,725 − $31,531,880 = $73,199,845. $73,199,845 ÷ $116,368,583 = 63%. *See supra* note 351.

[361] *See also supra* note 352 for a discussion of printing and mailing expenses provided by commenters.

[362] *See* Broadridge I Comment Letter. This dollar estimate of cost savings, however, likely understates potential cost savings since it was calculated using processing fees expected to be charged by intermediaries prior to the Commission approval of the NYSE rule that modifies processing fees.

[363] *Id.* The commenter projected costs to be $382 million in fiscal year 2018 under the baseline. $18 million ÷ $382 million = 4.7%.

[364] *See* ICI Comment Letter I; Fidelity Comment Letter II (citing the ICI estimate).

[365] ICI Comment Letter I. The commenter estimated current costs at $344 million. $89 million ÷ $344 million = 25.9%.

[366] ICI Comment Letter I. The commenter estimated current costs at $344 million. $182 million ÷ $344 million = 52.9%.

[367] *See* T. Rowe Price Comment Letter I.

[368] *See* Schwab Comment Letter.

[369] *See supra* note 358 and accompanying text.

[370] *See supra* Section III.B and *supra* note 353 and accompanying and following text.

[371] *See supra* note 353 and accompanying text.

gross annual cost savings to be approximately $230.6 million.[372]

Second, after considering comments regarding printing and mailing costs for funds that rely on rule 30e–3, and after considering modifications to the final rule from the proposal, we have revised the estimated costs of relying on rule 30e–3. As we discuss in greater detail in Section III.D.1 below, we now estimate that, after the first year of reliance on rule 30e–3, aggregate annual costs of relying on the rule will be approximately $89.2 million, yielding aggregate annual net cost savings of approximately $141.4 million, or approximately 55% of the annual printing and mailing costs under the existing requirements.[373] In addition, prior to the effectiveness of rule 30e–3, we expect funds to incur aggregate costs of compliance with the disclosure amendments of the final rule of approximately $8.2 million in the first year and $4.8 million in the second year.[374]

POTENTIAL AGGREGATE COST SAVINGS FROM RELIANCE ON RULE 30e–3

Source of cost/cost savings	Transition period ($ million)	Year 1 ($ million per year)	Year 2 + ($ million per year)
Gross savings from rule 30e–3 [375]		230.6	230.6
Costs of complying with rule 30e–3 [376]	−13.0	−93.9	−89.2
Prominent disclosures [377]	−13.0		
Website accessibility requirements [378]		−3.2	−2.7
Notice preparation [379]		−14.3	−10.2
Printing and mailing costs (Notices and paper requests) [380]		−76.3	−76.3
Net savings from rule 30e–3 [381]	−13.0	136.7	141.4

If a smaller percentage of funds than the 90% we estimate ultimately rely on rule 30e–3, the aggregate net cost savings from rule 30e–3 will accordingly be lower. Further, as discussed above, some commenters have indicated that funds can presently rely on electronic delivery of shareholder reports pursuant to Commission guidance.[382] We note that funds that choose to rely on rule 30e–3 may continue to use electronic delivery pursuant to Commission guidance for some of their shareholder reports. We estimate cost savings relative to the baseline of the average printing and mailing costs under the requirements that exist today, which factors in the current use of electronic delivery under Commission guidance for reports to some investors. If aggregate printing and mailing costs incurred by funds that do not rely on rule 30e–3 continue to decrease over time, for instance as a result of growth of electronic delivery, either as part of broad industry trends or as a result of the amendments to rule 498 permitting funds to include electronic delivery instructions with a summary prospectus, annual printing and mailing cost savings under rule 30e–3 in future years may be lower than estimated.

There likely is variation across individual funds both in existing printing and mailing costs and in cost savings and compliance costs that are expected on an initial or ongoing basis from rule 30e–3, depending on the extent of reliance on electronic delivery under Commission guidance. Although we cannot comprehensively quantify such differences, for instance, because of uncertainty about the future rate of growth in the use of electronic delivery under Commission guidance by funds that choose to rely on rule 30e–3, we recognize that funds that rely on rule 30e–3 may realize smaller net cost savings if they rely to a greater extent on electronic delivery of shareholder reports under existing Commission guidance.

2. Increased Access to and Review of Portfolio Information and Shareholder Reports

To the extent that funds elect to rely on rule 30e–3, the rule will also increase the electronic accessibility to investors of portfolio investment information from the first and third fiscal quarters (or from the second and fourth fiscal quarters if a shareholder report contained a summary schedule of portfolio holdings) that might otherwise be only available on EDGAR, which in turn may result in greater investor review of that information. In addition, because the portfolio information must be publicly available on a website in the same location as the shareholder reports required to be posted on the website, the rule could further increase the likelihood that both existing investors and potential future fund investors review the portfolio information for the first and third quarters when they review the shareholder reports. To the extent that investors seeking information about an individual fund are likely to visit the specified website, having many of a fund's important shareholder documents in a single location on the fund's website could increase the visibility of, and facilitate access to, that information for current and future investors.

Importantly, the rule will increase website accessibility of shareholder

[372] We continue to estimate, as we did in the proposal, that the number of affected funds that will rely on rule 30e–3 comprises 90% of the number of all funds. *See supra* note 343 and accompanying text. As discussed above, we estimate aggregate annual printing and mailing costs under the existing requirements to be approximately $256.2 million. *See supra* note 353 and accompanying text. Thus, we estimate gross aggregate annual savings of printing and mailing costs as the aggregate annual printing and mailing costs multiplied by the percentage of funds expected to rely on rule 30e–3: 90% × $256,194,844 = $230,575,360. We recognize that these cost savings represent a small fraction of assets under management of registered management companies. *See supra* note 340 and accompanying text.

[373] Annual printing and mailing costs under the existing requirements were estimated to be $256,194,844. *See supra* note 353. We estimated that 90% of funds will rely on rule 30e–3, which would result in an estimated annual gross savings of $230,575,360. *See supra* note 372.

After the first year of reliance on rule 30e–3, the aggregate annual compliance cost of rule 30e–3 is estimated to be $89,202,128. *See infra* note 393.

Annual savings from rule 30e–3, net of compliance costs, as a share of annual printing and mailing costs under the existing requirements are estimated to be: $230,575,360 − $89,202,128 = $141,373,232. $141,373,232 ÷ $256,194,844 = 55%.

The revised estimates also reflect revised estimates of the number of funds updated to reflect industry figures and revised requirements of the final rule.

[374] *See infra* notes 419–420.

[375] *See supra* note 372.

[376] *See infra* notes 392 and 393.

[377] $13.0 million = $8.2 million + $4.8 million. *See infra* notes 419–420 and *infra* Section III.D.1.d.

[378] *See infra* note 396 and *infra* Section III.D.1.a.

[379] *See infra* note 402 and *infra* Section III.D.1.b.

[380] *See infra* note 408 and *infra* Section III.D.1.c

[381] $136.7 million = $230.6 million − $93.9 million. $141.4 million = $230.6 million − $89.2 million. Rounding may affect totals.

[382] *See supra* note 348 and accompanying and following text.

reports to investors. Although among the funds expected to rely on rule 30e–3, approximately 90% of funds are estimated to make their shareholder reports publicly available online (consistent with the proportion of funds estimated to rely on rule 498, which requires the posting of shareholder reports on the fund's website), for the remaining funds that do not currently rely on rule 498, relying on rule 30e–3 may make shareholder reports more accessible to the public, to the extent that they do not already post shareholder reports on their websites, which may result in greater investor review of the information contained therein.[383] Funds that presently rely on rule 498 will likely experience smaller benefits of increased access and review of fund information by investors. However, such funds may still experience net cost savings from no longer printing and mailing shareholder reports, as well as the benefits of website accessibility of fund portfolio holdings information.

Greater use of shareholder reports and portfolio information by current and potential future investors could result in more informed investment decisions and an increase in competition among funds for investor capital. A better understanding of fund investment strategies, portfolio composition, and investment risks could also result in a more efficient allocation of capital across funds and other investments. An increase in the ability of investors to access and review information about different funds also could increase the competition among funds for investor capital.

Furthermore, during the extended transition period, funds intending to rely on rule 30e–3 will be required to include prominent disclosures on the cover page or beginning of their summary, and cover pages of their statutory prospectuses, and annual and semi-annual shareholder reports for up to two years before beginning to deliver Notices under the rule.[384] These prominent disclosures during the extended transition period are expected to enhance investors' overall awareness of the upcoming changes in the shareholder report delivery format options under rule 30e–3, including the fact that investors will be able to retain delivery of their reports in paper if they should so desire. The prominent disclosures are also expected to notify investors if their fund intends to rely on the rule and provide investors wishing to continue to receive paper shareholder reports additional opportunities to make that election. Some funds that intend to rely on the rule may decide not to include these temporary prominent disclosures. For example, for existing funds that delay to make the election to rely on rule 30e–3 until 2021, the earliest these funds would be able to rely on the rule would be January 1, 2022. Although such funds would not be required to include prominent disclosures during the last year of the extended transition period as a condition of reliance on the rule, their investors may realize some of the benefit of increased awareness of the changes in the shareholder report delivery regime under rule 30e–3 to the extent that these investors hold positions in other funds, including funds with the same sponsor, that had made such prominent disclosures during the extended transition period.

Further, as discussed in Section II.B.3 above, in a change from the proposal, we are permitting funds that elect to rely on rule 30e–3 to incorporate in the Notice, in addition to a website address, other equivalent methods or means to facilitate shareholder access to the website address. Such methods or means could include, for example, a Quick Response Code (QR code) or similar information that leads to the required website address. This change is expected to provide additional optional methods by which investors can access shareholder reports on the website, which, depending on the method, could result in a reduction in the effort and time required for investors to access the shareholder report.

Finally, as discussed in Section II.B.3 above, in a change from the proposal, the final rule permits a Notice to include pictures, logos, or similar design elements so long as the design is not misleading and the information is clear, as well as additional information about the fund, so long as it is limited to information contained in the shareholder report for which Notice is being given.[385] This provision could facilitate the addition of content by funds that attracts additional investor attention to the Notice, yet by its terms does not obscure important information contained in the Notice. Further, the flexibility provided to funds to include content from the shareholder report in the Notice may result in investors who may otherwise not review the shareholder report seeing useful information from such reports.

D. Costs

Funds that rely on rule 30e–3 will incur costs to comply with the rule's conditions. These and other costs are discussed below. Because reliance on rule 30e–3 will be optional, a particular fund is not expected to rely on the rule if the costs to the fund to rely on the rule exceed its benefits. Funds that deem the costs of meeting the conditions of rule 30e–3 to exceed the benefits of this optional rule are expected to elect not to rely on the rule and therefore not incur any compliance costs associated with rule 30e–3. Among investors in funds that elect to rely on the rule, investors with a preference for paper delivery that fail to express it may be less likely to review the information in the reports because it is not presented in their preferred format.

As we discussed in Section II.E above, we are adopting an extended transition period with staged effective dates. This will defer the time when the costs of compliance with rule 30e–3 discussed in Sections III.D.1.a through III.D.1.c below will be incurred.

1. Compliance Costs

Relative to the baseline, funds relying on the new rule will incur compliance costs associated with satisfying the conditions of the rule, as discussed below. To the extent possible, we have attempted to quantify these costs.

We have made various modifications to the requirements of the final rule from the proposal, as described in Section II above, in part to address issues raised by commenters. To increase investor awareness of a fund's intention to rely on rule 30e–3 and to inform investors of the upcoming changes in the transmission method, in a change from the proposal, we are adopting an extended transition period with staged effective dates and a temporary condition requiring funds to include during the extended transition period certain disclosures on summary prospectuses, statutory prospectuses and shareholder reports for up to two years prior to the date a fund would begin sending Notices in reliance on the rule. As a result of this provision, the compliance costs for funds that rely on rule 30e–3 will be higher than the compliance costs that would have been incurred under the proposal, as discussed in Sections III.D.1.c and III.D.1.d below.

However, we have also made modifications from the proposal as a result of which the compliance costs will be lower than the compliance costs

[383] *See infra* note 557 and accompanying text. 11,367 funds estimated to rely on rule 30e–3 − 9,057 funds estimated to rely on rule 498 = 2,310 funds estimated to rely on rule 30e–3 and do not rely on rule 498.

[384] *See supra* Section II.B.2.d.

[385] *See* rule 30e–3(c)(3).

that would have been incurred under the proposal. In particular, in a change from the proposal, we are no longer requiring funds to provide the Initial Statement. Therefore, the cost estimates are revised from the proposal to reflect the elimination of the burden of preparing the Initial Statement.[386] Further, we are permitting the combination of Notices with other Notices, expanding documents that may accompany Notices, and eliminating reply cards with respect to Notices. Permitting Notices to be bundled with additional types of materials under the final rules may result in lower postage costs, compared to the postage costs that would have been incurred under the proposal, by reducing the need for a separate mailing, although other costs associated with the Notice would still be incurred.[387] Eliminating reply cards for Notices is also expected to result in lower costs compared to the costs that would have been incurred under the proposal.[388]

As we discuss in Section II.B.3 above, in a modification from the proposal, we are permitting funds to incorporate content from the shareholder report in Notices relating to shareholder reports required to be transmitted under rule 30e–1. However, funds may incur additional costs for incorporating content from the shareholder report into the Notice and filing such Notices with reports on Form N–CSR, as well as potentially increase their printing and mailing costs, depending on the length of the Notice. We expect that funds will only elect to include content from shareholder reports in Notices if they believe the benefits to funds and investors outweigh the increase in their costs of preparing and distributing Notices with additional content. Likewise, funds may choose to deploy certain additional optional methods to facilitate access of shareholder reports (*e.g.,* QR codes) if they believe the benefits to funds and investors outweigh the additional costs to do so.

As discussed in Section IV.C below, we have reflected these modifications, as well as commenter input, in the revised burden estimates for the Notice for purposes of the Paperwork Reduction Act of 1995, which we incorporate in the cost analysis below.

We have also specified that the schedule of portfolio investment information as of the end of the first and third fiscal quarters must be presented in a manner consistent with the reporting requirements of Regulation S–X. As most funds have established procedures in place to prepare and review such disclosures and familiarity with the disclosure requirements, this provision should not result in significant compliance costs.

As we discuss below, we have also revised certain assumptions underlying our estimates. First, we have revised our estimate of the number of funds that will rely on rule 30e–3 upward to 11,367 to reflect updates to the industry data figures that were utilized in the Proposing Release.[389] We note that, similar to our discussion of the benefits in Section III.C.1, if a smaller number of funds choose to rely on rule 30e–3 than we estimate, the above estimates would overstate the actual costs incurred in the aggregate by the funds that rely on rule 30e–3.

Second, where applicable, we have attempted to address comments related to our estimates. Two commenters stated that the proposal underestimated the costs under rule 30e–3 (for instance, processing fees for broker-held accounts) and thus overestimated the net cost savings expected under rule 30e–3.[390] However, to be conservative in our estimates, we have revised upward our estimate of the printing and mailing costs that funds will incur under rule 30e–3, as discussed in Sections III.D.1.c and IV.B below.

In the Proposing Release, we estimated that compliance costs of rule 30e–3 would be, in the aggregate, approximately $32 million each year, with approximately $16 million in additional one-time costs being incurred in the first year following the effective date (resulting in aggregate compliance costs of approximately $48 million in the first year).[391] We now estimate that these compliance costs will be, in the aggregate, approximately $93.9 million in the first year following the effective date[392] and approximately $89.2 million each following year on an ongoing basis.[393] Individual components of these aggregate estimated costs are analyzed in Sections III.D.1.a through III.D.1.c below. In addition, as discussed in Section III.D.1.d below, during the approximately two years before the effective date of rule 30e–3, we estimate that the disclosure requirements related to rule 498 and amendments to registration statements will result in aggregate costs to funds that intend to rely upon rule 30e–3 of approximately $8.2 million in the first year[394] and $4.8 million in the second year.[395]

[386] We estimate that requiring an Initial Statement would have resulted in additional preparation, printing, mailing, and processing costs of approximately $41.5 million in the aggregate in the first year and $13.8 million in the aggregate in each subsequent year.

In the Proposing Release, preparing one Initial Statement was estimated to require 1.5 burden hours in the first year and 0.5 burden hours in each subsequent year, with 25% of that burden carried by outside counsel. *See* Proposing Release, *supra* note 14, at 33679. We retain this estimate. Using updated salary figures, we monetize internal personnel time at $353 per hour and outside counsel time at $401 per hour. *See infra* notes 404, 509. Using updated salary figures, preparing the Initial Statement would have cost approximately $548 (1.5 × (0.75 × $353 + 0.25 × $401)) in the first year and $183 (0.5 × (0.75 × $353 + 0.25 × $401)) in each subsequent year.

In the Proposing Release, we estimated printing and mailing costs for one Notice or Initial Statement to be $1,000. *See* Proposing Release, *supra* note 14, at 33680. In light of the comments on the proposal, we have revised our estimate of the printing and mailing costs for one Notice to $3,106. *See infra* note 525. Thus, we are similarly revising the estimated printing and mailing cost for the first Initial Statement to $3,106. In the Proposing Release, we estimated that the cost in each subsequent year would be one-third of the cost for the first year because Initial Statements would only be sent to new shareholders. *See* Proposing Release, *supra* note 14, 33680. We retain this estimate.

Based on updated industry figures, we now estimate that 11,367 funds will elect to rely on rule 30e–3. *See infra* note 478. Thus, the aggregate cost is estimated to be $41,535,018 (11,367 × ($548 + $3,106)) in the first year and $13,848,795 (11,367 × ($183 + $3,106 × ⅓)) in each subsequent year.

One commenter estimated cost savings from the elimination of the Initial Statement to be approximately $60 million. *See* Broadridge Meeting Memo II, at 6.

[387] Similar to the proposal, the Notice is permitted to accompany a current summary prospectus, statutory prospectus, statement of additional information, or Notice of internet Availability of Proxy Materials under rule 14a–16. As proposed, rule 14a–16 is amended to permit the bundling of Notices with Notices of internet Availability of Proxy Materials. In addition, the final rule also permits the Notice to accompany one or more Notices for other funds; the investor's account statement; and in the case of a fund that is available as an investment option in a variable annuity or variable life insurance contract, the contract, the contract's statutory prospectus, or the contract's statement of additional information.

[388] *See supra* note 173 and accompanying text.

[389] *See supra* note 344 and accompanying text; *infra* note 478.

[390] *See* ICI Comment Letter III; Broadridge Comment Letter I. As noted above, we approved amendments to NYSE rules that clarify the application of certain processing fees paid to financial intermediaries. *See supra* notes 32 to 36 and accompanying text.

[391] *See* Proposing Release, *supra* note 14, at nn.717–718.

[392] The estimate of $93,867,993 is based upon the following calculations: $3,231,520 associated with website accessibility requirements + $14,341,169 associated with Notice preparation + $76,295,304 in printing, mailing, and processing costs. *See infra* notes 396, 402, 408.

[393] The estimate of $89,202,128 is based upon the following calculations: $2,711,680 associated with website accessibility requirements + $10,195,144 associated with Notice preparation + $76,295,304 in printing, mailing, and processing costs. *See infra* notes 396, 402, 408.

[394] *See infra* note 419.

[395] *See infra* note 420.

a. Website Accessibility of Shareholder Reports and Other Materials

Funds that rely on rule 30e–3 in the aggregate are expected to incur costs of approximately $3.2 million in the first year of relying on rule 30e–3 and $2.7 million in each subsequent year to make the shareholder reports and portfolio information publicly accessible at a specified website.[396]

We estimate that funds that elect to rely on rule 30e–3 will incur, in the aggregate, approximately 9,386 burden hours during the first year of relying on rule 30e–3 and 8,476 burden hours each following year to comply with the website posting requirements of the rule.[397] Based on an estimated wage rate of about $320 per hour,[398] we estimate the aggregate paperwork related expenses for funds associated with the internal hour burden imposed by the website accessibility conditions of rule 30e–3 to be approximately $3.0 million during the first year and $2.7 million each following year.[399]

In the aggregate, we estimate that the total external cost for funds to comply with the website posting requirements of the rule will be approximately $228,000 during the first year, with the external cost in subsequent years likely to be negligible.[400] With respect to those funds that currently have websites, we estimate that the website posting requirements of the rule will not result in incremental external costs.[401] If funds that do not currently have websites incur ongoing external website development costs, aggregate costs of website accessibility will be higher than we estimate.

b. Notice Preparation

We estimate that funds will incur, in the aggregate, approximately $14.3 million in the first year of relying on rule 30e–3 and approximately $10.2 million in each subsequent year in costs to prepare and review Notices and to file Notices with additional content with reports on Form N–CSR.[402]

We estimate that funds that elect to rely on rule 30e–3 will incur, in the aggregate, an internal hour burden of approximately 25,576 hours in the first year and 17,051 hours each following year in connection with the Notice conditions of the rule.[403] Based on an estimated wage rate of about $353 per hour for compliance attorneys,[404] we estimate the total paperwork related expenses for funds associated with the internal hour burden imposed by the Notice conditions of rule 30e–3 will be approximately $9.0 million in the first year of relying on rule 30e–3 and $6.0 million each following year.[405] These estimates reflect the changes we are making to the Notice requirements relative to the proposal, including eliminating the requirement of including a direct URL to the shareholder report, eliminating the reply card requirement, permitting Notices to be incorporated into or combined with other Notices, expanding the ability to combine Notices with other mailings, as well as removing the filing requirement, except for Notices that contain content from the shareholder report, and allowing funds to include optional content from the shareholder report in the Notice.

The incremental annual costs of filing Notices with additional content with reports on Form N–CSR are estimated to be approximately $1.9 million, using burden estimates for purposes of the PRA.[406]

Finally, we estimate that external costs related to the Notice requirements of rule 30e–3 will be, in the aggregate, approximately $3.4 million in the first year and $2.3 million each following year.[407]

c. Printing and Mailing Costs

We estimate that funds that rely on rule 30e–3 will incur, in the aggregate, approximately $76.3 million per year in printing and mailing costs for Notices and costs of delivery of shareholder reports in paper form upon shareholder request.[408] These estimates are inclusive of processing fee costs, and have been adjusted in response to comments received on these estimates and other considerations.[409]

In a change from the proposal, funds will not be required to prepare and mail the Initial Statement. Therefore, the cost estimates are revised from the proposal to reflect the elimination of the Initial Statement printing, mailing and processing costs. The cost estimates are further revised to reflect changes we are making to the Notice requirements relative to the proposal, including eliminating the reply card requirement, permitting Notices to be incorporated into or combined with other Notices, as well as expanding the ability to combine Notices with other mailings. The estimates further incorporate certain revisions to the assumptions, relative to the proposal, based on the input we have received from commenters. In particular, we have revised the baseline assumption about the magnitude of printing and mailing costs as a share of the total external cost of compliance with rules 30e–1 and 30e–2, from one-third in the proposal, to two-thirds, as explained below.[410]

[396] *See infra* notes 399, 400. In the first year: $3,003,520 + $228,000 = $3,231,520. In each subsequent year: $2,711,680.

[397] *See infra* notes 488–489.

[398] The Commission estimates the wage rate associated with these burden hours based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association. The estimated wage figure is based on published rates for senior programmers, modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted to account for the effects of inflation, yielding an effective hourly rate of $320. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

[399] $3,003,520 = 9,386 burden hours × $320 per hour. $2,711,680 = 8,476 burden hours × $320 per hour.

[400] $228,000 = 114 funds × $2,000 per fund. *See infra* note 492 (estimating, as we did in the Proposing Release, that each fund that does not currently have a website will incur a one-time external cost of $2,000 to develop a website) and *infra* note 495 (estimating 114 funds do not currently have websites). In the Proposing Release we also estimated that no cost would be incurred in subsequent years by funds that do not currently have a website. *See* Proposing Release, *supra* note 14, at 33678, nn.811–812 and accompanying text. We did not receive comments on these estimates and are therefore retaining these assumptions.

[401] *See infra* note 494 and accompanying text.

[402] *See infra* notes 405–407. In the first year: $14,341,169 ($9,028,328 + $3,421,467 + $1,891,374). In each following year: $10,195,144 ($6,019,003 + $2,284,767 + $1,891,374).

[403] *See infra* notes 504 (estimating 2.25 hours in the first year) and 505 (estimating 1.5 hours for each following year). 2.25 hours in the first year × 11,367 funds = 25,576 hours. 1.5 hours each following year × 11,367 funds = 17,051 hours.

[404] In the Proposing Release, we estimated that the internal hour burden required to comply with the requirements concerning preparation of the Initial Statement and Notice would be incurred at the rate of $334 per hour. This estimate was based on the rate for compliance attorneys in SIFMA's Management and Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Proposing Release, *supra* note 14, at n.717.

We did not receive any comments on our proposed estimate of the proportion of the time required to prepare Initial Statements and Notices that would be carried out by outside counsel, and we are maintaining that estimate today. We are, however, updating our estimate of the hourly rate for the work carried out by compliance attorneys based on updated salary estimates to $353 per hour.

[405] 25,576 hours × $353 per hour = $9,028,328. 17,051 hours × $353 per hour = $6,019,003.

[406] The aggregate internal burden is estimated as 5,358 hours. *See infra* note 579. We monetize it at the rate of $353 for compliance attorneys. *See supra* note 404. The aggregate cost is estimated to be $1,891,374 (5,358 hours × $353).

[407] *See infra* note 512 (estimating outside counsel costs associated with the Notice of about $301 in the first year and about $201 in subsequent years). $301 in the first year for the Notice × 11,367 funds = $3,421,467 in the first year. $201 each following year for the Notice × 11,367 funds = $2,284,767 each following year.

[408] *See infra* notes 414 and 530. $70,611,804 + $5,683,500 = $76,295,304.

[409] *See infra* Section IV.C.

[410] *See infra* note 544 and accompanying text.

Further, in light of the above comments on the estimates in the Proposing Release and the modifications we are making today (including eliminating the reply card requirement for Notices, permitting Notices to accompany other Notices and other types of documents, and permitting funds to include optional content from the shareholder report in the Notice),[411] we have determined to increase our estimate of the percentage of annual printing and mailing costs (including processing fees) associated with shareholder reports that will be associated with the printing and mailing of each Notice from 10% in the proposal to 15%, as explained below.[412]

We now estimate that each fund that relies upon rule 30e–3 will incur an external cost of approximately $6,212 per year for printing and mailing Notices.[413] In the aggregate, funds are estimated to incur approximately $70.6 million per year to print and mail Notices.[414]

In addition, under rule 30e–3, investors will have the option to request shareholder reports and other materials to be delivered in paper form and also to request paper copies for individual documents even if they do not request paper delivery for all documents. Funds that rely on rule 30e–3 will therefore incur expenses related to printing and mailing shareholder reports and other materials for those shareholders. We estimate that funds that elect to rely on rule 30e–3 will incur, in the aggregate, annual external costs of approximately $5.7 million to comply with the rule's requirements to print and mail shareholder reports upon request.[415]

In connection with tracking shareholder requests for paper under rule 30e–3, funds and intermediaries may incur costs to implement and maintain systems to record shareholder preferences for paper delivery and requests for paper copies of shareholder reports under rule 30e–3.[416] As discussed above, we believe that existing systems for electronic delivery could generally be leveraged in order to establish new processes and procedures for delivery of shareholder reports under rule 30e–3.[417] The costs associated with implementing these systems may depend on funds' and intermediaries' existing systems for tracking investor preferences for electronic delivery. Given this variation, we do not have data on the extent of potential system updates that funds and intermediaries would need to implement.

The modifications made from the proposal, including the elimination of the Initial Statement, the tracking of delivery preferences at the account rather than position level, and the permanent nature of the opt-in to paper delivery, are expected to reduce operational complexities and make it easier for existing systems to be leveraged for purposes of tracking investor preferences for paper delivery under rule 30e–3. Further, the extended transition period, added in a change from the proposal, is expected to provide funds and intermediaries additional time to implement the necessary system changes.

We recognize that certain changes from the proposal, such as eliminating the requirement to mail the Initial Statement, eliminating the reply card, and adding required prominent disclosures on summary and statutory prospectuses and shareholder reports, may affect the number of investors who elect paper delivery due to changes to investor awareness regarding the option to request paper delivery under rule 30e–3, resulting in different printing and mailing costs under rule 30e–3 than estimated above. However, we are not able to quantify these effects due to uncertainty about the number of investors who may elect paper delivery as a result of these changes.

d. Disclosure Amendments to Rule 498 and Registration Forms

In a modification from the proposal, we are amending rule 498 and certain fund registration forms setting forth a temporary condition requiring funds to include during the extended transition period certain disclosures on summary prospectuses, statutory prospectuses, and shareholder reports for up to two years prior to the date a fund would begin sending Notices in reliance on the rule. During the extended transition period, funds intending to rely on rule 30e–3 as early as permitted will include prominent disclosures on the cover page or beginning of their summary prospectuses, and cover pages of their statutory prospectuses and shareholder reports for a period of up to two years.[418] We estimate that these disclosures will result in aggregate incremental costs prior to the effective date of rule 30e–3 of approximately $8.2 million in the first year[419] and approximately $4.8 million in the second year.[420]

As described above, the condition will take effect on January, 1, 2019 and expire on January 1, 2022.[421] Depending on when existing funds make the election to rely on rule 30e–3 and begin incorporating prominent disclosures in their summary and statutory prospectuses and shareholder reports, the number of fund documents on which individual funds will be required to include prominent disclosures, the time when funds are required to begin tracking investor opt-outs, and the associated cost, as well as the time that will elapse before the fund is allowed to begin delivering Notices in reliance on rule 30e–3, will vary, as detailed above.[422] Differences in the timing of when funds may begin to realize cost savings under rule 30e–3 may potentially have competitive effects during the extended transition period.

However, for existing funds, the application of these provisions during the extended transition period and the associated costs and benefits will be determined by the timing of the fund's own decision to rely on rule 30e–3 and to begin informing investors of the fund's intent to rely on rule 30e–3 by including prominent disclosures on fund documents during the extended transition period (*e.g.,* whether to begin informing investors of the fund's intent to rely on rule 30e–3 immediately after

[411] *See supra notes* 32–36 and accompanying text; *infra* note 521.

[412] *See infra* note 517 and accompanying and following text and *infra* Section IV.B.

[413] *See infra* notes 525–526 and accompanying text.

[414] *Id.* $3,106 × 2 Notices per year × 11,367 funds = $70,611,804.

[415] *See infra* note 530.

[416] *See supra* note 239 and accompanying text.

[417] *See supra* Section II.C.2. We note that the rule's approach to provide shareholders the option to request paper copies is generally similar to the operational approach currently used by many funds and intermediaries for the delivery of other fund materials. For example, paper copies of disclosure documents (including shareholder reports) may currently be requested when some shareholders have elected electronic delivery for some, but not all communications.

[418] *See* new paragraph (b)(1)(vii) of rule 498; new paragraph (a)(5) to Item 1 of Form N–1A; new paragraph (d)(8) to Item 27 of Form N–1A; new paragraph 1.l to Item 1 of Form N–2; new instruction 6.g to Item 24 of Form N–2; new paragraph (a)(xi) to Item 1 of Form N–3; new instruction 6(vii) to Item 28(a) of Form N–3; new paragraph (a)(x) to Item 1 of Form N–4; new paragraph (a)(6) to Item 1 of Form N–6.

[419] $8,151,936 = $7,144,872 associated with amendments to rule 498 and Form N–1A + $454,400 associated with amendments to Form N–2 + $9,372 associated with amendments to Form N–3 + $422,592 associated with amendments to Form N–4 + $120,700 associated with amendments to Form N–6. *See infra* notes 430, 437, 442, 445, and 448.

[420] $4,837,088 = $4,286,980 associated with amendments to rule 498 and Form N–1A + $272,640 associated with amendments to Form N–2 + $5,680 associated with amendments to Form N–3 + $211,296 associated with amendments to Form N–4 + $60,492 associated with amendments to Form N–6. *See infra* notes 430, 437, 442, 445, and 448.

[421] *See supra* Sections II.B.2.f and II.B.3.

[422] *Id.*

the rule becomes effective on January 1, 2019, or for new funds from the date the fund first publicly offers its shares; or whether to postpone relying on rule 30e–3 and informing investors of the fund's intent to rely on rule 30e–3 through prominent disclosures on fund documents). Similarly, an existing fund's decision to postpone relying on rule 30e–3 during the extended transition period will reduce the number of prominent disclosures that the fund will need to include on fund documents during the extended transition period before being able to rely on rule 30e–3, thus potentially reducing the cost of related disclosure amendments to the fund. For existing funds, the incremental reduction in the cost of compliance with the requirement to include prominent disclosures on an additional fund document mailing is expected to be small relative to the opportunity cost of delaying the realization of cost savings from reliance on rule 30e–3. Overall, we anticipate that existing funds that are considering whether to rely on rule 30e–3 will weigh the costs and benefits of doing so early versus late during the extended transition period and will select the option that provides the most benefit.

The final rule provides funds the flexibility to make the election to rely on rule 30e–3 at the time that is most appropriate for the fund's specific circumstances while including prominent disclosure requirements during the extended transition period to enhance investor awareness of the upcoming changes in the shareholder report delivery framework. Such flexibility is expected to enable funds to select the most efficient manner of shareholder report delivery and for funds that elect to rely on the rule, the most efficient approach to transition to rule 30e–3.

The final rule allows new funds that enter the industry in January 2021 or later to begin relying on rule 30e–3 immediately from the date the fund first publicly offers its shares without having to provide prominent disclosures, which is different from the application of the rule to funds in existence during 2019–2020 that will have had to provide up to two years of prominent disclosures, and incur the associated cost, as a condition of relying on rule 30e–3 beginning on January 1, 2021. In this respect, existing funds wishing to rely on the rule beginning on January 1, 2021 will incur a cost that funds newly formed on or after that date will not. Moreover, those existing funds that delay their decision to rely on the rule (that is, those that decide after January 1, 2019) may incur the opportunity cost due to not being able to begin relying on the rule starting January 1, 2021. Although in that respect, existing and new funds are treated differently, we note that all funds that decide to rely on the rule as early as possible—either before January 1, 2019 or at their inception—will be treated similarly.

Rule 498 and Form N–1A Estimates

We estimate that there are 11,181 funds that file Form N–1A,[423] including 10,063 funds that will rely on rule 30e–3, of which 9,057 funds also rely on rule 498.[424] We estimate that the remaining 1,006 funds do not rely on rule 498.[425]

We estimate that funds will incur, in the aggregate, 9,057 hours in the first year and 4,529 hours in the second year to satisfy the disclosure requirements associated with the amendments to rule 498.[426] We further estimate that the funds that rely on rule 30e–3 but not rule 498 will incur, in the aggregate, 1,006 hours in the first year and 503 hours in the second year to comply with the amendments to Form N–1A relating to prospectuses.[427] In addition, we estimate that funds that will rely on rule 30e–3 and that file Form N–1A will incur, in the aggregate, 15,095 hours in the first year and 10,063 in the second year to comply with the amendments to Form N–1A relating to annual and semi-annual reports.[428]

Based on an estimated wage rate of about $284 per hour,[429] we estimate the total paperwork related expenses for funds relying upon rule 30e–3 and associated with the amendments to rule 498 and Form N–1A will be approximately $7.1 million in the first year and approximately $4.3 million in the second year.[430]

Form N–2 Estimates

We estimate that there are 711 closed-end funds that file Form N–2,[431] including 640 funds that will rely on rule 30e–3.[432] We estimate that these funds will incur, in the aggregate, 640 hours in the first year and 320 hours in the second year to satisfy the disclosure requirements associated with the amendments to Form N–2 relating to statutory prospectuses.[433] In addition, we estimate these funds will incur, in the aggregate, 960 hours in the first year and 640 hours in the second year to comply with the amendments to Form N–2 relating to annual and semi-annual reports.[434] Based on an estimated wage rate of about $284 per hour,[435] we estimate the total paperwork related expenses for funds relying upon rule 30e–3 and associated with the amendments to Form N–2 will be approximately $0.5 million in the first year and approximately $0.3 million in the second year.[436]

Form N–3 Estimates

We estimate that there are 14 funds that file Form N–3,[437] including 13 funds that will rely on rule 30e–3.[438] We estimate that these funds will incur, in the aggregate, 13 hours in the first year and 7 hours in the second year to satisfy the disclosure requirements associated with the amendments to Form N–3 relating to statutory prospectuses.[439] In addition, we estimate that these funds will incur, in the aggregate, 20 hours in the first year and 13 hours in the second year to comply with the amendments to Form N–3 relating to annual and semi-annual reports.[440] Based on an estimated wage rate of about $284 per hour,[441] we estimate the total paperwork related expenses for these funds will be approximately $9,372 in the first year and $5,680 in the second year.[442]

Form N–4 Estimates

As we discuss below, we estimate funds that will rely on rule 30e–3 will make 1,488 filings of Form N–4, with the total annual hour burden associated with the amendments to Form N–4 of 1,488 hours in the first year and 744 hours in the second year.[443] Based on an estimated wage rate of about $284 per

[423] *See infra* note 556.

[424] *See infra* note 557 and accompanying text.

[425] *See infra* note 559 and accompanying text.

[426] *See infra* note 558.

[427] *See infra* note 559.

[428] *See infra* note 560.

[429] The estimated wage figure is based on published rates for intermediate accountants and attorneys, modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted to account for the effects of inflation. *See supra* note 398. Based on adjusted industry data, we estimate a rate of $166 per hour for intermediate accountants and $401 per hour for attorneys. We further estimate that work would be divided equally between intermediate accountants and attorneys, yielding a rate of $284 per hour (($166 + $401) ÷ 2).

[430] (9,057 + 1,006 + 15,095) hours × $284 per hour = $7,144,872. (4,529 + 503 + 10,063) hours × $284 per hour = $4,286,980.

[431] *See infra* note 562 and accompanying text.

[432] *See infra* note 563.

[433] *See infra* note 564.

[434] *See infra* note 565.

[435] *See supra* note 429.

[436] (640 + 960 hours) × $284 per hour = $454,400. (320 + 640 hours) × $284 per hour = $272,640.

[437] *See infra* note 567 and accompanying text.

[438] *See infra* note 568.

[439] *See infra* note 569.

[440] *See infra* note 570.

[441] *See supra* note 429.

[442] (13 + 20 hours) × $284 per hour = $9,372. (7 + 13 hours) × $284 per hour = $5,680.

[443] *See infra* notes 572–573 and accompanying and following text.

hour,[444] we estimate the total paperwork related expenses for these funds will be approximately $422,592 in the first year and $211,296 in the second year.[445]

Form N–6 Estimates

As we discuss below, we estimate funds that will rely on rule 30e–3 will make 425 filings of Form N–6, with the total annual hour burden associated with the amendments to Form N–6 of 425 hours in the first year and 213 hours in the second year.[446] Based on an estimated wage rate of about $284 per hour,[447] we estimate the total paperwork related expenses for these funds will be approximately $120,700 in the first year and $60,492 in the second year.[448]

2. Other Costs

Although we believe that the provisions of the final rule enable investors to receive shareholders reports in the format they prefer, that website availability of shareholder reports and portfolio information is consistent with many investors' preferences,[449] and that the final rule may promote improved access to and consumption of portfolio information, as discussed above,[450] we acknowledge that there may be some investors who would prefer to receive paper copies but may not notify their fund of that preference.[451] To this end, several commenters pointed out that internet access and use among Americans was not universal.[452] Those investors without home internet access, depending on their ability and preference to access shareholder reports and portfolio investment information electronically, might experience a reduction in their ability to access shareholder reports and portfolio investment information if they do not elect to receive paper reports. Further, some commenters have asserted that some investors with internet access may be less likely to review their shareholder reports made available online than shareholder reports delivered in paper form.[453]

To the extent that a reduction in the review of shareholder reports by such investors decreases how informed they are about funds, it could potentially decrease their ability to efficiently allocate capital across funds and other investments. A decrease in the ability of investors to access and review information about different funds could also decrease the competition among funds for investor capital. However, these potential effects will be attenuated to the extent that investors rely on other sources of information and disclosures, in addition to shareholder reports, to obtain information about funds.

In a change from the proposal, after considering the input from commenters, we are not requiring pre-paid reply cards to be sent together with Notices,[454] nor are we requiring funds to mail an Initial Statement.[455] These changes may reduce the likelihood, compared to the proposal, that investors who prefer to access reports in paper form will elect to receive reports in that form, which in turn would potentially reduce the likelihood that investors will review the information in reports, and similarly may result in less well-informed investment decisions and potential adverse effects on the efficiency of capital allocation across funds.

However, we have sought to mitigate such potential adverse effects in the final rule.[456] For example, the final rule contains a Notice requirement and permits the Notice to include multiple means through which an investor can elect paper reports.[457] To help ensure that current investors that may be accustomed to receiving shareholder reports in paper through the mail have advance notice of a fund's intent to rely on rule 30e–3, the final rule also includes an extended transition period with a temporary condition that requires funds to include prominent disclosures during the extended transition period in various fund documents prior to sending Notices pursuant to the rule.[458] In addition, to further simplify the process for investors with a preference for paper delivery to make such an election, under the final rule, an investor's election for paper reports is required to be applied at the investor account level, rather than the fund position level.[459]

In a change from the proposal, the final rule permits a Notice to include additional information about the fund, so long as it is limited to information contained in the shareholder report for which Notice is being given.[460] To the extent that investors only review Notices and to the extent that investors do not find the additional content from the report included in the Notice to be a sufficient description of fund operations, it may result in a less complete investor review of information about the fund. However, the requirement that the Notice describe means by which investors may access the complete shareholder report and the requirement that additional content included in the Notice be limited to information from the shareholder report

[444] *See supra* note 429.

[445] 1,488 × $284 = $422,592. 744 × $284 = $211,296.

[446] *See infra* notes 574–575 and accompanying and following text.

[447] *See supra* note 429.

[448] 425 × $284 = $120,700. 213 × $284 = $60,492.

[449] *See, e.g., supra* notes 43, 96, and 97, and accompanying text.

[450] *See supra* Section III.C.2.

[451] *See supra* note 98; *supra* Section II.A.2.

[452] *See supra* note 49. *But see supra* notes 41–42 and accompanying text (discussing increasing internet usage, including among previously underserved demographic groups).

[453] Commission staff lacks data to assess the extent to which investors review information provided in either paper or electronic format. One commenter provided survey evidence, suggesting that, less than half of the respondents read all of the disclosure but a significant portion of respondents read or skim some of the disclosure. *See* Broadridge Meeting Memo I, at 9 (citing the 2016 True North Market Insights Study, according to which (1) 21% of respondents reported reading paper reports thoroughly and 53% reported skimming the reports, and (2) 36% of respondents reported always looking at the annual and semi-annual reports received in the mail, 31% of respondents reported doing so most of the time, and 26% of respondents reported doing so some of the time; the 2015 FINRA National Financial Capability Study, according to which 28% of respondents reported reading disclosure documents regarding investments and 58% of respondents reported skimming the disclosure documents; the 2015 Forrester Research and Broadridge Custom Survey, according to which 24% of respondents reported looking at shareholder reports always, 26% of respondents most of the time, and 37% of respondents sometimes; and the 2006 ICI Study: Understanding Investor Preferences for Mutual Fund Information, according to which 10% of respondents reported reading all shareholder reports, 17% of respondents reported reading most, 24% of respondents reported reading some, and 26% of respondents reported reading very little of the shareholder reports they receive).

However, another commenter suggested that surveys about readership may be unreliable because respondents may misstate their readership, because surveys did not ask respondents specifically about whether they read the reports, and because surveys often have methodological problems that lead to a likely overstatement of the baseline readership. The commenter also expressed skepticism that ''large number[s] of individual investors are avid readers of their paper shareholder reports'' due to the length and technical nature of the reports, especially when published on a consolidated basis, and argued that it is thus not possible to conclude that fewer investors would read reports online. *See* ICI Comment Letter III. In another letter, this commenter stated that, based on an investor survey, ''fewer than half of mutual fund shareholders still review some printed materials for information about their fund investments, and over two-thirds of these individuals likewise access online materials to gather information on their fund investments.'' *See* Comment Letter of Investment Company Institute (Jul. 8, 2016) (''ICI Comment Letter IV'').

[454] *See supra* note 174.

[455] *See supra* Section II.B.2.b.

[456] *See supra* Section II.B.2.

[457] *See supra* Section II.B.2.b.

[458] *See supra* Sections II.B.2.f and II.B.3.

[459] *See supra* Section II.B.2.d.

[460] *See supra* Section II.B.2.b.ii.

are expected to partly mitigate this concern.

In addition, although we expect investors to benefit from a reduction in printing and mailing costs borne by their funds, we recognize that some investors may incur printing costs due to manually printing specific documents of their choosing.[461] Investors that print out their own materials would likely incur greater costs than they would otherwise indirectly bear if the printing and mailing costs of those materials were borne collectively by all investors of the fund. We note, however, that investors have the option to request paper copies directly instead of manually printing materials, and we expect investors who regularly print out their own copies of shareholder reports and for whom such printing is burdensome or costly to elect paper delivery.

It is possible that funds that choose to rely on rule 30e–3 could be at a competitive disadvantage if investors choose funds based on their preference for the default of paper delivery. Funds for which such competitive effects outweigh the cost savings from reliance on rule 30e–3 can choose not to rely on rule 30e–3.

Rule 30e–3 and related rule and form amendments could also potentially have costs extending beyond the asset management industry. Some commenters expressed concern about the long-term effects of rule 30e–3 on other industries, including the paper industry.[462] The commenters, however, did not provide specific data on or estimates of the rule's potential impact on those industries. Even in the absence of rule 30e–3 and related amendments to rule 498 and registration forms, continued future growth of electronic delivery in reliance on existing Commission guidance might result in a continued decrease in the number of shareholder reports being delivered in paper form, so the potential future effects on the paper industry may be influenced by factors outside of rule 30e–3 and related rule and form amendments. Furthermore, notwithstanding these potential impacts, we continue to believe that rule 30e–3 will modernize and enhance the manner in which shareholder reports are made available to investors, resulting in savings in printing and mailing costs that are borne by funds, and ultimately, by fund shareholders, and overall greater accessibility of shareholder reports and other related information. Moreover, under rule 30e–3 investors will have the ability to request delivery of shareholder reports and other materials in paper form.

E. Alternatives

Commission staff has also examined different ways in which the information that funds provide to investors could be made more accessible while still promoting the ability of investors to receive these important documents via their preferred method. Some of these alternatives are discussed throughout the release to explain why the Commission ultimately chose to adopt the rule in its current state. We discuss below several additional alternatives that the Commission considered.

As an alternative, we considered whether we should eliminate the Notice requirement, as suggested by one commenter.[463] Eliminating the Notice would provide greater cost savings to funds and their investors than the final rule we are adopting today. We estimate that this alternative would result in additional aggregate savings of Notice preparation, printing, and mailing costs of approximately $86.8 million in the first year and approximately $83.8 million in each subsequent year.[464] However, we believe that doing so would reduce investor awareness of the online shareholder reports, which would run counter to our objective of promoting the accessibility of these important fund documents. While funds will necessarily incur costs to distribute Notices, as discussed above,[465] we continue to believe that it is important for investors to receive the Notice, as it will alert them to the availability of a shareholder report online and will provide them with information on how to obtain a paper copy of the report.

As another alternative, we could have required or permitted the Notice, which meets the content requirements in the final rule, or alternatively, additional content requirements as described below, to be sent via email, as suggested by some commenters.[466] This alternative would result in savings of printing and mailing costs for funds of up to approximately $76.0 million per year if all Notices are sent by email instead of in paper form.[467] The email manner of delivery of the Notice under this alternative would not be expected to affect the costs of preparing the Notice content. However, for investors that have not opted into electronic delivery, information on email addresses that a fund can use to deliver Notices may be missing or out of date, and we are unable to estimate the costs to an average fund of updating and compiling email lists under the alternative of email distribution of Notices to all shareholders. We lack data on the percent of fund investors that have not opted into electronic delivery for whom funds have up-to-date email contact information because funds are not required to disclose such information and it is not available to us from other sources.

Nevertheless, as discussed above, we continue to believe that it is important for investors to receive the Notice, as it will contemporaneously alert them to the availability of a shareholder report online. A Notice will also provide investors with information on how to obtain a paper copy of the report, which makes it easier for investors with a preference for paper to request shareholder reports in paper. The benefits from requiring the Notice to be in paper form include, for example, that there may be instances where an investor provided his or her email for certain limited purposes without necessarily intending to receive shareholder reports or notices of reports through email.[468]

In a modification from the proposal, we are permitting funds to incorporate content from their shareholder reports into Notices relating to shareholder reports required to be transmitted under rule 30e–1, as discussed in greater detail in Section II.B.2.b.ii above. As alternatives, we considered, as a condition of reliance on rule 30e–3, either (1) limiting the types of content from the shareholder report that is

[461] *See* Shareholder Choice Regarding Proxy Materials Release, *supra* note 18, at 42231, 42234. The Shareholder Choice Regarding Proxy Materials Release estimated that approximately 10% of all shareholders print out proxy materials at home at a unit cost that was approximately 25% higher than the average cost of printing and mailing each copy under the paper delivery regime ($7.05 ÷ $5.64 = 1.25). Printing costs for shareholder reports and proxy materials may differ and printing costs in absolute terms have decreased over time. According to one commenter, the cost to the fund of printing and mailing a shareholder report under the existing requirements is $0.70 per report. *See* ICI Comment Letter I. However, it remains likely that individual shareholders who manually print reports will incur a higher cost per report relative to the cost incurred by a fund due to the economies of scale. It is not clear how many shareholders will manually print shareholder reports, and thus, what the aggregate incremental cost impact on shareholders will be.

[462] *See, e.g.,* Baesman Comment Letter; Sandstrom Comment Letter; Gherman Comment Letter; Snader Comment Letter; Jaffe Comment Letter.

[463] *See supra* Section II.B.2.b.

[464] *See supra* notes 402 and 408: $86,767,898 ($75,993,264 + $10,774,634) in the first year and $83,797,114 ($75,993,264 + $7,803,850) in each following year.

[465] *See supra* Section III.D.1.

[466] *See supra* notes 141–144.

[467] *See supra* 408.

[468] *See supra* note 145 and accompanying paragraph.

permitted to be incorporated into the Notice, or (2) specifying additional types of content from the shareholder report that are required to be incorporated into the Notice.[469] Relative to the final rule, both alternatives could result in greater standardization of additional Notice content, potentially facilitating investor review and comparison of information in such Notices across funds and thus potentially enabling better informed investment decisions, to the extent that investors rely on information from shareholder reports relative to other sources of information and disclosures. The second alternative also could make information from shareholder reports more accessible to those investors that may otherwise not review shareholder reports.

However, both alternatives would limit the flexibility of funds to tailor Notice content to include the types of information from shareholder reports that may be more relevant and valuable for investors in the specific fund, potentially affecting how useful the Notice content is to those investors.

Further, if the additional information required to be included in Notices under the second alternative is more extensive than the information that funds would otherwise elect to include in Notices under the final rule, the second alternative could increase Notice preparation, printing, and mailing costs, which would be passed on to fund investors, relative to the final rule.

We also recognize that the number of funds that rely on rule 30e–3 may decrease under this alternative in the event that funds find rule 30e–3 to be less advantageous as a result of increased Notice preparation, printing, and mailing costs. Overall, we believe that the Notice provisions of the final rule permit sufficient flexibility for funds to present additional information from the shareholder report in Notices sent to investors without imposing additional burdens and costs on those funds that would not expect their investors to find such information to be of added value.

We are adopting a temporary condition of reliance on rule 30e–3 that requires funds intending to rely on rule 30e–3 to provide prominent disclosures on certain fund documents for up to two years during the extended transition period. As an alternative, we could require all funds, including funds that elect to rely on rule 30e–3 after the temporary condition expires, to provide two years of prominent disclosures on certain fund documents prior to being able to rely on rule 30e–3. This alternative may benefit some investors in funds that elect to rely on rule 30e–3 in the future by increasing their awareness of the fund's intent to rely on rule 30e–3. However, this benefit is likely to decrease as time elapses since the rule's effective date and an increasing number of investors becomes aware of the industry-wide changes in the shareholder report delivery framework under rule 30e–3, including as a result of receiving prominent disclosures on fund documents and Notices under rule 30e–3 sent by other funds in which investors hold positions. This alternative likely would reduce the benefits to funds, and in turn, to fund investors, relative to the final rule, by retaining on an indefinite basis a two-year delay in the ability of funds to realize printing and mailing cost savings from rule 30e–3. This alternative also would result in higher costs of prominent disclosures being incurred by funds, and in turn, fund investors, beyond the end of the extended transition period.

IV. Paperwork Reduction Act

New rule 30e–3 contains a ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995 (the ''PRA'').[470] In addition, the new rule and other amendments will impact the collections of information under rules 30e–1 and 30e–2, rule 498 under the Securities Act, and Forms N–1A, N–2, N–3, N–4, N–6, and N–CSR.

The titles for the existing collections of information are: ''Rule 30e–1 under the Investment Company Act of 1940, Reports to Stockholders of Management Companies'' (OMB Control No. 3235–0025); ''Rule 30e–2 (17 CFR 270.30e–2) pursuant to Section 30(e) of the Investment Company Act of 1940 (15 U.S.C. 80a–29(e)), Reports to Shareholders of Unit Investment Trusts'' (OMB Control No. 3235–0494); ''Rule 498 under the Securities Act of 1933, Summary Prospectuses for Open-End Management Investment Companies'' (OMB Control No. 3235–0648); ''Form N–1A under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Open-End Management Investment Companies'' (OMB Control No. 3235–0307); ''Form N–2 under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Closed-End Management Investment Companies'' (OMB Control No. 3235–0026); ''Form N–3 under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Separate Accounts Organized as Management Investment Companies'' (OMB Control No. 3235–0316); ''Form N–4 under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Separate Accounts Organized as Unit Investment Trust'' (OMB Control No. 3235–0318); ''Form N–6 under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Separate Accounts Organized as Unit Investment Trust'' (OMB Control No. 3235–0503); and ''Form N–CSR under the Securities Exchange Act of 1934 and under the Investment Company Act of 1940, Certified Shareholder Report of Registered Management Investment Companies'' (OMB Control No. 3235–0570). The title for the new collection of information is: ''Rule 30e–3 under the Investment Company Act of 1940, internet Availability of Reports to Shareholders'' (OMB Control No. 3235–0758).

We published notice soliciting comments on the collection of information requirements in the Proposing Release and submitted the proposed collection of information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. 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 Commission is adopting new rule 30e–3 under the Investment Company Act and certain related amendments. This reform is designed to modernize the manner in which periodic information is transmitted to investors, which we believe will improve investors' experience while reducing expenses associated with printing and mailing shareholder reports that are borne by investment companies and ultimately their investors. We discuss below the collection of information burdens associated with this reform.

New rule 30e–3 will provide certain funds with an optional method to satisfy requirements to transmit shareholder reports by making such reports and certain other materials publicly accessible on a website, provided that certain other conditions are satisfied.[471] Reliance on the rule is voluntary; however, compliance with the rule's conditions is mandatory for funds relying on the rule. Responses to the

[469] For an additional discussion of the reasons for the approach chosen for the Notice, *see supra* Section II.B.2.b.ii.

[470] 44 U.S.C. 3501–3521.

[471] *See* rule 30e–3.

information collections will not be kept confidential.

A. Availability of Shareholder Report and Other Materials

Rule 30e–3 provides that a fund may satisfy its obligations to transmit a report to shareholders if certain conditions set forth in the rule are satisfied. Among these conditions are the requirements that the fund's shareholder report, any report with respect to the fund for the prior reporting period that was transmitted to shareholders of record pursuant to rule 30e–1 or rule 30e–2, and in the case of a report relating to a fund other than a money market fund or an SBIC, the fund's complete portfolio holdings as of the close of its most recent first and third fiscal quarters, be publicly accessible, free of charge, at a specified website address.[472]

Internal Hours Burden

In the Proposing Release, we estimated that 11,957 funds could rely on proposed new rule 30e–3.[473] Of these funds, we estimated that 90% of these entities (or 10,761 funds) would rely on proposed rule 30e–3.[474] Of these 10,761, we estimated that approximately 90% of these entities (or 9,634 funds) are currently posting shareholder reports on their websites (similar to the approximate proportion of funds expected to rely on rule 30e–3 that rely on the summary prospectus rules and thus already post shareholder reports on their websites). With respect to these entities, we estimated that annual compliance with the posting requirements of proposed rule 30e–3 would require a half hour burden per entity.[475]

We have revised our estimate of the number of funds that may rely on rule 30e–3 upward from 11,957 to 12,630 to reflect updates to the industry data figures that were utilized in the Proposing Release.[476] We did not receive any comments on our proposed estimate of the proportion of funds that would rely on the new rule, or on our proposed estimate of the burden hours associated with the posting requirements of rule 30e–3 for funds that already post shareholder reports on their websites. We received one comment consistent with our proposed estimate that 90% of funds currently post shareholder reports on their websites.[477] Therefore, we are maintaining those estimates today, with adjustments to reflect the updated industry data figures since the Proposing Release. Thus, we estimate that 11,367 funds will rely on rule 30e–3,[478] and, of those, 10,230 are funds that already post shareholder reports on their websites.[479] Accordingly, with respect to these 10,230 funds, we estimate that annual compliance with the posting requirements of rule 30e–3 will require a half hour burden per fund.

In the Proposing Release, of the remaining funds estimated to rely on proposed rule 30e–3, we further estimated that approximately 90% of those funds (or 1,014 funds) already had a website.[480] With respect to these funds, we estimated that the posting requirements of proposed rule 30e–3 would require a burden of one and a half hours per fund to post the required documents online, both in the first year and annually thereafter.[481] For the remaining 10% of funds (or 113 funds) that we estimated would rely on the proposed rule but that do not have a website,[482] we estimated initial compliance with the posting requirements would require approximately 24 hours per fund of internal staff time to develop a web page and post the required documents on the web page.[483] In addition, we estimated that each of these funds would spend approximately four hours of professional time to maintain and update a web page with the required information on a quarterly basis.[484]

We did not receive any comments on our estimates in the Proposing Release of the proportion of those funds that would rely on the proposed rule and already have a website but that do not rely on the summary prospectus rule today, the burden of the website posting requirements for funds not relying on the summary prospectus rule that have a website, and the burden of the website posting requirements for funds that do not have a website, and we are maintaining those estimates today, with adjustments to reflect the updated industry figures since the Proposing Release. Thus, we estimate that, of the 1,137 funds estimated to rely on the new rule but that do not rely on the summary prospectus rule,[485] 1,023 funds already have a website and each such fund will incur 1.5 burden hours per year as a result of the posting requirement,[486] and that 114 do not have a website and each such fund will incur 24 burden hours as a result of the posting requirement.[487]

Accordingly, we estimate that the posting requirements will result in an average annual hour burden of about 0.83 hours per fund in the first year of compliance[488] and about 0.75 hours per

[472] Rule 30e–3(b)(1)(i)–(iii). While we are modifying Exchange Act rule 14a–16 to include the Notice with respect to fund documents that may accompany the Notice of Internet Availability of Proxy Materials, the incidental burden that this may impose is covered under the existing Paperwork Reduction Act for ''Proxy Statements—Regulation 14(A) (Commission Rules 14a–1 through 14a–21 and Schedule 14A)'' (OMB Control No. 3235-0059). Accordingly, we are not modifying those estimates at this time.

[473] Proposing Release, *supra* note 14, at 33678. This estimate included 9,259 mutual funds (including money market funds), 1,403 ETFs (1,411 ETFs less 8 UIT ETFs), 568 closed-end funds, and 727 UITs (including UIT ETFs) based on Investment Company Institute (''ICI'') statistics, Form N–SAR filings, and internal SEC data as of December 31, 2014. *See* ICI statistics *available at http://www.ici.org/research/stats.*

[474] Proposing Release, *supra* note 14, at 33678. Open-end funds relying on the summary prospectus rule, rule 498 under the Securities Act, are required to post their annual and semi-annual reports online. *See* rule 498(e)(1) [17 CFR 230.498(e)(1)].

[475] Because each of these funds was already required to have a website and to post its annual and semi-annual shareholder reports on this website, we estimated that proposed rule 30e–3 would only result in each of these funds incurring a half hour burden per year to post their first and third quarter portfolio holdings on their websites, including in the first year of compliance with the rule.

[476] We estimate that there are 9,360 mutual funds, 1,821 exchange-traded funds (1,829 ETFs less 8 UIT ETFs), 711 closed-end funds, 14 funds that could file registration statements or amendments to registration statements on Form N–3, and 724 UITs. This estimate is based on data reported on Form N–SAR filed with the Commission as well as Investment Company Institute statistics as of December 31, 2017, *available at http://www.ici.org/research/stats.* 9,360 + 1,821 + 711 + 14 + 724 = 12,630.

[477] Generally consistent with this estimate, one commenter stated that Summary Prospectuses were used in 2014 by over 82% of the fund CUSIPs for distributions comprising over 90% of the mailed volume. *See* Broadridge Comment Letter I.

[478] *See supra* note 476. We continue to estimate, similar to the proposal, that 90% of funds will rely on the final rule. 12,630 funds that could rely × 0.90 proportion estimated to rely = 11,367 funds estimated to rely.

[479] 11,367 funds relying on the rule × 0.90 = 10,230 funds that are estimated to rely on rule 30e–3 and already post shareholder reports on their websites.

[480] Proposing Release, *supra* note 14, at 33678.

[481] *Id.*

[482] This estimate is based on the following calculation: (10,761 funds and − 9,634 open-end funds relying on the summary prospectus rule) × 10% = 113 funds.

[483] *Id.*

[484] *Id.*

[485] 11,367 funds relying on the rule − 10,230 funds using a summary prospectus that are estimated to rely on rule 30e–3 = 1,137 funds.

[486] (11,367 funds estimated to rely − 10,230 funds relying on summary prospectus rule) × 0.90 proportion estimated to have a website = 1,023 funds.

[487] 11,367 funds estimated to rely − 10,230 funds relying on summary prospectus rule − 1,023 funds with a website = 114 funds.

[488] ((10,230 funds relying on the summary prospectus rule × 0.5 hours per fund per year) + (1,023 funds with a website but not relying on the summary prospectus rule × 1.5 hours per fund or UIT per year) + (114 funds without a website × 24 hours in the first year)) ÷ (11,367 funds estimated

fund for each of the next two years.[489] Amortized over three years, the average annual hour burden will be about 0. 78 hours per fund.[490] In sum, we estimate that the posting requirements of rule 30e–3 will impose an average total annual hour burden of about 8,866 hours on applicable funds.[491]

External Cost Burden

In the Proposing Release, we estimated that certain funds would bear an external cost burden in complying with the rule. The external cost burden is the cost of goods and services purchased in connection with complying with the rule, which, with respect to the posting requirements, will include costs associated with development of a website. With respect to those funds that would rely on proposed rule 30e–3 but that do not currently have a website, we estimated that the posting requirements of the proposed rule would result in an external cost burden of $2,000 per fund in the first year to develop a website but no cost burden in subsequent years.[492] We further estimated that the amortized annual external cost burden associated with developing a website would be $667.[493] With respect to those funds that currently have websites, we estimated that the posting requirements of the proposed rule would not result in any external costs.[494] We did not receive any comments on these proposed estimates, and we are maintaining them today, with adjustments to reflect the updated industry data figures since the Proposing Release. Accordingly, in the aggregate, we estimate that the annual total external cost burden with respect to these funds will be $76,038.[495]

B. Proposed Initial Statement

As proposed, rule 30e–3 would have permitted an optional method to satisfy requirements to transmit shareholder reports by posting reports online with respect to a particular investor only if either the investor previously consented to this optional method of website availability or the investor's consent could be inferred under certain conditions specified in the rule.[496] One of the proposed conditions for inferring consent would have provided that an Initial Statement be transmitted to an investor at least 60 days before reliance on the rule with respect to that investor informing the investor that future shareholder reports available on a website until the investor provides notification that he or she wished to receive paper copies of reports in the future. As discussed above, we have modified the proposed rule to eliminate the Initial Statement requirement, which will affect the aggregate estimated burdens associated with rule 30e–3. In the Proposing Release, we estimated that the Initial Statement would result in 0.69 average annual burden hours per fund and $555 in average annual cost burden per fund,[497] which is eliminated by the modification in the final rule to not adopt the proposed Initial Statement requirement.

C. Notice

Proposed rule 30e–3 would have required a Notice be sent to investors within 60 days of the close of the reporting period covered by the related report. Under the final rule, a Notice is required to be sent to investors within 70 days of the close of the reporting period to which the report relates.[498] The proposed rule would have also required that the form of the Notice be filed with the Commission not later than 10 days after the Notice is sent to investors.[499] However, the final rule will require that only if a fund's Notice includes any content from the report to which it relates, a copy of the Notice must be filed as part of the fund's report on Form N–CSR.[500]

As discussed in Section IV.A above and as we estimated in the proposal, we estimate that 90% of all eligible funds (or 11,367 funds) will choose to rely on new rule 30e–3.[501]

Internal Hours Burden

For those funds relying on the rule, in the Proposing Release we estimated that each fund will require two hours to prepare and file the first Notice in the first year and an hour for each subsequent notice.[502] Of this time, we estimated that 75% of the preparation time required would be incurred by the fund internally and that 25% of the burden would be carried out by outside counsel retained by the fund.[503]

We did not receive any comments on our proposed estimates of the time required to prepare Notices, or on the estimated proportion of the preparation time required to prepare Notices that would be carried out internally or by outside counsel. As discussed above, the requirements regarding the Notice in the final rule, including removing the direct URL to the shareholder report and the reply card requirement, permitting Notices to be incorporated into or combined with other Notices, expanding the ability to combine Notices with other mailings, as well as removing the filing requirement (other than for Notices that include content from the report to which it relates as discussed in Section IV.F below), will collectively affect the estimated burden associated with the preparation of Notices. We are maintaining our estimate of the 75% preparation time that would be incurred by the fund internally, the first Notice in the first year required hours of two hours, and our estimate of subsequent Notice required hours of one hour to account for an increase in some funds that may include content from the shareholder report in the Notice.

Accordingly, we estimate that the Notice will result in an average annual hour burden of about 2.25 hours per fund in the first year[504] and about 1.5 hours per fund in each subsequent year.[505] Amortized over three years, the average annual hour burden associated with the Notice would be about 1.75 hours per fund.[506] We have also made adjustments to these estimates to reflect the updated industry data figures since

to rely) = (5,115 hours for funds relying on the summary prospectus rule + 1,535 hours for funds with a website but not relying on the summary prospectus rule + 2,728 hours for funds without a website) ÷ (11,367 funds estimated to rely) = 9,378 total hours ÷ 11,367 funds estimated to rely = 0.83 hours per fund.

[489] ((10,230 funds relying on the summary prospectus rule × 0.5 hours per fund per year) + (1,023 funds with a website but not relying on the summary prospectus rule × 1.5 hours per fund or UIT per year) + (114 funds without a website × 4 hours per fund per quarter × 4 quarters per year)) ÷ (11,367 funds estimated to rely) = (5,115 hours for funds relying on the summary prospectus rule + 1,534 hours for funds with a website but not relying on the summary prospectus rule + 1,818 hours for funds without a website) ÷ (11,367 funds estimated to rely) = 8,468 total hours ÷ 11,367 funds estimated to rely = 0.75 hours per fund.

[490] (0.83 hours per fund in the first year + (0.75 hours per fund each year thereafter × 2 years)) ÷ 3 years = 0.78 hours per fund per year.

[491] 0.78 hours per fund per year × 11,367 funds estimated to rely = 8,866 hours.

[492] Proposing Release, *supra* note 14, at 33678.

[493] *Id.*

[494] *Id.*

[495] 114 funds without a website × $667 per fund = $76,038.

[496] *See* proposed rule 30e–3(c).

[497] Proposing Release, *supra* note 14, at 33679–80.

[498] *See* proposed rule 30e–3(d); rule 30e–3(c).

[499] *See* proposed rule 30e–3(d)(7).

[500] Item 1(b) of Form N–CSR; *see also infra* Section IV.G.

[501] *See supra* note 478 and accompanying text.

[502] Proposing Release, *supra* note 14, at 33679.

[503] *Id.*

[504] (2 hours per first Notice + 1 hour per subsequent Notice × 1 subsequent Notice in the first year) × 0.75 proportion internal hour burden = 2.25 hours per fund.

[505] (1 hour per subsequent Notice × 2 subsequent Notices in subsequent years) × 0.75 proportion internal hour burden = 1.5 hours per fund.

[506] (2.25 hours per fund in the first year + (1.5 hours each year thereafter × 2 years)) ÷ 3 years = 1.75 hours per fund.

the Proposing Release. In sum, we estimate that the Notice requirements of rule 30e–3 will impose an average total annual hour burden of about 19,892 hours on applicable funds.[507]

External Cost Burden

In addition, we estimate that funds will incur external costs if they rely on rule 30e–3. The external cost burden is the cost of goods and services purchased in connection with complying with the rule, which, with respect to the Notice, we have estimated would include the costs associated with outside counsel and printing and mailing costs.

In the Proposing Release, we estimated that 25% of the time required to comply with the requirements concerning preparation of the Notice would be carried out by outside counsel retained by the fund at a rate of $380 per hour.[508] We did not receive any comments on our proposed estimate of the proportion of the time required to prepare Notices that would be carried out by outside counsel, and we are maintaining that estimate today. We are, however, updating our estimate of the hourly rate for the work carried out by outside counsel based on updated industry data to $401 per hour.[509] Accordingly, we estimate that outside counsel costs associated with the Notice will result in an average cost burden per fund of about $301 in the first year,[510] about $201 in subsequent years,[511] and amortized over three years, about $234.[512] In sum, we estimate that the outside counsel costs related to the Notice requirements of rule 30e–3 will impose an annual average total cost burden of about $2,659,878 on applicable funds.[513]

We estimated in the Proposing Release that the external costs associated with rules 30e–1 and 30e–2 (the rules relating to shareholder reports) would be $31,061 and $20,000, respectively.[514] These costs account for preparation and transmission of shareholder reports twice a year in paper to investors. We also estimated that one-third of these external costs would be attributed to printing and mailing shareholder reports.[515] Although commenters did not opine on the estimated proportion of total external costs associated with rules 30e–1 and 30e–2 associated with printing and mailing expenses, as discussed below, some did provide estimates of the total costs of print and mail delivery that suggest that our estimated proportion of those costs may have been understated. Therefore, we have determined to revise our estimate upwards to two-thirds, which yields overall printing and mailing expenses that are more similar to those estimated by commenters compared to the estimates in the Proposing Release.[516]

We estimated in the Proposing Release that the Notice would require lower printing and mailing costs given the significantly smaller size of the documents. Specifically, we estimated that each Notice would require 10% of the annual printing and mailing costs associated with paper shareholder reports.[517]

We note that some commenters specifically discussed the processing fees for broker-held accounts separately from other printing and mailing costs, while, in the Proposing Release, our estimates for printing and mailing were meant to encompass all of those costs more broadly.[518] Some commenters indicated that the total reduction in external cost burden may depend on the amount of processing fees incurred by funds in connection with the print and mail delivery costs associated with the conditions of rule 30e–3. As discussed above, NYSE rule amendments clarify the processing fees applicable to transmission of Notices under rule 30e–3.[519]

Some commenters also suggested that the costs associated with the proposed reply card requirements may have been understated.[520] The final rule reflects modifications from the proposed rule to eliminate the reply card requirement for Notices and have made other modifications in light of public comments—such as permitting Notices to accompany other Notices and other types of documents—that we believe will reduce the printing and mailing costs of the final rule's conditions relative to the proposal. The final rule also reflects modifications from the proposal to permit the inclusion of content from the shareholder report in the Notice and eliminated the Notice filing requirement except when the Notice includes such content.[521]

In light of the above comments on the estimates in the Proposing Release and the modifications we are making today, we have determined to increase our estimate of the percentage of annual printing and mailing costs (including processing fees) associated with shareholder reports that will be associated with the printing and mailing of each Notice from the 10% that we had originally proposed to 15%.

We also estimate, as we did in the Proposing Release, that there would be no other external costs attributable to the Notice.[522] As we explained in the Proposing Release, in estimating the external costs, we took a conservative approach by using 10% of the $10,000 estimated costs for printing and mailing shareholder reports[523] (which, as discussed above is approximately one-third of the estimated external costs associated with management companies' shareholder reports) to calculate the external cost of preparing and mailing a Notice as compared to a shareholder report. As noted in the Proposing Release, these estimated costs for fund shareholder reports are higher than the estimated external costs associated with UITs' shareholder reports.[524]

We did not receive any comments on this proposed estimate, and we are maintaining it today, except that we are revising the share of expenses upward from one-third to two-thirds. Thus, we estimate that the external cost burden associated with each Notice will be about $3,106.[525]

[507] 1.75 hours per fund per year for the Notice × 11,367 funds estimated to rely = 19,892 hours per year.

[508] Proposing Release, *supra* note 14, at 33679. This estimate was based on the rate for attorneys in SIFMA's Management and Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. We note that, in the Proposing Release, we considered the external cost burden of the notice and initial statement requirements jointly. *See* Proposing Release, *supra* note 14, at 33679–80. In this release, we have discussed the effect of the eliminated initial statement requirement on the burden estimates separately above. *See supra* Part IV.B.

[509] This estimate is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by the Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

[510] (2 hours per first Notice + 1 hour per subsequent Notice × 1 subsequent Notice in the first year) × 0.25 proportion external cost × $401 per hour = $301 per fund in the first year.

[511] (1 hour per subsequent Notice × 2 subsequent Notices in subsequent years) × 0.25 proportion external cost × $401 per hour = $201 per fund in subsequent years.

[512] ($301 per fund in the first year + ($201 per fund in subsequent years × 2 years)) ÷ 3 years = $234 per fund.

[513] $234 per fund per year for the Notice × 11,367 funds estimated to rely = $2,659,878 per year.

[514] Proposing Release, *supra* note 14, at 33680.

[515] *Id.*

[516] *See infra* note 544 and accompanying text.

[517] Proposing Release, *supra* note 14, at 33680.

[518] *See, e.g.,* ICI Comment Letter II.

[519] *See supra* notes 32–36 and accompanying text.

[520] *See, e.g.,* ICI Comment Letter II.

[521] *See supra* notes 221–222 and accompanying text. If the Notice includes content from the report to which it relates, a copy of the Notice must be filed as an exhibit to Form N–CSR, as discussed below. *See infra* Section IV.F.

[522] Proposing Release, *supra* note 14, at 33680.

[523] $31,061 ÷ 3 = $10,354.

[524] Proposing Release, *supra* note 14, at 33680.

[525] $31,061 external costs per shareholder report × ⅔ share of external costs attributable to printing

Because each fund relying on rule 30e–3 will be required, in the final rule, to send two Notices in the first year, we estimate that the external costs for the first year on a per fund will be $6,212.[526] Likewise, we estimate that in subsequent years, annual external costs on a per fund will be $6,212 as each fund will continue to be required to send two Notices per year. As such, amortized over three years, we estimate that the Notice will be $6,212 annual cost burden per fund. In sum, we estimate that the printing and mailing costs related to the Notice requirements of rule 30e–3 will impose an average annual total cost burden of $70,611,804 on applicable funds.[527] Accordingly, together with the costs associated with outside counsel, we estimate that the Notice requirements of the rule will impose an average annual total cost burden of $73,271,682.[528]

D. Delivery Upon Request

We estimated in the Proposing Release that funds may incur external costs in connection with the requirement to provide a shareholder report upon request of an investor. We estimated that the annual costs associated with printing and mailing these reports would be $500 per fund.[529] We did not receive any comments on this proposed estimate, and we are maintaining it today, with adjustments to reflect the updated industry data figures since the Proposing Release. Accordingly, we estimate that the aggregate annual external costs associated with printing and mailing shareholder reports upon request will be $5,683,500.[530]

In total, rule 30e–3 will impose an average total annual hour burden of 28,610 hours on applicable funds [531] and a total annual external cost burden of $79,031,220 on applicable funds.[532]

E. Impact on Information Collections for Rules 30e–1 and 30e–2

We estimate, as we did in the Proposing Release, that rule 30e–3 will have the effect of reducing the external cost burden associated with rules 30e–1 and 30e–2. Rule 30e–1 requires a fund to transmit shareholder reports to its investors.[533] Rule 30e–2 requires UITs that invest substantially all of their assets in shares of a fund to send their investors shareholder reports containing applicable information and financial statements required to be included in reports for the underlying fund.[534]

In the Proposing Release, we estimated, with respect to rule 30e–1, that each fund currently incurs an annual hourly burden of 84 hours and an annual external cost burden of $31,061 per fund.[535] Additionally, with respect to rule 30e–2, we estimated that each UIT currently incurs an annual hourly burden of 121 hours per UIT and an annual external cost burden of $20,000 per UIT.[536]

In connection with recent amendments to Regulation S–X, which prescribes the form and content of fund financial statements, we estimated that each fund would incur 2.5 additional burden hours per year after the first year to comply with rule 30e–1.[537] In connection with those amendments to Regulation S–X, we also estimated that each UIT to which the amendments apply would incur 2.5 additional burden hours per year after the first year to comply with rule 30e–2.[538]

As discussed above, we continue to estimate that 90% of all funds will rely on rule 30e–3.[539] In the Proposing Release, we estimated that the hourly burden associated with rule 30e–1 or rule 30e–2 would not change as a result of proposed rule 30e–3.[540] We did not receive any comments on this proposed estimate, and we are maintaining it today. However, in the Proposing Release we estimated that, for those funds that rely on proposed rule 30e–3, the external cost burden would decrease.[541] Specifically, we estimated that for funds relying on rule 30e–3, one-third of the external costs currently attributed to rule 30e–1 relate to printing and mailing costs, which would not be applicable to funds (excluding UITs) relying on the rule, and thus their annual cost burden related to rule 30e–1 would decrease from $31,061 to about $20,707.[542] Additionally, we similarly estimated that for UITs relying on the rule, one-third of the external costs currently attributed to rule 30e–2 relate to printing and mailing costs, which would not be applicable to UITs relying on proposed rule 30e–3, and thus their annual cost burden related to rule 30e–2 would decrease from $20,000 to about $13,333.[543]

Although commenters did not opine on the proposed estimate of the proportion of total external costs associated with rules 30e–1 and 30e–2 associated with printing and mailing expenses, some did provide estimates of the current total costs of print and mail delivery that suggest that our estimated proportion of those costs may have been understated, and we have determined to revise our estimate upwards to two-thirds, which yields overall printing and mailing expenses that are more similar to those estimated by commenters compared to the estimates in the Proposing Release.[544] Therefore, we estimate that, for the 90% of funds estimated to rely on rule 30e–3, the annual external burden associated with rule 30e–1 will decrease from $31,061 to $10,354 per fund (excluding UITs),[545] and the annual external burden associated with rule 30e–2 will decrease from $20,000 to $6,667 per UIT.[546]

We have also made adjustments to these estimates to reflect updated industry data since the Proposing Release regarding the number of funds. Accordingly, we estimate that for the 90% of funds estimated to rely on rule 30e–3 the total annual external cost burden for rule 30e–1 will be $110,943,110,[547] and the total annual external cost burden for all funds under

and mailing (including processing fees) × 0.15 proportion of complete report printing and mailing costs (including processing fees) applicable to Notices = $3,106 external costs per Notice.

[526] $3,106 external costs per Notice × 2 Notices in the first year = $6,212 per fund in external costs in the first year.

[527] $6,212 per year per fund for the Notice × 11,367 funds expected to rely = $70,611,804 per year.

[528] $2,659,878 outside counsel expenses + $70,611,804 per year printing and mailing expenses (including processing fees) = $73,271,682 per year.

[529] Proposing Release, *supra* note 14, at 33678.

[530] $500 per fund × 11,367 funds estimated to rely = $5,683,500.

[531] 8,718 hours for the posting requirements + 19,892 hours for the Notice requirements = 28,610 hours.

[532] $76,038 for posting + $73,271,682 for the Notice requirements + $5,683,500 for the printing and mailing upon request requirements = $79,031,220.

[533] Rule 30e–1(a).

[534] Rule 30e–2(a).

[535] Proposing Release, *supra* note 14, at 33680.

[536] *Id.*

[537] Reporting Modernization Adopting Release, *supra* note 14, at text following n.1562. We did not estimate any changes to the external cost burden in connection with those amendments. *Id.*

[538] Reporting Modernization Adopting Release, *supra* note 14, at text accompanying n.1579.

[539] *See supra* note 501 and accompanying text.

[540] Proposing Release, *supra* note 14, at 33680.

[541] *Id.*

[542] $31,061 per fund (excluding UITs) per year in external costs × ⅔ proportion not attributable to printing and mailing expenses = $20,707 per fund per year in external costs.

[543] $20,000 per UIT per year in external costs × ⅔ proportion not attributable to printing and mailing expenses = $13,333.

[544] *See, e.g.,* ICI Comment Letter I.

[545] $31,061 per fund (excluding UITs) per year in external costs × ⅓ proportion not attributable to printing and mailing expenses = $10,354 per fund (excluding UITs) per year in external costs.

[546] $20,000 per UIT per year in external costs × ⅓ proportion not attributable to printing and mailing expenses = $6,667 per UIT per year in external costs.

[547] 10,715 funds expected to rely × $10,354 external costs per fund expected to rely = $110,943,110 in external costs for funds expected to rely.

rule 30e–1 will be $147,936,761.[548] Additionally, we estimate that for the 90% of UITs estimated to rely on rule 30e–3 the total annual external cost burden for rule 30e–2 will be $4,346,884,[549] and the total annual external cost burden for all UITs under rule 30e–2 will be $5,786,884.[550]

F. Related Disclosure Amendments

In a change from the proposal, as discussed above, we are amending rule 498 under the Securities Act and certain fund registration forms to require that funds intending to rely on rule 30e–3 prior to January 1, 2022 include prominent disclosures on the cover page or beginning of their summary prospectuses, and cover pages of their statutory prospectuses, and annual and semi-annual reports, for two years during the three-year period between January 1, 2019 and December 31, 2021.[551] With the exception of newly-formed funds, funds would generally provide these disclosures as described above.[552] We believe that these disclosures will provide important information to both current and prospective investors in advance of the rule's effective date that not only notifies them of the intent of their fund to rely on the rule, but will also provide them with an overview of the rule's operation, including the fact that reports will be made available on a website and that they will be able to retain delivery of their reports in paper if they should so desire. Beginning January 1, 2022, these cover page disclosures will no longer be required.

Currently, we estimate that funds have the following total annual burdens for compliance with: Rule 498 (15,798 hours), Form N–1A (1,596,749 hours), Form N–2 (73,250 hours), Form N–3 (2,500 hours), Form N–4 (343,117 hours), and Form N–6 (85,269 hours). Based on updated industry data figures and the amendments to rule 498 and the registration statements being adopted today, we have revised these estimates as follows.

As discussed above, we estimate that there are 12,630 funds that could rely on rule 30e–3.[553] Of this group, we estimate that 11,367 funds will rely on rule 30e–3 and, of those, 10,230 are funds relying on the summary prospectus rule (rule 498 under the Securities Act).[554] Pursuant to the amendments being adopted today, we further estimate that these funds will incur 1 burden hour for the first summary prospectus, statutory prospectus, or shareholder report reflecting these requirements and 0.5 hours for each additional summary prospectus, statutory prospectus, or annual and semi-annual report reflecting these requirements. These related disclosure requirements will only apply during the extended transition period, as described above. In light of the short period during which these additional requirements will be effective and the modest impact they are likely to have on external service providers such as website hosting services, outside counsel and auditors, and printing and mailing services, we do not expect them to result in additional expenses passed on to funds by their service providers in the form of additional external cost burden. Thus, we do not estimate there will be any external costs to comply with these disclosure requirements. In total, as discussed in more detail below, we estimate that the aggregate hour burden for all funds to comply with these disclosure requirements will be 14,272 hours per year.[555]

Form N–1A and Rule 498

We estimate that there are 11,181 funds that could file registration statements or amendments to registration statements on Form N–1A.[556] Of this group, we estimate that 10,063 funds will rely on rule 30e–3, and, of those, 9,057 are funds relying on the summary prospectus rule.[557] Consequently, we estimate that the amortized aggregate annual hour burden associated with the amendments to rule 498 is 4,529 hours.[558] We further estimate that 1,006 funds will rely on rule 30e–3 but not the summary prospectus rule, and thus the amortized aggregate annual hour burden associated with the amendments to Form N–1A and relating to prospectuses is 503 hours.[559] In addition, we estimate that the total annual hour burden associated with the amendments to Form N–1A and relating to shareholder reports is 8,386 hours.[560] In total, we estimate that the aggregate annual hour burden associated with the amendments to rule 498 will be 4,529 hours, while the aggregate annual hour burden associated with the amendments to Form N–1A will be 8,889 hours per year.[561]

Form N–2

We estimate that there are 711 funds that could file registration statements or amendments to registration statements on Form N–2.[562] Of this group, we estimate that 640 funds will rely on rule 30e–3.[563] Consequently, we estimate that the total annual hour burden associated with the amendments to Form N–2 and relating to prospectuses is 320 hours.[564] In addition, we estimate

[548] ((11,906 total funds − 10,715 funds expected to rely) × $31,061 in external costs for funds not expected to rely) + $110,943,110 in external costs for funds expected to rely = $147,936,761 in external costs.

[549] 652 UITs expected to rely × $6,667 external costs per UIT expected to rely = $4,346,884 in external costs for UITs expected to rely.

[550] ((724 total UITs − 652 UITs expected to rely) × $20,000 in external costs for UITs not expected to rely) + $4,346,884 in external costs for UITs expected to rely = $5,786,884 in external costs.

[551] *See* new paragraphs (b)(1)(vi) and (b)(1)(vii) of rule 498. Similar statements will be required in other shareholder materials. *See* new paragraph (a)(5) to Item 1 of Form N–1A; new paragraph (d)(8) to Item 27 of Form N–1A; new paragraph 1.l to Item 1 of Form N–2; new instruction 6.g to Item 24 of Form N–2; new paragraph (a)(xi) to Item 1 of Form N–3; new instruction 6(vii) to Item 28(a) of Form N–3; new paragraph (a)(x) to Item 1 of Form N–4; new paragraph (a)(6) to Item 1 of Form N–6.

[552] *See supra* Section II.B.2.f.

[553] This estimate of 12,630 funds includes 9,360 mutual funds, 1,821 exchange-traded funds (1,829 ETFs less 8 UIT ETFs), 711 closed-end funds, 14 funds that could file registration statements or amendments to registration statements on Form N–3, and 724 UITs and is based on data from Commission filings as well as Investment Company Institute statistics as of December 31, 2017, *available at http://www.ici.org/research/stats.*

[554] *See supra* note 478 and accompanying and following text (estimating that 90% of funds that could rely on rule 30e–3 will do so). 11,367 funds = 12,630 funds × 0.90.

[555] 14,272 hours = 13,401 hours for amendments to rule 498 and Form N–1A + 853 hours for amendments to Form N–2 + 18 hours for amendments to Form N–3. *See infra* notes 561, 566, 571.

[556] 11,181 funds = 9,360 mutual funds + 1,821 ETFs (1,829 ETFs less 8 UIT ETFs). *See supra* note 553.

[557] *See supra* note 478 and accompanying and following text. 10,063 funds × 0.9 = 9,057 funds. We estimate that for funds that would rely on rule 30e–3 and rely upon rule 498, that the incremental burden hours associated with relying on rule 30e–3 in preparing and filing on Form N–1A would also include any burden change associated with rule 498.

[558] 9,057 funds × 1 hour in the first year = 9,057 hours. 9,057 funds × 0.5 hours in the second year = 4,529 hours. 9,057 funds × 0 hours in the third year = 0 hours. (9,057 + 4,529 + 0 hours) ÷ 3 years = 4,529 hours per year on an amortized basis.

[559] 10,063 funds − 9,057 funds = 1,006 funds. 1,006 funds × 1 hour in the first year = 1,006 hours. 1,006 funds × 0.5 hours in the second year = 503 hours. 503 funds × 0 hours in the third year = 0 hours. (1,006 + 503 + 0 hours) ÷ 3 years = 503 hours per year on an amortized basis.

[560] 10,063 funds × (1 hour for the first report in the first year + 0.5 hours for the second report in the first year) = 15,095 hours. 10,063 funds × 0.5 hours × 2 reports in the second year = 10,063 hours. 10,063 funds × 0 hours in the third year = 0 hours. (15,095 + 10,063 + 0 hours) ÷ 3 years = 8,386 hours per year on an amortized basis.

[561] 8,889 hours = 503 hours + 8,386 hours.

[562] *See supra* note 553.

[563] *See supra* note 478 and accompanying and following text. 711 funds × 0.9 = 640 funds.

[564] 640 funds × 1 hour in the first year = 640 hours. 640 funds × 0.5 hours in the second year = 320 hours. 640 funds × 0 hours in the third year = 0 hours. (640 + 320 + 0) ÷ 3 years = 320 hours per year on an amortized basis. The Commission notes that this is a conservative estimate because funds registered on Form N–2, in reliance of Investment Company Act rule 8b–16(b), on average

that the total annual hour burden associated with the amendments to Form N–2 and relating to annual and semi-annual reports is 533 hours.[565] In total, we estimate that the aggregate annual hour burden associated with the amendments to Form N–2 will be 853 hours per year.[566]

Form N–3

We estimate that there are 14 funds that could file registration statements or amendments to registration statements on Form N–3.[567] Of this group, we estimate that 13 funds will rely on rule 30e–3.[568] Consequently, we estimate that the total annual hour burden associated with the amendments to Form N–3 and relating to statutory prospectuses is 7 hours.[569] In addition, we estimate that the total annual hour burden associated with the amendments to Form N–3 and relating to annual and semi-annual reports is 12 hours.[570] In total, we estimate that the aggregate annual hour burden associated with the amendments to Form N–3 will be 18 hours per year.[571]

Form N–4

We estimate that there are 1,653 responses on Form N–4 each year. Of this group, we estimate that 1,488 of the responses will be made by funds that will rely on rule 30e–3.[572] Consequently, we estimate that the total annual hour burden associated with the amendments to Form N–4 and relating to statutory prospectuses is 744 hours.[573]

Form N–6

We estimate that there are 472 responses on Form N–6 each year. Of this group, we estimate that 425 of the responses will be made by funds that will rely on rule 30e–3.[574] Consequently, we estimate that the total annual hour burden associated with the amendments to Form N–6 and relating to statutory prospectuses is 213 hours.[575]

G. Form N–CSR

In a modification from the proposal, as discussed above, we are amending Form N–CSR to require that for fund Notices that include content from the report to which it relates, a copy of the Notice must be filed as part of the fund's report on Form N–CSR.[576] Under the existing collection of information, we estimate 172,899 aggregate annual burden hours to comply with Form N–CSR. Based on updated industry data figures and the amendments to Form N–CSR being adopted today, we have revised this estimate as follows.

We estimate that there are 10,715 funds that will rely on rule 30e–3 and could prepare Notices that include content from the report to which it relates.[577] The decision to include content from the report in the Notice is optional, and at the fund's election, but if the fund decides to include such content, then the Notice must be filed with the Commission in reports on Form N–CSR. We believe that many funds—we estimate about half of those relying on rule 30e–3—will wish to include content from the shareholder report in the Notice that they believe is particularly informative to their investors. However, we also believe that many funds—we estimate about half—will wish to preserve the maximum cost savings allowed under the rule and will therefore wish to include in the Notice only that information that is required by the rule. We therefore estimate that 50% of fund Notices will include content from the shareholder report. Pursuant to the amendment being adopted today, we estimate that each of these funds would incur one annual burden hour to file the Notice as part of their reports on Form N–CSR (not including preparation of the Notice).

We estimate that of the 10,715 funds to rely on rule 30e–3 that could add content to the Notice from the report to which it relates, that 5,358 funds would add content from the shareholder Report to the Notice and would therefore be required to file such Notices with reports on Form N–CSR.[578] Consequently, we estimate that the aggregate annual hour burden associated with the amendments to Form N–CSR is 5,358 hours.[579]

V. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis (''FRFA'') has been prepared in accordance with Section 4(a) of the Regulatory Flexibility Act (''RFA'').[580] It relates to new rule 30e–3, amendments to Forms N–1A, N–2, N–3, N–4, N–6, and N–CSR, amendments to rule 498 under the Securities Act, and amendments to rule 14a–16 under the Exchange Act. An Initial Regulatory Flexibility Analysis (''IRFA'') was prepared in accordance with the RFA and included in the Proposing Release.[581] The Proposing Release included, and solicited comment on, the IRFA.

A. Need For and Objectives of the Rule, Rule Amendments and Form Amendments

Rule 30e–3 is designed to modernize the manner in which periodic information is transmitted to investors. Rule 30e–3 will provide certain funds with an optional method to satisfy shareholder transmission requirements by making the reports and other materials publicly accessible on a website, provided that certain other conditions are satisfied. We believe the rule will improve investors' experience while reducing expenses associated with printing and mailing shareholder reports that are borne by investment companies and ultimately their investors.

In connection with our adoption of rule 30e–3, we are also adopting related amendments to certain of our rules and forms. We are amending rule 498 and certain fund registration forms to require that funds intending to rely on rule 30e–3 include during the extended

prepare and file prospectuses less frequently than funds registered on Form N–1A.

[565] 640 funds × (1 hour for the first report in the first year + 0.5 hours for the second report in the first year) = 960 hours. 640 funds × 0.5 hours × 2 reports in the second year = 640 hours. 640 funds × 0 hours in the third year = 0 hours. (960 + 640 + 0 hours) ÷ 3 years = 533 hours per year on an amortized basis.

[566] 853 hours = 320 hours + 533 hours.

[567] *See supra* note 553.

[568] *See supra* note 478 and accompanying and following text. 14 funds × 0.9 = 13 funds.

[569] 13 funds × 1 hour in the first year = 13 hours. 13 funds × 0.5 hours in the second year = 7 hours. 13 funds × 0 hours in the third year = 0 hours. (13 + 7 + 0 hours) ÷ 3 years = 7 hours per year on an amortized basis.

[570] 13 funds × (1 hour for the first report in the first year + 0.5 hours for the second report in the first year) = 20 hours. 13 funds × 0.5 hours × 2 reports in the second year = 13 hours. 13 funds × 0 hours in the third year = 0 hours. (20 + 13 + 0 hours) ÷ 3 years = 11 hours per year on an amortized basis.

[571] 18 hours = 7 hours + 11 hours.

[572] *See supra* note 478 and accompanying and following text. 1,653 responses × 0.9 = 1,488 responses.

[573] 1,488 responses × 1 hour in the first year = 1,488 hours. 1,488 responses × 0.5 hours in the second year = 744 hours. 1,488 responses × 0 hours in the third year = 0 hours. (1,488 + 744 + 0 hours) ÷ 3 years = 744 hours per year on an amortized basis.

[574] *See supra* note 478 and accompanying and following text. 472 responses × 0.9 = 425 responses.

[575] 425 responses × 1 hour in the first year = 425 hours. 425 responses × 0.5 hours in the second year = 213 hours. 425 responses × 0 hours in the third year = 0 hours. (425 + 213 + 0 hours) ÷ 3 years = 213 hours per year on an amortized basis.

[576] *See supra* Section II.B.2.b.ii.

[577] 11,906 funds = 9,360 mutual funds + 1,821 ETFs (1,829 ETFs less 8 UIT ETFs) + 711 closed-end funds + 14 funds that could file registration statements or amendments to registration statements on Form N–3. *See supra* note 553. 11,906 funds relying on the rule × 0.90 = 10,715 funds estimated to rely on rule 30e-3. *See supra* note 478 and accompanying and following text.

[578] 10,715 funds × 0.5 = 5,358 funds.

[579] 5,358 funds × 1 hour per year = 5,358 hours.

[580] 5 U.S.C. 604(a).

[581] *See* Proposing Release, *supra* note 14, at Section VI.

transition period prominent disclosures on the cover page or beginning of their summary prospectuses and cover pages of their statutory prospectuses and shareholder reports as discussed above.[582] We believe that these disclosures will provide important information to both current and prospective investors in advance of the rule's effective date that not only notifies them of the intent of their fund to rely on the rule, but will also provide them with an overview of the rule's operation, including the fact that reports will be made available on a website and that they will be able to retain delivery of their reports in paper if they should so desire. Beginning January 1, 2022, these cover page and other prominent disclosures will no longer be required. We are also amending Form N–CSR to require the filing of fund Notices that include content from the shareholder report to enable Commission review of disclosure in the Notices in conjunction with its overall review of shareholder reports and other disclosure filings.

B. Significant Issues Raised by Public Comments

In the Proposing Release, we requested comment on each aspect of the IRFA, including the number of small entities that would be affected by the proposed amendments, the existence or nature of the potential impact of the proposals on small entities discussed in the analysis and how to quantify the impact of the proposed rules. As discussed above, we received extensive comments regarding the potential costs and benefits of the proposals.[583] However, we did not receive comments specifically addressing the impact of proposed rule 30e–3 and related amendments on small entities subject to the rule.

C. Small Entities Subject to the Rule

An investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of $50 million or less as of the end of its most recent fiscal year.[584] Commission staff estimates that, as of December 31, 2017, approximately 88 registered investment companies, including 54 open- and 34 closed-end funds and 6 UITs are small entities.[585]

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The amendments will create, amend, and eliminate current reporting, recordkeeping and other compliance requirements for small entities.

Rule 30e–3 is designed to provide funds with an optional method to satisfy requirements to transmit shareholder reports by posting reports online if they meet certain conditions.[586] Funds that do not maintain websites or that otherwise wish to transmit shareholder reports in paper or pursuant to the Commission's existing electronic delivery guidance would continue to be able to satisfy their transmission requirements by those transmission methods.

We estimate that approximately 88 registered investment companies are small entities that will rely on the rule.[587] Because funds generally already maintain websites and send materials to shareholders, for most funds, no additional professional skills beyond those currently possessed by funds are generally needed to comply with the rule's conditions. However, some funds, including funds that are small entities, that do not currently have a website, would require professional skills to develop a web page and post the required documents, and as discussed above, we estimate for such funds an external burden cost of $2,000 per fund in the first year to develop a website and an initial 24 hours internal burden for staff to develop a web page and post the required documents on the web page. To the extent possible, we have attempted to quantify the costs and savings that will be experienced by small entities relying upon rule 30e–3. However, we note that the average costs and savings incurred by such small entities may in some cases be lower or higher than the costs and savings incurred by the average fund relying upon rule 30e–3.

As discussed above, we estimate that reliance on rule 30e–3 will result in certain costs and benefits related to the website availability of shareholder reports for each fund, including small entities, with savings of approximately $20,285 per year for each fund with respect to their regulatory obligation to deliver shareholder reports to investors in savings related to printing and mailing costs for shareholder reports, and costs of $7,847 per year for each fund to implement new rule 30e–3 in costs related to website accessibility requirements, Notice preparation, and printing, mailing, and processing fees for the Notices.[588]

We received no direct comments on the IRFA analysis of rule 30e–3 but as discussed above, we received comments on the rule and projected expense savings from the rule. We have discussed these comments in our discussion of the final rule and our cost/benefit and PRA estimates above.[589]

We are amending rule 498 under the Securities Act and certain fund registration forms to require that funds intending to rely on rule 30e–3 include prominent disclosures on the cover page (or beginning) of their summary prospectuses, statutory prospectuses, and shareholder reports in advance of the date on which funds could begin to rely upon the rule.[590] We believe that these disclosures will provide important information to both current and prospective investors in advance of a fund's use of the rule that not only notifies them of the intent of their fund to rely on the rule, but also provides an overview of the rule's operation, including the fact that reports will be made available on a website and that they will be able to preserve delivery of their reports in paper if they should so desire. Beginning January 1, 2022, these cover page disclosures will no longer be required. Similarly, we are amending rule 14a–16 under the Exchange Act, as proposed, to include a Notice required by rule 30e–3 among the materials that are permitted to accompany a Notice of internet Availability of Proxy Materials.[591]

We estimate that the costs of these related disclosures will be $284–$721 in the first year and $142–$437 in each of the second and third years for each fund that relies upon rule 30e–3 and that could file registration statements or amendments to registration statements on Form N–1A (including funds that rely upon rule 498), Form N–2, Form

[582] *See* new paragraph (b)(1)(vii) of rule 498; new paragraph (a)(5) to Item 1 of Form N–1A; new paragraph (d)(8) to Item 27 of Form N–1A; new paragraph 1.l to Item 1 of Form N–2; new instruction 6.g to Item 24 of Form N–2; new paragraph (a)(xi) to Item 1 of Form N–3; new instruction 6(vii) to Item 28(a) of Form N–3; new paragraph (a)(x) to Item 1 of Form N–4; new paragraph (a)(6) to Item 1 of Form N–6. *See also supra* Section II.B.2.f.

[583] *See supra* Section II.A.1.

[584] 17 CFR 270.0–10(a).

[585] This estimate is derived from an analysis of data obtained from Morningstar Direct as well as data reported on Form N–SAR filed with the Commission for the period ending December 31, 2017.

[586] *See supra* Sections II.A and II.B.2.

[587] The Commission's estimate is based on data obtained from registrants' filings with the Commission on Form N–SAR.

[588] *See supra* notes 372 (estimating aggregate annual gross savings to funds relying on rule 30e–3 of $230,575,360), 393 (estimating aggregate annual gross costs of $89,202,128), 344 (estimating 11,367 funds will rely upon rule 30e–3) and accompanying text. *See generally* Sections III.C and III.D. $230,575,360 ÷ 11,367 funds = $20,285 per fund. $89,202,128 ÷ 11,367 funds = $7,847 per fund.

[589] *See generally* Sections II, III.B–D, IV.C, and IV.E.

[590] *See supra* Section II.B.2.f.

[591] *See id.*

N–3, Form N–4, and Form N–6 (including 88 small entities).[592]

We are amending Form N–CSR to require that for fund Notices that include content from the shareholder report to which it relates, a copy of the Notice must be filed as part of the fund's report on Form N–CSR.[593] We estimate that the costs for each such report that is filed (including those by 88 small entities) will be $2,677 in the first year and $1,903 in each subsequent year.[594]

E. Agency Action To Minimize Effect on Small Entities

The RFA directs the Commission to consider significant alternatives that would accomplish our stated objective, while minimizing any significant economic impact on small entities. The Commission considered the following alternatives for small entities in relation to our forms and form amendments and rules and rule amendments: (i) Establishing different reporting requirements or timetables that take into account resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (iii) using performance rather than design standards; and (iv) exempting small entities from all or part of the proposal.

Regarding the first alternative, we note that small entities currently follow the same requirements that larger entities do when delivering reports to shareholders. The Commission believes that establishing different reporting requirements or timetables for small entities to deliver reports to shareholders would not be consistent with the Commission's overarching goal of industry oversight and investor protection. We note that, because reliance on rule 30e–3 will be optional, similar to the proposal, a particular fund is not expected to rely on the rule if the costs to the fund to rely on the rule to that fund exceeds its benefits. Funds that do not rely on the rule will therefore not incur compliance costs.

Regarding the second and third alternatives, we do not believe that clarification, consolidation, or simplification of compliance and reporting requirements, or performance rather than design standards, are appropriate in this context. In order to promote comparability and transparency, we believe that shareholder reports should be delivered to shareholders in a manner that will allow investors to better review and compare their investments across funds, including small entities. Therefore, we believe that it is appropriate in this context for shareholder reports to be delivered pursuant to uniform design, compliance, and reporting standards and requirements designed by the Commission. Further regarding clarification of compliance and reporting requirements for small entities, we note that we will publish a small entity compliance guide that will be posted on our website following adoption of rule 30e–3.

Regarding the fourth alternative, we note that in addition to providing funds with an optional method to satisfy their obligations to deliver shareholder reports by posting reports online if they meet certain conditions, rule 30e–3 is designed with certain safeguards to respond to investor protection concerns. For example, the rule requires that the shareholder reports and other required materials are publicly accessible free of charge at a website address specified in the Notice, and includes provisions designed to preserve the ability of investors to elect to receive paper reports free of charge. Therefore, we believe that exempting small entities from all or part of the proposal would not be consistent with the Commission's overarching goal of industry oversight and investor protection.

VI. Statutory Authority

We are adopting the rule and rule and form amendments contained in this document under the authority set forth in the Securities Act, particularly Sections 5, 6, 7, 10, and 19 thereof [15 U.S.C. 77a *et seq.*], the Exchange Act, particularly, Sections 3(b), 10, 13, 14, 15, and 36 thereof [15 U.S.C. 78a *et seq.*], the Investment Company Act, particularly, Sections 6, 8, 20, 24, 30, and 38 thereof [15 U.S.C. 80a *et seq.*], and 44 U.S.C. 3506, 3507.

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Organization and functions (Government agencies).

17 CFR Parts 230, 239, 240, 249, 270, and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

For reasons set forth in the preamble, title 17, chapter II of the *Code of Federal Regulations* is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart N—Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers

■ 1. The authority citation for subpart N of part 200 continues to read as follows:

Authority: 44 U.S.C. 3506; 44 U.S.C. 3507.

■ 2. Effective January 1, 2019, amend § 200.800 in paragraph (b) by adding an entry in numerical order by part and section number for ''Rule 30e–3'', to read as follows:

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

Information collection requirement	17 CFR part or section where identified and described	Current OMB control No.
* *	* *	*
Rule 30e–3	270.30e–3	3235–0758
* *	* *	*

[592] *See supra* notes 425 (estimating 10,063 funds that could file registration statements or amendments to registration statements on Form N–1A and that will rely upon rule 30e–3), 430 (estimating disclosure costs related to rule 30e–3 in the first year of $7,144,872 and in the each of the second and third years of $4,286,980). $7,144,872 ÷ 10,063 funds = $710. $4,286,980 ÷ 10,063 funds = $426; *see supra* notes 432 (estimating 640 funds that could file registration statements or amendments to registration statements on Form N–2 and that will rely upon rule 30e–3), 436 (estimating disclosure costs related to rule 30e–3 in the first year of $454,400 and in each of the second and third years of $272,640. $454,400 ÷ 640 funds = $710. $272,640 ÷ 640 funds = $426; *supra* note 438 (estimating 13 funds that could file registration statements or amendments to registration statements on Form N–3 and that will rely upon rule 30e–3), 442 (estimating disclosure costs related to rule 30e–3 in the first year of $9,372 and in each of the second and third years of $5,680). $9,372 ÷ 13 funds = $721. $5,680 ÷ 13 funds = $437; 443 (estimating 1,488 funds that could file registration statements or amendments to registration statements on Form N–4 and that will rely upon rule 30e–3), 445 (estimating disclosure costs related to rule 30e–3 in the first year of $422,592 and in the each of the second and third years of $211,296). $422,592 ÷ 1,488 funds = $284. $211,296 ÷ 1,488 funds = $142; 446 (estimating 425 funds that could file registration statements or amendments to registration statements on Form N–6 and that will rely upon rule 30e–3), 448 (estimating disclosure costs related to rule 30e–3 in the first year of $120,700 and in the each of the second and third years of $60,492). $120,700 ÷ 425 funds = $284. $60,492 ÷ 425 funds = $142.

[593] *See supra* Section II.B.2.b.ii.

[594] *See supra* notes 578 (estimating 5,358 funds that will file a Notice with content from the report it relates), 402 (estimating Form N–CSR preparation and filing costs related to rule 30e–3 in the first year of $14,341,169 and each following year of $10,195,144). $14,341,169 ÷ 5,358 funds = $2,677. $10,195,144 ÷ 5,358 funds = $1,903.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 3. The authority citation for part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l,* 78m, 78n, 78*o,* 78*o*–7 note, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

■ 4. Effective January 1, 2019, amend § 230.498 by revising paragraph (b)(1)(v) and adding paragraphs (b)(1)(vi) and (vii) to read as follows.

§ 230.498 Summary Prospectuses for open-end management investment companies.

* * * * *

(b) * * *

(1) * * *

(v) The following legend:

Before you invest, you may want to review the Fund's prospectus, which contains more information about the Fund and its risks. You can find the Fund's prospectus, reports to shareholders, and other information about the Fund online at [_____]. You can also get this information at no cost by calling [_____] or by sending an email request to [_____].

(A) The legend must provide a website address, other than the address of the Commission's electronic filing system; toll free (or collect) telephone number; and email address that investors can use to obtain the Statutory Prospectus and other information. The website address must be specific enough to lead investors directly to the Statutory Prospectus and other materials that are required to be accessible under paragraph (e)(1) of this section, rather than to the home page or other section of the website on which the materials are posted. The website could be a central site with prominent links to each document. The legend may indicate, if applicable, that the Statutory Prospectus and other information are available from a financial intermediary (such as a broker-dealer or bank) through which shares of the Fund may be purchased or sold.

(B) If a Fund incorporates any information by reference into the Summary Prospectus, the legend must identify the type of document (*e.g.,* Statutory Prospectus) from which the information is incorporated and the date of the document. If a Fund incorporates by reference a part of a document, the legend must clearly identify the part by page, paragraph, caption, or otherwise. If information is incorporated from a source other than the Statutory Prospectus, the legend must explain that the incorporated information may be obtained, free of charge, in the same manner as the Statutory Prospectus. A Fund may modify the legend to include a statement to the effect that the Summary Prospectus is intended for use in connection with a defined contribution plan that meets the requirements for qualification under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)), a tax-deferred arrangement under section 403(b) or 457 of the Internal Revenue Code (26 U.S.C. 403(b) or 457), or a variable contract as defined in section 817(d) of the Internal Revenue Code (26 U.S.C. 817(d)), as applicable, and is not intended for use by other investors.

(vi) The Summary Prospectus may provide instructions describing how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.

(vii) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Fund's shareholder reports will no longer be sent by mail, unless you specifically request paper copies of the reports from the Fund [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Fund [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Fund [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

* * * * *

■ 5. Effective January 1, 2021, amend § 230.498 by:

■ a. Adding a sentence to the end of paragraph (b)(1)(v)(A); and

■ b. In paragraph (f)(2), adding the phrase ''a Notice under § 270.30e–3 of this chapter,'' after ''Statutory Prospectuses,''.

The addition reads as follows:

§ 230.498 Summary Prospectuses for open-end management investment companies.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(A) * * * If a Fund relies on § 270.30e–3 of this chapter to transmit a report, the legend must also include the website address required by § 270.30e–3(c)(1)(iii) of this chapter if different from the website address required by this paragraph (b)(1)(v)(A).

* * * * *

§ 230.498 [Amended]

■ 6. Effective January 1, 2022, amend § 230.498 by removing paragraph (b)(1)(vii).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 7. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37; and sec. 107, Pub. L. 112–106, 126 Stat. 312, unless otherwise noted.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 8. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78*o*–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201 *et seq.,* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111–203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112–106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

§ 240.14a–16 [Amended]

■ 9. Effective January 1, 2019, amend § 240.14a–16 paragraph (f)(2)(iii) by adding the phrase ''a Notice under § 270.30e–3 of this chapter,'' after ''§ 230.498(b) of this chapter,''.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 10. The authority citation for part 249 continues to read, in part, as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b), Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3), Pub. L. 112–106, 126 Stat. 309 (2012); Sec. 107, Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001, Pub. L. 114–94, 129 Stat. 1312 (2015), unless otherwise noted.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

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

Authority: 15 U.S.C. 80a–1 *et seq.,* 80a–34(d), 80a–37, 80a–39, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 12. Effective January 1, 2019, add § 270.30e–3 to read as follows:

§ 270.30e–3 Internet availability of reports to shareholders.

(a) *General.* A Company may satisfy its obligation to transmit a report required by § 270.30e–1 or § 270.30e–2 (''Report'') to a shareholder of record if all of the conditions set forth in paragraphs (b) through (e), and (i) of this section are satisfied.

(b) *Availability of report to shareholders and other materials.* (1) The following materials are publicly accessible, free of charge, at the website address specified in the Notice from the date the Company transmits the Report as required by § 270.30e–1 or § 270.30e–2 until the Company next transmits a report required by § 270.30e–1 or § 270.30e–2 with respect to the Fund:

(i) *Current report to shareholders.* The Report.

(ii) *Prior report to shareholders.* Any report with respect to the Fund for the prior reporting period that was transmitted to shareholders of record pursuant to § 270.30e–1 or § 270.30e–2.

(iii) *Complete portfolio holdings from reports containing a summary schedule of investments.* If a report specified in paragraph (b)(1)(i) or (b)(1)(ii) of this section includes a summary schedule of investments (§ 210.12–12B of this chapter) in lieu of Schedule I—Investments in securities of unaffiliated issuers (§ 210.12–12 of this chapter), the Fund's complete portfolio holdings as of the close of the period covered by the report, presented in accordance with the schedules set forth in §§ 210.12–12 through 210.12–14 of Regulation S–X (§§ 210.12–12 through 210.12–14 of this chapter), which need not be audited.

(iv) *Portfolio holdings for most recent first and third fiscal quarters.* For a Fund other than a Fund that is regulated as a money market fund under § 270.2a–7 or a small business investment company registered on Form N–5 (§§ 239.24 and 274.5 of this chapter), the Fund's complete portfolio holdings as of the close of the Fund's most recent first and third fiscal quarters, if any, after the date on which the Fund's registration statement became effective, presented in accordance with the schedules set forth in §§ 210.12–12 through 210.12–14 of Regulation S–X [§§ 210.12–12 through 210.12–14 of this chapter], which need not be audited. The complete portfolio holdings required by this paragraph (b)(1)(iv) must be made publicly available not later than 60 days after the close of the fiscal quarter.

(2) The website address relied upon for compliance with this section may not be the address of the Commission's electronic filing system.

(3) The materials that are accessible in accordance with paragraph (b)(1) of this section must be presented on the website in a format, or formats, that are convenient for both reading online and printing on paper.

(4) Persons accessing the materials specified in paragraph (b)(1) of this section must be able to permanently retain, free of charge, an electronic version of such materials in a format, or formats, that meet the conditions of paragraph (b)(3) of this section.

(5) The conditions set forth in paragraphs (b)(1) through (b)(4) of this section shall be deemed to be met, notwithstanding the fact that the materials specified in paragraph (b)(1) of this section are not available for a time in the manner required by paragraphs (b)(1) through (b)(4) of this section, provided that:

(i) The Company has reasonable procedures in place to ensure that the specified materials are available in the manner required by paragraphs (b)(1) through (b)(4) of this section; and

(ii) The Company takes prompt action to ensure that the specified documents become available in the manner required by paragraphs (b)(1) through (b)(4) of this section, as soon as practicable following the earlier of the time at which it knows or reasonably should have known that the documents are not available in the manner required by paragraphs (b)(1) through (b)(4) of this section.

(c) *Notice.* A paper notice (''Notice'') meeting the conditions of this paragraph (c) must be sent to the shareholder within 70 days after the close of the period for which the Report is being made. The Notice may contain only the information specified by paragraphs (c)(1), (2), and (3) of this section, and may include pictures, logos, or similar design elements so long as the design is not misleading and the information is clear.

(1) The Notice must be written using plain English principles pursuant to paragraph (d) of this section and:

(i) Contain a prominent legend in bold-face type that states ''[An] Important Report[s] to [Shareholders] of [Fund] [is/are] Now Available Online and In Print by Request.'' The Notice may also include information identifying the Fund, the Fund's sponsor (including any investment adviser or sub-adviser to the Fund), a variable annuity or variable life insurance contract or insurance company issuer thereof, or a financial intermediary through which shares of the Fund are held.

(ii) State that the Report contains important information about the Fund, including its portfolio holdings and financial statements. The statement may also include a brief listing of other types of information contained in the Report.

(iii) State that the Report is available at the website address specified in the Notice or, upon request, by mail, and encourage the shareholder to access and review the Report.

(iv) Include a website address where the Report and other materials specified in paragraph (b)(1) of this section are available. The website address must be specific enough to lead investors directly to the documents that are required to be accessible under paragraph (b)(1) of this section, rather than to the home page or section of the website other than on which the documents are posted. The website may be a central site with prominent links to each document. In addition to the website address, the Notice may contain any other equivalent method or means to access the Report or other materials specified in paragraph (b)(1) of this section.

(v) Provide a toll-free (or collect) telephone number to contact the Company or the shareholder's financial intermediary, and:

(A) Provide instructions describing how a shareholder may request a paper or email copy of the Report and other materials specified in paragraph (b)(1) of this section at no charge, and an indication that he/she will not otherwise receive a paper or email copy;

(B) Explain that the shareholder can at any time elect to receive print reports in the future and provide instructions describing how a shareholder may make that election (*e.g.,* by contacting the Company or by contacting the shareholder's financial intermediary); and

(C) If applicable, provide instructions describing how a shareholder can elect

to receive shareholder reports or other documents and communications by electronic delivery.

(2) The Notice may include additional methods by which a shareholder can contact the Company or the shareholder's financial intermediary (*e.g.,* by email or through a website), which may include any information needed to identify the shareholder.

(3) A Notice relating to a Report required by § 270.30e–1 may include content from the Report if such content is set forth after the information required by paragraph (c)(1) of this section.

(4) The Notice may not be incorporated into, or combined with, another document, except that the Notice may incorporate or combine one or more other Notices.

(5) The Notice must be sent separately from other types of shareholder communications and may not accompany any other document or materials; *provided, however,* that the Notice may accompany:

(i) One or more other Notices;

(ii) A current Summary Prospectus, Statutory Prospectus, Statement of Additional Information, or Notice of Internet Availability of Proxy Materials under § 240.14a–16 of this chapter;

(iii) In the case of a Fund held in a separate account funding a variable annuity or variable life insurance contract, such contract or the Statutory Prospectus and Statement of Additional Information for such contract; or

(iv) The shareholder's account statement.

(6) A Notice required by this paragraph (c) will be considered transmitted to a shareholder of record if the conditions set forth in § 270.30e–1(f), § 270.30e–2(b), § 240.14a–3(e), or § 240.14c–3(c) of this chapter are satisfied with respect to that shareholder.

(d) *Plain English requirements.* (1) To enhance the readability of the Notice, plain English principles must be used in the organization, language, and design of the Notice.

(2) The Notice must be drafted so that, at a minimum, it substantially complies with each of the following plain English writing principles:

(i) Short sentences;

(ii) Definite, concrete, everyday words;

(iii) Active voice;

(iv) Tabular presentation or bullet lists for complex material, whenever possible;

(v) No legal jargon or highly technical business terms; and

(vi) No multiple negatives.

(e) *Delivery of paper copy upon request.* A paper copy of any of the materials specified in paragraph (b)(1) of this section must be transmitted to any person requesting such a copy, at no cost to the requestor and by U.S. first class mail or other reasonably prompt means, within three business days after a request for a paper copy is received.

(f) *Investor elections to receive future reports in paper.* (1) This section may not be relied upon to transmit a Report to a shareholder if the shareholder has notified the Company (or the shareholder's financial intermediary) that the shareholder wishes to receive paper copies of shareholder reports at any time after the Company has first notified the shareholder of its intent to rely on the rule or provided a Notice to the shareholder.

(2) A shareholder who has notified the Company (or the shareholder's financial intermediary) that the shareholder wishes to receive paper copies of shareholder reports with respect to a Fund will be deemed to have requested paper copies of shareholder reports with respect to:

(i) Any and all current and future Funds held through an account or accounts with:

(A) The Fund's transfer agent or principal underwriter or agent thereof for the same ''group of related investment companies'' as such term is defined in § 270.0–10; or

(B) A financial intermediary; and

(ii) Any and all Funds held currently and in the future in a separate account funding a variable annuity or variable life insurance contract.

(g) *Delivery of other documents.* This section may not be relied upon to transmit a copy of a Fund's currently effective Statutory Prospectus or Statement of Additional Information, or both, under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) as otherwise permitted by paragraph (d) of § 270.30e–1.

(h) *Definitions.* For purposes of this section:

(1) *Company* means a Fund required to transmit a report to shareholders pursuant to § 270.30e–1 or a unit investment trust required to transmit a report to shareholders pursuant to § 270.30e–2.

(2) *Fund* means a registered management company and any separate series of the management company.

(3) *Statement of Additional Information* means the statement of additional information required by Part B of the applicable registration form.

(4) *Statutory Prospectus* means a prospectus that satisfies the requirements of section 10(a) of the Securities Act of 1933 (15 U.S.C. 77(j)(a)).

(5) *Summary Prospectus* means the summary prospectus described in paragraph (b) of § 230.498 of this chapter.

(i) *Transition period.* (1) A Company may rely on this section to first transmit a Report to a shareholder:

(i) Beginning on January 1, 2021, if:

(A) The Company has included the required statement on each prospectus, summary prospectus, annual report to shareholders, and semi-annual report to shareholders, as applicable, required to be delivered or transmitted to shareholders for the period beginning on the date the Company first publicly offers its shares, and ending on December 31, 2020; or

(B) The Company first publicly offers its shares on or after January 1, 2021; or

(ii) In all other cases, after the Company has included the required statement on each prospectus, summary prospectus, annual report to shareholders, and semi-annual report to shareholders, as applicable, required to be delivered or transmitted to shareholders for a period of two years or January 1, 2022, whichever comes first.

(2) For purposes of this paragraph (i), a ''required statement'' means the statement regarding the Company's intent to rely on this section specified by:

(i) Its applicable registration form, and

(ii) In the case of a Fund that uses a summary prospectus, § 230.498 of this chapter.

Note to § 270.30e–3: For a discussion of how the conditions and requirements of this rule may apply in the context of investors holding Fund shares through financial intermediaries, see Investment Company Release No. 33115 (June 5, 2018).

■ 13. Effective January 1, 2022, amend § 270.30e–3 by:

■ a. In paragraph (a), removing '', and (i)''; and

■ b. Removing paragraph (i).

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

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

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

* * * * *

■ 15. Effective January 1, 2019, Form N–1A (referenced in §§ 239.15A and 274.11A) is amended by:

■ a. In Item 1, adding paragraph (a)(5); and

■ b. In Item 27, adding paragraph (d)(8).

The additions read as follows:

Note: The text of Form N–1A does not, and this amendment will not, appear in the Code of Federal Regulations.

Form N–1A

* * * * *

Item 1. Front and Back Cover Pages

(a) * * *

(5) If applicable, the statement required by rule 498(b)(1)(vii) under the Securities Act.

* * * * *

Item 27. Financial Statements

* * * * *

(d) * * *

(8) *Front Cover Page or beginning of Annual and Semi-Annual Report.* Include on the front cover page or at the beginning of the annual or semi-annual report a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Fund's shareholder reports like this one will no longer be sent by mail, unless you specifically request paper copies of the reports from the Fund [or from the your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Fund [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Fund [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

* * * * *

■ 16. Effective January 1, 2022, Form N–1A (referenced in §§ 239.15A and 274.11A) is further amended by:

■ a. In Item 1, removing paragraph (a)(5); and

■ b. In Item 27, removing paragraph (d)(8).

■ 17. Effective January 1, 2019, Form N–2 (referenced in §§ 239.14 and 274.11a–1) is amended by:

■ a. In Item 1, adding paragraph 1.*l;* and

■ b. In Item 24, adding Instruction 6.g.

The additions read as follows:

Note: The text of Form N–2 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form N–2

* * * * *

Item 1. Outside Front Cover

1. * * *

l. A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

* * * * *

Item 24. Financial Statements

* * * * *

Instructions

* * * * *

6. * * *

g. Include on the front cover page or at the beginning of the annual or semi-annual report a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports like this one will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

* * * * *

■ 18. Effective January 1, 2022, Form N–2 (referenced in §§ 239.14 and 274.11a–1) is further amended by:

■ a. In Item 1, removing paragraph 1.*l*; and

■ b. In Item 24, removing Instruction 6.g.

■ 19. Effective January 1, 2019, Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

■ a. In Item 1, adding new paragraph (a)(xi); and

■ b. In Item 28(a), adding new Instruction 6(vii).

The additions read as follows:

Note: The text of Form N–3 does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–3

* * * * *

Item 1. Cover Pages

(a) * * *

(xi) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and

you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

* * * * *

Item 28. Financial Statements

(a) * * *

Instructions

* * * * *

6. * * *

(vii) Include on the front cover page or at the beginning of the annual or semi-annual report a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports like this one will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

* * * * *

■ 20. Effective January 1, 2022, Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

■ a. In Item 1, removing paragraph (a)(xi); and

■ b. In Item 28(a), removing Instruction 6(vii).

■ 21. Effective January 1, 2019, Form N–4 (referenced in §§ 239.17b and 17 CFR 274.11c) is amended by adding new paragraph (a)(x) to Item 1.

The additions read as follows:

Note: The text of Form N–4 does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–4

* * * * *

Item 1. Cover Page

(a) * * *

(x) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the shareholder reports for portfolio companies [available under your contract] will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all portfolio companies [available under your contract].

* * * * *

■ 22. Effective January 1, 2022, Form N–4 (referenced in §§ 239.17b and 274.11c) is amended by removing paragraph (a)(x) of Item 1.

■ 23. Effective January 1, 2019, Form N–6 (referenced in 17 CFR 239.17c and 17 CFR 274.11d) is amended by adding new paragraph (a)(6) to Item 1.

The additions read as follows:

Note: The text of Form N–6 does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–6

* * * * *

Item 1. Front and Back Cover Pages

(a) * * *

(6) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the shareholder reports for portfolio companies [available under your contract] will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all portfolio companies [available under your contract].

* * * * *

■ 24. Effective January 1, 2022, Form N–6 (referenced in §§ 239.17c and 274.11d) is further amended by removing paragraph (a)(6) of Item 1.

■ 25. Effective January 1, 2021, Form N–CSR (referenced in §§ 249.331 and 274.128) is amended by:

■ a. In Item 1, designating as paragraph (a) ''Include a copy of the report transmitted to stockholders pursuant to Rule 30e–1 under the Act (17 CFR 270.30e–1).''

■ b. In Item 1, adding new paragraph (b).

The designation and addition read as follows:

Note: The text of Form N–CSR does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–CSR

* * * * *

Item 1. Reports to Stockholders.

(a) Include a copy of the report transmitted to stockholders pursuant to Rule 30e–1 under the Act (17 CFR 270.30e–1).

(b) Include a copy of each notice transmitted to stockholders in reliance on Rule 30e–3 under the Act (17 CFR 270.30e–3) that contains disclosures

specified by paragraph (c)(3) of that rule.

By the Commission.

Dated: June 5, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–12423 Filed 6–21–18; 8:45 am]

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 217

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 110811494–7925–01]

RIN 0648–BB38

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has received a petition for an incidental take regulation (ITR) from the Bureau of Ocean Energy Management (BOEM). The requested ITR would govern the authorization of take of small numbers of marine mammals over the course of five years incidental to geophysical survey activities conducted by industry operators in Federal waters of the U.S. Gulf of Mexico (GOM). BOEM submitted the petition in support of oil and gas industry operators, who would conduct the activities. A final ITR would allow for the issuance of Letters of Authorization (LOA) to the aforementioned industry operators over a five-year period. As required by the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposed rule, including the following; the proposed regulations, several alternatives to the proposed regulations described in the ''Proposed Mitigation'' and ''Alternatives for Consideration'' sections of the preamble, two baselines against which to evaluate the incremental economic impacts of the proposed regulations (addressed in the ''Economic Baseline'' section), and, two sections with broader implications: A clarification of NMFS's interpretation and application of the ''small numbers'' standard (see the ''Small Numbers'' section of the preamble); and an alternative method for assessing Level B harassment from exposure to anthropogenic noise (see the ''Estimated Take'' section of the preamble).

DATES: Comments and information must be received no later than August 21, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0043, by any of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0043,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

Comments regarding any aspect of the collection of information requirement contained in this proposed rule should be sent to NMFS via one of the means provided here and to the Office of Information and Regulatory Affairs, NEOB–10202, Office of Management and Budget, Attn: Desk Officer, Washington, DC 20503, *OIRA@omb.eop.gov.*

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

This proposed rule would establish a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take of marine mammals incidental to the conduct of geophysical survey activities in the GOM. We received a petition from BOEM requesting the five-year regulations. Subsequent LOAs would be requested by industry operators. Take would occur by Level A and/or Level B harassment incidental to use of active acoustic sound sources. Please see the ''Background'' section below for definitions of harassment.

Legal Authority for the Proposed Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce 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 for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the ''least practicable adverse impact'' on the affected species or stocks and their habitat (see the discussion below in the ''Proposed Mitigation'' section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing this proposed rule containing five-year regulations, and for any subsequent LOAs. As directed by this legal authority, this proposed rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Proposed Rule

Following is a summary of the major provisions of this proposed rule regarding geophysical survey activities. These measures include:

- Standard detection-based mitigation measures, including use of visual and acoustic observation to detect marine mammals and shut down acoustic sources in certain circumstances;
- Time-area restrictions designed to avoid effects to certain species of marine mammals in times and/or places believed to be of greatest importance;
- Vessel strike avoidance measures; and
- Monitoring and reporting requirements.

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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, regulations are issued, and notice is provided to the public.

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, or 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 evaluate the proposed action (*i.e.,* the promulgation of regulations and subsequent issuance of incidental take authorizations) and alternatives with respect to potential impacts on the human environment.

In August 2017, BOEM produced a final Programmatic Environmental Impact Statement (PEIS) to evaluate potential significant environmental effects of geological and geophysical (G&G) activities on the Outer Continental Shelf (OCS) of the GOM, pursuant to requirements of NEPA. These activities include geophysical surveys in support of hydrocarbon exploration and development, as are described in the petition for ITR before NMFS. The PEIS is available online at: *www.boem.gov/Gulf-of-Mexico-Geological-and-Geophysical-Activities-Programmatic-EIS/.* NMFS participated in development of the PEIS as a cooperating agency and believes it is appropriate to adopt the analysis in order to assess the impacts to the human environment of issuance of the subject ITR and any subsequent LOAs. Information in the petition, BOEM's PEIS, and this document collectively provide the environmental information related to proposed issuance of this ITR for public review and comment.

Summary of Request

BOEM was formerly known as the Minerals Management Service (MMS) and, later, the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE). On December 20, 2002, MMS petitioned NMFS for rulemaking under Section 101(a)(5)(A) of the MMPA to authorize take of sperm whales (*Physeter macrocephalus*) incidental to conducting geophysical surveys during hydrocarbon exploration and development activities in the GOM. On March 3, 2003, NMFS published a notice of receipt of MMS's application and requested comments and information from the public (68 FR 9991). MMS subsequently submitted a revised petition on September 30, 2004, to include a request for incidental take authorization of additional species of marine mammals. On April 18, 2011, BOEMRE submitted a revision to the petition, which incorporated updated information and analyses. NMFS published a notice of receipt of this revised petition on June 14, 2011 (76 FR 34656). In order to incorporate the best available information, BOEM submitted another revision to the petition on March 28, 2016, which was followed on October 17, 2016, by a revised version that was deemed adequate and complete based on NMFS's implementing regulations at 50 CFR 216.104. In the interim period, BOEM, with NMFS representing NOAA as a cooperating agency, prepared a PEIS for the GOM OCS Proposed G&G Activities.

On December 8, 2016 (81 FR 88664), we published a notice of receipt of the petition in the **Federal Register**, requesting comments and information related to the request. This 30-day comment period was extended to January 23, 2017 (81 FR 92788), for a total review period of 45 days. The comments and information received during this public review period informed development of the proposed ITR discussed in this document, and all comments received are available online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.*

Geophysical surveys are conducted in support of hydrocarbon exploration and development in the GOM, typically by companies that provide such services to the oil and gas industry. Broadly, these surveys include (1) deep penetration surveys using large airgun arrays as the acoustic source, (2) shallow penetration surveys using a small airgun array, single airgun, or subbottom profiler as the acoustic source, and (3) high-resolution surveys, which may use a variety of acoustic sources. Generally speaking, these surveys may occur within Federal territorial waters and waters of the U.S. Exclusive Economic Zone (EEZ) (*i.e.,* to 200 nautical miles (nmi)) within the GOM, and corresponding with BOEM's Western, Central, and Eastern GOM OCS planning areas. The use of these acoustic sources is expected to produce underwater sound at levels that have the potential to result in harassment of marine mammals. Cetacean species with the potential to be present in the GOM are described below.

This proposed rule would establish a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) and NMFS's implementing regulations (50 CFR 216.101 *et seq.*) to allow for the authorization, through LOAs, of take of marine mammals incidental to the conduct of geophysical surveys for oil and gas activities in the GOM. The requested regulations would be valid for five years.

Description of the Specified Activity

Overview

The specified activity consists of geophysical surveys conducted by industry operators for a variety of reasons related to hydrocarbon exploration, development, and production. These operators are typically companies that provide geophysical services, such as data acquisition and processing, to the oil and gas industry, including exploration and production companies. The petition describes a five-year period of geophysical survey activity and provides estimates of the amount of effort by survey type and location. BOEM's PEIS (BOEM, 2017) describes a range of potential survey effort. The levels of effort in the petition (which form the basis for the modeling effort described later in the ''Estimated Take'' section) are the high-end estimates. Actual total amounts of effort by survey type and location would not be known in advance of receiving LOA requests from industry operators.

Geophysical surveys are conducted to obtain information on marine seabed

and subsurface geology for a variety of reasons, including to: (1) Obtain data for hydrocarbon and mineral exploration and production; (2) aid in siting of oil and gas structures, facilities, and pipelines; (3) identify possible seafloor or shallow depth geologic hazards; and (4) locate potential archaeological resources and benthic habitats that should be avoided. In addition, geophysical survey data inform Federal government decisions. For example, BOEM uses such data for resource estimation and bid evaluation to ensure that the government receives a fair market value for OCS leases, as well as to help to evaluate worst-case discharge for potential oil-spill analysis and to evaluate sites for potential hazards prior to drilling.

Deep penetration seismic surveys using airgun arrays as an acoustic source (sound sources are described in the ''Detailed Description of Activities'' section) are a primary method of obtaining geophysical data used to characterize subsurface structure. These surveys are designed to illuminate deeper subsurface structures and formations that may be of economic interest as a reservoir for oil and gas exploitation. A deep penetration survey uses an acoustic source suited to provide data on geological formations that may be thousands of meters (m) beneath the seafloor, as compared with a shallow penetration or high resolution geophysical (HRG) survey that may be intended to evaluate shallow subsurface formations or the seafloor itself (*e.g.,* for hazards).

Deep penetration surveys may be two-dimensional (2D) or three-dimensional (3D) (see Figure 1–2 of the petition), and there are a variety of survey methodologies designed to provide the specific data of interest. 2D surveys are designed to acquire data over large areas (thousands of square miles) in order to screen for potential hydrocarbon prospectivity, and provide a cross-sectional image of the structure. In contrast, 3D surveys may use similar acoustic sources but are designed to cover smaller areas with greater resolution (*e.g.,* with closer survey line spacing), providing a volumetric image of underlying geological structures. Repeated 3D surveys are referred to as four-dimensional (4D), or time-lapse, surveys that assess the depletion of a reservoir.

Shallow penetration and high-resolution surveys are designed to highlight seabed and near-surface potential obstructions, archaeology, and geohazards that may have safety implications during rig installation or well and development facility siting. Shallow penetration surveys may use a small airgun array, single airgun, or subbottom profiler, while high-resolution surveys (which are limited to imaging the seafloor itself) may use single or multibeam echosounders or side-scan sonars.

Dates and Duration

The specified activities may occur at any time during the five-year period of validity of the proposed regulations. Actual dates and duration of individual surveys are not known. Survey activities are generally 24-hour operations. However, BOEM estimates that a typical seismic survey experiences approximately 20 to 30 percent of non-operational downtime due to a variety of factors, including technical or mechanical problems, standby for weather or other interferences, and implementation of mitigation measures.

Specified Geographical Region

The proposed survey activities would occur off the Gulf of Mexico coast of the United States, within BOEM's Western, Central, and Eastern GOM OCS planning areas (approximately within the U.S. EEZ; Figure 1). U.S. waters of the GOM include only the northern GOM. BOEM manages development of U.S. Federal OCS energy and mineral resources within OCS regions, which are divided into planning areas. Within planning areas are lease blocks, on which specific production activities may occur. Geophysical survey activities may occur on scales ranging from entire planning areas to multiple or specific lease blocks, or could occur at specific potential or existing facilities within a lease block.

In addition to general knowledge and other citations contained herein, this section relies upon the descriptions found in Sherman and Hempel (2009), Wilkinson *et al.* (2009), and BOEM (2017).

The GOM is a deep marginal sea—the largest semi-enclosed coastal sea of the western Atlantic—bordered by Cuba, Mexico, and the United States and encompassing more than 1.5 million square kilometers (km^2). The GOM is distinctive in physical oceanography and freshwater influx, with major, persistent currents and a high nutrient load. Oceanic water enters from the Yucatan Channel and exits through the Straits of Florida, creating the Loop Current. The Loop Current—the GOM's most dominant oceanographic feature—flows clockwise between Cuba and the Yucatan Peninsula, Mexico, and circulates into the eastern GOM before exiting as the Florida Current, where it ultimately joins the Gulf Stream in the Atlantic. Small-scale, ephemeral currents known as eddies form off the Loop Current and may enter the western GOM. The eastern edge of the Loop Current interacts with the shallow shelf to create zones of upwelling and onshore currents—nutrient-rich events promoting high phytoplankton growth and supporting high productivity.

The distribution of plankton in the deeper waters of the GOM, especially the northern and eastern parts of the Gulf, is controlled by the Loop Current (Mullin and Fulling, 2004). The temporal movement of all organisms, including marine mammals and their prey, may be affected by upwelling of nutrient rich cold water eddies (Davis *et al.,* 2002). However, habitat use appears to be more directly correlated with static features such as water depth, bottom gradient, and longitude (Mullin and Fulling, 2004). Temporal fluctuation near the surface can cause changes in diurnal movement patterns in squid, which prefer colder water, but does not substantially affect cetaceans feeding on squid in deeper waters.

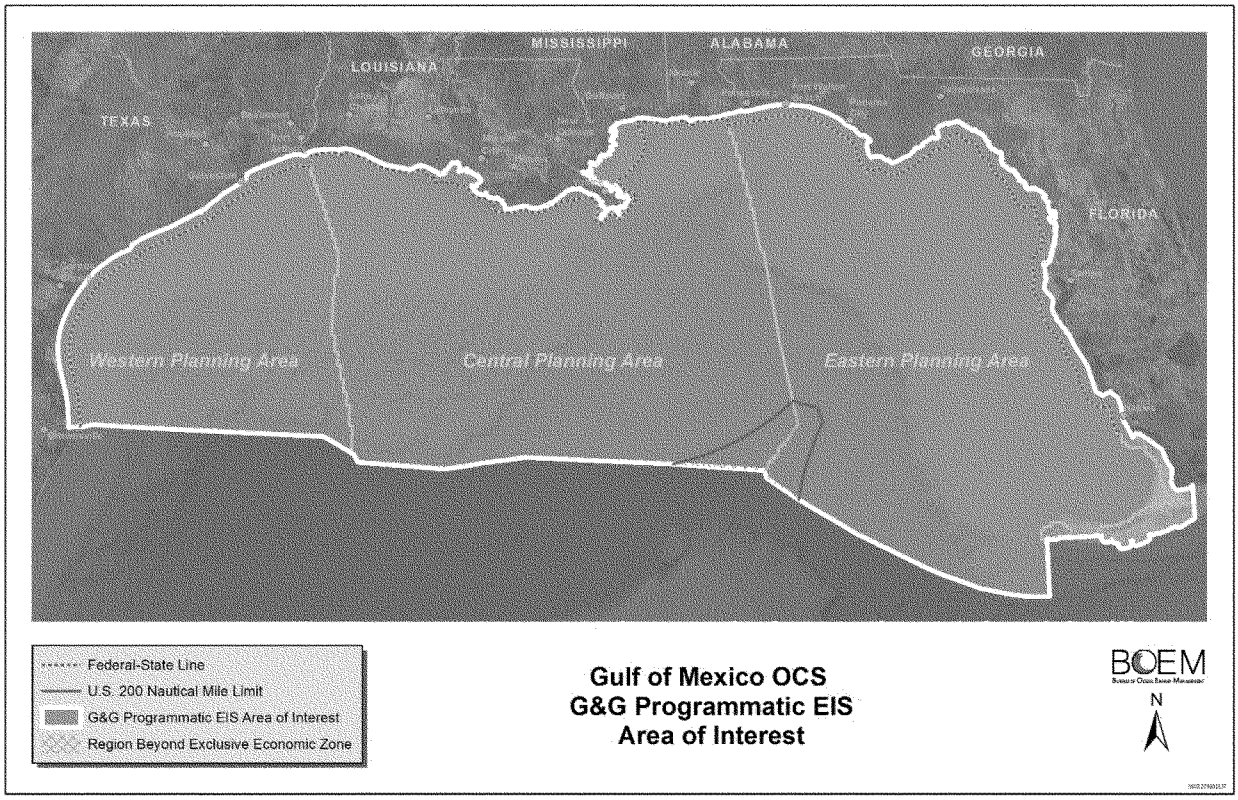


Figure 1. Specified Geographical Region.

The northern GOM is characterized as semi-tropical, with a seasonal temperature regime influenced mainly by tropical currents in the summer and continental influences during the winter. The GOM is topographically diverse, with an extensive continental shelf (comprising about 30 percent of the total area), a steep continental slope, and distinctive bathymetric and morphologic processes and features. These include the Flower Garden Banks, which are surface expressions of salt domes that host the northernmost coral reefs in the U.S. The northern GOM also has a small section of the larger abyssal plain of the greater GOM. The GOM has about 60 percent of U.S. tidal marshes, hosting significant nursery habitat for fish and other marine species. A major climatological feature is tropical storm activity, including hurricanes. Sea surface temperature ranges from 14–24 °C in the winter and 28–30 °C in the summer. The area is considered to be of moderately high productivity (referring to fixated carbon (*i.e.,* g C/m^2/yr), which relates to the carrying capacity of an ecosystem).

Muddy clay-silts and muddy sands dominate bottom substrates of the region offshore Texas and Louisiana, transitioning to sand, gravel, and shell from Alabama to Florida. The shelf off Florida is a carbonate limestone substrate overlain with sand and silt, supporting extensive seagrass beds, and interspersed with gravel-rock and coral reefs. The continental shelf in the western GOM is broadest (up to 135 miles) off Houston, Texas, and east to offshore the Atchafalaya Delta, Louisiana. It reaches its narrowest point (approximately 12 miles) near the mouth of the Mississippi River southeast of New Orleans, Louisiana. The continental shelf is narrow offshore Mobile Bay, Alabama, but broadens significantly offshore Florida to almost 200 miles wide.

Topography of the continental slope off the Florida panhandle is relatively smooth and featureless aside from the De Soto Canyon, whereas the slope off western Florida is distinguished by steep gradients and irregular topography. In the central and western GOM, the continental slope is characterized by canyons, troughs, mini-basins, and salt structures (*e.g.,* small diapiric domes) with higher relief than surrounding areas. The Sigsbee Escarpment defines the southern limit of the Texas-Louisiana slope and was formed by a large system of salt ridges that underlie the region. In addition to De Soto Canyon off the coast of Florida, the northern GOM contains four significant canyons on or near the Texas-Louisiana continental slope: Mississippi Canyon, located southwest of the Mississippi River Delta; Alaminos Canyon, located on the western end of the Sigsbee Escarpment; Keathley Canyon, also located on the western end of the Sigsbee Escarpment; and Rio Perdido Canyon, located between the Texas-Louisiana continental slope and the East Mexico continental slope.

The GOM is strongly influenced by freshwater input from several rivers, most importantly the Mississippi River and its tributary, the Atchafalaya River. The Mississippi River and its tributaries drain a large portion of the continental United States and carry large amounts of freshwater into the GOM along with sediment and a variety of nutrients and pollutants. The highest volume of

freshwater from the Mississippi River flows into the GOM from May through November, when large volumes of turbid water become entrained in a westward-flowing longshore current. The delivery and deposition of increased loads of terrestrial organic material, including significant industrial and agricultural discharge, have often resulted in severe oxygen depletions in bottom waters and the appearance of a so-called ''dead zone,'' where large numbers of benthic fauna die. This is the largest zone of coastal hypoxia in the western hemisphere.

Wetlands in the GOM have experienced severe loss and degradation, due in part to interference with normal erosional/depositional processes, sea level rise, and coastal subsidence. Wetlands are converted to open water when accretion is insufficient to compensate for natural subsidence, while large areas of wetlands have been drained for industrial, urban, and agricultural development. Increasing salinity due to saltwater intrusion accompanies these changes, which further exacerbates the loss of coastal flora. This loss of wetlands ultimately increases erosion due to waves and tides, with the whole issue exacerbated by sea level rise.

The northern GOM hosts a vigorous complex of offshore hydrocarbon exploration, extraction, shipping, service, construction, and refining industries, resulting in additional impacts to coastal wetlands as well as large- and small-scale petroleum discharges and oil spills. Of particular note, in 2010 the *Macondo* discovery blowout and explosion aboard the *Deepwater Horizon* drilling rig (also known as the *Deepwater Horizon* explosion, oil spill, and response; hereafter referred to as the DWH oil spill) caused oil, natural gas, and other substances to flow into the GOM for 87 days before the well was sealed. Total oil discharge was estimated at 3.19 million barrels (134 million gallons), resulting in the largest marine oil spill in history (DWH NRDA Trustees, 2016). In addition, the response effort involved extensive application of dispersants at the seafloor and at the surface, and controlled burning of oil at the surface was also used extensively as a response technique. The oil, dispersant, and burn residue compounds present ecological concerns in the region. We discuss the impacts of the DWH oil spill on marine mammals in greater detail later in our ''Description of Marine Mammals in the Area of the Specified Activity'' section.

The GOM is also known for having many natural hydrocarbon seeps that contribute to a background level of chemicals in the environment. Chemosynthetic communities with aerobic bacterial components typically are associated with natural oil seeps. These naturally occurring seeps are common in deep slope waters, and there are hundreds of known, constant seeps that produce perennial slicks of oil at consistent locations (Kvenvolden and Cooper, 2003). DWH NRDA Trustees (2016) provided an estimate of the total amount of natural oil seepage in the GOM of between 9 and 23 million gallons per year. Although there is much uncertainty in attempting to estimate seepage rates (Kvenvolden and Cooper, 2003), it is clear that natural seepage is not comparable to the DWH oil spill release; about six to 15 times more oil was released from a single location in 87 days as is typically slowly released in a year from thousands of seeps across the entire GOM.

In addition to being a major area for activities associated with the oil and gas industry, the GOM hosts significant amounts of commercial fishing and tourism activities and has two of the world's busiest shipping fairways and top-ranking ports for container and passenger vessel traffic, all of which are noise-producing activities. The underwater environment is typically loud due to ambient sound, which is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including wind and waves, which are a main source of naturally occurring ambient sound for frequencies between 200 hertz (Hz) and 50 kilohertz (kHz) (Mitson, 1995) (for description of metrics related to underwater sound, please see the ''Description of Sound Sources'' section later in this document). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Precipitation can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz. Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, geophysical surveys, sonar, and explosions. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly.

The sum of the various natural and anthropogenic sound sources that comprise ambient sound at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 decibels (dB) from day to day (Richardson *et al.,* 1995).

Estabrook *et al.* (2016) measured underwater noise at seven sites in the northern GOM, within three frequency bands (10–500 Hz (LF); 500–1,000 Hz (MF); 1,000–3,150 Hz (HF)). The authors found that the GOM is a spectrally, temporally, and spatially dynamic ambient noise environment, and that, while abiotic and other anthropogenic noise sources contributed significantly to the ambient noise environment, noise from geophysical surveys dominated the noise environment during the study period (2010–2012) and chronically elevated noise levels across several marine habitats. Specifically, although wind was a significant noise source at higher frequencies (*i.e.,* 500–3,550 Hz), these levels were relatively low compared to those of anthropogenic noise in the low-frequency band (10–500 Hz). Previous studies had identified anthropogenic sound as a major noise contributor in the GOM (*e.g.,* Newcomb *et al.,* 2003); however, Estabrook *et al.* (2016) found that sound levels from shipping activity were not nearly as pronounced as those from geophysical surveys, which, in many cases, persisted for months. As described below, typical airgun surveys fire pulses approximately every 10–20 seconds but, in addition, the resulting multipath propagation and reverberation from airgun pulses can exceed ambient levels during the interpulse interval (Guerra *et*

al., 2011; Guan *et al.,* 2015). Estabrook *et al.* (2016) found that, in some instances, there were near-continuous elevated noise levels and that airgun noise propagated over large spatial scales of several hundred kilometers. Background noise, considered to be the noise level that is present in the absence of notable anthropogenic, biological, and meteorological sound sources, was measured across all sites as follows: 102 dB (LF), 84 dB (MF), and 85 dB (HF). The median equivalent continuous sound pressure level across all sites was: 112 dB (LF), 90 dB (MF), and 93 dB (HF). Finally, the median equivalent continuous sound pressure level for a five-day interval when airgun pulses were present was: 124 dB (LF), 91 dB (MF), and 92 dB (HF).

Wiggins *et al.* (2016) also monitored the northern GOM soundscape over a comparable time period (2010–2013), conducting measurements at five locations and monitoring frequencies from 10–1,000 Hz. The authors made similar findings, *i.e.,* that average ambient noise levels at low frequencies in the northern GOM are among the highest measured in the world's oceans, and geophysical surveys dominate these high noise levels. In fact, Wiggins *et al.* (2016) found that during passage of a hurricane, low frequency sound pressure levels actually decreased due to the absence of survey activity. Although shipping noise was observed, the duration was typically shorter (approximately one hour versus more than 12 hours), and was masked by airgun noise at lower frequencies.

Detailed Description of Activities

An airgun is a device used to emit acoustic energy pulses into the seafloor, and generally consists of a steel cylinder that is charged with high-pressure air. There are different types of airguns; differences between types of airguns are generally in the mechanical parts that release the pressurized air, and the bubble and acoustic energy released are effectively the same. Airguns are typically operated at a firing pressure of 2,000 pounds per square inch (psi). Release of the compressed air into the water column generates a signal that reflects (or refracts) off the seafloor and/or subsurface layers having acoustic impedance contrast. Individual airguns are available in different volumetric sizes and, for deep penetration seismic surveys, are towed in arrays (*i.e.,* a certain number of airguns of varying sizes in a certain arrangement) designed according to a given company's method of data acquisition, seismic target, and data processing capabilities.

Airgun arrays are typically configured in subarrays of 6–12 airguns each. Towed hydrophone streamers (described below) may follow the array by 100–200 m and can be 5–12 kilometer (km) long. The airgun array and streamers are typically towed at a speed of approximately 4.5 to 5 knots (kn). BOEM notes that arrays used for deep penetration surveys typically have between 20–80 individual elements, with a total volume of 1,500–8,460 in^3. However, BOEM's permitting records show that during one recent year, over one-third of arrays in use had volumes greater than 8,000 in^3. The output of an airgun array is directly proportional to airgun firing pressure or to the number of airguns, and is expressed as the cube root of the total volume of the array.

Airguns are considered to be low-frequency acoustic sources, producing sound with energy in a frequency range from less than 10 Hz to 2 kHz (though there may be energy in the signal at frequencies up to 5 kHz), with most energy radiated at frequencies below 500 Hz. Frequencies of interest to industry are below approximately 100 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.,* omnidirectional) for a single airgun, but airgun arrays do possess some directionality due to phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

When fired, a brief (~0.1 second) pulse of sound is emitted by all airguns in an array nearly simultaneously, in order to increase the amplitude of the overall source pressure signal. The combined signal amplitude and directivity is dependent on the number and sizes of individual airguns and their geometric positions within the array. The airguns are silent during the intervening periods, with the array typically fired on a fixed distance (or shot point) interval. The intervals are optimized for water depth and the distance of important geological features below seafloor, but a typical interval in relatively deep water might be approximately every 10–20 s (or 25–50 m, depending on vessel speed). The return signal is recorded by a listening device, and later analyzed with computer interpretation and mapping systems used to depict the subsurface. There must be enough time between shots for the sound signals to propagate down to and reflect from the feature of interest, and then to propagate upward to be received on hydrophones or geophones. Reverberation of sound from previous shots must also be given time to dissipate. The receiving hydrophones can be towed behind or in front of the airgun array (may be towed from the source vessel or from a separate receiver vessel), or geophone receivers can be deployed on the seabed. Receivers may be displaced several kilometers horizontally away from the source, so horizontal propagation time is also considered in setting the interval between shots.

Sound levels for airgun arrays are typically modeled or measured at some distance from the source and a nominal source level then back-calculated. Because these arrays constitute a distributed acoustic source rather than a single point source (*i.e.,* the ''source'' is actually comprised of multiple sources with some pre-determined spatial arrangement), the highest sound levels measurable at any location in the water will be less than the nominal source level. A common analogy is to an array of light bulbs; at sufficient distance—in the far field—the array will appear to be a single point source of light but individual sources, each with less intensity than that of the whole, may be discerned at closer distances (Caldwell and Dragoset (2000) define the far field as greater than 250 m). Therefore, back-calculated source levels are not typically considered to be accurate indicators of the true maximum amplitude of the output in the far field, which is what is typically of concern in assessing potential impacts to marine mammals. In addition, the effective source level for sound propagating in near-horizontal directions (*i.e.,* directions likely to impact most marine mammals in the vicinity of an array) is likely to be substantially lower (*e.g.,* 15–24 dB; Caldwell and Dragoset, 2000) than the nominal source level applicable to downward propagation because of the directional nature of the sound from the airgun array. The horizontal propagation of sound is reduced by noise cancellation effects created when sound from neighboring airguns on the same horizontal plane partially cancel each other out.

Survey protocols generally involve a predetermined set of survey, or track, lines. The seismic acquisition vessel(s) (source vessel) will travel down a linear track for some distance until a line of data is acquired, then turn and acquire data on a different track. In some cases, data is acquired as the source vessel(s) turns continuously rather than moving on a linear track (*i.e.,* coil surveys). The spacing between track lines and the length of track lines can vary greatly, depending on the objectives of a survey.

In addition to the line over which data acquisition is desired, full-power operation may include run-in and run-out. Run-in is approximately 1 km of full-power source operation before starting a new line to ensure equipment is functioning properly, and run-out is additional full-power operation beyond the conclusion of a trackline (*e.g.,* half the distance of the acquisition streamer behind the source vessel, when used) to ensure that all data along the trackline are collected by the streamer. Line turns can require two to six hours when towed hydrophones are used, due to the long trailing streamers, but may be much faster when streamers are not used. Spacing and length of tracks varies by survey. Survey operations often involve the source vessel(s), supported by a chase vessel. Chase vessels typically support the source vessel(s) by protecting the long hydrophone streamer from damage (*e.g.,* from other vessels) (when used) and otherwise lending logistical support (*e.g.,* returning to port for fuel, supplies, or any necessary personnel transfers). Chase vessels do not deploy acoustic sources for data acquisition purposes; the only potential effects of the chase vessels are those associated with normal vessel operations.

The general activities described here could occur pre- or post-leasing and/or on- or off-lease. Pre-lease surveys are more likely to involve larger-scale activity designed to explore or evaluate geologic formations. Post-lease activities may also include deep penetration surveys, but would be expected to be smaller in spatial and temporal scale as they are associated with specific leased blocks. Shallow penetration and HRG surveys are more likely to be associated with specific leased blocks and/or facilities, with HRG surveys used along pipeline routes and to search for archaeological resources and/or benthic communities. Specific types of surveys are described below (summarized from the petition); for full detail please refer to sections 1.2 and 1.3 of the petition.

While these descriptions reflect existing technologies and current practice, new technologies and/or uses of existing technologies may come into practice during the period of validity of these proposed regulations. NMFS will evaluate any such developments on a case-specific basis to determine whether expected impacts on marine mammals are consistent with those described or referenced in this document and, therefore, whether any anticipated take incidental to use of those new technologies or practices is appropriately authorized under what would be the existing regulatory framework. We also note here that activities that may result in incidental take of marine mammals, and which would therefore appropriately require authorization under the MMPA, are not limited to those activities requiring permits from BOEM. Operators should be aware that there may be some activities previously unpermitted by BOEM, such as certain ancillary activities, that would appropriately be subject to the requirements of this proposed rule and they should consult NMFS regarding the need to obtain a LOA under this rule prior to conducting such activities. Unauthorized taking of marine mammals is a violation of the MMPA.

2D and 3D Surveys (Deep Penetration Surveys)—As discussed, deep penetration surveys use an airgun array(s) as the acoustic source and may be 2D or 3D (with repeated 3D surveys termed 4D). Surveys may be designed as either multi-source (*i.e.,* multiple arrays towed by one or more source vessel(s)) or single source. Surveys may also be differentiated by the way in which they record the return signals using hydrophones and/or geophones. Hydrophones may be towed in streamers behind a vessel (either the source vessel(s) or a separate vessel) or in some cases may be placed in boreholes (called vertical seismic profiling) or spaced at various depths on vertical cables in the water column. Sensors may also be incorporated into ocean-bottom cables (OBC) or autonomous ocean-bottom nodes (OBN) and placed on the seafloor—these surveys are referred to generally as ocean-bottom seismic (OBS). Autonomous nodes can be tethered to coated lines and deployed from ships or remotely-operated vehicles, with current technology allowing use in water depths to approximately 3,000 m. OBS surveys are most useful to acquire data in shallow water and obstructed areas, as well as for acquisition of four-component survey data (*i.e.,* including pressure and 3D linear acceleration collected via geophone). For OBS surveys, one or two vessels usually are needed to lay out and pick up cables, one ship is needed to record data, one ship tows an airgun array, and two smaller utility boats support survey operations. The size of the OBS receiver grid is usually limited by the amount of equipment available; however, to efficiently conduct a survey, approximately 500 nodes or 100 km of cable are needed.

We described previously the basic differences between 2D and 3D surveys. A typical 2D survey deploys a single array covering an area approximately 12.5–18 m long and 16–36 m wide behind the source vessel, whereas a 3D vessel may deploy multiple source arrays and/or streamers, with a potentially much larger width behind the vessel. A 3D vessel usually will tow 8–14 streamers (but as many as 24), each 3–8 km long. For example, an array containing ten streamers could have a total swath width behind the vessel of 675–1,350 m. Among 3D surveys in particular, there are a variety of survey designs employed to acquire the specific data of interest. These survey types may differ in the number of vessels used (for source or receiver), sound sources deployed, and the location or type of hydrophones. Conventional, single-vessel 3D surveys are referred to as narrow azimuth (NAZ) surveys. Other 3D survey techniques include wide-azimuth (WAZ), multi-azimuth (MAZ), rich-azimuth (RAZ), and full-azimuth (FAZ) surveys. Please see Figures 1–10 and 1–11 in the petition for depictions of these survey geometries.

In conventional 3D seismic surveys involving a single source vessel, only a subset of the reflected wave field can be obtained because of the narrow range of source-receiver azimuths (thus called NAZ surveys). Newer survey techniques, as well as improvements in data processing, provide better data quality than that achievable using traditional NAZ surveys, including better illumination, higher signal-to-noise ratios, and higher resolution. This is useful in imaging subsurface areas containing complex geologic structures, particularly those beneath salt bodies with irregular geometries.

Offset refers to the distance between a source and a particular receiver, while azimuth refers to the angles covered by the various directions between a source and individual receiving sensors. With NAZ surveys, the width (crossline dimension) of the nominal area imaged when the source is fired one time will be less than half the length (inline dimension). The aspect ratio (crossline divided by inline) of this nominal area is much less than 0.5 (see Figure 1–10 of the petition).

To achieve wider azimuthal coverage, multiple source vessels are deployed in order to achieve greater crossline dimension of the nominal area imaged. Different WAZ methods using multiple source vessels and, in some cases, multiple receiver vessels, are depicted in Figure 1–11 of the petition. A basic method used to acquire MAZ data involves a single source and streamer vessel, using conventional 3D survey methodology, covering transects on the same area multiple times along different azimuthal directions (Figure 1–11D of

the petition). A combination of WAZ and MAZ geometries provides either RAZ or FAZ results. Acquisition of RAZ data requires using multiple passes of one source-and-streamer vessel and two source-only vessels. Making two passes at right angles to each other with a specific WAZ configuration would produce 180° azimuth (*i.e.,* FAZ) coverage. New survey designs will likely continue to be tested as the industry works to make WAZ, MAZ, RAZ, and FAZ shooting more efficient and less costly. Another development is synchronized discharge of airgun arrays being towed by different vessels (advances in data processing can separate the energy from synchronized sources using differences in source-to-receiver offset distances). While this increases the level of sound in the ensonified water volume, it also reduces the length of time that the water volume is ensonified.

In summary, 3D survey design involves a vessel with one or more acoustic sources covering an area of interest with relatively tight spatial configuration. In order to provide richer, more useful data, particularly in areas with more difficult geology, survey designs become more complicated with additional source and/or receiver vessels operating in potentially increasingly complicated choreographies. The time required to complete one pass of a trackline for a single NAZ vessel and the time required for one pass by a multi-vessel entourage conducting a WAZ survey will be essentially the same. Turn times will be somewhat longer during multi-vessel surveys to ensure that all vessels are properly aligned prior to beginning the next trackline. Turn times depend mostly on the vessels and the equipment they are towing (as in conventional 3D surveys); however, the number of vessels towing streamers in the entire entourage is the main determinant of the turn time. The MAZ technique, where multiple passes are made, increases the time needed for a survey in proportion to the number of passes that will be made within an area. The reduction in the number of passes is one of the most significant driving factors in continued efforts to design more efficient surveys. Coil surveys, described previously, reduce the total survey time due to elimination of the trackline-turn methodology.

Borehole Seismic Surveys—The placement of seismic sensors in a drilled well or borehole is another way data can be acquired. These surveys, typically referred to as vertical seismic profiles (VSP), provide information about geologic structure, lithology, and fluids that is intermediate between that obtained from sea surface surveys and well-log scale information (well logging is the process of recording various physical, chemical, electrical, or other properties of the rock/fluid mixtures penetrated by drilling a borehole). VSP surveying is conducted by placing receivers such as geophones at many (50–200) depths in a wellbore and recording both direct-arriving and reflection energy from an acoustic source. The acoustic source usually is a single airgun or small airgun array hung from a platform or deployed from a source vessel. The airguns used for VSPs may be the same or similar to those used for 2D and 3D towed-streamer surveys; however, the number of airguns and the total volume of an array used are less than those used for towed-streamer surveys. Less sound energy is required for VSP surveys because the seismic sensors are in a borehole, which is a much quieter environment than that for sensors in a towed streamer, and because the VSP sensors are located nearer to the targeted reflecting horizons. Some VSP surveys take less than a day, and most are completed in a few days. Borehole seismic surveys include 2D VSPs, 3D VSPs, checkshot surveys, and seismic while drilling (SWD).

Types of 2D VSPs are defined by source location, as follows: (1) Zero-offset VSPs involve a single source position that is close to the well (often deployed from a platform) compared to the depths where the sensors are placed (thereby causing the sensors to receive mostly vertically propagating energy); (2) offset VSPs involve a stationary vessel-based source position (or multiple positions) that is far enough away from the well that the recorded waveforms have a significant amount of horizontally-propagating energy; (3) walkaway VSPs involve a moving vessel and multiple source positions along a line away from the well; and (4) deviated-well VSPs involve source positions placed vertically above a well path. See Figure 1–12 of the petition for depictions.

3D VSPs involve use of multi-level sensor strings, allowing 1,500 to 3,000 m to be instrumented within a well. As with 2D VSPs, individual airguns and arrays used are generally similar to those used in towed-streamer surveys. The data acquisition design could involve typical 3D rectangular survey vessel track patterns, or spiral track patterns with the source vessel moving away from the well. For 3D VSPs, the distance from the well covered by the source vessel will approximately equal the depth of the well (see Figure 1–13 in the petition).

Checkshot surveys are similar to zero-offset VSPs but are less complex. The purpose of a checkshot survey is to estimate the velocity of sound in rocks penetrated by the well, and these surveys are typically conducted quickly. These surveys involve a single source typically hung from a platform and a sensor placed at a few depths in the well, where only the first energy arrival is recorded.

SWD refers to the acquisition of borehole data, using an airgun array as an acoustic source, while there is downtime from the actual drilling operation. SWD surveys are run intermittently for weeks up until the well completion depth.

Shallow Penetration/HRG Surveys—These surveys are conducted to provide data informing initial site evaluation, drilling rig emplacement, and platform or pipeline design and emplacement. Identification of geohazards (*e.g.,* gas hydrates, buried channels) is necessary to avoid drilling and facilities emplacement problems, and operators are required to identify and avoid archaeological resources and certain benthic communities. In most cases, conventional 2D and 3D deep penetration surveys do not have the correct resolution to provide the required information. Although HRG surveys may use a single airgun source, they generally use electromechanical sources such as side-scan sonars, shallow- and medium-penetration subbottom profilers, and single-beam echosounders or multibeam echosounders. Non-airgun HRG sources are often used in combination in order to acquire necessary data during a single deployment. HRG surveys are sometimes conducted using autonomous underwater vehicles (AUV) equipped with multiple acoustic sources.

HRG surveys may be conducted using airguns as the acoustic source. These typically use one or two airguns that are the same as those described for use in arrays during deep penetration surveys. However, the total volume is typically only approximately 40–400 in^3, the streamers are shorter, and the shot intervals are shorter. The intent is typically to image the shallow subsurface (less than 1,000 m below the seafloor). Including vessel turns at the end of lines, the time required to survey one OCS lease block is approximately 36 hours. These surveys are sometimes conducted using 3D techniques, *e.g.,* multiple sources and/or streamers.

Electromechanical sources are generally considered to be relatively

mid- to high-frequency sources, and produce acoustic signals by creating an oscillatory overpressure through rapid vibration of a surface, using either electromagnetic forces or the piezoelectric effect of some materials. A vibratory source based on the piezoelectric effect is commonly referred to as a transducer, which may be designed to excite an acoustic wave of a specific frequency, often in a highly directive beam. The directional capability increases with increasing operating frequency.

Subbottom profiling surveys are typically used for high-resolution imaging of the shallow subsurface. These surveys may use a variety of acoustic sources, commonly referred to as ''boomers,'' ''sparkers,'' or ''chirps.'' A sparker uses electricity to vaporize water, creating collapsing bubbles that produce a broadband (50 Hz to 4 kHz), omnidirectional pulse of sound that can penetrate a few hundred meters into the subsurface. Short hydrophone arrays towed near the sparker receive the return signal; typically, the sparker is towed on one side of the vessel and the hydrophone array is towed on the other side. A boomer consists of a circular piston moved by electromagnetic force, generating a broadband acoustic pulse (300 Hz to 3 kHz, though adjustments to the applied electrical impulse may increase the frequency). Boomer systems can penetrate as deep as 200 m in soft sediments, though a more typical penetration may be 25–50 m. Boomer sources show some directionality, which increases with the acoustic frequency; at frequencies below 1 kHz they can usually be considered omnidirectional. Boomers are typically sled-mounted and towed behind the vessel, with short hydrophone arrays used to receive the return signal. The characteristics of the acoustic wave emitted by the boomer source are comparable to those emitted by the sparker source.

Chirp (Compressed High-Intensity Radiated Pulse) sources operate differently, sending a continuous sweep of frequencies (*e.g.,* 500 Hz to 24 kHz) approximately every 0.5 to 1 seconds. Some chirp systems work in multiple frequency bands simultaneously (*e.g.,* 3.5/12/200 kHz). Beamwidth will vary depending on the frequency, but is approximately 10–30°. Because this continuous sweep of frequencies provides a much wider range of information, chirp systems are able to create a much clearer, higher-resolution image while achieving the same or better depth of penetration. Chirps are typically towed behind the vessel or deployed on an AUV.

Side-scan sonars and echosounders do not penetrate the surface of the seabed, using reflections of sound pulses to locate, image, and aid in the identification of objects in the water column and on the seafloor, and to determine water depth. Echosounders typically emit short, single-frequency signals, with frequency decreasing as water depth increases. A deep-water system might operate at approximately 3–12 kHz, while a shallow-water system might operate at 200 kHz or greater. Multibeam echosounder systems use an array of transducers that project a fan-shaped beam under the hull of a vessel and perpendicular to the direction of motion, producing a swath of depth measurements to ensure full coverage of an area. Echosounders are typically hull-mounted or deployed on AUVs. Side-scan sonar systems produce shaded relief images of the ocean bottom by recording the intensity and timing of signals reflected off the seafloor, and consist of two transducers on the sides of the towed sonar body that are oriented perpendicularly to the towing direction. The signals are typically single-frequency, with a highly directional beam that is wide across-track and narrow in the direction of travel. Due to the transducer placement, side-scan sonars may not effectively image the area directly beneath the vessel and are often used in conjunction with echosounders. Side-scan sonars are typically high-frequency sources and therefore have a limited range (50–200 m). In deeper water, the source may be towed at greater depth or deployed on an AUV.

Representative Sound Sources

Because the specifics of acoustic sources to be used would not be known in advance of receiving LOA requests from industry operators, it is necessary to define representative acoustic source parameters, as well as representative survey patterns. BOEM determined realistic representative proxy sound sources and survey patterns, which are used in the modeling and more broadly to support the analysis, after discussions with individual geophysical companies.

Representative sources include a single airgun, an airgun array, and multiple electromechanical sources: Boomer, chirp, multibeam echosounder, and side-scan sonar. Two major survey types were considered: Large-area seismic and small-area, high-resolution geotechnical. Large-area seismic surveys are assumed to cover more than 1,000 mi^2 (2,590 km^2) and include 2D, 3D NAZ, 3D WAZ, and coil types. Geotechnical study surveys are assumed to cover an area less than 100 mi^2 (259 km^2) and use small airguns and/or high-frequency electromechanical sources installed on an AUV. VSP surveys, assuming a single source vessel with one 8,000 in^3 array, were also modeled.

The nominal airgun sources used for analysis of the proposed action include a small single airgun (90 in^3 Sercel airgun) towed at 4 m depth and a large airgun array (8,000 in^3) towed at 8 m depth. Airguns are assumed to fire simultaneously at 2,000 psi. The airgun array was assumed to consist of 72 elements (Bolt 1900 LLXT airguns) arranged in six sub-arrays of 12 airguns each with 9 m in-line separations. Individual elements range from 40 to 250 in^3. The layout of the modeled array (*i.e.,* airgun distribution in the horizontal plane) is shown in Figure 11 of Zeddies *et al.* (2015). For the single airgun, modeled source levels were 227.7 dB 0-peak (pk) sound pressure level (SPL) and 207.8 dB sound exposure level (SEL) (for description of metrics related to underwater sound, please see ''Description of Sound Sources,'' later in this document). Modeled source levels for the array range from 248.1 (broadside, *i.e.,* perpendicular to the tow direction) to 255.2 (endfire; *i.e.,* parallel to the tow direction) dB 0-pk SPL and from 225.7 (broadside) to 231.8 (endfire) dB SEL. Zeddies *et al.* (2015, 2017a), ''*Acoustic Propagation and Marine Mammal Exposure Modeling of Geological and Geophysical Sources in the Gulf of Mexico*'' and ''*Addendum to Acoustic Propagation and Marine Mammal Exposure Modeling of Geological and Geophysical Sources in the Gulf of Mexico,*'' are hereafter referred to as ''the modeling report.'' The reports are available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* Below, we outline the representative operational parameters of the different survey types that were used in the modeling simulations to predict the exposure of marine mammals to different received levels of sound.

Source vessels are assumed to travel at an average speed of 4.5–5 kn (*i.e.,* 200–220 linear km per day), and airgun arrays were assumed to be off during turns. The run-in and run-out sections were 1 km long. Each large-area survey (excluding coil surveys) was assumed to cover an area of 10 x 30 lease blocks, equivalent to 48 x 145 km or approximately 6,960 km^2. Coil surveys are assumed to cover a smaller area of 12 x 12 lease blocks, equivalent to 58 x 58 km or approximately 3,364 km^2.

2D surveys were simulated by assuming use of a single 8,000 in^3 array,

with transect lines offset laterally by 4.8 km. The production lines were filled in with a racetrack fill-in method, skipping two tracks on the left side turn (15 km wide turn) and transitioning onto the adjacent line on the right side turn (5 km wide turn) (see Figure 105 of the modeling report). The vessel speed was 4.5 kts and the shot interval was 21.6 s (approximately every 50 m).

3D NAZ surveys were simulated by assuming use of two source vessels towing identical arrays. Sources at each vessel produce seismic pulses simultaneously. Both vessels follow the same track, but were separated along the track by 6 km. The production lines were laterally spaced by 1 km (see Figure 106 of the modeling report). The production lines were filled via a racetrack fill-in method with eight loops in each racetrack (7–8 km wide turn). Forty-nine lines were required to fully cover the survey area. The vessel speed was 4.9 kn and the shot interval was 15 s (approximately every 37.5 m) for each vessel.

3D WAZ surveys were simulated by assuming use of four source vessels towing identical arrays. Sources at each vessel produce seismic pulses sequentially. The tracks of each vessel had the same geometry and had 1.2 km lateral offset. The vessels also had 500 m offset along the track (see Figure 107 of the modeling report). The production lines were filled in with a racetrack fill-in method with two loops in each racetrack (9.6 km wide turn). Forty lines were required to fully cover the survey area. The vessel speed was 4.5 kn, with individual vessel shot interval of 86.4 s (approximately every 200 m)—equivalent to 21.6 s for the group.

Coil surveys are performed by multiple vessels that sail a series of circular tracks with some angular separation while towing acoustic sources. These surveys were simulated by assuming use of four source vessels towing identical arrays. Sources at each vessel produce seismic pulses simultaneously. Tracks consist of a series of circles with 12.5 km diameter (see Figure 108 of the modeling report). Once each vessel completes a full circle, it advances to the next one along a tangential connection segment. The offset between the center of one circle and the next, either along-swath or between swaths, was 5 km. The full survey geometry consisted of two tracks with identical configuration with 1.2 km and 600 m offsets along X and Y directions, respectively. Two of the four vessels followed the first track with 180° separation; the other two vessels followed the second track with 180° separation relative to each other and 90° separation relative to the first pair. One hundred circles per vessel pair were required to fully cover the survey area. The vessel speed was 4.9 kn and the shot interval was 20 s (approximately every 50 m) for each vessel.

For small-area, high-resolution geotechnical surveys, we described the proxy single airgun source above. The representative boomer system was the Applied Acoustics AA301, based on a single plate with approximately 40 cm baffle diameter. The input energy for the AA301 boomer plate was up to 350 joules (J) per pulse or 1,000 J per second. The width of the pulse was 0.15–0.4 milliseconds (ms). A source verification study performed on a similar system by Martin *et al.,* (2012) showed that the broadband source level for the system was 203.3 dB root mean square (rms) SPL over a 0.2 ms window length and 172.6 dB SEL. These data were used for modeling the boomer source with a −4.6 dB correction applied to account for differences in input energy between the two systems.

As noted above, certain high-resolution acoustic sources may be deployed together and used concurrently. Here, the modeling assumes that a multibeam echosounder, side-scan sonar, and chirp subbottom profiler are operated concurrently and deployed on an AUV. Towing depth of the AUV was assumed to be 4 m below the sea surface when the water depth was less than 100 m and 40 m above the seafloor where water depth was more than 100 m. The representative multibeam echosounder (MBES) system was the Simrad EM2000 (manufactured by Kongsberg Maritime AS). According to manufacturer specifications, this device operates at 200 kHz and is equipped with a transducer head that produces a single beam 17° x 88° wide. The nominal source level was 203 dB rms SPL, with per-pulse SEL dependent on the pulse length (160–175 dB). Pulse width is 0.04–1.3 ms. The representative side-scan sonar is the EdgeTech 2200 IM, which works at two frequencies simultaneously (120 and 410 kHz). The beam angle produced by two side-mounted transducers was 70° x 0.8° at 120 kHz and 70° x 0.5° at 410 kHz. At 120 kHz, the estimated peak source level is 210 dB with pulse length of 8.3 ms; at 410 kHz these values are 216 dB and 2.4 ms. The chirp subbottom profiler uses the same side-scan sonar system, which is designed as a modular system for installation on an AUV, and adds the DW–424, a full spectrum chirp subbottom profiler that produces a sweep signal in the frequency range from 4 to 24 kHz. The projected beamwidth varies from 15° to 25° depending on the emitted frequency, with estimated source level of 200 dB and pulse length of 10 ms.

For these HRG surveys, the same survey pattern was assumed regardless of the source. Total survey area was assumed to be an area of 1 x 3 lease blocks, equivalent to 5 x 14.5 km or approximately 72.5 km². A single source vessel towing the appropriate source (*i.e.,* single airgun, boomer, or AUV with concurrently operated MBES, side-scan sonar, and chirp) was assumed. Production lines were laterally spaced 30 m (see Figure 109 of the modeling report) then filled in with a racetrack fill-in method where each racetrack has 20 loops (1.2 km wide turn). One hundred and sixty lines were required to fully cover the survey area. The vessel speed was 4 kn and, for surveys using the single airgun, the shot interval was 10 seconds(s) (approximately every 20 m).

Estimated Levels of Effort

As noted previously, actual total amounts of effort by survey type and location would not be known in advance of receiving LOA requests from industry operators. Therefore, BOEM provided projections of survey level of effort for the different survey types for a 10-year period (note that this proposed rule covers only a 5-year period). In order to construct a realistic scenario for future geophysical survey effort, BOEM evaluated recent trends in permit applications as well as industry estimates of future survey activity. BOEM also accounted for restrictions under the Gulf of Mexico Energy Security Act (GOMESA; Pub. L. 109–432), which precludes leasing, pre-leasing, or any related activity (though not geophysical surveys that have been permitted) in the GOM east of 86°41′ W, in BOEM's Eastern Planning Area (EPA) and within 125 mi (201 km) of Florida, or in BOEM's Central Planning Area (CPA) and within 100 mi of Florida (and according to certain other detailed stipulations). These leasing restrictions, which will to some degree influence geophysical survey effort, are in place until June 30, 2022.

In order to provide some spatial resolution to the projections of survey effort and to provide reasonably similar areas within which acoustic modeling might be conducted, the geographic region was divided into seven zones, largely on the basis of water depth, seabed slope, and defined BOEM planning area boundaries. Shelf regions typically extend from shore to approximately 100–200 m water depths where bathymetric relief is gradual (off Florida's west coast, the shelf extends

approximately 150 km). The slope starts where the seabed relief is steeper and extends into deeper water; in the GOM water deepens from 100–200 m to 1,500–2,500 m over as little as a 50 km horizontal distance. As the slope ends, water depths become more consistent, though depths can vary from 2,000–3,300 m. Three primary bathymetric areas were defined as shelf (0–200 m water depth), slope (200–2,000 m), and deep (>2,000 m).

Available information regarding cetacean density in the GOM (*e.g.,* Roberts *et al.,* 2016) shows that, in addition to water depth, animal distribution tends to vary from east to west in the GOM and appears correlated with the width of shelf and slope areas from east to west. The western region is characterized by a relatively narrow shelf and moderate-width slope. The central region has a moderate-width shelf and moderate-width slope, and the eastern region has a wide shelf and a very narrow slope. Therefore, BOEM's western, central, and eastern planning area divisions provide appropriate longitudinal separations for the shelf and slope areas. Due to relative consistency in both physical properties and predicted animal distribution, the deep area was not subdivided. As shown in Figure 2, Zones 1–3 represent the shelf area (from east to west), Zones 4–6 represent the slope area (from east to west), and Zone 7 is the deep area (note that other features of Figure 2 are described in the ''Estimated Take'' section). Table 1 displays BOEM's 10-year estimated levels of effort, estimated as 24-hr survey days, including annual totals by survey type and by zone for deep penetration and shallow penetration surveys, respectively.

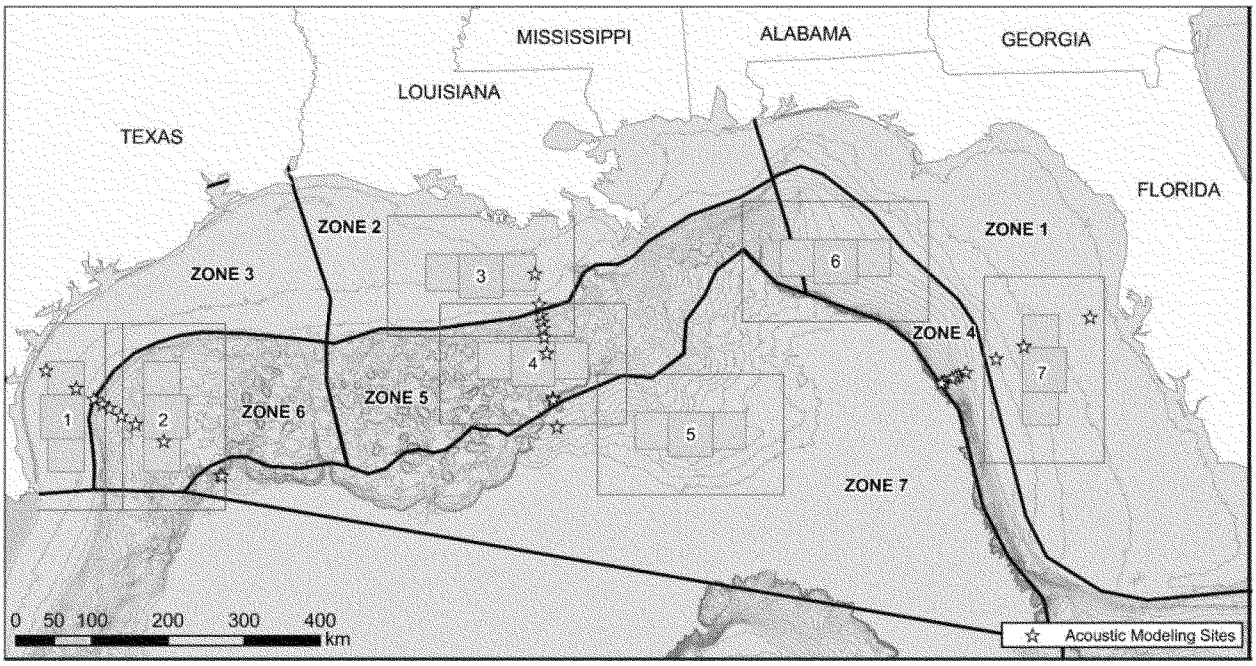


Figure 110 in Zeddies *et al.* (2015)

Figure 2. Gulf of Mexico Modeling Zones.

TABLE 1—PROJECTED LEVELS OF EFFORT IN 24-HR SURVEY DAYS FOR TEN YEARS, BY ZONE AND SURVEY TYPE [1]

Year	Zone [2]	2D [3]	3D NAZ [3]	3D WAZ [3]	Coil [3]	VSP [3]	Total (deep) [3]	Shallow hazards [4]	Boomer [4]	HRG [4]	Total (shallow) [4]
1	1	0	0	0	0	0	0	0	0	1	1
	2	0	243	0	0	0	243	2	0	19	21
	3	0	30	0	0	0	30	0	0	4	4
	4	0	0	0	0	0	0	0	0	0	0
	5	56	389	192	82	2	721	0	0	26	26
	6	0	186	49	21	0	256	0	0	10	10
	7	69	515	248	106	2	940	0	0	34	34
Total		125	1,363	489	209	4	2,190	2	0	94	96
2	1	0	0	0	0	0	0	0	0	1	1
	2	0	364	43	19	0	426	2	0	19	21
	3	0	0	0	0	0	0	0	0	4	4
	4	33	0	0	0	0	33	0	0	0	0
	5	0	389	192	82	2	665	0	0	26	26
	6	0	99	0	0	0	99	0	0	11	11
	7	30	502	241	103	2	878	0	0	34	34
Total		63	1,354	476	204	4	2,101	2	0	95	96

TABLE 1—PROJECTED LEVELS OF EFFORT IN 24-HR SURVEY DAYS FOR TEN YEARS, BY ZONE AND SURVEY TYPE [1]—Continued

Year	Zone [2]	2D [3]	3D NAZ [3]	3D WAZ [3]	Coil [3]	VSP [3]	Total (deep) [3]	Shallow hazards [4]	Boomer [4]	HRG [4]	Total (shallow) [4]
3	1	0	0	0	0	0	0	0	0	1	1
	2	0	243	0	0	0	243	2	0	18	20
	3	0	0	0	0	0	0	0	0	4	4
	4	0	0	0	0	0	0	0	0	1	1
	5	0	342	160	69	2	573	0	0	27	27
	6	0	186	49	21	0	256	0	0	12	12
	7	0	456	208	89	2	755	0	0	36	36
Total		0	1,227	417	179	4	1,827	2	0	99	101
4	1	0	0	0	0	0	0	0	0	0	0
	2	0	364	43	19	0	426	2	1	16	19
	3	0	30	0	0	0	30	0	0	3	3
	4	66	61	21	9	0	157	0	0	1	1
	5	28	247	96	41	2	414	0	0	27	27
	6	0	99	0	0	0	99	0	0	12	12
	7	94	380	140	60	2	676	0	0	36	36
Total		188	1,181	300	129	4	1,802	2	1	95	98
5	1	0	0	0	0	0	0	0	0	0	0
	2	0	243	0	0	0	243	0	0	20	20
	3	0	0	0	0	0	0	0	0	3	3
	4	0	92	0	0	0	92	0	0	0	0
	5	0	295	192	82	2	571	2	1	25	28
	6	0	99	0	0	0	99	0	0	13	13
	7	0	467	241	103	3	814	3	2	34	39
Total		0	1,196	433	185	5	1,819	5	3	95	103
6	1	0	0	0	0	0	0	0	0	0	0
	2	0	364	43	19	0	426	0	0	18	18
	3	0	0	0	0	0	0	0	0	2	2
	4	0	92	0	0	0	92	0	0	1	1
	5	0	247	160	69	2	478	0	0	30	30
	6	0	186	49	21	0	256	0	0	13	13
	7	0	421	208	89	3	721	0	0	40	40
Total		0	1,310	460	198	5	1,973	0	0	104	104
7	1	0	0	0	0	0	0	0	0	0	0
	2	0	243	0	0	0	243	0	0	16	16
	3	0	30	0	0	0	30	0	0	2	2
	4	33	61	21	9	0	124	0	0	1	1
	5	28	247	160	69	2	506	0	0	32	32
	6	0	99	0	0	0	99	0	0	13	13
	7	64	380	220	94	3	761	0	0	43	43
Total		125	1,060	401	172	5	1,763	0	0	107	107
8	1	0	0	0	0	0	0	0	0	0	0
	2	0	364	43	19	0	426	0	0	16	16
	3	0	0	0	0	0	0	0	0	2	2
	4	11	61	0	0	0	72	0	0	1	1
	5	9	247	128	55	2	441	0	0	35	35
	6	0	99	0	0	0	99	0	0	13	13
	7	21	380	160	69	3	633	0	0	46	46
Total		41	1,151	331	143	5	1,671	0	0	113	113
9	1	0	0	0	0	0	0	0	0	0	0
	2	0	243	0	0	0	243	0	0	16	16
	3	0	0	0	0	0	0	0	0	2	2
	4	0	61	0	0	0	61	0	0	1	1
	5	0	200	192	82	2	476	0	0	35	35
	6	0	99	0	0	0	99	0	0	14	14
	7	0	321	241	103	3	668	0	0	47	47
Total		0	924	433	185	5	1,547	0	0	115	115
10	1	0	0	0	0	0	0	0	0	0	0
	2	0	364	43	19	0	426	0	0	13	13
	3	0	30	0	0	0	30	0	0	2	2
	4	5	61	0	0	0	66	0	0	1	1
	5	0	200	160	69	2	431	0	0	37	37
	6	0	99	0	0	0	99	0	0	14	14
	7	5	321	200	86	3	615	0	0	49	49

TABLE 1—PROJECTED LEVELS OF EFFORT IN 24-HR SURVEY DAYS FOR TEN YEARS, BY ZONE AND SURVEY TYPE [1]—Continued

Year	Zone [2]	2D [3]	3D NAZ [3]	3D WAZ [3]	Coil [3]	VSP [3]	Total (deep) [3]	Shallow hazards [4]	Boomer [4]	HRG [4]	Total (shallow) [4]
Total	.....	10	1,075	403	174	5	1,667	0	0	116	116

[1] Projected levels of effort in 24-hr survey days.
[2] Zones follow the zones depicted in Figure 2.
[3] Deep penetration survey types include 2D, which uses one source vessel with one large array (8,000 in^3); 3D NAZ, which uses two source vessels using one large array each; 3D WAZ and coil, each of which uses four source vessels using one large array each (but with differing survey design); and VSP, which uses one source vessel with a large array. ''Deep'' refers to survey type, not to water depth.
[4] Shallow penetration/HRG survey types include shallow hazards surveys, assumed to use a single 90 in^3 airgun, subbottom profiling using a boomer, and high-resolution surveys using the MBES, side-scan sonar, and chirp systems concurrently. ''Shallow'' refers to survey type, not to water depth.

Table 2 provides a summary of the projected levels of effort. Very little effort is predicted in the EPA, with no deep penetration surveys expected in Zone 1 and an annual average of 63 survey days predicted in Zone 4. Similarly, very little overall effort is expected in western shelf waters. The vast majority of effort is expected to occur in the CPA, in all water depths. For deep penetration surveys, 3D NAZ is expected to be the most common survey type (in terms of total survey says) with approximately 65 percent of the total. 3D WAZ surveys represent approximately 22 percent of total survey days. Shallow penetration surveys overall represent an insignificant addition to the projected deep penetration effort, reflecting the smaller amount of effort associated with these survey types.

Year 1 provides an example of what might be a high-effort year in the GOM, while Year 9 is representative of a low-effort year. A moderate level of effort in the GOM, according to these projections, would be similar to the level of effort projected for Year 4. However, per-zone ranges can provide a different outlook than does an assessment of total year projected effort across zones. For example, in the ''high'' effort annual scenario (Year 1; considering total projected survey days across zones), there are 263 projected survey days in Zone 2, while the ''moderate'' effort annual scenario (Year 4) projects 446 survey days in Zone 2. Projected levels of effort presented here represent expected maxima, and it is possible that actual levels of effort will be lower, whether due to effects of the economy on industry activities or other reasons. Please see Figure 3.2–1 of BOEM's PEIS (BOEM, 2017) for projected potential ranges of survey activity. The ranges of projected activity level include an upper bound based on industry capacity in the GOM and a lower bound that accounts for a number of things that could affect these activities (*e.g.,* marketplace changes, adjustment of schedules for closures).

TABLE 2—SUMMARY OF PROJECTED LEVELS OF EFFORT IN 24-HR SURVEY DAYS

Zone/region	Deep penetration surveys			Shallow penetration/HRG surveys		
	Min	Mean	Max	Min	Mean	Max
1 (Shelf east)	0	0	0	0	0	1
2 (Shelf central)	243	304	426	13	18	21
3 (Shelf west)	0	11	30	2	3	4
4 (Slope east)	0	63	157	0	1	1
5 (Slope central)	414	480	721	26	30	37
6 (Slope west)	99	133	256	10	13	14
7 (Deep)	615	678	940	34	40	49
Total	1,547	1,669	2,190	96	105	116

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'').

Description of Marine Mammals in the Area of the Specified Activity

Sections 3 and 4 of the petition summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. We refer the reader to these descriptions, to descriptions of the affected environment in Appendix E of BOEM's PEIS, as well as to NMFS's Stock Assessment Reports (SAR; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*), incorporated here by reference, instead of reprinting the information. Additional general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*www.fisheries.noaa.gov/find-species*), the U.S. Navy's Marine Resource Assessment for the GOM (DoN, 2007a) (available online at: *www.navfac.navy.mil/products_and_services/ev/products_and_services/marine_resources/marine_resource_assessments.html*), or Würsig (2017).

Table 3 lists all species with expected potential for occurrence in the Gulf of Mexico and summarizes information related to the population or stock. For taxonomy, we follow Committee on Taxonomy (2017). While no mortality or serious injury is anticipated or proposed for authorization, potential biological removal (PBR; defined in the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population) and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats (as described in NMFS's SARs).

Species that could potentially occur in the proposed survey areas, but are not reasonably expected to have potential to

be affected by the specified activity, are described briefly but omitted from further analysis. These include extralimital species, which are species that do not normally occur in a given area but for which there are one or more occurrence records that are considered beyond the normal range of the species. For status of species, we provide information regarding U.S. regulatory status under the MMPA and Endangered Species Act (ESA).

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. All managed stocks in this region are assessed in NMFS's U.S. Atlantic SARs (*e.g.,* Hayes *et al.,* 2017). All values presented in Table 3 are the most recent available at the time of publication and are available in the 2016 SARs (Hayes *et al.,* 2017) or draft 2017 SARs (*www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

In some cases, species are treated as guilds. In general ecological terms, a guild is a group of species that have similar requirements and play a similar role within a community. However, for purposes of stock assessment or abundance prediction, certain species may be treated together as a guild because they are difficult to distinguish visually and many observations are ambiguous. For example, NMFS's GOM SARs assess stocks of *Mesoplodon* spp. and *Kogia* spp. as guilds. Here, we consider beaked whales and *Kogia* spp. as guilds. In the following discussion, reference to ''beaked whales'' includes the Cuvier's, Blainville's, and Gervais beaked whales, and reference to ''*Kogia* spp.'' includes both the dwarf and pygmy sperm whale.

Twenty-one species (with 25 managed stocks) have the potential to co-occur with the proposed survey activities. Extralimital species or stocks unlikely to co-occur with survey activity include 31 estuarine bottlenose dolphin stocks (discussed below), the blue whale (*Balaenoptera musculus*), fin whale (*B. physalus*), sei whale (*B. borealis*), minke whale (*B. acutorostrata*), humpback whale (*Megaptera novaeangliae*), North Atlantic right whale (*Eubalaena glacialis*), and the Sowerby's beaked whale (*Mesoplodon bidens).* All mysticete species listed here are considered only of accidental occurrence in GOM and are generally historically known only from a very small number of strandings and/or sightings (Würsig *et al.,* 2000; Würsig, 2017). The blue whale is known from two stranding records, the fin whale from five strandings and rare sightings, and the sei whale from five strandings (Würsig, 2017). Although North Atlantic right whales are well known from the east coast of Florida, that area represents the southern limit of their range; Würsig (2017) reports one stranding and one sighting of two whales in the GOM. Occasional minke whale strandings and rare sightings near the Florida Keys show a winter-spring pattern, which may be indicative of northward-migrating whales from the Caribbean becoming disoriented (Würsig *et al.,* 2000). In 1997, a single group of six humpback whales was observed approximately 250 km east of the Mississippi River delta in deep water; however, this sighting as well as other occasional strandings and rare sighting records are believed to represent vagrants from the Caribbean (Würsig *et al.,* 2000). A Sowerby's beaked whale was found stranded in western Florida in 1984, a record representing the lowest known latitude for the species (Bonde and O'Shea, 1989). We also note here that Hildebrand *et al.* (2015) report acoustic detections of an ''as yet unidentified species of beaked whale'' from three sites. At the three sites—Mississippi Canyon, Green Canyon, and Dry Tortugas—vocal encounters of the unknown species represented four, three, and 0.1 percent of total beaked whale vocal encounters. The same acoustic echolocation signature was previously reported near Hawaii (but without simultaneous visual and acoustic detection), and would presumably be a species with tropical distribution (Hildebrand *et al.,* 2012; McDonald *et al.,* 2009). Nothing else is known of this potential new species.

Roberts *et al.* (2016) developed a stratified density model for the fin whale in the GOM, on the basis of one observation during an aerial survey in the early 1990s. None of the other extralimital species listed here were observed during NMFS shipboard or aerial survey effort from 1992–2009. The fin whale is the second-most frequently reported mysticete in the GOM (after the Bryde's whale), though with only a handful of stranding and sighting records, and is considered here as a rare and likely accidental migrant. As noted by the model authors, while the probability of a chance encounter is not zero, the single sighting during NMFS survey effort should be considered extralimital (Roberts *et al.,* 2015a).

Estuarine stocks of bottlenose dolphin primarily inhabit inshore waters of bays, sounds, and estuaries (BSE), and stocks are defined throughout waters adjacent to the specified geographical region. However, estuarine stock ranges are generally described as including coastal waters (*i.e.,* waters adjacent to shore, barrier islands, or presumed outer bay boundaries and outside of typical inshore ranges) to approximately 1–3 km. For example, bottlenose dolphins that were captured in Texas and outfitted with radio transmitters largely remained within the bays, with three individuals tracked to 1 km offshore (Lynn and Würsig, 2002). Radio-tracking of dolphins in the St. Joseph Bay, Florida area showed that most dolphins stayed within the bay and that, although some individuals ranged more than 40 km along the coastline from the study site, they never ventured outside of immediate nearshore waters (Balmer *et al.,* 2008). More recently, dolphins captured in Barataria Bay, Louisiana were fitted with satellite-linked transmitters, showing that most dolphins remained within the bay, while those that entered nearshore coastal waters remained within 1.75 km (Wells *et al.,* 2017). Therefore, these stocks would not generally be expected to be impacted by the described geophysical surveys. If a deep penetration seismic survey were occurring in nearshore Federal waters (*i.e.,* at least 3 miles from shore but 9 miles from shore off Texas and Florida), it is possible that a dolphin belonging to a BSE stock could be affected. However, such surveys are expected to be rare in such shallow waters, and given the fact that BSE dolphins in sheltered inshore waters would largely not be impacted by noise generated offshore, we believe that impacts from the described activities that could potentially be considered as a ''take'' (as defined by the MMPA) should be considered discountable.

In addition, the West Indian manatee (*Trichechus manatus latirostris*) may be found in coastal waters of the GOM. However, manatees are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

TABLE 3—MARINE MAMMALS POTENTIALLY PRESENT IN THE SPECIFIED GEOGRAPHICAL REGION

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	NMFS stock abundance (CV, N_{min}, most recent abundance survey) [2 8]	Predicted mean (CV)/maximum abundance [3]	PBR	Annual M/SI (CV) [4]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)							
Family Balaenopteridae (rorquals):							
Bryde's whale	*Balaenoptera edeni*	Gulf of Mexico	- [5]; Y	33 (1.07; 16; 2009)	44 (0.27)/n/a	0.03	0.7
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)							
Family Physeteridae:							
Sperm whale	*Physeter macrocephalus*	GOM	E/D; Y	763 (0.38; 560; 2009)	2,128 (0.08)/2,234	1.1	0
Family Kogiidae:							
Pygmy sperm whale	*Kogia breviceps*	GOM	-; N	186 (1.04; 90; 2009) [6]	2,234 (0.19)/6,117 [6]	0.9	0.3 (1.0)
Dwarf sperm whale	*K. sima*	GOM	-; N				
Family Ziphiidae (beaked whales):							
Cuvier's beaked whale.	*Ziphius cavirostris*	GOM	-; N	74 (1.04; 36; 2009)	2,910 (0.16)/3,958 [6]	0.4	0
Gervais beaked whale.	*Mesoplodon europaeus*	GOM	-; N	149 (0.91; 77; 2009) [6]		0.8	0
Blainville's beaked whale.	*M. densirostris*	GOM	-; N				
Family Delphinidae:							
Rough-toothed dolphin.	*Steno bredanensis*	GOM	-; N	624 (0.99; 311; 2009)	4,853 (0.19)/n/a	3	0.8 (1.0)
Common bottlenose dolphin.	*Tursiops truncatus truncatus.*	GOM Oceanic	-; N	5,806 (0.39; 4,230; 2009)	138,602 (0.06)/ 192,176 [6].	42	6.5 (0.65)
		GOM Continental Shelf	-; N	51,192 (0.10; 46,926; 2011–12).		469	0.8
		GOM Coastal, Eastern	-; N	12,388 (0.13; 11,110; 2011–12).		111	1.6
		GOM Coastal, Northern	-; N	7,185 (0.21; 6,044; 2011–12).		60	0.4
		GOM Coastal, Western	-; N	20,161 (0.17; 17,491; 2011–12).		175	0.6
Clymene dolphin	*Stenella clymene*	GOM	-; N	129 (1.00; 64; 2009)	11,000 (0.16)/ 12,115.	0.6	0
Atlantic spotted dolphin.	*S. frontalis*	GOM	-; N	37,611 (0.28; 29,844; 2000–01) [7].	47,488 (0.13)/ 85,108.	Undet.	42 (0.45)
Pantropical spotted dolphin.	*S. attenuata attenuata*	GOM	-; N	50,880 (0.27; 40,699; 2009).	84,014 (0.06)/ 108,764.	407	4.4
Spinner dolphin	*S. longirostris longirostris*	GOM	-; N	11,441 (0.83; 6,221; 2009).	13,485 (0.24)/ 31,341.	62	0
Striped dolphin	*S. coeruleoalba*	GOM	-; N	1,849 (0.77; 1,041; 2009)	4,914 (0.17)/5,323	10	0
Fraser's dolphin	*Lagenodelphis hosei*	GOM	-; N	726 (0.7; 427; 1996–2001) [7].	1,665 (0.73)/n/a	Undet.	0
Risso's dolphin	*Grampus griseus*	GOM	-; N	2,442 (0.57; 1,563; 2009)	3,137 (0.10)/4,153	16	7.9 (0.85)
Melon-headed whale	*Peponocephala electra*	GOM	-; N	2,235 (0.75; 1,274; 2009)	6,733 (0.30)/7,105	13	0
Pygmy killer whale	*Feresa attenuata*	GOM	-; N	152 (1.02; 75; 2009)	2,126 (0.30)/n/a	0.8	0
False killer whale	*Pseudorca crassidens*	GOM	-; N	777 (0.56; 501; 2003–04) [7].	3,204 (0.36)/n/a	Undet.	0
Killer whale	*Orcinus orca*	GOM	-; N	28 (1.02; 14; 2009)	185 (0.41)/n/a	0.1	0
Short-finned pilot whale.	*Globicephala macrorhynchus.*	GOM	-; N	2,415 (0.66; 1,456; 2009)	1,981 (0.18)/n/a	15	0.5 (1.0)

[1] ESA status: Endangered (E)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] This information represents species- or guild-specific abundance predicted by habitat-based cetacean density models (Roberts *et al.,* 2016). These models provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. Gulf of Mexico, and we provide the corresponding abundance predictions as a point of reference. Total abundance estimates were produced by computing the mean density of all pixels in the modeled area and multiplying by its area.

[4] 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). A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[5] NMFS has proposed to list the GOM Bryde's whale as an endangered species under the ESA (81 FR 88639; December 8, 2016).

[6] Abundance estimates are in some cases reported for a guild or group of species when those species are difficult to differentiate at sea. Similarly, the habitat-based cetacean density models produced by Roberts *et al.* (2016) are based in part on available observational data which, in some cases, is limited to genus or guild in terms of taxonomic definition. NMFS's SARs present pooled abundance estimates for *Kogia* spp. and *Mesoplodon* spp., while Roberts *et al.* (2016) produced density models to genus level for *Kogia* spp. and as a guild for beaked whales (*Ziphius cavirostris* and *Mesoplodon* spp.). Finally, Roberts *et al.* (2016) produced a density model for bottlenose dolphins that does not differentiate between oceanic, shelf, and coastal stocks.

[7] NMFS's abundance estimates for these species are greater than eight years old and not considered current. PBR is therefore considered undetermined, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimate.

[8] We note that Dias and Garrison (2016) present abundance estimates for oceanic stocks that were calculated for use in DWH oil spill injury quantification. For most stocks, these estimates are based on pooled observations from shipboard surveys conducted in 2003, 2004, and 2009 and corrected for detection bias. Estimates for beaked whales and *Kogia* spp. were based on density estimates derived from passive acoustic data collection (Hildebrand *et al.,* 2012). The abundance estimate for Bryde's whales incorporated the results of additional shipboard surveys conducted in 2007, 2010, and 2012. Here we retain NMFS's official SARs information for comparison with model-predicted abundance (Roberts *et al.,* 2016).

For the majority of species potentially present in the specified geographical region, NMFS has designated only a single generic stock (*i.e.,* ''Gulf of Mexico'') for management purposes, although there is currently no information to differentiate the stock from the Atlantic Ocean stock of the same species, nor information on whether more than one stock may exist in the GOM (Hayes *et al.,* 2017).

During aerial and ship-based cetacean surveys, the most commonly sighted species in the GOM are bottlenose dolphins, pantropical spotted dolphins, Atlantic spotted dolphins, Risso's dolphins, sperm whales, and *Kogia* spp. (Baumgartner *et al.,* 2001; Mullin and Fulling, 2004; Mullin *et al.,* 2004, Maze-Foley and Mullin, 2006; Mullin, 2007; Dias and Garrison, 2016). Short-finned pilot whales, striped dolphins, Clymene dolphins, spinner dolphins, and beaked whales are somewhat commonly observed during surveys and have different rates of detection (Mullin *et al.,* 2004; Mullin and Fulling, 2004; Dias and Garrison, 2016). Rarely recorded species include melon-headed whales, false killer whales, killer whales, and pygmy killer whales (Dias and Garrison, 2016). Bryde's whales are also infrequently seen and are the only species of baleen whale recurrently seen in the GOM (Baumgartner *et al.,* 2001; Mullin and Fulling, 2004; Mullin *et al.,* 2004, Maze-Foley and Mullin, 2006; Mullin, 2007; Dias and Garrison, 2016). Fraser's dolphins are present in the GOM, but there are very few detections during marine mammal surveys (Mullin and Fulling, 2004; Dias and Garrison, 2016).

For the bottlenose dolphin, NMFS defines an oceanic stock, a continental shelf stock, and three coastal stocks. As in the northwestern Atlantic Ocean, there are two general bottlenose dolphin ecotypes: ''coastal'' and ''offshore.'' These ecotypes are genetically and morphologically distinct (Hoelzel *et al.,* 1998; Waring *et al.,* 2016), though ecotype distribution is not clearly defined and the stocks are delineated primarily on the basis of management rather than ecological boundaries. The offshore ecotype is assumed to correspond to the oceanic stock, with the stock boundary (and thus the de facto delineation of offshore and coastal ecotypes) defined as the 200-m isobath. All genetic samples collected during 1994–2008 in waters greater than 200 m were of the offshore ecotype (Waring *et al.,* 2016). The continental shelf stock is defined as between two typical survey strata: the 20- and 200-m isobaths. While the shelf stock is assumed to consist primarily of coastal ecotype dolphins, offshore ecotype dolphins may also be present. There is expected to be some overlap with the three coastal stocks as well, though the degree is unknown and it is not thought that significant mixing or interbreeding occurs between them (Waring *et al.,* 2016). The coastal stocks are defined as being in waters between the shore, barrier islands, or presumed outer bay boundaries out to the 20-m isobath and, as a working hypothesis, NMFS has assumed that dolphins occupying habitats with dissimilar climatic, coastal, and oceanographic characteristics might be restricted in their movements between habitats, thus constituting separate stocks (Waring *et al.,* 2016). Shoreward of the 20-m isobath, the eastern coastal stock extends from Key West, FL to 84° W longitude; the northern coastal stock from 84° W longitude to the Mississippi River delta; and the western coastal stock from the Mississippi River delta to the Mexican border. The latter is assumed to be a trans-boundary stock, though no information is available regarding abundance in Mexican waters. Genetic studies have shown significant differentiation between inshore stocks and the adjacent coastal stock (Sellas *et al.,* 2005) and among dolphins living in coastal and shelf waters (Waring *et al.,* 2016), suggesting that despite spatial overlap there may be mechanisms reducing interbreeding among coastal stocks and between coastal stocks and BSE stocks (Waring *et al.,* 2016). Continued studies are necessary to examine the current stock boundaries delineated in coastal, shelf, and oceanic waters (Waring *et al.,* 2016).

In Table 3 above, we report two sets of abundance estimates: those from NMFS's SARs and those predicted by Roberts *et al.* (2016)—for the latter we provide both the annual mean and the monthly maximum (where applicable). Please see footnotes 2–3 for more detail. NMFS's SAR estimates are typically generated from the most recent shipboard and/or aerial surveys conducted. GOM oceanography is dynamic, and the spatial scale of the GOM is small relative to the ability of most cetacean species to travel. As an example, no groups of Fraser's dolphins were observed during dedicated cetacean abundance surveys during 2003–2004 or 2009, yet NMFS states that it is probable that Fraser's dolphins were present in the northern GOM but simply not encountered, and therefore declines to present an abundance estimate of zero (Waring *et al.,* 2013). U.S. waters only comprise about 40 percent of the entire GOM, and 65 percent of GOM oceanic waters are south of the U.S. EEZ. Studies based on abundance and distribution surveys restricted to U.S. waters are unable to detect temporal shifts in distribution beyond U.S. waters that might account for any changes in abundance within U.S. waters. NMFS's SAR estimates also typically do not incorporate correction for detection bias. Therefore, they should generally be considered as underestimates, especially for cryptic or long-diving species (*e.g.,* beaked whales, *Kogia* spp., sperm whales). Dias and Garrison (2016) state, for example, that current abundance estimates for *Kogia* spp. may be considerably underestimated due to the cryptic behavior of these species and difficulty of detection in Beaufort sea state greater than one, and density estimates for certain species derived from long-term passive acoustic monitoring are much higher than are estimates derived from visual observations (Mullin and Fulling, 2004; Mullin, 2007; Hildebrand *et al.,* 2012).

The Roberts *et al.* (2016) abundance estimates represent the output of predictive models derived from multi-year observations and associated environmental parameters and which incorporate corrections for detection bias. Incorporating more data over multiple years of observation can yield different results in either direction, as the result is not as readily influenced by fine-scale shifts in species habitat preferences or by the absence of a species in the study area during a given year. NMFS's abundance estimates show substantial year-to-year variability in some cases. For example, NMFS-reported estimates for the Clymene dolphin vary by a maximum factor of more than 100 (2009 estimate of 129 versus 1996–2001 estimate of 17,355), indicating that it may be more appropriate to use the model prediction versus a point estimate, as the model incorporates data from 1992–2009. The latter factor—incorporation of correction for detection bias—should systematically result in greater abundance predictions. For these reasons, we expect that the Roberts *et al.* (2016) estimates are generally more realistic and, for these purposes, represent the best available information. For purposes of assessing estimated exposures relative to abundance—used in this case to understand the scale of the predicted takes compared to the population—we generally believe that the Roberts *et al.* (2016) abundance predictions are most appropriate because they were used to generate the exposure estimates and therefore

provide the most relevant comparison. Roberts *et al.* (2016) represents the best available scientific information regarding marine mammal occurrence and distribution in the Gulf of Mexico.

As a further illustration of the distinction between the SARs and model-predicted abundance estimates, the current NMFS stock abundance estimates for most GOM species are based on direct observations from shipboard surveys conducted in 2009 (from the 200-m isobath to the edge of the U.S. EEZ) and not corrected for detection bias, whereas the exposure estimates presented herein for those species are based on the abundance predicted by a density surface model informed by observations from surveys conducted over approximately 20 years and covariates associated at the observation level. To directly compare the estimated exposures predicted by the outputs of the Roberts *et al.* (2016) model to NMFS's SAR abundance would therefore not be meaningful.

Biologically Important Areas (BIA)—As part of our description of the environmental baseline, we discuss any known areas of importance as marine mammal habitat. These areas may include designated critical habitat for ESA-listed species (as defined by section 3 of the ESA) or other known areas not formally designated pursuant to any statute or other law. Important areas may include areas of known importance for reproduction, feeding, or migration, or areas where small and resident populations are known to occur.

Although there is no designated critical habitat for marine mammal species in the specified geographical region, BIAs for marine mammals are recognized. For example, the GOM Bryde's whale is a very small population that is genetically distinct from other Bryde's whales and not genetically diverse within the GOM (Rosel and Wilcox, 2014). Further, the species is typically observed only within a narrowly circumscribed area within the eastern GOM. Therefore, this area is described as a year-round BIA by LaBrecque *et al.* (2015). Although survey effort has covered all oceanic waters of the U.S. GOM, whales were observed only between approximately the 100- and 300-m isobaths in the eastern GOM from the head of the De Soto Canyon (south of Pensacola, Florida) to northwest of Tampa Bay, Florida (Maze-Foley and Mullin, 2006; Waring *et al.,* 2016; Rosel and Wilcox, 2014; Rosel *et al.,* 2016). NOAA subsequently conducted a status review of the GOM Bryde's whale. The review, described in a technical memorandum (Rosel *et al.* (2016)), expanded this description by stating that, due to the depth of some sightings, the area is more appropriately defined to the 400-m isobath and westward to Mobile Bay, Alabama, in order to provide some buffer around the deeper sightings and to include all sightings in the northeastern GOM. However, the recorded Bryde's whale shipboard and aerial survey sightings between 1989 and 2015 have mainly fallen within the BIA described by LaBreque *et al.* (2015).

LaBrecque *et al.* (2015) also described eleven year-round BIAs for small and resident BSE bottlenose dolphin populations in the GOM. Additional study would likely allow for identification of additional BIAs associated with other GOM BSE dolphin stocks.

Unusual Mortality Events (UME)—A UME is defined under Section 410(6) of the MMPA as ''a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response.'' From 1991 to the present, there have been twelve formally recognized UMEs affecting marine mammals in the region and involving species under NMFS's jurisdiction. These have primarily impacted coastal bottlenose dolphins, with multiple UMEs determined to have resulted from biotoxins and one from infectious disease. None of these involve ongoing investigation. Most significantly, a UME affecting multiple cetacean species in the northern GOM occurred from 2010–2014.

The northern GOM UME was determined to have begun in March 2010 and extended through July 2014. The event included all cetaceans stranded during this time in Alabama, Mississippi, and Louisiana and all cetaceans other than bottlenose dolphins stranded in the Florida Panhandle (Franklin County through Escambia County), with a total of 1,141 cetaceans stranded or reported dead offshore. For reference, the same area experienced a normal average of 75 strandings per year from 2002–09 (Litz *et al.,* 2014). The majority of stranded animals were bottlenose dolphins, though at least ten additional species were reported as well. Since not all cetaceans that die wash ashore where they may be found, the number reported stranded is likely a fraction of the total number of cetaceans that died during the UME. There was also an increase in strandings of stillborn and newborn dolphins (Colegrove *et al.,* 2016).

The UME investigation and the *Deepwater Horizon* Natural Resource Damage Assessment (described below) determined that the DWH oil spill is the most likely explanation of the persistent, elevated stranding numbers in the northern GOM after the 2010 spill. The evidence to date supports that exposure to hydrocarbons released during the DWH oil spill was the most likely explanation of adrenal and lung disease in dolphins, which has contributed to increased deaths of dolphins living within the oil spill footprint and increased fetal loss. The longest and most prolonged stranding cluster was in Barataria Bay, Louisiana in 2010–11, followed by Mississippi and Alabama in 2011, consistent with timing and spatial distribution of oil, while the number of deaths was not elevated for areas that were not as heavily oiled.

However, increased dolphin strandings occurred in Louisiana and Mississippi before the DWH oil spill, and identified stranding clusters within the UME suggest that the event may involve different additional contributing factors varying by location, time, and population (Venn-Watson *et al.,* 2015a). Some previous GOM cetacean UMEs had included environmental influences (*e.g.,* low salinity due to heavy rainfall and associated runoff of land-based pesticides, low temperatures) as possible contributing factors (Litz *et al.,* 2014). Low air and water temperatures occurred in the spring of 2010 throughout the GOM prior to and during the start of the UME, and a portion of the pre-spill atypical strandings occurred in Lake Pontchartrain, Louisiana, concurrent with lower than average salinity (Mullin *et al.,* 2015). Therefore, a large part of the pre-spill increased dolphin strandings may have been due to a combination of cold temperatures and low salinity (Litz *et al.,* 2014).

Subsequent health assessments of live dolphins from Barataria Bay and comparison to a reference population found significantly increased adrenal disease, lung disease, and poor health, while histological evaluations of samples from dead stranded animals from within and outside the UME area found that UME animals were more likely to have lung and adrenal lesions and to have primary bacterial pneumonia, which caused or contributed significantly to death (Schwacke *et al.,* 2014a, 2014b; Venn-Watson *et al.,* 2015b). In order to diagnose health, dolphin capture-release health assessments were conducted in Barataria Bay, during which physical examinations, including weighing and morphometric measurements, were conducted, routine biological samples (*e.g.,* blood, tissue) were obtained, and animals were examined with ultrasound. Veterinarians then reviewed

the findings and determined an overall prognosis for each animal (*e.g.,* favorable outcome expected, outcome uncertain, unfavorable outcome expected). Almost half of the examined animals were given a guarded or worse prognosis, and 17 percent were not expected to survive (Schwacke *et al.,* 2014a).

The prevalence of brucellosis and morbillivirus infections was low and biotoxin levels were low or below the detection limit, meaning that these were not likely primary causes of the UME (Venn-Watson *et al.,* 2015b; Fauquier *et al.,* 2017). Subsequent study found that persistent organic pollutants (*e.g.,* polychlorinated biphenyls), which are associated with endocrine disruption and immune suppression when present in high levels, are likely not a primary contributor to the poor health conditions and increased mortality observed in these GOM populations (Balmer *et al.,* 2015). The chronic adrenal gland and lung diseases identified in stranded UME dolphins are consistent with exposure to petroleum compounds (Venn-Watson *et al.,* 2015b). Colegrove *et al.* (2016) found that the increase in perinatal strandings resulted from late-term pregnancy failures and development of *in utero* infections likely caused by chronic illnesses in mothers who were exposed to oil.

While the number of dolphin mortalities in the area decreased after the peak from March 2010–July 2014, it does not indicate that the effects of the oil spill on these populations have ended. Researchers still saw evidence of chronic lung disease and adrenal impairment four years after the spill (in July 2014) and saw evidence of failed pregnancies in 2015 (Smith *et al.,* 2017). These follow-up studies found a yearly mortality rate for Barataria Bay dolphins of roughly 13 percent (as compared to annual mortality rates of 5 percent or less that have been previously reported for other dolphin populations), and found that only 20 percent of pregnant dolphins produced viable calves (compared with 83 percent in a reference population) (Lane *et al.,* 2015; McDonald *et al.,* 2017). Research into the long-term health effects of the spill on marine mammal populations is ongoing. For more information on the UME, please visit *www.nmfs.noaa.gov/pr/health/mmume/cetacean_gulfofmexico.htm.*

Prior UMEs averaged six months in duration and involved significantly fewer mortalities. In most of these relatively localized events, dolphin morbillivirus or brevetoxicosis was confirmed or suspected as a causal factor (Litz *et al.,* 2014). One other recent UME occurred during 2011–12 for bottlenose dolphins in Texas. Investigators were not able to determine a cause for the UME, though findings included lung infection, poor body condition, and discoloring of teeth. No connection has been identified between this event and the 2010–14 event described above. For more information on UMEs, please visit: *www.fisheries.noaa.gov/national/marine-life-distress/marine-mammal-unusual-mortality-events.*

Deepwater Horizon Oil Spill

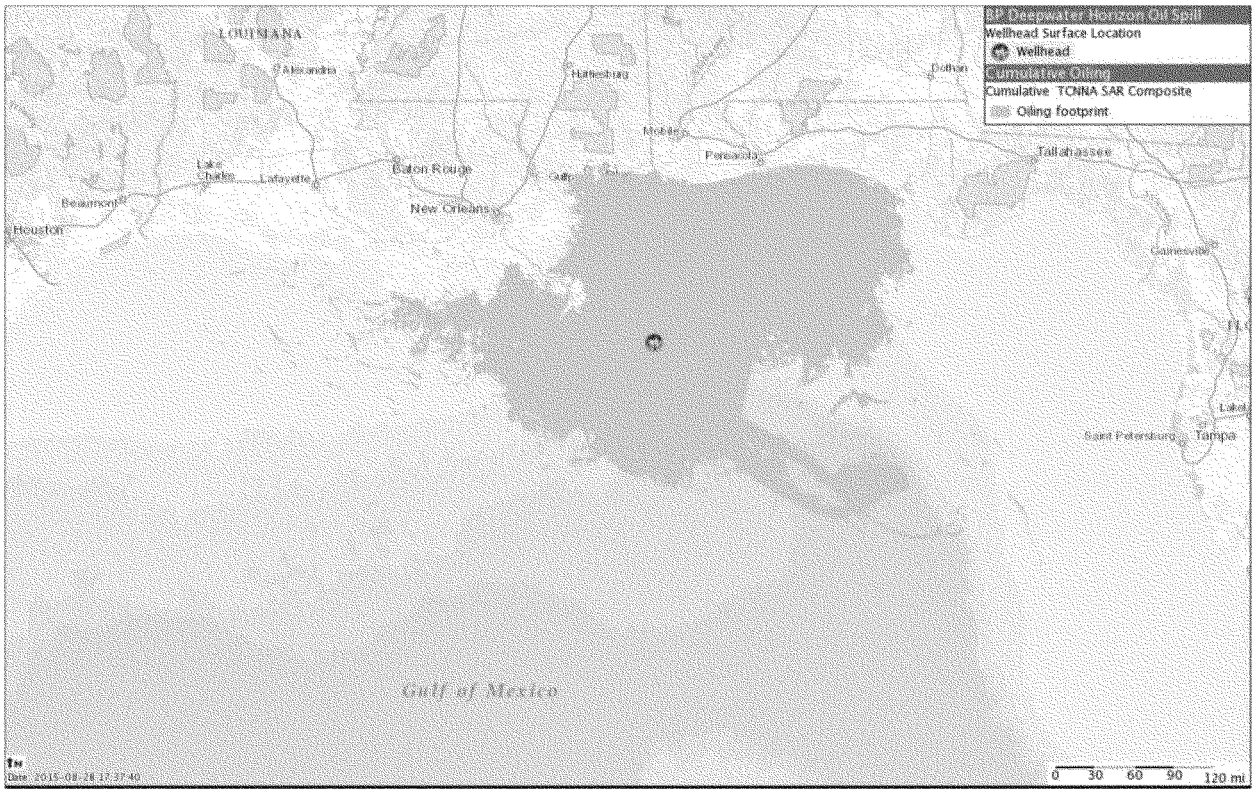
We introduced the DWH oil spill—which includes the impacts of the spill as well as the response efforts—previously in our description of the ''Specified Geographical Region.'' Here we provide additional description of the potential effects of the spill on the marine mammals that may be affected by the activities that are the subject of this proposed rule. The summary provided below is an incorporation by reference of relevant information from DWH NRDA Trustees (2016) and DWH MMIQT (2015); more detail on the DWH oil spill and its effects on marine mammals is available in these documents. Additional technical reports relating to the assessment of marine mammal injury due to the DWH oil spill are available online at: *www.doi.gov/deepwaterhorizon/adminrecord.* A brief overview of injury assessment activities and associated findings is provided by Wallace *et al.,* (2017).

On April 20, 2010, the *Deepwater Horizon* offshore drilling platform, a semi-submersible exploratory drilling rig operating on the exploratory *Macondo* well (within BOEM's Mississippi Canyon lease block), exploded and subsequently sank in 1,522 m of water in the GOM, approximately 81 km off the coast of Louisiana. This incident resulted in the release of an estimated 3.19 million barrels (134 million gallons) of oil from the compromised well. In addition, approximately 1.84 million gallons of chemical dispersants were applied to the waters of the spill area. The release of oil continued for 87 days, with an average of more than 1.5 million gallons of fresh oil entering the ocean per day—essentially creating a new major oil spill every day for nearly 3 months, equivalent to the 1989 *Exxon Valdez* oil spill re-occurring in the same location every week for the duration. Response techniques included deployment of containment booms, physical removal of oil, controlled burning of oil on the surface, major releases of fresh water to keep the oil offshore, beach and fishery closures, construction of berms, wildlife rehabilitation and relocation (*e.g.,* Wilkin *et al.,* 2017), and application of chemical dispersants on the surface and at the wellhead on the seafloor (with the goal of breaking the oil into small droplets). For more information about the DWH oil spill, please visit *response.restoration.noaa.gov/deepwater-horizon-oil-spill* and *www.deepwaterhorizoneconomicsettlement.com/docs.php.*

An estimated 7.7 billion standard cubic feet of natural gas was released in association with the oil; bacteria proliferated, consumed the gas, and died. Mucus produced by bacteria, as well as some of the bacterial mass itself, agglomerated with brown-colored oil droplets and settled through the water column—this phenomenon is referred to as ''marine oil snow.'' Oil, released from the well-head approximately 1,500 m deep, moved with currents, creating a plume of oil within the deep sea; oil and associated ''marine oil snow'' also settled on the sea floor. More buoyant oil traveled up through the water column and formed large surface slicks; at its maximum extent, oil covered over 40,000 km^2 of ocean. Cumulatively, over the course of the spill, oil was detected on over 112,000 km^2 of ocean. Figure 3 shows the cumulative area of detectable surface oil slick during the DWH oil spill. Currents, winds, and tides carried these surface oil slicks to shore, fouling more than 2,100 km of shoreline, including beaches, bays, estuaries, and marshes from eastern Texas to the Florida Panhandle. In addition, some lighter oil compounds evaporated from the slicks, exposing air-breathing organisms like marine mammals to noxious fumes at the sea surface. Air pollution resulted from compounds in the oil that evaporated into the air and from fires purposely started to burn off oil at the ocean surface. The oil released during the event was a complex mixture containing thousands of individual chemical compounds—many of which are known to be toxic to biota—which then changed as they were subject to natural processes such as mixing with air and water, microbial degradation, and exposure to sunlight. DWH oil has a specific chemical signature that, together with other lines of evidence, allowed investigators to determine which oil-derived contaminants found in the environment originated from the spill.

Dispersants are chemicals that reduce the tension between oil and water, leading to the formation of oil droplets that more readily disperse within the water column. A main purpose of using dispersants is to enhance the rate at

which bacteria degrade the oil in order to prevent oil slicks from fouling sensitive shoreline habitats. The large-scale use of dispersants raised concerns about the potential for toxic effects of dispersed oil in the water column, as well as the potential for hypoxia due to bacterial consumption of dispersed oil. The surface application of dispersants increased exposure of near-surface biota, such as marine mammals, to oil that re-entered the water column.



Source: DWH NRDA Trustees, 2016.

Figure 3. Cumulative Area of Detectable Oil Slick, DWH Oil Spill.

The DWH oil spill was subject to the provisions of the Oil Pollution Act (OPA) of 1990 (33 U.S.C. 2701 *et seq.*), which addresses prevention, response, and compensation for oil pollution incidents in navigable waters, adjoining shorelines, and the U.S. EEZ. Under the authority of OPA, a council of Federal and state trustees was established, on behalf of the public, to assess natural resource injuries resulting from the incident and work to make the environment and public whole for those injuries. As required under OPA, the trustees conducted a natural resource damage assessment (NRDA), finding that the injuries resulting from the DWH oil spill affected such a wide array of linked resources over such an enormous area that the effects must be described as constituting an ecosystem-level injury. OPA regulations (15 CFR part 990) establish a process for conducting a NRDA that require, in part, the assessment of potential injuries to relevant resources, here including marine mammals and habitats they rely upon. OPA regulations define injury as an observable or measurable adverse change in a natural resource that may occur directly or indirectly. Types of injuries include adverse changes in survival, growth, and reproduction; health, physiology and biological condition; behavior; community composition; ecological processes and functions; and physical and chemical habitat quality or structure.

The injury assessment first requires a determination of whether an incident injured natural resources. Trustees must establish that a pathway existed from the oil discharge to the resource, confirm that resources were exposed to the discharge, and evaluate the adverse effects that occurred as a result of the exposure (or response activities). Subsequently, the assessment requires injury quantification (including degree and spatiotemporal extent), essentially by comparing the post-event conditions with the pre-event baseline. For a fuller overview of the injury assessment process in this case, please see Takeshita *et al.* (2017). Because of the vast scale of the incident, the trustees evaluated injuries to a set of representative habitats, communities, species, and ecological processes, with studies conducted at many scales. Key findings are as follows: (1) Oil flowed within deep ocean water currents hundreds of miles away from the well and moved upwards and across a very large area of the ocean surface, affecting vast areas overall (*e.g.,* approximately 112,000 km² of ocean surface; 2,100 km of shoreline; and between 1,000–1,900 km² of seafloor), including every type of habitat occupied by marine mammals in the northern GOM as well as habitat for all stocks of marine mammals in the northern GOM; (2) the oil that was released was toxic to a wide range of organisms, including marine mammals; (3) oil came into contact with and injured a wide range of organisms, including marine mammals; (4)

response activities had collateral impacts on the environment; and (5) exposure to oil and response activities resulted in extensive injuries to multiple habitats, species, and ecological functions, across broad geographic regions. Critical pathways of exposure for marine mammals included the contaminated water column, where they swim and capture prey; the surface slick at the air to water interface, where they breathe, rest, and swim; and contaminated sediment, where they forage and capture prey. Response workers and scientists witnessed 85 instances of marine mammals (with a total of 1,394 individuals) swimming in surface oil or with oil on their bodies; these instances represented a minimum of 11 species, including dolphins, sperm whales, *Kogia* spp., and a beaked whale.

The marine mammal injury assessment synthesized data from NRDA field studies, stranded carcasses collected by the Southeast Marine Mammal Stranding Network, historical data on marine mammal populations, NRDA toxicity testing studies, and the published literature. DWH oil was found to cause problems with the regulation of stress hormone secretion from adrenal cells and kidney cells, which will affect an animal's ability to regulate body functions and respond appropriately to stressful situations, thus leading to reduced fitness. Bottlenose dolphins living in habitats contaminated with DWH oil showed signs of adrenal dysfunction, and dead, stranded dolphins from areas contaminated with DWH oil had smaller adrenal glands (Schwacke *et al.,* 2014a; Venn-Watson *et al.,* 2015b). Limited cetacean exposure studies have demonstrated that bottlenose dolphins may sustain liver damage and that bottlenose dolphins and sperm whales may develop skin lesions (Engelhardt, 1983). Field and laboratory studies and other data analysis were designed to explicitly examine other potential explanations for marine mammal injuries, including biotoxins, infectious diseases, human and fishery interactions, and other unrelated potential contaminants. Each of these other factors was ruled out as a primary cause for the high prevalence of adverse health effects, reproductive failures, and disease in stranded animals. When all of the data are considered together, the DWH oil spill is the only reasonable cause for the full suite of observed adverse health effects.

Findings related to bottlenose dolphins living in heavily oiled nearshore habitats were described previously in the UME discussion. Due to the difficulty of investigating marine mammals in pelagic environments and across the entire region impacted by the event, the injury assessment focused on health assessments conducted on bottlenose dolphins in nearshore habitats (*i.e.,* Barataria Bay and Mississippi Sound) and used these populations as case studies for extrapolating to coastal and oceanic populations that received similar or worse exposure to DWH oil, with appropriate adjustments made for differences in behavior, anatomy, physiology, life histories, and population dynamics among species. Based on direct observation, injuries were quantified for four BSE stocks of bottlenose dolphin, *e.g.,* for the Barataria Bay stock, the DWH oil spill caused 35 percent (CI 15–49) excess mortality, 46 percent (CI 21–65) excess failed pregnancies, and a 37 percent (CI 14–57) higher likelihood that animals would have adverse health effects. The process for assigning a health prognosis (Schwacke *et al.,* 2014a) was described previously in the UME discussion. Two dolphins having received the lowest grade died within 6 months, and the percentage of the population with the two lowest prognoses (17 percent poor and grave) essentially predicted the percentage of dolphins that disappeared and presumably died the following year based on photo-identification surveys.

Investigators then used a population modeling approach to capture the overlapping and synergistic relationships among the three metrics for injury, and to quantify the entire scope of DWH marine mammal injury to populations into the future, expressed as ''lost cetacean years'' due to the DWH oil spill (which represents years lost due to premature mortality as well as the resultant loss of reproductive output). This approach allowed for consideration of long-term impacts resulting from immediate losses and reproductive failures in the few years following the spill, as well as expected persistent impacts on survival and reproduction for exposed animals well into the future (Takeshita *et al.,* 2017). For example, lost cetacean years were estimated for the Barataria Bay stock of bottlenose dolphins, leading to an estimated 51 percent (CI 32–72) maximum reduction in population size and a time to recovery of 39 years (CI 24–80) in the absence of potential benefits of restoration activities. For a more detailed overview of the injury quantification for these stocks and their post-DWH population trajectory, please see Schwacke *et al.* (2017), and for full details of the overall injury quantification, see DWH MMIQT (2015).

To calculate the increase in percent mortality for the shelf and oceanic marine mammal stocks, the Barataria Bay percent mortality was applied to the percentage of animals in each stock that was exposed to oil. This percentage was calculated assuming that animals experiencing a level of cumulative surface oiling similar to or greater than that in Barataria Bay would have been likely to suffer a similar or greater degree and magnitude of injury. This is likely a conservative estimate of impacts, because: (1) Shelf and oceanic species experienced long exposures (up to 90 days) to very high concentrations of fresh oil and a diverse suite of response activities, while estuarine dolphins were not exposed until later in the spill period and to weathered oil products at lower water concentrations; (2) oceanic cetaceans dive longer and to deeper depths, and it is possible that the types of lung injuries observed in estuarine dolphins may be more severe for oceanic cetaceans; and (3) cetaceans in deeper waters were exposed to very high concentrations of volatile gas compounds at the water's surface near the wellhead.

As an example of the calculation, 47 percent of the spinner dolphin stock range in the northern GOM experienced oiling equal to or greater than Barataria Bay, and, therefore, was assumed to have experienced a rate of mortality increase equal to that calculated for Barataria Bay (35 percent). Thus, the entire northern GOM spinner dolphin stock is assumed to have experienced a 16 percent mortality increase ($0.35 \times 0.47 = 0.16$). Similarly, the percentage of females with reproductive failure in Barataria Bay and Mississippi Sound (46 percent; stocks pooled for sample size considerations) is considered to be the best estimate of excess failed pregnancies for other marine mammals in the oil spill footprint, and the percentage of the population with a guarded or worse health prognosis—compared with dolphins sampled in a healthy reference population—from Barataria Bay (37 percent) was applied to other stocks.

The population modeling approach used in the injury quantification allows consideration of long-term impacts resulting from individual losses, adverse reproductive effects, and persistent impacts on survival for exposed animals. The model was run using baseline mortality and reproductive parameters to determine what the population trajectory of each stock would have been if the DWH spill had not happened. The same model was then run a second time, with estimates for excess mortality, reproductive

failures, and adverse health effects due to the DWH oil spill. The number of years predicted for the DWH oil-impacted population to recover (without active restoration) is the number of years until the DWH oil-injured population trajectory reaches 95 percent of the baseline population trajectory, reported as years to recovery. The output from the population model also predicts the largest proportional decrease in population size (*i.e.,* the difference between the two population trajectories when the DWH oil-impacted trajectory is at its lowest point). A separate population model is run for each stock, with inputs for the models restricted to the available data for each stock. For inputs without empirical data, the values are extrapolated from other stocks or incorporate additional modeling efforts. For bottlenose dolphins, uncertainty in model output was evaluated by drawing from the distributions for model input parameters to execute 10,000 simulations, producing distributions for each of the model outputs. For other species, because there was insufficient information to construct informed input parameter distributions, only a single model scenario was run using point estimates for input parameter values and simulations were not conducted to explore the effects of uncertainty in the model parameters.

The results of these calculations for each affected shelf and oceanic stock, and for northern and western coastal stocks of bottlenose dolphin, are presented in Table 4. The eastern coastal stock of bottlenose dolphin was considered to be not affected by the DWH oil spill, as the cumulative footprint of oil did not overlap the stock's range. Results for BSE dolphin stocks are not presented here. No analysis was performed for Fraser's dolphins or killer whales; although they are present in the GOM, sightings are rare and there were no historical sightings in the oil spill footprint during the surveys used in the quantification process. These stocks were likely injured, but no information is available on which to base a quantification effort.

TABLE 4—SUMMARY OF MODELED EFFECTS OF DWH OIL SPILL

Common name	% Population exposed to oil (95% CI)	% Population killed (95% CI)	% Females with reproductive failure (95% CI)	% Population with adverse health effects (95% CI)	% Maximum population reduction (95% CI)	Years to recovery (95% CI) [b]
Bryde's whale	48 (23–100)	17 (7–24)	22 (10–31)	18 (7–28)	−22	69
Sperm whale	16 (11–23)	6 (2–8)	7 (3–10)	6 (2–9)	−7	21
Kogia spp.	15 (8–29)	5 (2–7)	7 (3–10)	6 (2–9)	−6	11
Beaked whales	12 (7–22)	4 (2–6)	5 (3–8)	4 (2–7)	−6	10
Rough-toothed dolphin	41 (16–100)	14 (6–20)	19 (9–26)	15 (6–23)	−17	54
Bottlenose dolphin, oceanic	10 (5–10)	3 (1–5)	5 (2–6)	4 (1–6)	−4	n/a
Bottlenose dolphin, northern coastal	82 (55–100)	38 (26–58)	37 (17–53)	30 (11–47)	−50 (32–73)	39 (23–76)
Bottlenose dolphin, western coastal	23 (16–32)	1 (1–2)	10 (5–15)	8 (3–13)	−5 (3–9)	n/a
Shelf dolphins [a]	13 (9–19)	4 (2–6)	6 (3–8)	5 (2–7)	−3	n/a
Clymene dolphin	7 (3–15)	2 (1–4)	3 (2–5)	3 (1–4)	−3	n/a
Pantropical spotted dolphin	20 (15–26)	7 (3–10)	9 (4–13)	7 (3–11)	−9	39
Spinner dolphin	47 (24–91)	16 (7–23)	21 (10–30)	17 (6–27)	−23	105
Striped dolphin	13 (8–22)	5 (2–7)	6 (3–9)	5 (2–8)	−6	14
Risso's dolphin	8 (5–13)	3 (1–4)	3 (2–5)	3 (1–4)	−3	n/a
Melon-headed whale	15 (6–36)	5 (2–7)	7 (3–10)	6 (2–9)	−7	29
Pygmy killer whale	15 (7–33)	5 (2–8)	7 (3–10)	6 (2–9)	−7	29
False killer whale	18 (7–48)	6 (3–9)	8 (4–12)	7 (3–11)	−9	42
Short-finned pilot whale	6 (4–9)	2 (1–3)	3 (1–4)	2 (1–3)	−3	n/a

Modified from DWH NRDA Trustees (2016).
CI = confidence interval. No CI was calculated for population reduction or years to recovery for shelf or oceanic stocks.
[a] "Shelf dolphins" includes Atlantic spotted dolphins and the shelf stock of bottlenose dolphins (20–200 m water depth). These two species were combined because the abundance estimate used in population modeling was derived from aerial surveys and the species could not generally be distinguished from the air.
[b] It is not possible to calculate YTR for stocks with maximum population reductions of less than or equal to 5 percent.

Coastal and oceanic marine mammals were injured by exposure to oil from the DWH spill; nearly all of the stocks that overlap with the oil spill footprint have demonstrable, quantifiable injuries, and the remaining stocks (for which there is no quantifiable injury) were also likely injured, though there is not currently enough information to make a determination. Injuries included elevated mortality rates, reduced reproduction, and disease. Due to these effects, affected populations may require decades to recover absent successful efforts at restoration (*e.g.,* DWH NRDA Trustees, 2017). Tens of thousands of marine mammals were exposed to the DWH surface slick, where they inhaled, aspirated, ingested, and came into contact with oil components (Dias *et al.,* 2017). The oil's physical and toxic effects damaged tissues and organs, leading to a constellation of adverse health effects, including reproductive failure, adrenal disease, lung disease, and poor body condition, as observed in bottlenose dolphins (De Guise *et al.,* 2017; Kellar *et al.,* 2017). Coastal and estuarine bottlenose dolphin populations were some of the most severely injured (Hohn *et al.,* 2017; Rosel *et al.,* 2017; Thomas *et al.,* 2017), as described previously in relation to the UME, but oceanic species were also exposed and experienced increased mortality, increased reproductive failure, and a higher likelihood of other adverse health effects.

Due to the scope of the spill, the magnitude of potentially injured populations, and the difficulties and limitations of working with marine mammals, it is impossible to quantify injury without uncertainty. Wherever possible, the quantification results represent ranges of values that encapsulate the uncertainty inherent in the underlying datasets. The population model outputs shown in Table 4 best represent the temporal magnitude of the injury and the potential recovery time from the injury.

Aside from the heavily impacted stocks of bottlenose dolphin, two species of particular concern are the sperm whale and Bryde's whale. For the Bryde's whale, it was estimated that 48 percent of the population was impacted by DWH oil, resulting in an estimated 22 percent maximum decline in population size that will require 69 years to recovery. However, small populations are highly susceptible to

stochastic, or unpredictable, processes and genetic effects that can reduce productivity and resiliency to perturbations. The population models do not account for these effects, and, therefore, the capability of the Bryde's whale population to recover from this injury is unknown. For the sperm whale, a 7 percent maximum decline in population size requiring 21 years to recovery was predicted. However, little is known about the fate and transport of DWH deep-sea oil plumes in relation to deep-diving marine mammals, such as sperm whales, and the results should be viewed with caution. Other stocks with particularly concerning results include the rough-toothed dolphin and spinner dolphin (Table 4).

In the absence of active (and effective) restoration, marine mammal stocks across the northern GOM will take many years to recover (Table 4). Marine mammals are slow to reach reproductive maturity, only give birth to a single offspring every 3 to 5 years, and are generally long lived (with lifespans up to 80 years). Two populations of killer whales suffered losses of 33 and 41 percent in the year following the *Exxon Valdez* oil spill in Alaska, and recovery of both populations has been unexpectedly slow (Matkin *et al.,* 2008). Persistent pollutant exposure (Ylitalo *et al.,* 2001), decline of a primary prey source (Ver Hoef and Frost, 2003), and disruption of social groups (Matkin *et al.,* 2008; Wade *et al.,* 2012) may be contributing factors. Populations of dolphins depleted as the result of tuna fishery bycatch in the eastern tropical Pacific also demonstrated slower than expected rates of recovery, which may be due in part to the continued effects of stressful interactions with the fishery (Gerrodette and Forcada, 2005). The ability of the stocks to recover and the length of time required for that recovery are tied to the carrying capacity of the habitat, and to the degree of other population pressures. We treat the effects of the DWH oil spill as part of the environmental baseline in considering the likely resilience of these populations to the effects of the activities considered in this proposed regulatory framework.

In addition to injuries from direct exposure to DWH oil, marine mammal habitat was degraded. Exposure to oil at or near the surface occurred in an area of high biological abundance and high productivity during a time of year (spring and summer) that corresponds with peaks in seasonal productivity in the northern GOM. Developing fish larvae exposed to the surface slick suffered almost 100 percent mortality, and oil concentrations at different levels in the water column exceeded levels known to cause mortality and sub-lethal effects to fish—this is expected to have caused the loss of millions to billions of fish that would have reached one year of age. However, though damage to fish and invertebrate populations was likely significant during the time oil was present, populations of directly affected fish and invertebrate species appear not to have suffered a lasting impact. Although marine mammals were harmed through the effects of DWH oil on plankton, fish, and invertebrate populations, it is difficult to interpret any long-term impacts on marine mammal populations resulting from significant short-term impacts on prey populations. Prey reductions, when they occur, can have cascading effects on larger species. Animals in the wild live in a dynamic relationship with their environment and available resources, balancing energy expenditures and nutritional uptake in order to survive, remain healthy, and reproduce. Any impact that shifts that balance by diminishing food resources or requiring unusual expenditures of energy—whether to acquire prey, avoid predators, fight disease and infection, or successfully reproduce—is inherently harmful to the species. Additionally, as noted previously, injury due to the DWH oil spill is considered an ecosystem-level event, which will impact marine mammals in particular due to their long lives and position as apex predators reliant upon a healthy ecosystem (*e.g.,* Moore, 2008; Bossart, 2011).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with an exception for lower limits for low-frequency cetaceans where the result was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hz and 35 kHz, with best hearing estimated to be from 100 Hz to 8 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz, with best hearing from 10 to less than 100 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus;* including two members of the genus *Lagenorhynchus,* on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Twenty-one species of cetacean have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 3. Of the cetacean species that may be present, one is classified as a low-frequency cetacean (*i.e.,* the Bryde's whale), 18 are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and two are classified as high-frequency cetaceans (*i.e., Kogia* spp.).

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section and

the material it references, the ''Estimated Take'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks. In the following discussion, we provide general background information on sound before considering potential effects to marine mammals from the specified activities (*i.e.,* sound, ship strike, and contaminants).

Background on Sound and Acoustic Metrics

This section contains a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to other sections of this document. For general information on sound and its interaction with the marine environment, please see, *e.g.,* Au and Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the dB. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)), and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa), while the received level is the SPL at the listener's position (referenced to 1 μPa).

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is nominally the case for sound produced by airguns (though when grouped in arrays there is some directionality). The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts. The distinction between these two sound types is not always obvious, as certain signals share properties of both pulsed and non-pulsed sounds. A signal near a source could be categorized as a pulse, but due to propagation effects as it moves farther from the source, the signal duration becomes longer (*e.g.,* Greene and Richardson, 1988).

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). The length of the time window used for the purpose of the rms SPL calculation can be selected using different approaches. This value is commonly defined as the 90 percent energy pulse duration, containing the central 90 percent (from 5 to 95 percent of the total) of the cumulative square pressure (or sound exposure level) of the pulse. However, as was the case in the modeling performed for this effort, a fixed time window may be used. Here, a sliding window was used to calculate rms SPL values for a series of fixed window lengths within the pulse. The maximum value of rms SPL over all time window positions is taken to represent the rms SPL of the pulse. This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures. Energy equivalent SPL (denoted L_{eq}) is the measure of the average amount of energy carried by a time-dependent pressure wave over a period of time. The L_{eq} is numerically equal to the rms SPL of a steady sound that has the same total energy as the sound measured over the given time window. Conceptually, the difference between the two metrics is that the rms SPL is computed over short time periods, usually one second or less, and tracks the fluctuations of a non-steady acoustic signal, whereas the L_{eq} reflects the average SPL of an acoustic signal over tens of seconds or longer.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy in a stated frequency band over a stated time interval or event, and considers both intensity and duration of exposure. The per-pulse SEL is calculated over the time window containing the entire pulse (*i.e.,* 100 percent of the acoustic energy). SEL is a cumulative metric; it can be accumulated over a single pulse, or calculated over periods containing multiple pulses. Cumulative SEL represents the total energy accumulated by a receiver over a defined time window or during an event.

Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-pk) is the maximum instantaneous sound

pressure measurable in the water at a specified distance from the source, and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk-pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.,* 2007).

Airguns produce pulsed signals, with energy in a frequency range from about 10–2,000 Hz, and most energy radiated at frequencies below 200 Hz. Larger airguns, with larger internal air volume, produce higher broadband sound levels with sound energy spectrum shifted toward the lower frequencies. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.,* omnidirectional), but when used in arrays, airguns do possess some directionality due to different phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that more sound energy is focused downwardly than horizontally, and sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

Acoustic sources used for HRG surveys generally produce higher frequency signals with highly directional beam patterns. These sources are generally considered to be intermittent, with typically brief signal durations, and temporal characteristics that more closely resemble those of impulsive sounds than non-impulsive sounds. Boomers generate a high-amplitude broadband (100 Hz–10 kHz) acoustic pulse with high downward directivity, though may be considered omnidirectional at frequencies below 1 kHz. Subbottom profiler systems generally project a chirp pulse spanning an operator-selectable frequency band, usually between 1 to 20 kHz, with a single beam directed vertically down. Multibeam echosounders use an array of transducers that project a high-frequency, fan-shaped beam under the hull of a survey ship and perpendicular to the direction of motion. Side-scan sonars use two transducers to project high-frequency beams that are usually wide in the vertical plane (50°–70°) and very narrow in the horizontal plane (less than a few degrees).

Vessel noise, produced largely by cavitation of propellers and by machinery inside the hull, is considered a non-pulsed sound. Sounds emitted by survey vessels are low frequency and continuous, but would be widely dispersed in both space and time. Survey vessel traffic is of low density compared to traffic associated with commercial shipping, industry support vessels, or commercial fishing vessels, and would therefore be expected to represent an insignificant incremental increase in the total amount of anthropogenic sound input to the marine environment. For these reasons, we do not consider vessel traffic noise further in this analysis.

Potential Effects of Underwater Sound

Note that, in the following discussion, we refer in many cases to a review article concerning studies of noise-induced hearing loss conducted from 1996–2015 (*i.e.,* Finneran, 2015). For study-specific citations, please see that work. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Götz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to the use of airgun arrays.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe more severe effects (*i.e.,* certain non-auditory physical or physiological effects) only briefly as we do not expect that use of airgun arrays are reasonably likely to result in such effects (see below for further discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007; Tal *et al.,* 2015). The survey activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

When a live or dead marine mammal swims or floats onto shore and is incapable of returning to sea, the event is termed a ''stranding'' (16 U.S.C. 1421h(3)). Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series (*e.g.,* Geraci *et al.,* 1999). However, the cause or causes of most strandings are unknown (*e.g.,* Best, 1982). Combinations of dissimilar stressors may combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other would not be expected to produce the same outcome (*e.g.,* Sih *et al.,* 2004). For further description of specific stranding events see, *e.g.,* Southall *et al.,* 2006, 2013; Jepson *et al.,* 2013; Wright *et al.,* 2013.

Use of military tactical sonar has been implicated in multiple investigated stranding events, although one stranding event was contemporaneous with and reasonably associated spatially

with the use of seismic airguns. This event occurred in the Gulf of California, coincident with seismic reflection profiling by the R/V *Maurice Ewing* operated by Columbia University's Lamont-Doherty Earth Observatory and involved two Cuvier's beaked whales (Hildebrand, 2004). The vessel had been firing an array of 20 airguns with a total volume of 8,500 in^3 (Hildebrand, 2004; Taylor *et al.,* 2004). Most known stranding events have involved beaked whales, though a small number have involved deep-diving delphinids or sperm whales (*e.g.,* Mazzariol *et al.,* 2010; Southall *et al.,* 2013). In general, long duration (~1 second) and high-intensity sounds (235 dB SPL) have been implicated in stranding events (Hildebrand, 2004). With regard to beaked whales, mid-frequency sound is typically implicated (when causation can be determined) (Hildebrand, 2004). Although seismic airguns create predominantly low-frequency energy, the signal does include a mid-frequency component.

Threshold Shift—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,*, 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, and there is no PTS data for cetaceans, but such relationships are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above (a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.,* Southall *et al.* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as airgun pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

For mid-frequency cetaceans in particular, potential protective mechanisms may help limit onset of TTS or prevent onset of PTS. Such mechanisms include dampening of hearing, auditory adaptation, or behavioral amelioration (*e.g.,* Nachtigall and Supin, 2013; Miller *et al.,* 2012; Finneran *et al.,* 2015; Popov *et al.,* 2016; Nachtigall *et al.,* 2017).

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Finneran *et al.* (2015) measured hearing thresholds in three captive bottlenose dolphins before and after exposure to ten pulses produced by a seismic airgun in order to study TTS induced after exposure to multiple pulses. Exposures began at relatively low levels and gradually increased over a period of several months, with the highest exposures at peak SPLs from 196 to 210 dB and cumulative (unweighted) SELs from 193–195 dB. No substantial TTS was observed. In addition, behavioral reactions were observed that indicated that animals can learn behaviors that effectively mitigate noise exposures (although exposure patterns must be learned, which is less likely in wild animals than for the captive animals considered in the study). The authors note that the failure to induce more significant auditory effects was likely due to the intermittent nature of exposure, the relatively low peak pressure produced by the acoustic source, and the low-frequency energy in airgun pulses as compared with the frequency range of best sensitivity for dolphins and other mid-frequency cetaceans.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). In general, harbor porpoises have a lower TTS onset than other measured cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes.

Critical questions remain regarding the rate of TTS growth and recovery after exposure to intermittent noise and the effects of single and multiple pulses. Data at present are also insufficient to construct generalized models for recovery and determine the time necessary to treat subsequent exposures as independent events. More information is needed on the relationship between auditory evoked potential and behavioral measures of TTS for various stimuli. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and NMFS (2016).

Behavioral Effects—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more

sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997). Observed responses of wild marine mammals to loud pulsed sound sources (typically airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007). However, many delphinids approach acoustic source vessels with no apparent discomfort or obvious behavioral change (*e.g.,* Barkaszi *et al.,* 2012).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark, 2000; Ng and Leung, 2003; Nowacek *et al.;* 2004; Goldbogen *et al.,* 2013a, 2013b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure (but see discussion of impacts to sperm whale foraging behavior below and in ''Proposed Mitigation''), so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.;* 2004; Madsen *et al.,* 2006a; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Visual tracking, passive acoustic monitoring, and movement recording tags were used to quantify sperm whale behavior prior to, during, and following exposure to airgun arrays at received levels in the range 140–160 dB at distances of 7–13 km, following a phase-in of sound intensity and full array exposures at 1–13 km (Madsen *et al.,* 2006a; Miller *et al.,* 2009). Sperm whales did not exhibit horizontal avoidance behavior at the surface. However, foraging behavior may have been affected. The sperm whales exhibited 19 percent less vocal (buzz) rate during full exposure relative to post exposure, and the whale that was approached most closely had an extended resting period and did not resume foraging until the airguns had ceased firing. The remaining whales continued to execute foraging dives throughout exposure; however, swimming movements during foraging dives were 6 percent lower during exposure than control periods (Miller *et al.,* 2009). These data raise concerns that airgun surveys may impact foraging behavior in sperm whales, although more data are required to understand whether the differences were due to exposure or natural variation in sperm whale behavior (Miller *et al.,* 2009). We discuss these findings in greater detail under ''Proposed Mitigation.''

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005, 2006; Gailey *et al.,* 2007; Gailey *et al.,* 2016).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can

occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Cerchio *et al.* (2014) used passive acoustic monitoring to document the presence of singing humpback whales off the coast of northern Angola and to opportunistically test for the effect of seismic survey activity on the number of singing whales. Two recording units were deployed between March and December 2008 in the offshore environment; numbers of singers were counted every hour. Generalized Additive Mixed Models were used to assess the effect of survey day (seasonality), hour (diel variation), moon phase, and received levels of noise (measured from a single pulse during each ten minute sampled period) on singer number. The number of singers significantly decreased with increasing received level of noise, suggesting that humpback whale communication was disrupted to some extent by the survey activity.

Castellote *et al.* (2012) reported acoustic and behavioral changes by fin whales in response to shipping and airgun noise. Acoustic features of fin whale song notes recorded in the Mediterranean Sea and northeast Atlantic Ocean were compared for areas with different shipping noise levels and traffic intensities and during an airgun survey. During the first 72 hours of the survey, a steady decrease in song received levels and bearings to singers indicated that whales moved away from the acoustic source and out of the study area. This displacement persisted for a time period well beyond the 10-day duration of airgun activity, providing evidence that fin whales may avoid an area for an extended period in the presence of increased noise. The authors hypothesize that fin whale acoustic communication is modified to compensate for increased background noise and that a sensitization process may play a role in the observed temporary displacement.

Seismic pulses at average received levels of 131 dB re 1 μPa^2-s caused blue whales to increase call production (Di Iorio and Clark, 2010). In contrast, McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of 10 km from the acoustic source vessel (estimated received level 143 dB pk-pk). Blackwell *et al.* (2013) found that bowhead whale call rates dropped significantly at onset of airgun use at sites with a median distance of 41–45 km from the survey. Blackwell *et al.* (2015) expanded this analysis to show that whales actually increased calling rates as soon as airgun signals were detectable before ultimately decreasing calling rates at higher received levels (*i.e.,* 10-minute cumulative sound exposure level (cSEL) of ~127 dB). Overall, these results suggest that bowhead whales may adjust their vocal output in an effort to compensate for noise before ceasing vocalization effort and ultimately deflecting from the acoustic source (Blackwell *et al.,* 2013, 2015). These studies demonstrate that even low levels of noise received far from the source can induce changes in vocalization and/or behavior for mysticetes.

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from airgun surveys (Malme *et al.,* 1984). Humpback whales showed avoidance behavior in the presence of an active airgun array during observational studies and controlled exposure experiments in western Australia (McCauley *et al.,* 2000a). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

Forney *et al.* (2017) detail the potential effects of noise on marine mammal populations with high site fidelity, including displacement and auditory masking, noting that a lack of observed response does not imply absence of fitness costs and that apparent tolerance of disturbance may have population-level impacts that are less obvious and difficult to document. As we discuss in describing our proposed mitigation later in this document, avoidance of overlap between disturbing noise and areas and/or times of particular importance for sensitive species may be critical to avoiding population-level impacts because (particularly for animals with high site fidelity) there may be a strong motivation to remain in the area despite negative impacts. Forney *et al.* (2017) state that, for these animals, remaining in a disturbed area may reflect a lack of alternatives rather than a lack of effects. The authors discuss several case studies, including western Pacific gray whales, which are a small population of mysticetes believed to be adversely affected by oil and gas development off Sakhalin Island, Russia (Weller *et al.,* 2002; Reeves *et al.,* 2005). Western gray whales display a high degree of interannual site fidelity to the area for foraging purposes, and observations in the area during airgun surveys has shown the potential for harm caused by displacement from such an important area (Weller *et al.,* 2006; Johnson *et al.,* 2007). As we discuss below in ''Proposed Mitigation,'' similar concerns exist in relation to the potential for survey activity in the resident habitat of the GOM's small population of Bryde's whales. Forney *et al.* (2017) also discuss beaked whales, noting that anthropogenic effects in areas where they are resident could cause severe biological consequences, in part because displacement may adversely affect foraging rates, reproduction, or health, while an overriding instinct to remain could lead to more severe acute effects.

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and

whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stone (2015a) reported data from at-sea observations during 1,196 airgun surveys from 1994 to 2010. When large arrays of airguns (considered to be 500 in^3 or more) were firing, lateral displacement, more localized avoidance, or other changes in behavior were evident for most odontocetes. However, significant responses to large arrays were found only for the minke whale and fin whale. Behavioral responses observed included changes in swimming or surfacing behavior, with indications that cetaceans remained near the water surface at these times. Cetaceans were recorded as feeding less often when large arrays were active. Behavioral observations of gray whales during an airgun survey monitored whale movements and respirations pre-, during-, and post-seismic survey (Gailey *et al.,* 2016). Behavioral state and water depth were the best 'natural' predictors of whale movements and respiration and, after considering natural variation, none of the response variables were significantly associated with survey or vessel sounds.

Stress Responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficiently to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory Masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to

distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009; Matthews *et al.,* 2016) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Ship Strike

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. Wounds resulting from ship strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. Superficial strikes may not kill or result in the death of the animal. These interactions are typically associated with large whales, which are occasionally found draped across the bulbous bow of large commercial ships upon arrival in port. Although smaller cetaceans are more maneuverable in relation to large vessels than are large whales, they may also be susceptible to strike. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.,* 2010; Gende *et al.,* 2011).

Pace and Silber (2005) also found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 kn, and exceeded 90 percent at 17 kn. Higher speeds during collisions result in greater force of impact, but higher speeds also appear to increase the chance of severe injuries or death through increased likelihood of collision by pulling whales toward the vessel (Clyne, 1999; Knowlton *et al.,* 1995). In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 8.6 and 15 kn. The chances of a lethal injury decline from approximately 80 percent at 15 kn to approximately 20 percent at 8.6 kn. At speeds below 11.8 kn, the chances of lethal injury drop below 50 percent, while the probability asymptotically increases toward 100 percent above 15 kn.

In an effort to reduce the number and severity of strikes of the endangered North Atlantic right whale, NMFS implemented speed restrictions in 2008 (73 FR 60173; October 10, 2008). These restrictions require that vessels greater than or equal to 65 ft (19.8 m) in length travel at less than or equal to 10 kn near key port entrances and in certain areas of right whale aggregation along the U.S. eastern seaboard. Conn and Silber (2013) estimated that these restrictions reduced total ship strike mortality risk levels by 80 to 90 percent.

For vessels used in geophysical survey activities, vessel speed while towing gear is typically only 4–5 kn. At these speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are discountable. At average transit speed, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again unlikely. Ship strikes, as analyzed in the studies cited above, generally involve commercial shipping, which is much more common in both space and time than is geophysical survey activity. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). Commercial fishing vessels were responsible for three percent of recorded collisions, while no such incidents were reported for geophysical survey vessels during that time period.

It is possible for ship strikes to occur while traveling at slow speeds. For example, a hydrographic survey vessel traveling at low speed (5.5 kn) while conducting mapping surveys off the central California coast struck and killed a blue whale in 2009. The State of California determined that the whale had suddenly and unexpectedly surfaced beneath the hull, with the result that the propeller severed the whale's vertebrae, and that this was an unavoidable event. The strike represented the only such incident in approximately 540,000 hours of similar coastal mapping activity ($p = 1.9 \times 10^{-6}$; 95% CI = $0 - 5.5 \times 10^{-6}$; NMFS, 2013). In addition, a research vessel reported a fatal strike in 2011 of a dolphin in the Atlantic, demonstrating that it is possible for strikes involving smaller cetaceans to occur. In that case, the incident report indicated that an animal apparently was struck by the vessel's propeller as it was intentionally swimming near the vessel. While indicative of the type of unusual events that cannot be ruled out, neither of these instances represents a circumstance that would be considered reasonably foreseeable or that would be considered preventable.

Although the likelihood of vessels associated with geophysical surveys striking a marine mammal are low, we require a robust ship strike avoidance protocol (see ''Proposed Mitigation''), which we believe eliminates any

foreseeable risk of ship strike. We anticipate that vessel collisions involving seismic data acquisition vessels towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the required mitigation measures, the relatively slow speeds of vessels towing gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), the presence of marine mammal observers, and the small number of seismic survey cruises relative to commercial ship traffic, we believe that the possibility of ship strike is discountable and, further, that were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from ship strike is anticipated or proposed for authorization, and this potential effect of the specified activity will not be discussed further in the following analysis.

Other Potential Impacts

Here, we briefly address the potential risks due to entanglement and contaminant spills. We are not aware of any records of marine mammal entanglement in towed arrays such as those considered here, and we address measures designed to eliminate the potential for entanglement in gear used by OBS surveys in ''proposed Mitigation.'' The discharge of trash and debris is prohibited (33 CFR 151.51–77) unless it is passed through a machine that breaks up solids such that they can pass through a 25-mm mesh screen. All other trash and debris must be returned to shore for proper disposal with municipal and solid waste. Some personal items may be accidentally lost overboard. However, U.S. Coast Guard and Environmental Protection Act regulations require operators to become proactive in avoiding accidental loss of solid waste items by developing waste management plans, posting informational placards, manifesting trash sent to shore, and using special precautions such as covering outside trash bins to prevent accidental loss of solid waste. Any permits issued by BOEM would include guidance for the handling and disposal of marine trash and debris, similar to BSEE's Notice to Lessees 2015–G03 (''Marine Trash and Debris Awareness and Elimination'') (BSEE, 2015; BOEM, 2017). We believe entanglement risks are essentially eliminated by the proposed requirements, and entanglement risks are not discussed further in this document.

Marine mammals could be affected by accidentally spilled diesel fuel from a vessel associated with proposed survey activities. Quantities of diesel fuel on the sea surface may affect marine mammals through various pathways: Surface contact of the fuel with skin and other mucous membranes, inhalation of concentrated petroleum vapors, or ingestion of the fuel (direct ingestion or by the ingestion of contaminated prey) (*e.g.,* Geraci and St. Aubin, 1980, 1985, 1990). However, the likelihood of a fuel spill during any particular geophysical survey is considered to be remote, and the potential for impacts to marine mammals would depend greatly on the size and location of a spill and meteorological conditions at the time of the spill. Spilled fuel would rapidly spread to a layer of varying thickness and break up into narrow bands or windrows parallel to the wind direction. The rate at which the fuel spreads would be determined by the prevailing conditions such as temperature, water currents, tidal streams, and wind speeds. Lighter, volatile components of the fuel would evaporate to the atmosphere almost completely in a few days. Evaporation rate may increase as the fuel spreads because of the increased surface area of the slick. Rougher seas, high wind speeds, and high temperatures also tend to increase the rate of evaporation and the proportion of fuel lost by this process (Scholz *et al.,* 1999). We do not anticipate potentially meaningful effects to marine mammals as a result of any contaminant spill resulting from the proposed survey activities, and contaminant spills resulting from the specified activity are not discussed further in this document.

Anticipated Effects on Marine Mammal Habitat

Physical Disturbance—Sources of seafloor disturbance related to geophysical surveys that may impact marine mammal habitat include placement of anchors, nodes, cables, sensors, or other equipment on or in the seafloor for various activities. Equipment deployed on the seafloor has the potential to cause direct physical damage and could affect bottom-associated fish resources. Several NTLs detail the mitigation measures used to prevent adverse impacts (''Biologically-sensitive Underwater Features and Areas'' (NTL 2009–G39), ''Deepwater Benthic Communities'' (NTL 2009–G40), and ''Shallow Hazards Program'' (NTL 2008–G05) (MMS, 2008; 2009a; 2009b)).

Placement of equipment, such as nodes, on the seafloor could damage areas of hard bottom where direct contact with the seafloor occurs and could crush epifauna (organisms that live on the seafloor or surface of other organisms). Damage to unknown or unseen hard bottom could occur, but because of the small area covered by most bottom-founded equipment, the patchy distribution of hard bottom habitat, BOEM's review process, and BOEM's application of avoidance conditions of approval, contact with unknown hard bottom is expected to be rare and impacts minor. Seafloor disturbance in areas of soft bottom can cause loss of small patches of epifauna and infauna due to burial or crushing, and bottom-feeding fishes could be temporarily displaced from feeding areas. Overall, any effects of physical damage to habitat are expected to be minor and temporary.

Effects to Prey—Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton). Marine mammal prey varies by species, season, and location and, for some, is not well documented. Here, we describe studies regarding the effects of noise on known marine mammal prey.

Fish utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.,* Zelick *et al.,* 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.,* 2008). The potential effects of airgun noise on fishes depends on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts to fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fish react to sounds which are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to airguns depends on the physiological state of the fish, past exposures, motivation (*e.g.,* feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas

of sound energy. Several studies have demonstrated that airgun sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.,* Fewtrell and McCauley, 2012; Pearson *et al.,* 1992; Skalski *et al.,* 1992; Santulli *et al.,* 1999; Paxton *et al.,* 2017). However, some studies have shown no or slight reaction to airgun sounds (*e.g.,* Pena *et al.,* 2013; Wardle *et al.,* 2001; Jorgenson and Gyselman, 2009; Cott *et al.,* 2012). More commonly, though, the impacts of noise on fish are temporary. Investigators reported significant, short-term declines in commercial fishing catch rate of gadid fishes during and for up to five days after survey operations, but the catch rate subsequently returned to normal (Engas et al, 1996; Engas and Lokkeborg, 2002); other studies have reported similar findings (Hassel *et al.,* 2004). However, even temporary effects to fish distribution patterns can impact their ability to carry out important life-history functions (Paxton *et al.,* 2017).

SPLs of sufficient strength have been known to cause injury to fish and fish mortality and, in some studies, fish auditory systems have been damaged by airgun noise (McCauley *et al.,* 2003; Popper *et al.,* 2005; Song *et al.,* 2008). However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012a) showed that a TTS of 4–6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long. No mortality occurred to fish in any of these studies.

Injury caused by barotrauma can range from slight to severe and can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (an impulsive noise source, as are airguns) (Halvorsen *et al.,* 2012b; Casper *et al.,* 2013). For geophysical surveys, the sound source is constantly moving, and most fish would likely avoid the sound source prior to receiving sound of sufficient intensity to cause physiological or anatomical damage.

Invertebrates appear to be able to detect sounds (Pumphrey, 1950; Frings and Frings, 1967) and are most sensitive to low-frequency sounds (Packard *et al.,* 1990; Budelmann and Williamson, 1994; Lovell *et al.,* 2005; Mooney *et al.,* 2010). Available data suggest that cephalopods are capable of sensing the particle motion of sounds and detect low frequencies up to 1–1.5 kHz, depending on the species, and so are likely to detect airgun noise (Kaifu *et al.,* 2008; Hu *et al.,* 2009; Mooney *et al.,* 2010; Samson *et al.,* 2014). Cephalopods have a specialized sensory organ inside the head called a statocyst that may help an animal determine its position in space (orientation) and maintain balance (Budelmann, 1992). Packard *et al.* (1990) showed that cephalopods were sensitive to particle motion, not sound pressure, and Mooney *et al.* (2010) demonstrated that squid statocysts act as an accelerometer through which particle motion of the sound field can be detected. Auditory injuries (lesions occurring on the statocyst sensory hair cells) have been reported upon controlled exposure to low-frequency sounds, suggesting that cephalopods are particularly sensitive to low-frequency sound (Andre *et al.,* 2011; Sole *et al.,* 2013). Behavioral responses, such as inking and jetting, have also been reported upon exposure to low-frequency sound (McCauley *et al.,* 2000b; Samson *et al.,* 2014).

Impacts to benthic communities from impulsive sound generated by active acoustic sound sources are not well documented. There are no published data that indicate whether threshold shift injuries or effects of auditory masking occur in benthic invertebrates, and there are little data to suggest whether sounds from seismic surveys would have any substantial impact on invertebrate behavior (Hawkins *et al.,* 2014), though some studies have indicated showed no short-term or long-term effects of airgun exposure (*e.g.,* Andriguetto-Filho *et al.,* 2005; Payne *et al.,* 2007; 2008; Boudreau *et al.,* 2009). Exposure to airgun signals was found to significantly increase mortality in scallops, in addition to causing significant changes in behavioral patterns during exposure (Day *et al.,* 2017). However, the implications of this finding are not straightforward, as the authors state that the observed levels of mortality were not beyond naturally occurring rates.

There is little information concerning potential impacts of noise on zooplankton populations. However, one recent study (McCauley *et al.,* 2017) investigated zooplankton abundance, diversity, and mortality before and after exposure to airgun noise, finding that the exposure resulted in significant depletion for more than half the taxa present and that there were two to three times more dead zooplankton after airgun exposure compared with controls for all taxa. The majority of taxa present were copepods and cladocerans; for these taxa, the range within which effects on abundance were detected was up to approximately 1.2 km. In order to have significant impacts on *r*-selected species such as plankton, the spatial or temporal scale of impact must be large in comparison with the ecosystem concerned (McCauley *et al.,* 2017). Therefore, the large scale of effect observed here is of concern—particularly where repeated noise exposure is expected—and further study is warranted.

Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. Mortality from decompression injuries is possible in close proximity to a sound, but only limited data on mortality in response to airgun noise exposure are available (Hawkins *et al.,* 2014). The most likely impacts for most prey species in a given area would be temporary avoidance of the area. Surveys using towed airgun arrays move through an area relatively quickly, limiting exposure to multiple impulsive sounds. In all cases, sound levels would return to ambient once a survey ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly (McCauley *et al.,* 2000b). The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. While the potential for disruption of spawning aggregations or schools of important prey species can be meaningful on a local scale, the mobile and temporary nature of most surveys and the likelihood of temporary avoidance behavior suggest that impacts would be minor.

Acoustic Habitat—Acoustic habitat is the soundscape—which encompasses all of the sound present in a particular location and time, as a whole—when considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (communication during feeding, mating, and other social activities), other animals (finding prey or avoiding predators), and the physical environment (finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (*e.g.,* produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic, or may be intentionally introduced to the marine environment for data acquisition purposes (as in the use of airgun arrays). Anthropogenic noise varies widely in its frequency content, duration, and loudness and these characteristics greatly influence the potential habitat-mediated effects to marine mammals (please also see the previous discussion on masking in the ''Acoustic Effects'' subsection), which may range from local effects for brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber, 2013). For more detail on these concepts see, *e.g.,* Barber *et al.,* 2009; Pijanowski *et al.,* 2011; Francis and Barber, 2013; Lillis *et al.,* 2014.

The term ''listening area'' refers to the region of ocean over which sources of sound can be detected by an animal at the center of the space. Loss of communication space concerns the area over which a specific animal signal, used to communicate with conspecifics in biologically-important contexts (*e.g.,* foraging, mating), can be heard, in noisier relative to quieter conditions (Clark *et al.,* 2009). Lost listening area concerns the more generalized contraction of the range over which animals would be able to detect a variety of signals of biological importance, including eavesdropping on predators and prey (Barber *et al.,* 2009). Such metrics do not, in and of themselves, document fitness consequences for the marine animals that live in chronically noisy environments. Long-term population-level consequences mediated through changes in the ultimate survival and reproductive success of individuals are difficult to study, and particularly so underwater. However, it is increasingly well documented that aquatic species rely on qualities of natural acoustic habitats, with researchers quantifying reduced detection of important ecological cues (*e.g.,* Francis and Barber, 2013; Slabbekoorn *et al.,* 2010) as well as survivorship consequences in several species (*e.g.,* Simpson *et al.,* 2014; Nedelec *et al.,* 2015).

Specific to the GOM and the activities considered here, Matthews *et al.* (2016, 2017) developed a first-order cumulative and chronic effects assessment for noise produced by oil and gas exploration activities in the U.S. GOM. The 2016 report was originally presented as Appendix K in BOEM (2017), with an addendum to the report produce in 2017; both are available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* Here, we summarize the study and its findings (referred to here as ''the CCE report''). For full methodological details and results, please see the report.

As discussed previously in this section, direct exposure to the pulses produced by airguns can result in acute impacts at close ranges. However, low-frequency dominant airgun noise undergoes multiple reflections at the ocean bottom and surface and refraction through the water column, both of which cause prolonged decay time of the original acoustic signals (Urick, 1984). Extended decay time can lead to high sound levels lasting from one impulse to the onset of the next, elevating ambient noise levels (Guan *et al.,* 2015). In addition, low-frequency energy from airgun surveys, with access to conductive propagation conditions (*e.g.,* deeper waters), has been documented to travel long distances, contributing to increased background noise over very large areas (Nieukirk *et al.,* 2012). Implications for acoustic masking and reduced communication space resulting from noise produced by airgun surveys are expected to be particularly heightened for animals that actively produce low frequency sounds or whose hearing is attuned to lower frequencies. Bryde's whales are the only GOM species classified within the low-frequency hearing group, producing calls that span a low frequency range that directly overlaps the dominant energies produced by airguns. However, impacts associated with cumulative noise within the frequencies of the Matthews *et al.* (2016) study (10–5,000 Hz), are relevant to the majority of cetacean species in the GOM. In the addendum to the CCE report (Matthews *et al.,* 2017), the same methods for calculating changes in communication space were applied to sperm whales (based on male sperm whale slow-clicks; Madsen *et al.,* 2002b).

Acoustic modeling was conducted for ten locations (''receiver sites'') within the study area to examine aggregate noise produced over a full year. The locations of the receiver sites are given in Table 5 and shown in the map of Figure 4. These sites were chosen to reflect areas of biological importance to cetaceans, (*e.g.,* LaBrecque *et al.,* 2015), areas of high densities of cetaceans (Roberts *et al.,* 2016), and areas of key biological diversity (*e.g.,* National Marine Sanctuaries). The study area was divided into six ''activity zones'' (Figure 4) (note that these zones are different from those used for acoustic exposure modeling and described below in the ''Estimated Take'' section).

TABLE 5—MODELED RECEIVER SITE LOCATIONS, WATER DEPTHS, AND SELECTION BASIS

Site	Receiver site	Latitude	Longitude	Water depth (m)	Selection basis
1	Western GOM	27.01606° N	95.7405° W	842	Higher density cryptic deep diving and social pelagic cetaceans.
2	Florida Escarpment	25.95807° N	84.6956° W	693	Higher density multiple cetacean species shelf break and slope.
3	Midwestern GOM	27.43300° N	92.1200° W	830	Higher density multiple cetacean species shelf break and slope.
4	Sperm whale site	24.34771° N	83.7727° W	1,053	Higher density sperm whales and cryptic deep diving cetaceans.
5	Deep offshore	27.64026° N	87.0285° W	3,050	Location of NOAA noise reference station.
6	Mississippi Canyon	28.15455° N	89.3971° W	1,106	Higher density sperm whales and cryptic deep diving cetaceans.
7	Bryde's whale site	28.74043° N	85.7302° W	212	Bryde's whale biologically important area.

TABLE 5—MODELED RECEIVER SITE LOCATIONS, WATER DEPTHS, AND SELECTION BASIS—Continued

Site	Receiver site	Latitude	Longitude	Water depth (m)	Selection basis
8	De Soto Canyon	29.14145° N	87.1762° W	919	Higher density sperm whales and cryptic deep diving cetaceans.
9	Flower Garden Banks National Marine Sanctuary.	27.86713° N	93.8259° W	88	National Marine Sanctuary.
10	Bottlenose dolphin site	29.40526° N	93.3247° W	12	Bottlenose dolphin biologically important area.

Note that ''closure areas'' depicted in Figure 4 represent those described in Chapter 2.8 of BOEM (2017), which are in some cases different from those described in this document (see the ''Proposed Mitigation'' section). Matthews *et al.* (2016, 2017) analyzed multiple scenarios, including a baseline scenario (referred to in the CCE report as ''Alternative A'') in which no geophysical surveys are conducted and noise consists of natural sounds and a minimum estimate of commercial vessel noise; a survey activity scenario (referred to in the CCE report as ''Alternative C'') in which projected activities were uniformly distributed throughout the study area, with the exception of the coastal waters restriction from February to May (as described below in the ''Proposed Mitigation'' section); and a closure scenario (referred to in the CCE report as ''Alternative F1'') in which no activities are conducted in the restriction areas, 25 percent of the activity that would have occurred in the restriction areas is redistributed into non-restriction areas of the same activity zone (Figure 4), and 75 percent of the activities that would have occurred in the restriction areas are not conducted at all. Matthews *et al.* (2016, 2017) also assessed additional scenarios not relevant to this proposed rulemaking; these are not discussed here.

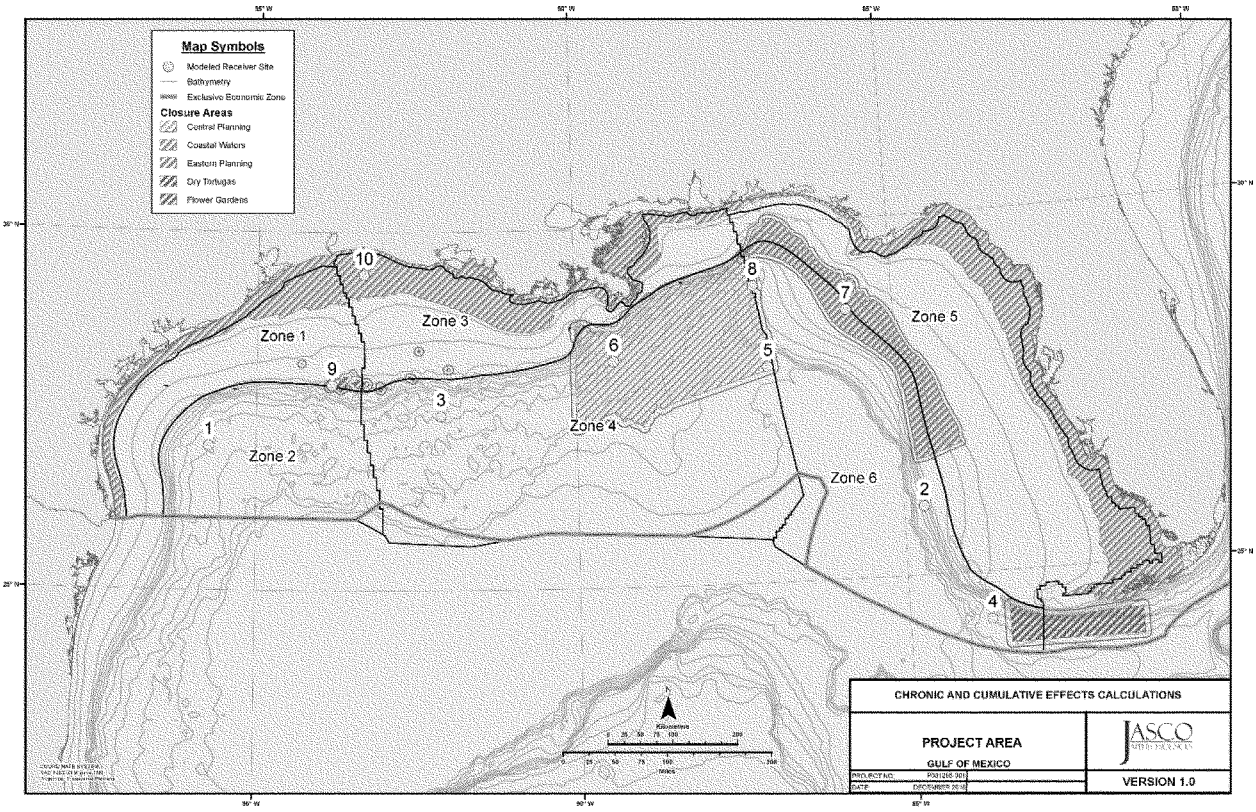


Figure 4. Study Area with Modeled Receiver Sites (Matthews *et al.*, 2016, 2017).

Several simplifying assumptions were necessary. Changes in the distribution of survey activities would result in differences in the relative amount of noise accumulating at different receiver sites, and that variance was not examined. Instead, results associated with zone-varying densities of activity types but homogenous distributions of activities of each type within zones were presented. The approach applied accounts for spatial variance in resulting cumulative noise due to factors affecting sound propagation (*e.g.,* topography, bottom type) among locations of key management interest in the region. However, it does not produce results for additional locations (*e.g.,* a uniform map).

The average of the projected annual amounts of survey activities for ten

years in each zone (Table 1) was calculated from the total survey line length within the respective zones. These average activity levels were modified by implementing area restrictions. Two representative acoustic sources were modeled and applied to five total activity types: Various configurations of one or more 8,000 in^3 airgun arrays were used to simulate 2D, 3D NAZ, 3D WAZ, and coil surveys, and a single 90 in^3 airgun was used to simulate boomer and sparker type sources used for geotechnical surveys (see Table 2 in the CCE report for full details of these assumptions). Since the specific location of each type of activity was unknown, the survey source pulses were uniformly distributed throughout the activity zones according to the projected amount of each type of survey activity. In order to account for the seasonal closure of coastal waters, Zones 1, 3, and 5 were separated into waters occurring within coastal vs. deeper waters at the 20-m isobath. The numbers of pulses occurring annually within the coastal versus deeper portions of the zone were titrated to account for only eight months per year of survey activity within the coastal portion.

The acoustic fields at the receiver sites were modeled at frequencies from 10 Hz to 5 kHz, for sources up to 500 km away. Results are provided for three depths as available at each receiver location: 5, 30, and 500 m. Annual cumulative SELs and time-averaged equivalent SPLs (L_{eq}) at the selected receiver sites were calculated for all survey activity. A feature of underwater sound propagation is that nearby sources contribute substantially more SEL than more distant sources, since the exposure levels decay approximately with the square of distance from the source. This causes cumulative SEL received from spatially distributed and moving sources to be dominated by the sources closest to a receiver. However, the duration of exposures from very close sources is typically quite short. While exposures from nearby sources are important for assessing acute effects, their inclusion in a chronic effects assessment can be misleading. To overcome this issue, this approach excluded the highest shot exposures received during a fraction (10 percent) of the total study time period. Thus, the effective accumulation period was 90 percent of a year. The cumulative levels estimated using the approach applied in the study are accurate when the cell dimensions are small, relative to the source-receiver separation. This approach could have led to errors when survey lines approached within a few kilometers from the receiver locations; however, the close range cells where this could have been a problem were automatically excluded by the removal of the top 10 percent of pulse noise contributions. Marine mammal hearing frequency weighting filter coefficients were applied to the received levels, and results are presented both with and without weighting. Results relevant to this proposed rule for cumulative SEL (Tables 8 and 10 in the CCE report) and L_{eq} (Tables 12 and 16 in the CCE report) calculations are presented in the CCE report.

A baseline ambient noise level must be assumed to estimate lost listening area and changes in communication space for various levels of activity. Here, ambient noise levels were defined as some contribution of commercial shipping noise in the 50–800 Hz band and noise from natural sounds (produced mainly by wind and waves). The commercial shipping noise levels were obtained from products available at *cetsound.noaa.gov/sound-index,* which provide commercial shipping noise levels over the GOM region in one third-octave frequency bands between 50–800 Hz (shipping noise was neglected outside this range). Natural ambient noise levels were calculated from the formulas of Wenz (1962) and Cato (2008) for a wind speed of 8.5 kn. The natural noise levels were added to the vessel noise levels to generate composite one third-octave band ambient levels between 10 Hz and 5 kHz. Broadband ambient levels varied between 94.3 and 102.3 dB, depending on the receiver location and depth (Table 7 in the CCE report). Estimates were assigned to each receiver site based on proximity and matched by water depth. Tables 13 and 17 in the CCE report present relevant results for modeled L_{eq} above ambient at each receiver site with and without frequency weighting.

The lost listening area assessment method has been applied to in-air noise (Barber *et al.,* 2009) and in soundscape management contexts (NPS, 2010). Sound sources considered by this method can be from the same species (as discussed for communication space), a different species (*e.g.,* predator or prey), natural sounds, or anthropogenic sounds. The lost listening area method applied by Barber *et al.* (2009) calculates a fractional reduction in listening area due to the addition of anthropogenic noise to ambient noise. It does not provide absolute areas or volumes of space; however, a benefit of the listening area method is that it does not rely on source levels of the sounds of interest. Instead, the method depends on the rate of sound transmission loss. Such results can be considered with frequency weightings, which represent the hearing sensitivity variations of three marine mammal species groups and transmission loss variations with range, or more generally without weighting. Results are presented as a percentage of the original listening area remaining due to the increase in noise levels relative to no activity and between activity scenarios. Relevant results are presented in Tables 20, 22, and 25 of the CCE report.

The communication space assessment was performed for Bryde's whales and sperm whales using methods previously implemented for examining anthropogenic noise effects on whales (Clark *et al.,* 2009; Hatch *et al.,* 2012). Communication space represents the area within which whales can detect calls from other whales. For Bryde's whales, all calculations were performed in the single one third-octave frequency band centered at 100 Hz, representing the highest received sound levels for the calls attributed to Bryde's whales in the GOM (Rice *et al.,* 2014; Sirovic *et al.,* 2014). A one third-octave band sound level of 152 dB at 1 m was specified. An estimate of 12.36 dB signal processing gain (which accounts for the animal's ability to not only detect but recognize a signal from an animal of the same species) was applied. The areas of communication space at each receiver for the Bryde's whale calls under ambient conditions and under each relevant activity scenario are presented in Tables 28, 29, and 31 of the CCE report. Relative losses of communication space (in both areas and percentages) between the activity scenarios are presented in Table 34 of the CCE report.

For sperm whales, calculations were performed in the third-octave frequency band centered at 3,150 Hz, with a specified sound level of 181 dB at 1 m (Madsen *et al.,* 2002b). Sperm whales produce at least four types of clicks: Usual clicks, buzzes (also called creaks), codas (patterns of 3–20 clicks), and slow-clicks (or clangs). Sperm whales on feeding grounds emit slow-clicks in seemingly repetitive temporal patterns (Oliveira *et al.,* 2013), supporting the hypothesis that their function is long range communication between males, possibly relaying information about individual identity or behavioral states. These calls were chosen for the analysis since they have a lower frequency emphasis and longer duration than other sperm whale clicks (the center frequency of usual clicks and buzzes is 15 kHz; Madsen *et al.,* 2002b). Since the

frequency band of slow-clicks is closest to that of the airgun activity, these calls are the most affected in the context of the study. In addition, low-frequency sounds generally propagate farther than high-frequency ones. Thus, low-frequency communication is generally more affected by distant noise sources than high-frequency communication. The signal processing gain was estimated at 3.0 dB, based on a median frequency bandwidth of 4 kHz and call length of 500 μs (Madsen *et al.,* 2002b). Results for sperm whales are shown in Table 2 of the CCE report addendum.

In the 3,150 Hz band, noise contribution from airgun survey activities in the GOM was estimated between 82.0 and 82.1 dB for all sites and all alternatives, levels similar to the estimated baseline levels of 82.0 dB at all sites. Therefore, the analysis shows that the survey activities do not significantly contribute to the soundscape in the 3,150 Hz band, and that there will be no significant change in communication space for sperm whales under the modeled alternatives. Because other sperm whale calls are higher-frequency, they would not be expected to be affected. However, we must be clear that this analysis is in reference to potential chronic effects resulting from changes to effective communication space, and that acute expects, as discussed elsewhere in this preamble, remain of concern for sperm whales. The remaining discussion that follows is in reference to the findings for Bryde's whales and to general findings for other hearing groups.

The lost listening area and communication space metrics do not reflect variance in an individual animal's experience of the noise produced by the modeled activities from one moment to the next. With both sources of noise and animals moving, the time-series of an individual's noise exposure will show considerable variation. The methods used by Matthews *et al.* (2016, 2017) were meant to average the conditions generated by low-frequency dominant noise sources throughout a full year, during which animals of key management interest rely on habitats within the study area. Considered as a complement to assessments of the acute effects of the same types of noise sources in the same region (discussed below in the ''Estimated Take'' section), the CCE assessment estimates noise produced by the same sources over much larger spatial scales, and considers how the summation of noise from these sources relates to levels without the proposed activity (ambient). Approaches such as the communication space estimation include approximation for the evolved ability of many acoustically active animals, such as Bryde's whales, to hear the calls of conspecifics in the presence of some overlapping noise.

At most sites, lost listening area was greater for deeper waters than for shallower waters, which is attributed to the downward-refracting sound speed profile near the surface, caused by the thermocline, which steers sound to deeper depths. The winter sound speed profile applied in the CCE modeling (February) was considered to be conservative relative to summer, as it includes a surface sound channel at certain sites that are conducive to sound propagation from shallow sound sources. Shallow water noise levels were reduced due to surface interactions that increase transmission loss, particularly for low frequencies. Listening area reductions were also generally most severe when weighted for low-frequency hearing cetaceans. Filters that more heavily weighted the mid-frequencies modeled in this study (150 Hz–5 kHz) often reduced estimates of lost listening area. Canyon areas in the central and eastern GOM saw significant loss of listening area. Both low- and mid-frequency weighted losses were high in the Mississippi Canyon, while only low-frequency weighted values were high for the De Soto Canyon. Both of these sites are considered important to sperm whales as well as other deep diving odontocetes. Other areas relevant to sperm whales, including site 4 off the Dry Tortugas, also saw heavy reductions in listening area. Additional heavily affected sites were those chosen to represent locations with predicted high densities of cryptic deep divers (*e.g.,* site 1 in the far western GOM). Though most of these species are classified as having mid-frequency hearing sensitivity, many have shown sensitivity to airgun noise, with sperm whales the most well documented in the GOM. These modeling results suggest that accumulations of noise from survey activities below 5 kHz and often heightened at depth could be degrading the availability of animals that forage at great depths in the GOM to use acoustic cues find prey as well as to maintain conspecific contact.

Comparison between results provided for the two metrics applied in the CCE report highlights important interpretive differences for evaluating the biological implications of background noise. The strength of the communication space approach is that it evaluates potential contractions in the availability of a signal of documented importance to a population of animals of key management interest in the region. In this case, losses of communication space for Bryde's whales were estimated to be higher in eastern and central GOM canyons and shelf break areas. The maintenance of listening area and communication space at site 7 is of particular interest because the location is within the area of designated biological importance to the Bryde's whale. The apparent protection of listening area and communication space within the calling frequencies utilized by the Bryde's whale appears to take advantage of both local propagation conditions and the predicted lower levels of survey activity in the shallower portions of the Eastern Planning Area, which more strongly affect noise levels at this site. However, the significant loss of low-frequency listening area and communication space for their calls estimated for in additional locations, including just off the shelf in the eastern GOM, is of concern for this population.

The effectiveness of time-area restrictions for maintaining communication space or listening area were highly variable among locations. This assessment evaluated the implications of displacing a portion (25 percent) of the activity that would have taken place within a restriction area to within the remaining area outside the restriction. Thus, sites that were within large restriction areas (sites 6 and 8) experienced reduced cumulative noise levels and improved listening and communication conditions when those restrictions were in effect. Conditions at sites within restrictions designed around biologically important areas (sites 7 and 10) were not improved solely because they were not degraded under non-restriction conditions. In contrast, some sites outside restrictions, particularly those located in deeper water zones that correspond with denser projected levels of survey activity (sites 1, 3, and 5) experienced higher noise levels with time-area restrictions, due to activity that was displaced to within their propagation vicinity. Finally, the methods used in this assessment to remove 10 percent of shots from survey activity closest to the receiver locations are likely to have reduced the relative difference between accumulated energy resulting from smaller restrictions (which further eliminated shots that would have taken place within the 160 dB buffered restriction areas). This loss of resolution between restriction and non-restriction results does not adequately capture the reduction in acute noise exposure that could be experienced by animals through implementation of a restriction.

The CCE report is described here in order to present information regarding potential longer-term and wider-range noise effects from sources such as airguns. The metrics applied in this study do not, in and of themselves, document the consequences of lost listening area or communication space for the survivorship or reproductive success of individual animals. However, they do translate a growing body of scientific evidence for concern regarding the degradation of the quality of high-value acoustic habitats into quantifiable attributes that can related to baseline conditions, including those to which animals have evolved.

In general, losses of broadband listening area far exceeded losses of communication space when evaluated at the same locations and under the same activity levels. This is appropriate to the interpretive role of the lost listening space calculation, which is to provide a more conservative estimate of the areas over which animals have access to a variety of acoustic cues of importance to their survival and reproductive success. Acoustic cues provide particularly important information in areas where other sensory cues are diminished (*e.g.,* dark) and where navigation is challenging (*e.g.,* complex coastlines and topography). Documentation of such cues (*e.g.,* Barber *et al.,* 2009; Slabbekoorn *et al.,* 2010) indicate that they can be well outside of the frequencies that animals use to communicate with conspecifics, are often of lower source levels than conspecific calls and in many cases cannot benefit from evolved capacity to compensate for noise (*e.g.,* gain applied to communication space calculations), due to the absence of a mechanism for natural selection to act (*e.g.,* most eavesdropping contexts). The results of the CCE study highlight the need for further long-term monitoring in the GOM.

Estimated Take

This section provides an estimate of the number and type of incidental takes that may be expected to occur under the proposed activity, which will inform NMFS's negligible impact determination. Realized incidental takes would be determined by the actual levels of activity at specific times and places that occur under any issued LOAs.

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).

Incidental takes would primarily be expected to be by Level B harassment, as use of the described acoustic sources has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result for mysticetes and high frequency species due to the size of the predicted auditory injury zones for those species. Auditory injury is less likely to occur for mid-frequency species, due to their relative lack of sensitivity to the frequencies at which the primary energy of an airgun signal is found, as well as such species' general lower sensitivity to auditory injury as compared to high-frequency cetaceans. As discussed in further detail below, we do not expect auditory injury for mid-frequency cetaceans. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. No mortality is anticipated as a result of these activities.

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 exhibit behavioral disruptions (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Although available data are consistent with the basic concept that louder sounds evoke more significant behavioral responses than softer sounds, defining sound levels that disrupt behavioral patterns is difficult because responses depend on the context in which the animal receives the sound, including an animal's behavioral mode when it hears sounds (*e.g.,* feeding, resting, or migrating), prior experience, and biological factors (*e.g.,* age and sex). Some species, such as beaked whales, are known to be more highly sensitive to certain anthropogenic sounds than other species. Other contextual factors, such as signal characteristics, distance from the source, and signal to noise ratio, may also help determine response to a given received level of sound. Therefore, levels at which responses occur are not necessarily consistent and can be difficult to predict (Southall *et al.,* 2007; Ellison *et al.,* 2012; Bain and Williams, 2006).

Based on the practical need to use a relatively simple threshold based on available information that is both predictable and measurable for most activities, NMFS has historically used a generalized acoustic threshold based on received level to estimate the onset of Level B harassment. This approach was developed based on the 1997 High-Energy Seismic Survey Workshop (HESS, 1999) and a 1998 NMFS workshop on acoustic criteria, and assumed a step-function threshold. A step-function threshold assumes that animals receiving SPLs that exceed the threshold will always respond in a way that constitutes behavioral harassment, while those receiving SPLs below the threshold will not. This approach assumes that the responses of marine mammals would not be affected by differences in acoustic conditions; differences between species and populations; differences in gender, age, reproductive status, or social behavior; or the prior experience of the individuals (or any other contextual factor). For impulsive sources, such as airguns, a threshold of 160 dB rms SPL was selected on the basis of measured avoidance responses observed in whales. Specifically, the threshold was initially derived from data for mother-calf pairs of migrating gray whales (Malme *et al.,* 1983, 1984) and bowhead whales (Richardson *et al.,* 1985, 1986) responding when exposed to airguns. Subsequent data collection has not suggested that the 160-dB value is generally unrepresentative, inasmuch as a single-value threshold used to predict behavioral responses across multiple taxa and contexts can be adequately representative. This threshold was historically unweighted, meaning that the assessment of potential for behavioral disturbance does not account for differential hearing sensitivity across species.

However, most marine mammals exposed to impulse noise demonstrate responses of varying magnitude in the 140-180 dB rms exposure range (Southall *et al.,* 2007), including the whales studied by Malme *et al.* (1983, 1984), and potential disturbance levels at SPLs above 140 dB rms were also highlighted by HESS (1999). Studies of marine mammals in the wild and in experimental settings do not support the assumptions described above for the single step approach—different species of marine mammals and different individuals of the same species respond differently to noise exposure. Further,

studies of animal physiology suggest that gender, age, reproductive status, and social behavior, among other variables, probably affect how marine mammals respond to noise exposures (*e.g.,* Wartzok *et al.,* 2003; Southall *et al.,* 2007; Ellison *et al.,* 2012).

Southall *et al.* (2007) did not suggest any specific new criteria due to lack of convergence in the data, instead proposing a severity scale that increases with sound level as a qualitative scaling paradigm. Lack of controls, precise measurements, appropriate metrics, and context dependency of responses all contribute to variability. Subsequently, Wood *et al.* (2012) proposed a probabilistic response function at which 10 percent, 50 percent, and 90 percent of individuals exposed are assumed to produce a behavioral response at exposures of 140, 160, and 180 dB rms, respectively. It is important to note that the probabilities associated with the steps identify the proportion of an exposed population that is likely to respond to an exposure, rather than an individual's probability of responding. This function is shifted for species (or contexts) assumed to be more behaviorally sensitive, *e.g.,* for beaked whales, 50 percent and 90 percent response probabilities were assumed to occur at 120 and 140 dB rms, respectively.

In assessing the potential for behavioral response as a result of sonar exposure, the U.S. Navy has developed, with NMFS, acoustic risk functions (or ''dose-response'' functions) that relate an exposure to the probability of response. These assume that the probability of a response depends first on the ''dose'' (in this case, the received level of sound) and that the probability of a response increases as the ''dose'' increases (*e.g.,* Dunlop *et al.,* 2017). Based on observations of various animals, including humans, the relationship represented by an acoustic risk function is a more robust predictor of the probable behavioral responses of marine mammals to noise exposure. Similar approaches are commonly used for assessing the effects of other ''pollutants''. However, no such function has yet been developed for exposure to noise from acoustic sources other than military sonar. Defining such a function is difficult due to the complexity resulting from the array of potential social, environmental, and other contextual effects described briefly above, as well as because it requires definition of a ''significant'' response (*i.e.,* one rising to the level of ''harassment''), which is not well-defined.

NMFS acknowledges that the 160-dB rms step-function approach is simplistic, and that an approach reflecting a more complex probabilistic function is better reflective of available scientific information. Such an approach takes the fundamental step of acknowledging the potential for Level B harassment at exposures to received levels below 160 dB rms (as well as the potential that animals exposed to received levels above 160 dB rms will not respond in ways constituting behavioral harassment). Zeddies *et al.* (2015) assessed the potential for behavioral disturbance of marine mammals as a result of the specified activities described herein against both the 160 dB rms step-function and the Wood *et al.* (2012) approach described above. Although Wood *et al.* (2012) also used a modified risk function for migrating baleen whales due to assumed heightened sensitivity when in that behavioral state, this approach was deemed not relevant for the GOM as the only baleen whale present is resident. The modified risk function for sensitive species was used for beaked whales. While there has been no direct evaluation of beaked whale sensitivity to noise from airguns, there is significant evidence of sensitivity by beaked whales to mid-frequency sonar (Tyack *et al.,* 2011; DeRuiter *et al.,* 2013; Stimpert *et al.,* 2014; Miller *et al.,* 2015), as well as to vessel noise (Aguilar Soto *et al.,* 2006; Pirotta *et al.,* 2012).

The approach described by Wood *et al.* (2012), which we are using here, also accounts for differential hearing sensitivity by incorporating frequency-weighting functions. The analysis of Gomez *et al.* (2016) indicates that behavioral responses in cetaceans are best explained by the interaction between sound source type and functional hearing group. Southall *et al.* (2007) proposed auditory weighting functions for species groups based on known and assumed hearing ranges (Type I). Finneran and Jenkins (2012) developed newer weighting functions based on perceptual measure of subjective loudness, which better match the onset of hearing impairment than the original functions (Type II). However, because data for the equal-loudness contours do not cover the full frequency range of the Type I filters, a hybrid approach was proposed. Subsequently, Finneran (2016) recommended new auditory weighting functions (Type III) which were adopted by NMFS (2016). While Type III filters are better designed to predict the onset of auditory injury, as a conservative measure Type I filters were retained for use in evaluating potential behavioral disturbance in conjunction with the Wood *et al.* (2012) probabilistic response function.

NMFS is currently evaluating available information towards development of guidance for assessing the effects of anthropogenic sound on marine mammal behavior. For this specified activity we have determined it appropriate to use the Zeddies *et al.* (2015) exposure estimates produced using the Wood *et al.* (2012) approach as our basis for estimating take and considering the effects of the specified activity on marine mammal behavior.

While we believe that the general approach of Wood *et al.* (2012)—a probabilistic risk function that allows for the likelihood of differential response probability at given received levels on the basis of multiple factors, including behavioral context, distance from the source, and particularly sensitive species—is appropriate, we acknowledge that there is some element of professional judgment involved in defining the particular steps at which specific response probabilities are assumed to occur and that this remains a relatively simplistic approach to a very complex matter. However, we believe that the Wood *et al.* (2012) function is consistent with the best available science, and is therefore an appropriate approach. We are aware of the recommendations of Nowacek *et al.* (2015)—*i.e.,* a similar scheme, but shifted downward with the 50 percent response probability midpoint at 140 dB rms—but disagree that these recommendations are justified by the available scientific evidence. In fact, our preliminary analysis of data presented in available studies describing behavioral response to intermittent sound sources (including airguns and sonar) (*e.g.,* Malme *et al.,* 1984, 1988; Houser *et al.,* 2013; Antunes *et al.,* 2014; Moretti *et al.,* 2014), conducted using a non-parametric regression method, indicates that the 50 percent midpoint is very close to 160 dB rms (*i.e.,* 159 dB rms). While there may be other recommended iterations of this basic approach, we address the differences between Wood *et al.* (2012) and Nowacek *et al.* (2015) below.

Both the Wood *et al.* (2012) and Nowacek *et al.* (2015) functions acknowledge that Level B harassment is not a simple one-step function and responses can occur at received levels below 160 dB rms. The relevant series of step functions provided within Wood *et al.* (2012) for beaked whales (50 percent at 120 dB; 90 percent at 140 dB) and all other species (10 percent at 140 dB; 50 percent at 160 dB; 90 percent at

180 dB) attempt to provide a more realistic behavioral paradigm, which is probabilistic and acknowledges that not all exposures are expected to yield similar responses for every species and/or behavioral context, as described above. The differences between Wood *et al.* (2012) and Nowacek *et al.* (2015) stem from how probabilities at corresponding received level are assigned, with both methodologies seemingly relying upon professional judgment in interpreting available data to make these decisions.

Regarding mysticetes, changes in vocalization associated with exposure to airgun surveys within migratory and non-migratory contexts have been observed (*e.g.,* Castellote *et al.,* 2012; Blackwell *et al.,* 2013; Cerchio *et al.,* 2014). The potential for anthropogenic sound to have impacts over large spatial scales is not surprising for species with large communication spaces, like mysticetes (*e.g.,* Clark *et al.,* 2009), although not every change in a vocalization would necessarily rise to the level of a take. Additionally, because of existing acoustic monitoring techniques, detecting changes in vocalizations at further distances from the source is more likely, as opposed to observing other types of responses (*e.g.,* visible changes in behavior) at these distances. However, the consideration of these observed vocal responses is not contrary to Wood *et al.* (2012). Specifically, Blackwell *et al.* (2013) report the onset of changes in vocal behavior for migratory bowhead whales at received levels that are consistent with those provided in the Wood *et al.* (2012) function for migrating mysticete species (which are not present in the GOM). Cerchio *et al.* (2014) observed the number of singing humpback whales in a breeding habitat decrease in the presence of increasing background received levels during airgun surveys. However, because the study was opportunistic, specific information on distances between singers and source vessels, as well as received levels at the singing whales, could not be obtained. Nevertheless, some probability of these vocal responses would likely be captured by the Wood *et al.* (2012) function for all other species/behaviors. Moreover, a decision about the appropriateness of a particular function should be based on how well it reflects the best available information, rather than on how it affects the resulting number of takes.

We also acknowledge concern regarding the differences between sperm whales and other cetaceans in the mid-frequency group, *i.e.,* sperm whales are believed to be somewhat more sensitive to low-frequency sound, and Miller *et al.* (2009) conclude that exposure to noise from airguns may impact sperm whale foraging behavior. While the available information provides a basis for concern regarding the effects of airguns on sperm whales, the onset of changes in buzz rates (*i.e.,* indicators of foraging behavior) occur at received levels that are consistent with the probabilities predicted by the Wood *et al.* (2012) function for all other species/behaviors. Moreover, the probabilistic function recommended by Nowacek *et al.* (2015) likewise does not make distinctions between any species or species groups, including sperm whales (*i.e.,* Nowacek *et al.* (2015) offers a single function for all species and contexts). Therefore, Nowacek *et al.* (2015) offers no advantage in this regard.

Additionally, the application of the Nowacek *et al.* (2015) approach disregards the important role that distance from a source plays in the likelihood that an animal will respond to a given received level from that source type in a particular manner. By assuming, for example, a 50 percent midpoint at 140 dB rms, the approach implies an unrealistically high probability of marine mammal response to signals received at very far distances from a source (*e.g.,* greater than 50 km). DeRuiter *et al.* (2013) found that beaked whales exposed to similar received levels responded when the sound was coming from a closer source and did not respond to the same level received from a distant source. Although the Wood *et al.* (2012) approach does not specifically include a distance cut-off, the distances at which marine mammals are predicted to respond better comport with the distances at which behavioral responses have been detected and reported in the literature.

Finally, other than providing the 50 percent midpoint, Nowacek *et al.* (2015) offer minimal detail on how their recommended probabilistic function should be derived and/or implemented, and provide no quantitative recommendations for acknowledging that behavioral responses can vary by species group and/or behavioral context. For example, relying upon Nowacek *et al.* (2015), in comparison with Wood *et al.* (2012), does not adequately acknowledge that beaked whales are known to be particularly sensitive and behavioral impacts would be underestimated. The behavioral harassment criteria upon which the analysis presented herein is based are presented in Table 6.

TABLE 6—BEHAVIORAL EXPOSURE CRITERIA

Group	Probability of response to frequency-weighted rms SPL			
	120	140	160	180
Beaked whales	50%	90%	n/a	n/a
All other species	n/a	10%	50%	90%

Level A Harassment—NMFS's *Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing* (NMFS, 2016) identifies dual criteria to assess the potential for auditory injury (Level A harassment) to occur for different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise. The technical guidance identifies the received levels, or thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity for all underwater anthropogenic sound sources, and reflects the best available science on the potential for noise to affect auditory sensitivity by:

- Dividing sound sources into two groups (*i.e.,* impulsive and non-impulsive) based on their potential to affect hearing sensitivity;
- Choosing metrics that best address the impacts of noise on hearing sensitivity, *i.e.,* peak sound pressure level (peak SPL) (reflects the physical properties of impulsive sound sources to affect hearing sensitivity) and cumulative sound exposure level (cSEL) (accounts for not only level of exposure but also duration of exposure); and
- Dividing marine mammals into hearing groups and developing auditory weighting functions based on the

science supporting that not all marine mammals hear and use sound in the same manner.

The premise of the dual criteria approach is that, while there is no definitive answer to the question of which acoustic metric is most appropriate for assessing the potential for injury, both the received level and duration of received signals are important to an understanding of the potential for auditory injury. Therefore, peak SPL is used to define a pressure criterion above which auditory injury is predicted to occur, regardless of exposure duration (*i.e.,* any single exposure at or above this level is considered to cause auditory injury), and cSEL is used to account for the total energy received over the duration of sound exposure (*i.e.,* both received level and duration of exposure) (Southall *et al.,* 2007; NMFS, 2016). As a general principle, whichever criterion is exceeded first (*i.e.,* results in the largest isopleth) would be used as the effective injury criterion (*i.e.,* the more precautionary of the criteria). Note that cSEL acoustic threshold levels incorporate marine mammal auditory weighting functions, while peak pressure thresholds do not (*i.e.,* flat or unweighted). Weighting functions for each hearing group (*e.g.,* low-, mid-, and high-frequency cetaceans) are described in NMFS (2016).

NMFS (2016) recommends 24 hours as a maximum accumulation period relative to cSEL thresholds. These thresholds were developed by compiling and synthesizing the best available science, and are provided in Table 7 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS (2016), which is available online at: *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 7—EXPOSURE CRITERIA FOR AUDITORY INJURY FOR IMPULSIVE SOURCES

Hearing group	Peak pressure [1]	Cumulative sound exposure level [2]	
		Impulsive	Non-impulsive
Low-frequency cetaceans.	219 dB	183 dB	199 dB
Mid-frequency cetaceans.	230 dB	185 dB	198 dB
High-frequency cetaceans.	202 dB	155 dB	173 dB

[1] Referenced to 1 μPa; unweighted within generalized hearing range.

[2] Referenced to 1 μPa^2-s; weighted according to appropriate auditory weighting function. All airguns and the boomer are treated as impulsive sources; other HRG sources are treated as non-impulsive.

The technical guidance was classified as a Highly Influential Scientific Assessment and, as such, underwent three independent peer reviews, at three different stages in its development, including a follow-up to one of the peer reviews, prior to its dissemination by NMFS. Details of each peer review are included within the technical guidance, and specific peer reviewer comments and NMFS's responses are available online at: *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.* In addition, there were three separate public comment periods. Responses to public comments were provided in a previous **Federal Register** notice (81 FR 51694; August 4, 2016). At this time, NMFS considers the technical guidance to represent the best available scientific information. Therefore, we are not soliciting and will not respond to comments concerning the contents of the technical guidance, as such comments are outside the scope of this proposed rule. NMFS recently provided a fourth opportunity for review of the technical guidance (82 FR 24950; May 31, 2017) for the specific purpose of soliciting input to assist in review of the technical guidance pursuant to Executive Order 13795.

Modeling Overview

Zeddies *et al.* (2015, 2017a) (*i.e.,* ''the modeling report'') provides estimates of the annual marine mammal acoustic exposure caused by sounds from geophysical survey activity in the GOM for ten years of notional activity levels (Table 1). Here we provide a brief overview of key modeling elements, with more detail provided in the following sections. Significant portions of the following discussion represent incorporation by reference of Zeddies *et al.* (2015) and, for full details of the modeling effort, the interested reader should see the report (available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas*). The original modeling report (Zeddies *et al.,* 2015) evaluated the potential for auditory injury using criteria described by Southall *et al.* (2007) and Finneran and Jenkins (2012), with some appropriate modifications. Following completion of NMFS's technical guidance (NMFS, 2016), the original exposure modeling results for auditory injury were updated using the frequency-weighting functions and associated thresholds described in NMFS (2016) (Zeddies *et al.,* 2017a).

A modeling workshop was held in 2014 as a collaborative effort between the American Petroleum Institute (API) and the International Association of Geophysical Contractors (IAGC), NMFS, and BOEM. The objectives of the workshop were to identify: (1) Gaps in modeling sound fields from airgun arrays and other active acoustic sources, including data requirements and performance in various contexts, (2) gaps in approaches to integration of modeled sound fields with biological data to estimate marine mammal exposures, and (3) assumptions and uncertainties in approaches and resultant effects on exposure estimates. This workshop aided BOEM and NMFS's development of a Request for Proposals, Statement of Work, and, ultimately, the methodologies undertaken in the modeling project.

The project was divided into two phases. Each phase produced exposure estimates computed from modeled sound levels as received by simulated animals (animats) in a specific modeling area. In Phase I (described below under ''Test Scenarios;'' all other discussion here refers to Phase II), a typical 3D WAZ survey was simulated at two locations in order to establish the basic methodological approach and to provide results used to evaluate test scenarios that could influence exposure estimates. Results from the test scenarios were then used to guide the main modeling effort of Phase II. In Phase II, the GOM was divided into seven modeling zones with six survey types simulated within each zone to estimate the potential effects of each survey.

The zones were designed as described previously (''Description of the Specified Activity;'' Figure 2)—shelf and slope waters were divided into eastern, central and, western zones, plus a single deep-water zone—to account for both the geospatial dependence of acoustic fields and the geographic variations of animal distributions. The selected boundaries considered sound propagation conditions and species distribution to create regions of optimized uniformity in both acoustic environment and animal density. Survey types included deep penetration surveys using a large airgun array (2D, 3D NAZ, 3D WAZ, and coil), shallow penetration surveys using a single airgun, and high resolution surveys concurrently using side-scan sonar, subbottom profiler, and multibeam echosounder. The results from each zone were summed to provide GOM-wide estimates of take for each marine mammal species for each survey type

for each notional year. To get these annual aggregate exposure estimates, 24-hr average exposure estimates from each survey type were multiplied by the number of expected survey days from BOEM's effort projections. Because these projections are not season-specific, surveys were assumed to be equally likely to occur at any time of the year and at any location within a given zone.

Sound Field Modeling

Acoustic source emission levels and directivity of a single airgun and an airgun array were modeled using JASCO Applied Sciences' Airgun Array Source Model (AASM). Source levels for high-resolution sources were obtained from manufacturer's specifications for representative sources. The AASM accounts for the physics of oscillation and radiation of airgun bubbles (Ziolkowski, 1970) and nonlinear pressure interactions between airguns, port throttling, bubble damping, and generator-injector gun behavior (Dragoset, 1984; Laws *et al.,* 1990; Landro, 1992). The model was originally fit to a large library of empirical airgun data, consisting of measured signatures of Bolt 600/B airguns ranging in volume from 5 to 185 in^3. Airgun signatures have a random component at higher frequencies that cannot be predicted using a deterministic model; therefore, AASM uses a stochastic simulation to predict the high-frequency components based on a statistical analysis of a large collection of airgun source signature data (maintained by the International Association of Oil and Gas Producers' Joint Industry Programme). AASM is capable of predicting airgun source levels at frequencies up to 25 kHz, and produces a set of notional signatures for each array element based on array layout; volume, tow depth, and firing pressure for each element; and interactions between different elements in the array. The signatures are summed to obtain the far-field source signature of the entire array in the horizontal plane, which is then filtered into one third-octave frequency bands to compute the source levels of the array as a function of frequency band and azimuthal angle in the horizontal plane (at the source depth), after which it is considered to be an azimuth-dependent directional point source in the far field. Electromechanical sources were modeled on the basis of transducer beam theory, which is often used to estimate beam pattern of the source in the absence of field measurements, and which is described in detail in the modeling report.

It should be noted that source modeling for the boomer source was compared to that for the single airgun. Results of the comparison indicate that the acoustic field modeling results for the airgun adequately approximate the ones for the boomer. Considering the negligible fraction of total surveys conducted using boomers and that the estimated impact from the single airgun is always greater than for the boomer, the single airgun results were used as a conservative substitute for the boomer.

Underwater sound propagation (*i.e.,* transmission loss) as a function of range from each source was modeled using JASCO Applied Sciences' Marine Operations Noise Model (MONM) for multiple propagation radials centered at the source to yield 3D transmission loss fields in the surrounding area. The MONM computes received per-pulse SEL for directional sources at specified depths. MONM uses two separate models to estimate transmission loss.

At frequencies less than 2 kHz, MONM computes acoustic propagation via a wide-angle parabolic equation (PE) solution to the acoustic wave equation (Collins, 1993) based on a version of the U.S. Naval Research Laboratory's Range-dependent Acoustic Model (RAM) modified to account for an elastic seabed (Zhang and Tindle, 1995). MONM–RAM incorporates bathymetry, underwater sound speed as a function of depth, and a geoacoustic profile based on seafloor composition, and accounts for source horizontal directivity. The PE method has been extensively benchmarked and is widely employed in the underwater acoustics community (Collins *et al.,* 1996), and MONM–RAM's predictions have been validated against experimental data in several underwater acoustic measurement programs conducted by JASCO (*e.g.,* Aerts *et al.,* 2008; Funk *et al.,* 2008; Ireland *et al.,* 2009; Blees *et al.,* 2010; Warner *et al.,* 2010). At frequencies greater than 2 kHz, MONM accounts for increased sound attenuation due to volume absorption at higher frequencies (Fisher and Simmons, 1977) with the widely-used BELLHOP Gaussian beam ray-trace propagation model (Porter and Lui, 1994). This component incorporates bathymetry and underwater sound speed as a function of depth with a simplified representation of the sea bottom, as subbottom layers have a negligible influence on the propagation of acoustic waves with frequencies above 1 kHz. MONM–BELLHOP accounts for horizontal directivity of the source and vertical variation of the source beam pattern. Both propagation models account for full exposure from a direct acoustic wave, as well as exposure from acoustic wave reflections and refractions (*i.e.,* multi-path arrivals at the receiver).

These propagation models effectively assume a continuous wave source, which is an acceptable assumption for a pulse in the case of the SEL metric because the energy in the various multi-path arrivals is summed. When significant multi-path arrivals cause broadening of the pulse, the continuous wave assumption breaks down for pressure metrics such as rms SPL. Multipath arrivals can have very different temporal and spectral properties when received by marine mammals (Madsen *et al.,* 2006b).

Models are more efficient at estimating SEL than rms SPL. Therefore, conversions may be necessary to derive the corresponding rms SPL. Propagation was modeled for a subset of sites using a full-wave RAM PE model (FWRAM), from which broadband SEL to SPL conversion factors were calculated using a sliding 100 ms integration window. This window was selected to represent the shortest expected temporal integration time for the mammalian ear (Plomp and Bouman, 1959; MacGillivray *et al.,* 2014). The FWRAM required intensive calculation for each site, thus a representative subset of modeling sites were used to develop azimuth-, range-, and depth-dependent conversion factors. These conversion factors were used to calculate the broadband rms SPL from the broadband SEL prediction at all the modeling sites. Conversion factors were calculated for each modeling location.

For electromechanical source and single airgun propagation modeling, a fixed conversion difference of +10 dB from SEL to rms SPL was applied at all receiver positions, because there was little variability over the range of propagation for these sources. This approach is accurate at distances where the pulse duration is less than 100 ms, and conservative for longer distances. Most of the effects of these sources occur at relatively short distances where the pulse durations are short so this approach is not expected to be overly conservative even for lower-level effects. This is a conservative but reasonable approximation to simplify the variability across all HRG sources, effectively assuming that an HRG transmission is on for only 1/10 of a second for any given second.

As described below, in order to accurately estimate exposure a simulation must adequately cover the various location- and season-specific environments. The surveys may be conducted at any location within the planning area and occur at any time of

the year, so simulations must adequately cover each area and time period. We previously introduced the seven zones within which potential exposures were modeled, corresponding with shelf and slope environments subdivided into western, central, and eastern areas, as well as a single and deep zone (Figure 2). The subdivision depth definitions are: Shelf, 0–200 m; slope, 200–2,000 m; and deep, greater than 2,000 m. Within each of the seven zones, a set of representative survey-simulation rectangles for each of the survey types was defined, with larger areas for the ''large-area'' surveys (*i.e.,* deep penetration airgun) and smaller areas for the ''small-area'' surveys (*i.e.,* shallow penetration airgun and HRG). In Figure 2, the smaller numbered boxes represent the survey area extents for the different survey types. The stars represent acoustic modeling sites along western, central, and eastern transects (Figure 2).

A set of 30 sites was selected to calculate acoustic propagation loss grids as functions of source, range from the source, azimuth from the source, and receiver depth. These were then used as inputs to the acoustic exposure model. Geographic coordinates and water column depth of each acoustic modeling site are listed in Table 48 of the modeling report. The environmental parameters and acoustic propagation conditions represented by these 30 modeling sites were chosen to be representative of the prevalent acoustic propagation conditions within the survey extents. Inputs are as follows:

- Water depths throughout the modeled area were obtained from the National Geophysical Data Center's U.S. Coastal Relief Model l. Bathymetry data have a horizontal resolution of approximately 80 x 90 m.
- The top sections of the sediment cover in the GOM are represented by layers of unconsolidated sediments at least several hundred meters thick, with grain size of the surficial sediments following the general trend for sedimentary basins (decreasing with the distance from the shore). For the shelf zone, the general surficial bottom type was assumed to be sand, for the slope zone silt, and for the deep zone clay. In constructing a geoacoustic model for input to MONM, a median grain size value was generally selected. Assumed geoacoustic properties for each zone as a function of depth are presented in Tables 52–55 of the modeling report.
- The sound speed profiles for the modeled sites were derived from temperature and salinity profiles from the U.S. Naval Oceanographic Office's *Generalized Digital Environmental Model V 3.0* (GDEM). GDEM provides an ocean climatology of temperature and salinity for the world's oceans on a latitude-longitude grid with 0.25° resolution, with a temporal resolution of one month, based on global historical observations from the U.S. Navy's Master Oceanographic Observational Data Set. The GDEM temperature-salinity profiles were converted to sound speed profiles.

Variation in the sound speed profile throughout the year was investigated and a set of 12 sound speed profiles produced, each representing one month in the shelf, slope, and deep zones. The set was divided into four seasons and, for each zone, one month was selected to represent the propagation conditions in the water column in each season. Acoustic fields were modeled using sound speed profiles for winter (January–March) and summer (July–September). Profiles for Season 1 (February) provided the most conservative propagation environment because a surface duct, caused by upward refraction in the top 50–75 m (of sound above 500 and 250 Hz, respectively), was present. Ducting of the sound above the relevant frequency cutoffs is important as most marine mammals are sensitive to these sounds and the horizontal far-field acoustic projection from the airgun array sources do have significant energy in this part of the spectrum. Profiles for Season 3 (August or September) provided the least conservative results because they have weak to no sound channels at the surface and are strongly downward refracting in the top 200 m. Only the top 100 m of the water column are affected by the seasonal variation in the sound speed.

Many assumptions are necessary in modeling complex scenarios. When possible, the most representative data or methods were used. When necessary, the choices were made to be conservative so as not to ultimately underestimate potential marine mammal exposures to noise. Assumptions related to acoustic modeling include:

- The environmental input parameters used for transmission loss modeling were from databases that provide averaged values with limited spatial and temporal resolution. Sound speed profiles are averaged seasonal values taken from many sample locations. Geoacoustic parameters (including sediment type, thickness, and reflectivity coefficients) and bathymetric grids are smoothed and averaged to characterize large regions of the seafloor. Local variability, which can be affected by weather, daily temperature cycles, and small-scale surface and sediment details, generally increases signal transmission loss, but was removed by these averaging processes. As a result, the transmission loss could in some cases be underestimated and, therefore, the received levels would be overestimated.
- The acoustic propagation model, MONM, used the horizontal-direction source level for all vertical angles. This may slightly underestimate the true sound levels in the vertical directional beam of the array that ensonifies a zone directly under the array. This is expected to be a minor effect given the small volume over which the reduction occurs. Additionally, there is a steep angle limitation in the PE model used in MONM that also leads to slightly reduced levels directly under the array. The wide-angle PE that is used in MONM is accurate to at least 70 degrees. The reduced-level zone is a cone within a few degrees of vertical, which represents a relatively small water volume that should not significantly affect results.
- Seasons modeled: To account for seasonal variation in propagation, winter (most conservative) and summer (least conservative) were both used to calculate exposure estimates. Propagation during spring and fall was found to be almost identical to the results for summer, so those seasons were represented with the summer results. The primary seasonal influence on transmission loss is the presence of a sound channel, or duct, near the surface in winter.

Marine Mammal Density Information

The best available scientific information was considered in conducting marine mammal exposure estimates (the basis for estimating take). Historically, distance sampling methodology (Buckland *et al.,* 2001) has been applied to visual line-transect survey data to estimate abundance within large geographic strata (*e.g.,* Fulling *et al.,* 2003; Mullin and Fulling, 2004). Design-based surveys that apply such sampling techniques produce stratified abundance estimates and do not provide information at appropriate spatiotemporal scales for assessing environmental risk of a planned survey. To address this issue of scale, efforts were developed to relate animal observations and environmental correlates such as sea surface temperature in order to develop predictive models used to produce fine-scale maps of habitat suitability (*e.g.,* Waring *et al.,* 2001; Hamazaki, 2002; Best *et al.,* 2012). However, these studies generally produce relative estimates that cannot be directly used to quantify potential exposures of marine mammals to sound, for example. A more recent approach known as density surface modeling couples traditional distance sampling with multivariate regression modeling to produce density maps predicted from fine-scale environmental covariates (*e.g.,* DoN, 2007b; Becker *et al.,* 2014; Roberts *et al.,* 2016).

Roberts *et al.* (2016) provided several key improvements over information previously available for the GOM, by incorporating NMFS aerial and shipboard survey data collected over the period 1992–2009; controlling for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting; and modeling density from an expanded set of eight physiographic and 16 dynamic oceanographic and biological covariates. There are multiple reasons why marine mammals may be undetected by observers. Animals are missed because they are underwater (availability bias) or because they are available to be seen, but are missed by observers (perception and detection biases) (*e.g.,* Marsh and Sinclair, 1989). Negative bias on perception or detection of an available animal may result from environmental conditions, limitations inherent to the observation platform, or observer ability. Therefore, failure to correct for these biases may lead to underestimates of cetacean abundance (as is the case for NMFS's SARs abundance estimates for the GOM). Additional data was used to improve detection functions for taxa that were rarely sighted in specific survey platform configurations. The degree of underestimation would likely be particularly high for species that exhibit long dive times or are cryptic, such as sperm whales, beaked whales, or *Kogia* spp. In summary, consideration of additional survey data and an improved modeling strategy allowed for an increased number of taxa modeled and better spatiotemporal resolutions of the resulting predictions. More information concerning the Roberts *et al.* (2016) models, including the model results and supplementary information for each model, is available online at *seamap.env.duke.edu/models/Duke-EC-GOM-2015/.*

In the GOM, there are clear differences in marine mammal distribution by water depth, *i.e.,* from shelf to slope and from slope to deep. Division of the modeling area into zones was chosen so that nominal marine mammal densities remain relatively constant over the resulting depth intervals. Density of several species varies within the shelf and slope areas, seemingly correlated with the orientation and differences in the widths of these areas over the east-west extent of the project area. Therefore, shelf and slope zones were divided in western, central, and eastern areas according to BOEM's planning area boundaries (Figure 2). The minimum, maximum, and mean (and standard deviation of the mean) zone-specific marine mammal density estimates, derived from Roberts *et al.* (2016), are shown in Tables 62–68 of the modeling report (with density seeding adjustments). Although sperm whales are sometimes encountered in shallower water, they were depth restricted in the model to waters greater than 1,000 m. Females are rarely seen in waters less than 1,000 m (Taylor *et al.,* 2008), and Wursig (2017) reports a mean encounter depth of 1,732 m, so this is a reasonable restriction. It is important to note that the Zone 6 densities for Bryde's whales (Table 67 in the modeling report) reflect the output of an earlier iteration of the Bryde's whale density model. This earlier iteration predicted the presence of Bryde's whales in Zone 6 (western GOM slope), an area where they are not currently believed to occur, on the basis of two ambiguous *Balaenoptera* spp. sightings from 1992. Subsequently, Roberts *et al.* (2016) revised the model by changing the modeling period from 1992–2009 to 1994–2009 so that those sightings were not included, and also added a bivariate smooth of XY to the model, to concentrate density where sightings were reported (Roberts *et al.,* 2015c). Based on the results of this revised model, Bryde's whales would not be expected to occur in Zone 6 and, on this basis, we have discounted the predicted exposures of Bryde's whales in that zone.

Animal Movement Modeling and Exposure Estimates

The sound received by an animal when near a sound source is a function of the animal's position relative to the source, and both source and animals may be moving. To a reasonable approximation, we know, predict, or specify the location of the sound source, a 3D sound field around the source, and the expected occurrence of animals within 100 km^2 grid cells (Roberts *et al.,* 2016). However, because the specific location of animals within the modeled sound field is unknown, agent-based animal movement modeling is necessary to complete the assessment of potential acoustic exposure. Realistic animal movement within the sound field can be simulated, and repeated random sampling (Monte Carlo)—achieved by simulating many animals within the operations area—used to estimate the sound exposure history of animals during the operation. Animats are randomly placed, or seeded, within the simulation boundary at a specified density, and the probability of an event's occurrence is determined by the frequency with which it occurs in the simulation. Higher densities provide a finer resolution for an estimate of the probability distribution function (PDF), but require greater computational resources. To ensure good representation of the PDF, the animat density is set as high as is practical, with the resulting PDF then scaled using the real-world animal density (Roberts *et al.,* 2016) to obtain the real-world number of individuals affected.

Several models for marine mammal movement have been developed (*e.g.,* Frankel *et al.,* 2002, Gisiner *et al.,* 2006; Donovan *et al.,* 2013). Animats transition from one state to another, with user-specified parameters representing simple states, such as the speed or heading of the animal, or complex states, such as likelihood of an animal foraging, playing, resting, or traveling. This analysis uses the Marine Mammal Movement and Behavior (3MB) model (Houser, 2006). 3MB controls animat movement in horizontal and vertical directions using sub-models. Travel sub-models determine horizontal movement, including sub-models for the animats' travel direction and the travel rate (speed of horizontal movement). Dive sub-models determine vertical movement. Diving behavior sub-models include ascent and descent rates, maximum dive depth, bottom following, reversals, and surface interval. Bottom following describes the animat's behavior when it reaches the seafloor, for example during a foraging dive. Reversals simulate foraging behavior by defining the number of vertical excursions the animat makes after it reaches its maximum dive depth. The surface interval is the amount of time an animat spends at the surface before diving again. 3MB allows a user to define multiple behavioral states, which distinguish between specific subsets of behaviors like shallow and deep dives, or more general behavioral states such as foraging, resting, and socializing. The transition probability between these states can be defined as a probability value and related to the time of day. The level of detail included depends on the amount of data available for the species, and on the temporal and spatial framework of the simulation.

Parameter values to control animat movement are typically determined using available species-specific behavioral studies, but the amount and quality of available data varies by species. While available data often provides a detailed description of the proximate behavior expected for real individual animals, species with more available information must be used as surrogates for those without sufficient available information. In this study, pantropical spotted dolphins are used as a surrogate for Clymene, spinner, and

striped dolphins; short-finned pilot whales are surrogates for Fraser's dolphins, *Kogia* spp., and melon-headed whales; and rough-toothed dolphins are surrogates for false killer whales and pygmy killer whales. Observational data for all remaining species in the study were sufficient to determine animat movement. The use of surrogate species is a reasonable assumption for the simulation of proximate or observable behavior, and it is unlikely that this choice adds more uncertainty about location preference. Species-specific parameter values are given in Tables D–1 to D–18 of the modeling report.

Species-specific animats were created with programmed behavioral parameters describing dive depth, surfacing and dive durations, swimming speed, course change, and behavioral aversions (*e.g.,* water too shallow). The programmed animats were then randomly distributed over a given bounded simulation area; boundaries extend at least one degree of latitude or longitude beyond the extent of the vessel track to ensure an adequate number of animats in all directions, and to ensure that the simulation areas extend beyond the area where substantial behavioral reactions might be anticipated. Because the exact positions of sound sources and animals are not known in advance for proposed activities, multiple runs of realistic predictions are used to provide statistical validity to the simulated scenarios. Each species-specific simulation was seeded with approximately 0.1 animats/km^2 which, in most cases, represents a higher density of animats in the simulation than occurs in the real environment. A separate simulation was created and run for each combination of location, survey movement pattern, and marine mammal species. Representative survey patterns were described under ''Detailed Description of Activities.''

During all simulations in this modeling effort, any animat that left the simulation area as it crossed the simulation boundary was replaced by a new animat traveling in the same direction and entering at the opposite boundary. For example, an animat heading north and crossing the northern boundary of the simulation was replaced by a new animat heading north and entering at the southern boundary. By replacing animats in this manner, the animat modeling density remained constant. Animats were only allowed to be 'taken' once during a 24-hr evaluation period. That is, an animat whose received level exceeds the peak SPL threshold more than once during an evaluation period was only counted once. Energy accumulation for SEL occurred throughout the 24-hr integration period and was reset at the beginning of each period. Similarly, the maximum received rms SPL was determined for the entirety of the evaluation period and reset at the beginning of each period.

In Figure 2, the large transparent boxes represent the seven defined modeling areas (animal simulation extents) within the seven zones. During the survey simulations, the source was moved within the smaller survey area extents, but the sound output would ensonify a larger area (represented by the animal simulation extents). These animat simulation boxes set the geographic limits of the 3MB simulation.

For the large-area surveys, injury simulation boxes extend outward (north, south, east, and west) by 10 km from the survey limits, a distance over which the unweighted received levels drop below 160 dB SEL for a single shot. The behavior simulation boxes, on the other hand, extend outward by 50 km from the survey limits, a distance necessary to ensure that the animat movement modeling extends out to where the weighted received levels drop to 120 dB rms SPL or lower, and below 160 dB SEL for unweighted received levels. Geographic extent of the boxes is shown in Tables 59–60 of the modeling report.

The received levels for the single airgun and electromechanical sources drop off much more quickly with range than for the airgun array sources discussed above. Consequently, the 3MB simulation boxes for the small-area surveys were extended to 10 km from the center of the survey in each cardinal direction, a much larger distance than that required for the received level conditions, but one that supports more realistic animal movements. Geographic extent of the boxes is shown in Table 61 of the modeling report.

The JASCO Exposure Modeling System (JEMS) combines animal movement data (*i.e.,* the output from 3MB), with pre-computed acoustic fields. The JEMS output was the time-history of received levels and slant ranges (the three dimensional distance between the animat and the source) for all animats of the 3MB simulation. Animat received levels and slant ranges are used to determine the risk of acoustic exposure. JEMS can use any acoustic field data provided as a 3D radial grid. Source movement and shooting patterns can be defined, and multiple sources and sound fields used. For impulsive sources, a shooting pattern based on movement can be defined for each source, with shots distributed along the vessel track by location (or time). Because the acoustic environment varies with location, acoustic fields are pre-computed at selected sites in the simulation area and JEMS chooses the closest modeled site to the source at each time step. There were many animats in the simulations and together their received levels represent the probability, or risk, of exposure for each survey.

All survey simulations were for 7 days and a sliding 4-hr window approach was used to get the average 24-hr exposure. In this sliding-windows approach, 42 exposure estimate samples are obtained for each seven-day simulation, with the mean value then used as the 24-hr exposure estimate for that survey. The 24-hr exposure levels were then scaled by the projected level of effort for each survey type (*i.e.,* multiplied by the number of days) to calculate associated annual exposure levels. The number of individual animals expected to exceed threshold during the 24-hr window is the number of animats exposed to levels exceeding threshold multiplied by the ratio of real-world animal density to model animat density.

As described above for acoustic modeling, assumptions and choices must be made when modeling complex scenarios:

- *Social grouping:* Marine mammals often form social groups, or pods, that may number in the hundreds of animals. Although it was found that group size affects the distribution of the exposure estimates (see Test Scenario 2, below), the mean value of the exposure estimate was, generally, unchanged. Because the annual exposure estimates are meant to represent the aggregate of many surveys conducted in many locations at various times throughout the year, it is the mean exposure estimates that are most relevant. For this reason, social group size was not included in the exposure estimates.
- Mitigation procedures, such as shutting down an airgun array when animals are detected within an established exclusion zone, can reduce the injury exposure estimates. Mitigation effectiveness was found to be influenced by several factors, most importantly the ability to detect the animals within the exclusion zone. Some species are more easily detected than others, and detection probability varies with weather and observational set-up. Weather during any seismic survey is unknown beforehand and detection probabilities are difficult to predict, so the effects of mitigation were not included in the exposure estimates (see Test Scenario 3, below).
- Aversion is a context-dependent behavioral response affected by biological factors, including energetic and reproductive state, sociality, and health status of individual animals. Animals may avoid loud or annoying sounds, which could reduce exposure levels. The effect of aversion itself

can be considered as a take (Level B harassment) that results in avoidance of potential for more serious take (Level A harassment). Currently, too little is known about the factors that lead to avoidance (or attraction) of sounds to quantify aversive behavior for these activities when modeling marine mammal exposure to sound (see Test Scenario 4, below). However, we include an aversion factor in defining the level of take that may occur, as compared with the modeled exposure estimates.

Injury—To evaluate the likelihood an animal might be injured as a result of accumulated sound energy, the cSEL for each animat in the simulation was calculated. To obtain that animat's cSEL, the SEL an animat received from each source over the 24-hr integration window was summed, and the number of animats whose cSEL exceeded the specified thresholds (Table 7) during the integration window was counted. To evaluate the likelihood an animal might be injured via exposure to peak SPL, the range at which the specific peak SPL threshold occurs (Table 7) for each source based on the broadband peak SPL source level was estimated. For each 24-hr integration window, the number of animats that came within this range of the source was counted.

Behavior—To evaluate the likelihood an animal might experience disruption of behavioral patterns (*i.e.,* a ''take''), the number of animats that received a maximum rms SPL exposure within the specified step ranges (Table 6) was calculated. The number of animats with a maximum rms SPL received level categorized into each bin of the step function was multiplied by the probability of the behavioral response specific to that range (Table 6). Specifically, 10 percent of animals exposed to received levels from 140–159 dB rms would be assumed as ''takes,'' while 50 percent exposed to levels between 160–179 dB rms and 90 percent exposed to levels of 180 dB rms and above would be. The totals within each bin were then summed as the total estimated number of exposures above behavioral harassment thresholds. This process was repeated for each 24-hr integration window.

Potential for disruption of behavioral patterns was also evaluated using NMFS's standard 160 dB rms criterion. To evaluate this likelihood, the exposure simulation was set to use unweighted rms SPL acoustic fields. The number of animats that received an exposure greater than 160 dB was counted as the number of behavioral responses. However, note that the modeling report also separately evaluated exposures at received levels exceeding 180 dB rms; therefore, the true number of exposures greater than 160 dB rms would be the sum of separately calculated exposures between 160 and 180 dB and greater than 180 dB. As with the other criteria, the animat received level was reset at the beginning of each 24-hr integration window. Please see Zeddies *et al.* (2015) for exposure results relating to the 160-dB rms criterion. The methods did not account for potential habituation, whereby severity of behavioral reactions to a stimulus may be reduced due to reduced sensitivity in individual animals from repeated exposure over time. However, we are not aware of any literature suggesting that marine mammals in the wild and away from areas with consistent industrial activity (*e.g.,* ports) become habituated to noise or of any method by which such theoretical habituation could be modeled.

Test Scenarios

As described above, Phase I of the modeling effort involved preliminary modeling of a typical 3D WAZ survey (all survey parameters were described under ''Detailed Description of Activities''), which was simulated at two locations in order to establish the basic methodological approach and to provide results used to evaluate test scenarios that could influence exposure estimates. We provide a summary of each of the six evaluated test scenarios below. For all test scenarios, please see the modeling report for full details.

Locations considered were both near the Mississippi Canyon, including a site centered on the slope of the continental shelf break and a site centered on the deep ocean plain (please see Figure 10 in Zeddies *et al.* (2015)). A reduced suite of six representative species were included in the Phase I effort: Bryde's whale, sperm whale, Cuvier's beaked whale, bottlenose dolphin, dwarf sperm whale, and short-finned pilot whale. Bryde's whales and dwarf sperm whales were chosen as the only low-frequency species in the GOM and as the representative high-frequency species, respectively. The four mid-frequency species were chosen to represent various other aspects of diving and hearing sensitivity. Cuvier's beaked whales are deep-diving and behaviorally sensitive to sound, while sperm whales are also deep-diving and are a unique species in the GOM behaviorally. Short-finned pilot whales and bottlenose dolphins both represent the swimming behavior of smaller cetaceans with different preferred water depths. Note that, for this preliminary modeled scenario, density estimates were obtained from DoN (2007b), as Roberts *et al.* (2016) was not yet available. Full details of the preliminary modeling are available in the modeling report.

To evaluate potential behavioral response, 30-day simulations of the hypothetical 3D WAZ survey were run at both sites for each of the species evaluated. The boundaries of the simulation were determined from transmission loss calculations, and were set at 50 km from the source.

Test Scenario 1 (Long-duration Surveys and Scaling Methods)—Some surveys operate (nearly) continuously for months. Evaluating the potential impacts due to underwater sound exposures from these extended operations is challenging because assumptions about parameters that are valid for short-duration simulations may become less valid, or more varied, as the time period increases. Treating parameters such as sound velocity profile or large-scale animal movement as constant over longer durations, as is typically done in shorter duration simulations, could lead to errors. However, there is no information indicating that species migrate regularly on a large-scale in the GOM; thus, large-scale movement was not integrated into the animal movement model. Therefore, a test scenario was used to evaluate possible systematic bias in the modeling process, and methods for scaling results from shorter-duration simulations to longer duration operations were suggested.

Exposure estimates from 30-day and 5-day simulations, using different animat seeding values (0.1 and 2.0 animats/km^2, respectively), were determined in subsets using a 'sliding window' to find the number of exposures as a function of time. The 30-day simulation was used to evaluate exposures against the rms SPL criteria, and the 5-day simulation was used to evaluate exposures against the peak SPL and cSEL criteria. The length of the sliding window was 24 hr, advanced by 4 hr, resulting in 174 samples from the 30-day simulation and 25 samples from the 5-day simulation. A sliding window of 7 days advancing by 1 day for the 30-day simulation was also evaluated. Bias in the model was expected to manifest itself as a trend in the exposure levels as a function of time.

To investigate potential systematic, and possibly unknown, biases in the modeling procedure, behavioral exposure estimates were determined for subsets of the simulations. Behavioral exposure estimates were determined as a function of time by finding the number of exposures occurring in 24-hr subsets using a sliding window that advanced in 4-hr increments. Trends

were evident, particularly at the slope site, but the trends appeared to be the consequence of survey design, such as changing sound fields as the vessels move into different acoustic zones. For sperm whales, there was an additional bias due to their general avoidance of water depths less than 1000 m. The area of the slope site began at a location with water depth approximately 1,500 m, but proceeds to depths less than 200 m. Therefore, fewer sperm whale animats were within exposure range of the source later in the simulation. To determine if undesired, and unknown, systematic biases exist in the modeling procedure, simulations were run with the source stationary and with no limiting bathymetric constraints. No clear trends were found, indicating that undesired systematic biases in the modeling procedure, if present, were small relative to the survey design and would not affect scaling up the results in time, if applied.

The number of animats exposed to levels exceeding threshold for 24-hr time periods multiplied by the number of days in the simulations was compared to the number of animats exposed to levels exceeding threshold for the entire duration of the simulations. Given that an animat represents an individual marine mammal, scaling up the 24-hr average SPL exposure estimates to 30 days greatly overestimates the number of individual marine mammals exposed to levels exceeding threshold when determined over the entire simulation (although the estimated instances of exposure are reasonably accurate). This occurs because animats were commonly exposed to levels exceeding these thresholds and the relatively short reset period of 24-hr means that individual animats were, in effect, counted several times during the scale-up (*i.e.,* on multiple days) that would only have been counted once when evaluating over the entire simulation. Comparison between the full-duration estimate (obtained through modeling the full survey duration) and the estimate developed through ''scaling'' the 24-hr exposure estimate allows for better interpretation of the exposure estimates, *e.g.,* through a refined estimate of the number of individuals exposed above behavioral harassment criteria (versus instances of exposure) and the average number of days on which those exposures occur (described below in ''Description of Exposure Estimates''). Because SEL is an accumulation of energy, evaluating over a longer period (*e.g.,* summing accumulation over 30 days) could result in more animats exposed to levels exceeding SEL thresholds than when evaluated over a shorter period (unlike as described above for SPL metrics).

The systematic trends evident in the modeling procedure indicated that survey design can affect exposure estimates when scaling is used. Therefore, the minimum duration of a simulation should include all of the acoustic environments likely to be encountered during the operation. The test scenario produced the following recommendations, which were employed during the Phase II modeling effort: (1) Identify the shortest large-scale animal movement time-period (*e.g.,* seasonal migration); (2) Identify acoustic environments over which the survey will occur (*e.g.,* shallow, slope, deep, and associated geoacoustic parameters); (3) Identify the minimum period of validity for the acoustic model (*e.g.,* month due to changing sound velocity profile); (4) Break the survey into parts that are shorter in duration than both large-scale animal movement times and the period of acoustic model validity; (5) Create animal movement simulations for acoustic exposure with adequate duration to meaningfully sample the exposure-estimating parameter (*e.g.,* for a 24-hr reset period, enough samples should be obtained to get a reliable mean value given the various acoustic environments); (6) If the simulation time is less than the duration of the survey parts determined in Step 4, then scale the results by the ratio of survey duration to simulation time (*e.g.,* if the simulation time is one week, but the survey division is 28 days, then multiply the simulation exposure results by four); and (7) Sum, or aggregate, the results from the survey parts to calculate exposures for the entire survey.

This test scenario also illustrated that knowing the amount of time that animals are exposed to levels exceeding the threshold criteria can provide additional information about the potential impacts of the activity. For example, the amounts of time that animats were exposed to levels exceeding 160 dB rms SPL over the 30-day duration were approximately twice as long as the average times in a 24-hr window, as it was common for the threshold to be exceeded on multiple separate occasions. Two factors contributed to the total time thresholds were exceeded—the amount of time per occasion (*i.e.,* how long an animat was near the source) and the number of occasions that occur (*i.e.,* how many times an animat was near a source). The number of occasions was, essentially, the same item determined when finding the number of animats with exposures exceeding threshold criteria (the typical use of the threshold criteria). The number of occasions scales with the duration of the evaluation period, but the time per occasion does not, and is specific to how an individual animat interacted with a source. Information provided through this investigation was used to derive scaler values (described below in ''Description of Exposure Estimates'') for use in determining the expected number of individuals represented by a sum total of exposures generated through the scaling of 24-hr exposures up to match the total duration of a modeled survey.

Test Scenario 2 (Sources and Effects of Uncertainty)—The modeling process requires the use of simplifying assumptions about oceanographic parameters, seabed parameters, and animal behaviors. These assumptions carry some uncertainty, which may lead to uncertainty in the form of variance or error in individual model outputs and in the final estimates of marine mammal acoustic exposures. For example, acoustic propagation models assume a specific shape of the sound speed profile in the ocean (speed of sound versus depth) for each season. We know, however, that the real sound speed profile regularly changes and that substantial variation within a season is possible. The assumption that a single profile represents the environment through a full season approximates real-world cases but can, to some degree, cause errors. The uncertainty in model outputs caused by approximations like this can be investigated by examining how much the outputs change when the inputs are purposely offset. ''Parametric uncertainty analysis'' provides a means to characterize the accuracy, or uncertainty, of the model results in light of errors in model inputs and can also be used to characterize the expected variability in model results due to natural variations in some of the input parameters. Use of resampling techniques can quantify the effects of uncertainty in exposure estimates due to uncertainty in acoustic and animal movement models. Uncertainty related to acoustic modeling can be introduced through source characterization modeling; acoustic propagation modeling; and selection of inputs for sound speed profiles, geoacoustic parameters, bathymetry, and sea state. Uncertainty in animal modeling can be introduced through incomplete knowledge regarding animal locations and behavioral/motivational states. Both the uncertainty in acoustic modeling and uncertainty in the animal modeling

contribute to overall uncertainty in the exposure estimates. Please see the modeling report for full details of these investigations.

Zeddies *et al.* (2015) describe uncertainties in the acoustic field as representing a multi-dimensional envelope that can be wrapped around the main modeling results. This envelope is meant to enclose the modeled acoustic field and the real world acoustic field. The uncertainties in the different dimensions of this envelope (sound speed profile, geoacoustics, bathymetry, and sea state) cannot be summed to yield a ''total'' uncertainty as this would be a meaningless quantity. The overall uncertainty is measured for the volume of the multi-dimensional uncertainty envelope, but this is a difficult concept to use in operational planning. The best way to visualize the overall uncertainty is in terms of the different dimensions of the uncertainty envelope, which range from inconsequential (*e.g.,* effects of sea state) to greater than 10 dB between median and maximum propagation scenarios in the shelf zone due to uncertainty in the sound speed profile.

With regard to uncertainty relating to animal movement parameters, comparisons between animals generally resulted in similar exposure estimates when the same filtering and thresholds were applied. The exposure estimates for bottlenose dolphins, short-finned pilot whales and, to some extent, sperm whales were similar. For sperm whales, however, the behavioral depth restriction for this species (animats do not enter water depths less than 1,000 m) resulted in differences. Sperm whales also showed greater potential of behavioral response to noise exposure than other species with the same auditory thresholds. Sperm whales are deep divers; in this downward refracting environment they appear to receive consistently greater exposures relative to shallow diving species.

In order to address overall uncertainty in the exposure estimates resulting from combined uncertainty due to both acoustic and animal modeling, a ''bootstrap'' resampling process was used in which relevant uncertainty could be added to animats' received levels. For example, for potential auditory injury, the primary acoustic uncertainty was the source level variance. Airguns are designed to have low inter-shot variability and predicted source levels within 3 dB. A conservative estimate of ±3 dB standard deviation was used to investigate the effects of source level variance on SEL injury exposure estimates. While the mean number of animats above SEL threshold increased relative to the expected value, the exposure estimate distributions did not change much. For potential behavioral disturbance, propagation uncertainty (due to the greater ranges involved) also contributes to the uncertainty in the acoustic modeling predictions; therefore, 6 dB was chosen as a test to include both the source variance plus uncertainty due to propagation. The mean behavioral disruption estimates and the distribution ranges stayed approximately the same when ± 6dB of acoustic variability was included. During resampling, acoustic uncertainty can be combined with real-world density (mean ± standard deviation) and social group size (mean ± standard deviation). In general, the uncertainty associated with the animals (density and group size) does not change the mean exposure estimate, but can affect the exposure estimate distribution.

Test Scenario 3 (Mitigation Effectiveness)—With reference to detection-based mitigation, effectiveness at reducing marine mammal exposure to potentially injurious sound levels is unknown. Mitigation effectiveness corresponds with the ability to detect an animal in the relevant zone. Detectability, and consequently mitigation efficacy, depends on the species, potentially individual animal characteristics, survey configuration, and environmental conditions. Mitigation effectiveness was evaluated using a modeling approach to quantify the potential reduction in the numbers of exposures at or above Level A harassment thresholds for selected species by comparing acoustic exposure estimates with and without mitigation (array shutdown). For each of the six species considered in the preliminary modeling, a range of detection probabilities (*i.e., g*(0)) was considered. The positions of animats in the simulation are known and reported in short time steps. The detection probability, however, is the probability of detecting an animal along the trackline as the survey passes through an area, rather than for an individual time step. For this evaluation, *g*(0) is used as estimate of the detection probability for animats near the surface and close to the vessel.

Level A harassment exposure estimates associated with the 5-day survey simulation were calculated with and without a mitigation procedure. Exposure estimates were computed relative to SEL and peak SPL exposure criteria. Airgun shutdown was modeled by zeroing all animat received levels when an animat was detected within an exclusion zone, with detection registered when the horizontal range of an animat from the source was less than 500 m, its depth was less than 50 m, and a random draw from a uniform distribution between 0 and 1 indicated detection. If the random value was less than the assumed *g*(0), the detection was registered, the time of the closest point of approach (CPA) was found, and the received levels for all animats were zeroed for 30 minutes before and after the CPA. For the purposes of the simulation, it was assumed that portions of the survey line missed during shutdown were re-surveyed (*i.e.,* shutdowns result in an increase in the overall survey duration in order to keep the distance surveyed the same as the unmitigated case). Shutdown was assumed to occur only for the source array around which the animat was detected. Other sources present in the simulation continued operating. Model simulations were run for detection probabilities of 0.05 to 0.45 (increments of 0.05) and 0.5 to 0.9 (increments of 0.1) to simulate a reasonable range of probabilities for cryptic species and other species, respectively.

The inclusion of mitigation procedures in the simulations reduced the numbers of exposures based on peak SPL criteria for five out of six species and detection probabilities considered, even though an extension in the survey period due to line re-shoot was taken into account. The exception was Bryde's whales, due to low real-world density values. Mitigation effectiveness, expressed as the reduction in the number of individual animals exposed, was generally related to animal densities; species with higher densities were more often exposed and the reduction in the number of exposures from mitigation was greater. As expected, the percentage reduction in exposures for species with relatively high detection probability was higher than the percentage reduction for species with relatively low detection probability.

The usefulness of mitigation depends on species characteristics and environmental conditions, meaning that there is a high degree of inherent variability (and potential error) involved in attempting to predict some reduction in potential exposures resulting from mitigation effectiveness. Reductions due to mitigation for easily-detected species with large populations may be large in terms of percentage decrease (assuming shutdown is a required measure) while, for low-density species that are difficult to detect in rough seas, there may be little realistic mitigation effect. Further, for deep-diving species with unreliable

vocal rates, a very conservative estimate of mitigation effectiveness should be used. Ultimately, on the basis of these findings, quantification of mitigation effectiveness was not incorporated into the Phase II modeling effort (*i.e.,* is not reflected in the modeled exposure estimates).

Test Scenario 4 (Effects of Aversion)—Animal behavior in response to sound exposure may vary widely, but if sounds are perceived as a threat or an annoyance, animals might temporarily or permanently avoid the area near the source (*e.g.,* Southall *et al.,* 2007; Ellison *et al.,* 2012)—a phenomenon referred to as aversion. Aversive responses to sounds are of particular interest here because such behavior could decrease the number of injuries that result from acoustic exposure in the real world. If aversion occurs at a received level lower than that considered an injurious exposure, a decrease in the corresponding number of estimated exposures above Level A harassment criteria can be assumed. The degree of aversion and level of onset for aversion, however, are poorly understood.

As for mitigation effectiveness, a test scenario was investigated using a modeling approach to quantify the potential reduction in injury exposure estimates due to aversion. Aversion is simulated as a reduction in received levels and, because little is known about the received levels at which animals begin to avert, the sound levels and probabilities used to evaluate potential behavioral disturbance are used to approximate aversion. However, it is possible that aversion could occur at greater or lesser received sound levels, depending on the context and/or motivation of the animal. It is important to note that, as considered here, aversion itself can represent a behavioral disruption; therefore, aversion is only meaningful in reducing the potential for injury, *i.e.,* those animals that avert may have avoided Level A harassment, but would have nevertheless experienced Level B harassment.

Injury exposure estimates associated with the 5-day 3D WAZ simulation were determined with and without aversion. The difference in the mean value of the exposure estimate distributions with and without aversion indicates the effect of aversion on the injury exposure estimates. Each animat sampled during the bootstrap resampling process has an associated exposure history, *i.e.,* a time series of received sound levels arising from relative motion of the source and animat. These exposure histories were computed assuming the animats' behaviors were otherwise unaffected by their received sound levels. Each exposure history was then modified based on received-level dependent probabilities of averting:

- *Step 1:* For each bootstrap sample, the occurrence of aversion was determined probabilistically based on the exposure level and the probability of aversion defined according to the function described previously (Table 6) for both SEL and peak SPL. An iteration-specific aversion efficacy was also chosen randomly from a uniform distribution in the range of 2–10 dB.
- *Step 2:* Animats for which aversion occurred in Step 1 had their received levels adjusted as described in the following steps. The received levels were unchanged for animats that did not avert.
- *Step 3:* For an animat entering an averted state, the aversion level excesses (the levels above the threshold that prompted aversion) until the end of the aversion episode were calculated from the difference between the received level at the start of aversion and the threshold level at which aversion began up to a maximum of 5 dB.
- *Step 4:* The adjusted received level during aversion was set to the greater of two quantities: (1) The received level minus the aversion efficacy (from Step 1), or (2) the threshold level plus the aversion level excess at the start of aversion (from Step 3).

Adjusted exposure histories were computed separately for each source, animat, and episode of aversion; each occurrence of aversive behavior was thus independent. Although the probability of aversion was defined in terms of the rms SPL, exposure histories were recorded in terms of the per-pulse SEL. A nominal conversion offset of +10 dB from SEL to rms SPL was used so the two metrics could be compared. Cumulative SELs over the 5-day simulation, were weighted using Type I filters for Bryde's whales and Type II filters for mid- and high-frequency cetaceans, but behavioral effects were estimated using Type I filters for all species, with appropriate adjustments made to the 5-day SEL exposure histories. The mean time spent in an averted state for four of six species were approximately 18 and 4 min for the slope and deep sites, respectively. For beaked whales, the means were 41 and 19 min. Too few Bryde's whale animats exceeded threshold to obtain a reliable statistical measure.

Aversion in the simulations reduced the numbers of exposures based on peak SPL criteria for most species. Aversion effectiveness, as measured by the percentage reduction in the exposure estimates, could be high: Approximately 85 percent for bottlenose dolphins, Cuvier's beaked whales, short-finned pilot whales, and sperm whales, and 40 percent for dwarf sperm whales. Bryde's whales, whose real-world densities were so low that no exposures were modeled even in the absence of aversion, were the exception. The numbers of exposures based on SEL criteria were near zero for most species even without aversion. The reduction in exposures was influenced by the criteria used to estimate exposures and by the assumptions made with respect to aversion probability. For example, although the real-world densities of dwarf sperm whales (a high-frequency cetacean) are similar to those for Cuvier's beaked whales (a mid-frequency cetacean), exposure estimates and the decrease in number of exposure estimates arising from aversion were different. The differences in aversion effectiveness reflect differences in injury threshold criteria and aversion probability. Ultimately, the effects of aversion were not quantified in the Phase II modeling due to lack of information regarding species-specific degree of aversion and level of onset.

Test Scenarios 5–6 (Separation Distance and Simultaneous Source Firing)—Geophysical surveys using airgun arrays may use survey designs that involve multiple source vessels separated by tens of meters to several kilometers, while newer technology has allowed for different surveys to be performed closer together than previously. Due to the possibility that the combined sound pressure levels of multiple airgun arrays operated close to one another could lead to increased noise effects than would occur with a single source, these scenarios were designed to address the issue of the aggregate noise produced by multiple airgun arrays and the potential for those signals to combine and lead to larger effects.

The investigations found that while SEL increases for overlapping surveys, injury due to accumulated energy is a rare event, and threshold exceedance resulted from a few high-level exposures near a source rather than an accumulation of many lower-level exposures. The range to injury assessed by peak SPL is up to a few hundred meters and does not accumulate. Injury in typical airgun surveys, therefore, occurs mainly because of a close encounter with a single airgun array. There are practical limits to how close two acquisition lines can be without one survey source interfering with the other survey's recordings. Depending on the survey type and the propagation environment of the area, the stand-off distance between fully concurrent surveys operating independently may be several tens of kilometers. If two surveys are conducted in closer proximity, then the operators will generally agree to

''time-sharing'' strategies whereby, for example, one survey acquires a line while the other completes a line turn with the source inactive, or similar ways of minimizing the amount of missed effort. Effects of overlapping surveys on injury exposure estimates are unlikely.

For potential behavioral disturbance, overlapping surveys may affect exposure estimates, but the effect is either small or potentially negative (reducing the overall number of estimated exposures). Because coincident reception in which the sound level increases appreciably occurs only in small portions of the ensonified volume, overlapping survey sound fields do not generally result in higher maximum received sound pressure levels. And, because animals may only be ''taken'' once within a 24-hr window, animals exposed in more than one survey are only counted once in the aggregate of the surveys. This does not preclude possible behavioral effects of animals spending more time above threshold, but such effects are not addressed by existing criteria.

From an energetic perspective, the relative firing pattern of different arrays does not matter. The same SEL will be registered when two arrays are alternated or fired simultaneously. For the pressure-based metrics, peak SPL and rms SPL, simultaneous firing can increase the received levels, but in only a small portion of the ensonified volume. Because the maximum received levels are rarely increased, the exposure estimates based on SPL are rarely increased. The most likely place for meaningful summation to occur is very near the source, and in that case the firing pattern would be included in the simulation and therefore in the exposure estimates.

In summary, neither separation distance nor simultaneous firing is of significant concern when estimating exposures using the current criteria.

Modeling Issues

NMFS is aware of criticism that the modeling results are unrealistic or overly conservative (*e.g.,* ''biased modeling based on flawed assumptions''). For example, we received public comment in response to our **Federal Register** notice of receipt of the petition from the IAGC, API, National Ocean Industries Association, and Offshore Operators Committee (hereafter referred to as ''the Associations''). The Associations quote certain statements made by BOEM in its draft Programmatic EIS (*e.g.,* ''an overly conservative upper limit,'' exposure estimates are ''higher than BOEM expects would actually occur in a real world environment,'' modeling results represent a ''worst-case scenario''). NMFS strongly disagrees with these characterizations. While the modeling required that a number of assumptions and choices be made by subject matter experts, some of these are purposely conservative to minimize the likelihood of underestimating the potential impacts on marine mammals represented by the level of effort specified by the applicant. The modeling effort incorporated representative sound sources and projected survey scenarios (both based on the best available information obtained through BOEM's consultation with members of industry as well as historical permit application data), physical and geological oceanographic parameters at multiple locations within the GOM and during different seasons, the best available information regarding marine mammal distribution and density, and available information regarding known behavioral patterns of the affected species. Current scientific information and state-of-the-art acoustic propagation and animal movement modeling were used to reasonably estimate potential exposures to noise. NMFS's position is that the results of the modeling effort represent a conservative but reasonable best estimate, not a ''worst-case scenario.''

We call attention to our own public comments submitted to BOEM following review of the draft PEIS: ''[NMFS] disagrees that the PEIS analysis is based on the 'upper limit' of potential marine mammal exposures to sound produced by [survey] activities. The PEIS provides no reasonable justification as to why the exposure estimates [. . .] should be considered as 'conservative upper limits', represent an 'overestimate,' or are 'unrealistically high.' [NMFS] believes that the exposure estimates represent a conservative but reasonable best estimate [. . . .] [NMFS] disagrees that 'each of the inputs into the models is purposely developed to be conservative.' Although it may be correct that conservativeness accumulates throughout the analysis, BOEM has not adequately described the nature of conservativeness associated with model inputs or to what degree (either quantitatively or qualitatively) such conservativeness 'accumulates.' While exposure modeling is inherently complex, complexity does not inherently result in overestimation of exposures [. . . .] [NMFS] strongly disagrees that the exposure estimates are 'overly conservative,' are 'upper limits,' or that these estimates are in some way differentiated from what might actually be expected to occur.'' Finally, we note that BOEM's final PEIS removed erroneous statements and provided additional clarification regarding descriptions of the modeling results to more accurately describe the nature of the results as a conservative but reasonable best estimate, consistent with NMFS's comments on the draft PEIS.

IAGC and API contracted with JASCO Applied Sciences, who performed the modeling effort, to conduct additional analysis regarding the effect that various acoustic model parameters or inputs have on the outputs used to estimate numbers of animals exposed to threshold levels of sound from geophysical sources used in the GOM (''*Gulf of Mexico Acoustic Exposure Model Variable Analysis;*'' Zeddies *et al.,* 2017b). The results of this analysis were not made available to NMFS in time to fully consider them in preparing these proposed regulations. However, the report is available online for public review (*www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas*) and we expect to consider these results as appropriate in developing a final rule. The primary finding of Zeddies *et al.* (2017b) is that use of appropriate acoustic injury criteria (*i.e.,* NMFS, 2016) and quantitative consideration of animal aversion and mitigation effectiveness decrease predictions of injurious exposure. As described herein, we have used acoustic criteria for both Level A and Level B harassment that reflect the best available science, and have incorporated reasonable correction for animal aversion.

Here, we address some specific issues regarding the modeling assumptions and briefly address the results provided by Zeddies *et al.* (2017b):

- Representative large array. The Associations state that the selected array (8,000 in^3) is unrealistically large, resulting in an overestimation of likely source levels and, therefore, size of the sound field with which marine mammals would interact. Zeddies *et al.* (2017b) evaluated the use of a substitute 4,130 in^3 array, finding that reduction in array volume reduces the number of predicted exposures. Use of a smaller airgun array volume with lower source level creates a smaller ensonified area resulting in fewer numbers of animals expected to exceed exposure thresholds.

The particular array was selected as a realistic representative proxy after BOEM's discussions with individual geophysical companies. An 8,000-in^3 array was considered reasonable, as it falls within the range of typical airgun

arrays currently used in the GOM, which are roughly 4,000–8,400 in^3 (BOEM, 2017). According to BOEM's permitting records, approximately one-third of arrays used in a recent year were 8,000 in^3 or greater. More importantly, the horizontal modeling of the 8,000-in^3 array should give sound pressure results similar to other configurations. The output of an airgun array is directly proportional to the firing pressure and to the number of elements. However, the sound pressure (peak amplitude) generated by the array is not linear but instead is proportional to the cube root of the volume of that array. For example, doubling the size of the airgun array from 4,000 to 8,000 in^3 would be expected to add approximately 3 dB to the source pressure level. Thus, an 8,000 in^3 array produces only about twice the loudness of a 1,000 in^3 array, assuming similar parameters such as the number of elements and the spatial dimensions of the array. This volume to loudness ratio holds for the sizes of single elements as well, *e.g.,* a 240-in^3 element only generates twice the peak pressure level of a 30-in^3 element (not eight times the level). It is primarily the frequency components of the source signals that differ with size, *i.e.,* larger elements produce more low-frequency sound. It should also be noted that airgun arrays are configured geometrically so as to direct energy downward into the seafloor (known as tuning the array); the model fully recognizes this directionality and accounts for the lower sound energy radiated at shallower angles and at specific bearings in computing the exposure levels.

The exact configuration of the 4,130 in^3 array evaluated by Zeddies *et al.* (2017b) is not provided. Assuming that it is roughly symmetrical to the 8,000 in^3 array modeled by Zeddies *et al.* (2015, 2017a), and using the scaling laws where only total volume applies, the larger array would be expected to be about 2 dB louder. Contrary to this estimate, Zeddies *et al.* (2017b) report a 7.3 dB difference in source levels, a result that cannot be completely understood given the information provided by Zeddies *et al.* (2017b). One identified issue is that the source level for the smaller array (247.9 dB) is for a broadside prediction, while the source level for the larger array (255.2 dB) is for the endfire prediction. The broadside source level for the larger array is predicted to be 248.1 dB, which is reasonably close to that of the smaller array (*i.e.,* within 2 dB difference). The broadside value may be a better representation of source level for the main beams which are directed downward, while the endfire is applicable for a smaller range of horizontal bearing from the array. Ultimately, differences in the array geometry may be significant, and the lack of transparency in disclosing this information for the smaller array problematic to a meaningful comparison of results. Overall, the 8,000-in^3 array used by Zeddies *et al.* (2015, 2017a) remains a reasonable representation of the arrays that may be used in the future, without being overly conservative.

- Sound propagation modeling. Acoustic propagation in the GOM is complex and routinely changing due to variations in the Loop Current (and its eddies) and weather (including hurricanes). Additionally, propagation modeling needs to address a wide range of water depths (*i.e.,* shelf, slope, and deep waters) as well as strong freshwater runoff from the Mississippi River and other rivers. In order to capture this variability, the acoustic propagation modeling examined the historic sound velocity profiles (SVP) for the entire U.S. GOM throughout the entire year. As summarized earlier, these SVPs were analyzed for similarities and ultimately grouped into seven zones or areas with SVPs of similar structure or characteristics. These seven zones also included consideration of bathymetric, oceanographic, and biological factors in their definition. The SVP analysis also identified the need to capture seasonal variations by modeling the summer and winter seasons, which represent the bounds of reasonable environmental variability, rather than ''extremes.'' The profiles selected to model each of these seven zones are reasonable representatives of the family of SVPs for that zone and reflect an average of feasible conditions. Within each of the geographic boundaries for each modeled zone, multiple sites were selected to serve as the actual acoustic location for a modeled source, in order to capture the propagation for that zone. The sites selected for these locations included consideration of the overall characteristic of the zone (*i.e.,* it should be representative of the zone and not an extreme case), the proximity of the adjacent zones, the location of important bathymetric or oceanographic features, and, if possible, any important information on biologically important factors (*e.g.,* migratory routes, animal concentrations). Finally, the 3D propagation fields for each of the zones were examined by modeling multiple azimuthal planes radiating out from the source location. For additional detail, see the modeling report.
- Mitigation and aversion. As discussed in further detail above, the effects of mitigation and aversion on exposure estimates were investigated via Test Scenarios. We acknowledge that both of these factors would lead to a reduction in likely injurious exposure to some degree. However, these factors were ultimately not quantified in the modeling because, in summary, there is too much inherent uncertainty regarding the effectiveness of detection-based mitigation to support any reasonable quantification of its effect in reducing injurious exposure and there is too little information regarding the likely level of onset and degree of aversion to justify its use in the modeling. Zeddies *et al.* (2017b) found that incorporation of aversion into the modeling process appears to reduce the number of predicted injurious exposures, though the magnitude of the effect was variable. The authors state that this variability is likely because there are few samples of injurious exposure exceedance, meaning that the statistical variability of re-running simulations is evident. While aversion and mitigation implementation would be expected to reduce somewhat the modeled levels of injurious exposure, they would not be expected to result in any meaningful reduction in assumed exposures resulting in behavioral disturbance. However, we incorporated a reasonable adjustment to modeled Level A exposure estimates to account for aversion for low- and high-frequency species and, as described below, we do not believe that Level A harassment is likely to occur for mid-frequency cetaceans.

In conclusion, and as stated by BOEM (2017), the results of the modeling are expected to incorporate a reasonable margin of conservatism, and they represent use of the most credible, science-based methodologies and information available at this time. We believe it appropriate to incorporate conservatism to a reasonable extent in order to produce take estimates that would be sufficient to address the likely impacts of the activity and to allow for issuance of authorizations that would cover the expected requests by operators over the course of 5 years.

Take Estimates

In order to provide an estimate of takes of marine mammals that could occur as a result of a reasonably expected level of geophysical survey activity in the GOM over the course of 5 years, we evaluated BOEM's 10-year level of effort predictions and the

associated modeled exposures provided by Zeddies *et al.* (2015, 2017a). The acoustic exposure history of many simulated animals (animats) allows for the estimation of takes due to operations. These modeled takes are summed and represent the aggregate takes expected to result from future surveys given the specified levels of effort for each survey type in each year, and may vary according to the statistical distribution associated with these mean annual exposures. We use the scaling factors derived from the results of Test Scenario 1 to differentiate between the total number of predicted instances of take and the likely number of individual marine mammals to which the takes occur. This information—total number of takes (with Level A harassment takes based on assumptions relating to mid-frequency cetaceans in general as well as aversion, as described below) and individuals, on an annual basis for five hypothetical years representing three different potential levels of survey effort—provide a partial basis for our negligible impact analysis, as well as the bounds within which incidental take authorizations would be issued in association with this proposed regulatory framework.

In summary, BOEM provided estimated levels of effort for geophysical survey activity in the GOM for a notional ten-year period. Exposure estimates were then computed from modeled sound levels received by animats for several representative types of geophysical surveying. Because animals and acoustic sources move relative to the environment and each other, and the sound fields generated by the sources are shaped by various physical parameters, the sound levels received by an animal are a complex function of location and time. The basic modeling approach was to use acoustic models to compute the 3D sound fields and their variations in time. Animats were modeled moving through these fields to sample the sound levels in a manner similar to how real animals would experience these sounds. From the time histories of the received sound levels of all animats, the numbers of animals exposed to levels exceeding effects threshold criteria were determined and then adjusted by the number of animals expected in the area, based on density information, to estimate the potential number of real-world marine mammal exposures to levels above the defined criteria.

With the overall modeling goal to estimate exposure levels from future survey activity whose individual details such as exact location and duration are unknown, a primary concern was how to account for different survey types, locations and spatial extents, and durations. In Test Scenario 1, issues arising when estimating impacts during long-duration surveys were investigated and a method was suggested. The defined 24-hr integration window, or reset period, creates a scaling time-basis for impact analysis, and 24 hours is short relative to most surveys. Test Scenario 1 demonstrated that while scaling (multiplying) the average 24-hr exposure estimate by the number of days of a survey is appropriate for estimating the number of instances of exposure above threshold, this same number is likely an overestimate of the number of individual marine mammals exposed above threshold during that time period. The associated 30-day model runs resulted in lower numbers of animats exposed to levels exceeding the threshold because individual animats were only counted once in the 30-day period even when exposed above the threshold across multiple days, which allows for a more refined consideration of individual animal takes, *i.e.,* comparison between the results of these two methods (24-hr exposure estimate scaled to 30 days versus 30-day exposure estimate) allows for a more realistic understanding of the likely numbers of individuals exposed within a 30-day period (as well as a better understanding of which species are likely taken across more days). However, while this correction helps account for the difference in estimates of individuals taken between the primary modeling method (24-hr modeled exposures multiplied by total number of survey days) and a 30-day modeled event, these remain somewhat of an overestimate, as evidenced by the total predicted takes versus the population abundance. Reasons include that many of the surveys will likely be significantly longer than 30 days, and that this correction does not address the fact that individuals could be taken by multiple surveys within a given year. In conclusion, while the exposure estimates presented in the modeling report identify instances of anticipated take, the ''corrected'' take numbers identify a closer approximation, and relative comparison, of the numbers of individuals affected. However, this method of correction still overestimates the numbers of individuals affected across the year, as it does not consider the additional repeated takes of individuals during surveys that are longer than 30 days or by multiple surveys.

The parameters governing animal movement were obtained from short-duration events, such as several dives, and for this modeling effort did not include long-duration behavior like migration or periodically revisiting an area as part of a circulation pattern. These behaviors could be modeled, but there are no data available currently to support detailed modeling of this type of behavior in the GOM. Seven-day simulations were chosen to ensure differing environments would be sampled.

With any modeling exercise, uncertainty in the input parameters results in uncertainty in the output. Sources of uncertainty and their effects on exposure estimates were investigated in Test Scenario 2. The primary source of uncertainty in this project was the location of the animals at the times of the surveys, which drives the choice of using an agent-based modeling approach and Monte Carlo sampling. Density estimates assume a uniform, static distribution of animals over a survey area, although real world animal densities can fluctuate significantly. However, assuming many surveys will be conducted in many locations, the variations in density are expected to average toward the mean. Sources of uncertainty in the other modeling parameters were found to affect the variance of the modeling results, as opposed to their mean, and the use of mean input parameters is therefore justified by the same argument as using mean animal densities: With many surveys occurring over many locations, variations are expected to average toward the mean. The effects of the variability in many of the modeling parameters on exposure estimates were quantified using a resampling technique. It was found that uncertainty in parameters such as animal density and social group size had a profound effect on the distribution of the exposure estimates, but not on the mean exposure. That is, the distribution shape and range of the number of animals above threshold changed, but the mean number of animals above threshold remained the same.

We previously presented BOEM's 10-year activity projections under ''Detailed Description of Activities'' (Table 1), and identified representative ''high,'' ''moderate,'' and ''low'' effort years. Level of effort is currently significantly reduced in the GOM. A decrease in permit applications was seen over the 2016 calendar year and the trend in reduced exploration activity continued in 2017. However, BOEM states that they assume that future levels will return to previous levels. Therefore, the existing scenario levels, which contain projections based on BOEM's

analysis by subject matter experts of past activity levels and trends as well as industry-projected activity levels, remain valid (BOEM, 2017). BOEM's projected activity levels must be viewed as notional years. While they are based on expert professional judgment as informed by historical data and the best available information, it would be inappropriate to view them as literal representations of what would definitively happen in a given year. Therefore, in order to provide the best reasonable basis for conducting a negligible impact analysis, and in recognition of the current economic downturn as it relates to oil and gas industry exploratory activity, we select one ''high-activity'' year, two separate ''moderate-activity'' years, and two separate ''low-activity'' years as the basis for our assessment (corresponding with the detailed per-survey type effort projections given in Table 1 for Years 1, 4, 5, 8, and 9, respectively). Exposure estimates above Level A and Level B harassment criteria, developed by Zeddies *et al.* (2015, 2017a) in association with the activity projections for these year scenarios, are presented here (Table 8). Exposure estimates were generated based on the specific modeling scenarios (including source and survey geometry), *i.e.,* 2D survey (1 × 8,000 in^3 array), 3D NAZ survey (2 × 8,000 in^3 array), 3D WAZ survey (4 × 8,000 in^3 array), coil survey (4 × 8,000 in^3 array), shallow penetration survey (either single 90 in^3 airgun or boomer), and HRG surveys (side-scan sonar, multibeam echosounder, and subbottom profiler). Here, we present scenario-based pooled exposure estimates by species.

TABLE 8—ESTIMATED EXPOSURES BY SURVEY SCENARIO

[Zeddies *et al.,* 2015, 2017a] [1]

Species	Survey effort scenario [2]									
	High		Moderate #1		Moderate #2		Low #1		Low #2	
	A	B	A	B	A	B	A	B	A	B
Bryde's whale	15	560	11	413	14	498	11	386	11	402
Sperm whale	45	43,504	29	27,271	38	33,340	30	26,651	32	27,657
Kogia spp	3,640	16,189	2,375	11,428	3,180	13,644	2,358	10,743	2,811	11,165
Beaked whale	52	235,615	38	162,134	47	190,777	37	151,708	38	156,584
Rough-toothed dolphin	150	37,666	114	30,192	128	31,103	112	28,663	105	26,315
Bottlenose dolphin	1,940	653,405	2,797	977,108	1,783	596,824	2,679	938,322	1,718	579,403
Clymene dolphin	469	110,742	312	72,913	380	87,615	304	69,609	310	72,741
Atlantic spotted dolphin	331	133,427	423	174,705	290	116,698	397	164,824	269	109,857
Pantropical spotted dolphin	2,924	606,729	2,048	419,738	2,535	511,037	1,987	399,581	2,032	419,824
Spinner dolphin	262	82,779	195	59,623	246	73,013	189	56,546	195	59,253
Striped dolphin	194	44,038	133	29,936	164	36,267	130	28,522	133	29,890
Fraser's dolphin	52	13,858	36	9,654	44	11,394	35	9,127	35	9,391
Risso's dolphin	103	27,062	73	18,124	91	21,914	71	17,309	74	18,092
Melon-headed whale	252	68,900	171	47,548	213	56,791	169	44,842	170	46,631
Pygmy killer whale	83	18,029	57	12,278	71	14,788	56	11,677	57	12,141
False killer whale	111	25,511	77	17,631	94	20,828	75	16,774	76	17,163
Killer whale	5	1,493	3	1,031	4	1,258	3	984	3	1,036
Short-finned pilot whale	68	19,258	43	12,155	51	14,163	42	11,523	42	11,900

[1] A and B refer to estimated exposures above Level A and Level B harassment criteria, respectively. For all species other than the Bryde's whale, exposures above Level A harassment criteria were predicted by the peak SPL metric. For the Bryde's whale, exposures above Level A harassment criteria were predicted by the cSEL metric.

[2] High survey effort scenario corresponds with level of effort projections given previously for Year 1 (Table 1). Moderate #1 and #2 and Low #1 and #2 correspond with Years 4, 5, 8, and 9, respectively.

For all mid-frequency cetaceans, *i.e.,* all species other than the Bryde's whale and *Kogia* spp., we do not expect Level A harassment to actually occur. For all species other than low-frequency cetaceans (*i.e.,* Bryde's whale), the estimates of exposure above Level A harassment criteria are based on the peak pressure metric and, for mid-frequency cetaceans, no exposures above Level A harassment criteria were predicted for airgun surveys on the basis of the cSEL metric. However, the estimated zone size for the 230 dB peak threshold for mid-frequency cetaceans is only 18 m and, while in a theoretical modeling scenario it is possible for animats to engage with a zone of 18 m radius around a notional point source and, subsequently, for these interactions to scale to predictions of real world exposures given a sufficient number of predicted 24-hr survey days in confluence with sufficiently high predicted real world animal densities, this is not a realistic outcome. The source level of the array is a theoretical definition assuming a point source and measurement in the far field of the source. The 230 dB isopleth was within the near field of the array where the definition of source level breaks down, so actual locations within the 18 m of the array center where the sound level exceeds 230 dB peak SPL would not necessarily exist. Further, our proposed mitigation (see discussion in ''Proposed Mitigation'' would require a power-down for small dolphins within a 500-m exclusion zone (and a shutdown for other mid-frequency cetaceans). During the power-down procedure, a single airgun would remain firing. The output of a single airgun would not be expected to exceed the peak pressure injury threshold for mid-frequency cetaceans. Therefore, we expect the potential for Level A harassment of mid-frequency cetaceans to be de minimis, even before the likely moderating effects of aversion are considered. When considering potential for aversion, we do not believe that Level A harassment is a likely outcome for any mid-frequency cetacean.

For other species (*i.e.,* Bryde's whales and *Kogia* spp.), we believe that while some amount of Level A harassment is likely, the lack of aversion within the animal movement modeling process results in overestimates of potential injurious exposure. Although there was not sufficient information to inform a precise quantification of aversion within the modeling (Test Scenario 4), we believe that sufficient information exists to inform a reasonable, conservative approximation of aversion and apply an offset method accordingly (Southall *et al.,* 2017). Ellison *et al.* (2016) demonstrated that animal movement models where no aversion probability was used overestimated the potential for high levels of exposure required for PTS by about five times. Accordingly, total

estimated exposures above Level A harassment criteria (without accounting for behavioral aversion) were multiplied by 0.2 to reasonably obtain a more realistic estimate of potential injurious exposure. Adjusted total scenario-specific and mean annual take estimates are given in Table 9.

TABLE 9—SCENARIO-SPECIFIC EXPECTED TAKE NUMBERS AND MEAN ANNUAL TAKE LEVEL [1]

Species	Survey effort scenario [2]											
	High		Moderate #1		Moderate #2		Low #1		Low #2		Mean annual take	
	A	B	A	B	A	B	A	B	A	B	A	B
Bryde's whale	3	560	2	413	2	498	2	386	2	402	2	452
Sperm whale	0	43,504	0	27,271	0	33,340	0	26,651	0	27,657	0	31,685
Kogia spp	728	16,189	475	11,428	636	13,644	472	10,743	562	11,165	575	12,634
Beaked whale	0	235,615	0	162,134	0	190,777	0	151,708	0	156,584	0	179,364
Rough-toothed dolphin	0	37,666	0	30,192	0	31,103	0	28,663	0	26,315	0	30,788
Bottlenose dolphin	0	653,405	0	977,108	0	596,824	0	938,322	0	579,403	0	749,012
Clymene dolphin	0	110,742	0	72,913	0	87,615	0	69,609	0	72,741	0	82,724
Atlantic spotted dolphin	0	133,427	0	174,705	0	116,698	0	164,824	0	109,857	0	139,902
Pantropical spotted dolphin	0	606,729	0	419,738	0	511,037	0	399,581	0	419,824	0	471,382
Spinner dolphin	0	82,779	0	59,623	0	73,013	0	56,546	0	59,253	0	66,243
Striped dolphin	0	44,038	0	29,936	0	36,267	0	28,522	0	29,890	0	33,731
Fraser's dolphin	0	13,858	0	9,654	0	11,394	0	9,127	0	9,391	0	10,685
Risso's dolphin	0	27,062	0	18,124	0	21,914	0	17,309	0	18,092	0	20,500
Melon-headed whale	0	68,900	0	47,548	0	56,791	0	44,842	0	46,631	0	52,942
Pygmy killer whale	0	18,029	0	12,278	0	14,788	0	11,677	0	12,141	0	13,783
False killer whale	0	25,511	0	17,631	0	20,828	0	16,774	0	17,163	0	19,581
Killer whale	0	1,493	0	1,031	0	1,258	0	984	0	1,036	0	1,160
Short-finned pilot whale	0	19,258	0	12,155	0	14,163	0	11,523	0	11,900	0	13,800

[1] A and B refer to expected scenario-based instances of take by Level A and Level B harassment, respectively. For the Bryde's whale and *Kogia* spp., expected Level A takes represent modeled exposures adjusted to account for aversion.

[2] High survey effort scenario correspond level of effort projections given previously for Year 1 (Table 1). Moderate #1 and #2 and Low #1 and #2 correspond with Years 4, 5, 8, and 9, respectively.

Economic Baseline

This proposed rule has been designated as significant under Executive Order 12866. Accordingly, a draft regulatory impact analysis (RIA) has been prepared and is available for review online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* The RIA evaluates the potential costs and benefits of these proposed incidental take regulations, as well as a more stringent alternative, against two baselines. The two baselines correspond with: (1) Regulatory requirements associated with management of geophysical survey activity in the GOM prior to 2013 pursuant to permits that were issued by BOEM under its authorities in the Outer Continental Shelf Lands Act but that did not address statutory requirements of the MMPA administered by NOAA; and (2) conditions in place since 2013 pursuant to a settlement agreement, as amended through stipulated agreement, involving a stay of litigation (*NRDC et al.* v. *Zinke et al.,* Civil Action No. 2:10 cv-01882 (E.D. La.)). Under the settlement agreement (which expires in November 2018), industry trade groups representing operators agreed to include certain mitigation requirements for geophysical surveys in the GOM. Appendix B of the RIA provides an initial regulatory flexibility analysis (IRFA), while Appendix C addresses other compliance requirements.

Office of Management and Budget (OMB) Circular A–4 directs that the baseline for regulatory analysis should be the agency's best assessment of the state of the world in the absence of the proposed action. A–4 also provides that agencies may present multiple baselines where this would provide additional useful information to the public on the projected effects of the regulation. We are presenting two baselines for public information and comment, consistent with the A–4 provision allowing agencies to present multiple baselines. Thus, in addition to a baseline that reflects current assumed industry practices as agreed upon in the 2013 settlement agreement, NMFS is also presenting a baseline corresponding with geophysical activities in the GOM as carried out prior to the 2013 settlement agreement but without authorization from NMFS under the MMPA.

Estimated direct costs of the measures in the proposed regulations, relative to both baselines, are presented in Table 10. Details regarding cost estimation are available in the RIA. A qualitative evaluation of indirect costs related to the proposed regulations is also provided in the RIA. Note that these costs would be diffused across all operators receiving LOAs.

TABLE 10—QUANTIFIED DIRECT COMPLIANCE COSTS BY BASELINE

Mitigation measure	Annualized costs, millions [1]	
	Pre-stay agreement baseline (prior to 2013)	Stay agreement baseline (2013–present)
Mitigation requirements for dolphins: Shutdowns for large dolphins in the exclusion zone and power downs for small dolphins in the exclusion zone	$3.9–$49.7	$3.9–$49.7
Expanded observer requirements and mitigation in shallow waters: Shutdowns for all "whale" species in the exclusion zone for airgun surveys in water depths less than 200 m in the Central and Western Planning Areas	$0.02–$2.1	$0
Additional mitigation requirements: Shutdowns for Bryde's/beaked/Kogia whales outside of exclusion zone for deep penetration airgun surveys	$1.1–$3.0	$1.1–$3.0

TABLE 10—QUANTIFIED DIRECT COMPLIANCE COSTS BY BASELINE—Continued

Mitigation measure	Annualized costs, millions [1]	
	Pre-stay agreement baseline (prior to 2013)	Stay agreement baseline (2013–present)
Acoustic monitoring and associated mitigation: Shutdowns for all non-delphinid detections for deep penetration airgun surveys	$43.9–$127	$21.9–$65.8
Observer requirements for non-airgun HRG surveys and associated mitigation: Shutdowns for whale and large dolphin observations in the exclusion zone	$0.12–$0.39	$0.12–$0.39
Remove minimum separation distance requirements for deep penetration airgun surveys: The stay agreement baseline includes minimum separation distances. Costs reflect the downtime associated with maintaining the minimum separation distance from other surveys. This mitigation measure is not included in the proposed rule, thus creating a benefit (negative cost) of the proposed rule relative to the stay agreement baseline	n/a	($37.9)–($266)
Proposed Rule Total Direct Compliance Costs	$49–$182	[2] ($10.8)–($147)

[1] Costs are presented in terms of 2016 U.S. dollars and are annualized over the five-year timeframe applying a 7% discount rate. Annualized costs applying a 3% discount rate are provided in Appendix D of the RIA.

[2] Estimates within parentheses indicate negative costs, or cost savings. The proposed rule total direct compliance costs relative to the stay agreement baseline reflect new costs of $27–$119 less cost savings of $38–$266.

Proposed Mitigation

Under Section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse 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 (''least practicable adverse impact''). Consideration of the availability of marine mammal species or stocks for taking for subsistence uses pertains only to Alaska, and is therefore not relevant here. NMFS does not have a regulatory definition for ''least practicable adverse impact.'' However, NMFS's implementing 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)). It is important to note that in some cases, certain mitigation may be necessary in order to ensure a ''negligible impact'' on an affected species or stock, which is a fundamental requirement of issuing an authorization—in these cases, consideration of practicability may be a lower priority for decision-making if impacts to marine mammal species or stocks would be greater than negligible in the measure's absence.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, implementation of the measure(s) is expected to reduce impacts to marine mammal species or stocks, their habitat, and their availability for subsistence uses (when relevant). This analysis will consider such things as the nature of the potential adverse impact (such as likelihood, scope, and range), the likelihood that the measure will be effective if implemented, and the likelihood of successful implementation.

(2) The practicability of the measure for applicant implementation. Practicability of implementation may consider such things as cost, impact on operations, personnel safety, and practicality of implementation.

While the language of the least practicable adverse impact standard calls for minimizing impacts to affected species or stocks, we recognize that the reduction of impacts to those species or stocks accrues through the application of mitigation measures that limit impacts to individual animals. Accordingly, our analysis focuses on measures designed to avoid or minimize impacts on marine mammals from activities that are likely to increase the probability or severity of population-level effects, including auditory injury or disruption of important behaviors, such as foraging, breeding, or mother/calf interactions. See also 82 FR 19460 (April 27, 2017) and 83 FR 10954 (March 13, 2018) (discussion of least practicable adverse impact standard in proposed incidental take rule for Navy's Surveillance Towed Array Sensor System Low Frequency Sonar activities and Atlantic Fleet Testing and Training activities, respectively).

NMFS is aware of public statements that there is no scientific evidence that geophysical survey activities have caused adverse consequences to marine mammal stocks or populations, and that there are no known instances of injury to individual marine mammals as a result of such surveys. For example, BOEM stated publicly that ''there has been no documented scientific evidence of noise from airguns . . . adversely affecting marine animal populations'' (BOEM, 2014; *www.boem.gov/BOEM-Science-Note-August-2014/*). On their face, these carefully worded statements are not incorrect; however, they are easily misconstrued and, as used in arguments against certain proposed mitigation measures, represent a common logical fallacy (*i.e.,* that a proposition is false because it has not yet been proven true). In reality, conclusive statements regarding population-level consequences of acoustic stressors cannot be made due to insufficient investigation, as such studies are exceedingly difficult to carry out and no appropriate study and reference populations have yet been established. For example, a recent report from the National Academy of Sciences noted that, while a commonly-cited statement from the National Research Council (''[n]o scientific studies have conclusively demonstrated a link between exposure to sound and adverse effects on a marine mammal population'') remains true, it is largely because such impacts are very difficult to demonstrate (NRC, 2005; NAS, 2017). Population-level effects are inherently difficult to assess because of high variability, migrations, and multiple factors affecting the populations.

The MMPA defines ''take'' to include Level B (behavioral) harassment, which has been documented numerous times for marine mammals in the presence of airguns (in the form of avoidance of areas, notable changes in vocalization or movement patterns, or other shifts in important behaviors), as well as auditory injury (Level A harassment), for which there is also evidence from loud sound sources (*e.g.,* Southall *et al.,* 2007). Further, there is growing scientific evidence demonstrating the connections between sub-lethal effects, such as behavioral disturbance, and population-level effects on marine mammals (*e.g.,* Lusseau and Bedjer, 2007; New *et al.,* 2014). Disruptions of important behaviors, in certain contexts and scales, have been shown to have energetic effects that can translate to reduced survivorship or reproductive rates of individuals (*e.g.,* feeding is interrupted, so growth, survivorship, or ability to bring young to term is compromised), which in turn can adversely affect populations depending on their health, abundance, and growth trends. As BOEM stated in a follow-up to the above-referenced Science Note, ''[we] should not assume that lack of evidence for adverse population-level effects of airgun surveys means that those effects may not occur.'' (BOEM, 2015; *www.boem.gov/BOEM-Science-Note-March-2015/*).

While direct evidence of impacts to species or stocks from a specified activity is rarely available, and additional study is still needed to describe how specific disturbance events affect the fitness of individuals of certain species, there have been improvements in understanding the process by which disturbance effects are translated to the population. With recent scientific advancements (both marine mammal energetic research and the development of energetic frameworks), the relative likelihood or degree of impacts on species or stocks may often be inferred given a detailed understanding of the activity, the environment, and the affected species or stocks. This same information is used in the development of mitigation measures and helps us understand how mitigation measures contribute to lessening effects (or the risk thereof) to species or stocks. We also acknowledge that there is always the potential that new information, or a new recommendation that we had not previously considered, becomes available and necessitates reevaluation of mitigation measures (which may be addressed through adaptive management) to see if further reduction of population impacts are possible and practicable.

In the evaluation of specific measures, the details of the specified activity will necessarily inform each of the two primary factors discussed above (expected reduction of impacts and practicability), and will be carefully considered to determine the types of mitigation that are appropriate under the least practicable adverse impact standard. Analysis of how a potential mitigation measure may reduce adverse impacts on a marine mammal stock or species and practicability of implementation are not issues that can be meaningfully evaluated through a yes/no lens. The manner in which, and the degree to which, implementation of a measure is expected to reduce impacts, as well as its practicability in terms of these considerations, can vary widely. For example, a time/area restriction could be of very high value for decreasing population-level impacts (*e.g.,* avoiding disturbance of feeding females in an area of established biological importance) or it could be of lower value (*e.g.,* decreased disturbance in an area of high productivity but of less firmly established biological importance). Regarding practicability, a measure might involve operational restrictions that completely impede the operator's ability to acquire necessary data (higher impact), or it could mean additional incremental delays that increase operational costs but still allow the activity to be conducted (lower impact). A responsible evaluation of ''least practicable adverse impact'' will consider the factors along these realistic scales. Expected effects of the activity and of the mitigation as well as status of the stock all weigh into these considerations. Accordingly, the greater the likelihood that a measure will contribute to reducing the probability or severity of adverse impacts to the species or stock, the greater the weight that measure is given when considered in combination with practicability to determine the appropriateness of the mitigation measure, and vice versa. We discuss consideration of these factors in greater detail below.

1. Reduction of Adverse Impacts to Marine Mammal Species and Stocks and Their Habitat

The emphasis given to a measure's ability to reduce the impacts on a species or stock considers the degree, likelihood, and context of the anticipated reduction of impacts to individuals as well as the status of the species or stock. The ultimate impact on any individual from a disturbance event (which informs the likelihood of adverse species- or stock-level effects) is dependent on the circumstances and associated contextual factors, such as duration of exposure to stressors. Though any proposed mitigation needs to be evaluated in the context of the specific activity and the species or stocks affected, measures with the following types of goals are often applied to reduce the likelihood or severity of adverse species- or stock-level impacts: Avoiding or minimizing injury or mortality; limiting interruption of known feeding, breeding, mother/calf, or resting behaviors; minimizing the abandonment of important habitat (temporally and spatially); minimizing the number of individuals subjected to these types of disruptions; and limiting degradation of habitat. Mitigating these types of effects is intended to reduce the likelihood that the activity will result in energetic or other types of impacts that are more likely to result in reduced reproductive success or survivorship. It is also important to consider the degree of impacts that were expected in the absence of mitigation in order to assess the added value of any potential measures. Finally, because the least practicable adverse impact standard authorizes NMFS to weigh a variety of factors when evaluating appropriate mitigation measures, it does not compel mitigation for every kind of individual take, even when practicable for implementation by the applicant.

The status of the species or stock is also relevant in evaluating the appropriateness of certain mitigation measures in the context of least practicable adverse impact. The following are examples of factors that may (either alone, or in combination) result in greater emphasis on the importance of a mitigation measure in reducing impacts on a species or stock: The stock is known to be decreasing or status is unknown, but believed to be declining; the known annual mortality (from any source) is approaching or exceeding the PBR level; the affected species or stock is a small, resident population; or the stock is involved in a UME or has other known vulnerabilities, such as recovering from an oil spill.

Habitat mitigation, particularly as it relates to rookeries, mating grounds, and areas of similar significance, is also relevant to achieving the standard and can include measures such as reducing impacts of the activity on known prey utilized in the activity area or reducing impacts on physical habitat. As with species- or stock-related mitigation, the emphasis given to a measure's ability to reduce impacts on a species or stock's habitat considers the degree, likelihood,

and context of the anticipated reduction of impacts to habitat. Because habitat value is informed by marine mammal presence and use, in some cases there may be overlap in measures for the species or stock and for use of habitat.

We consider available information indicating the likelihood of any measure to accomplish its objective. If evidence shows that a measure has not typically been effective or successful, then either that measure should be modified or the potential value of the measure to reduce effects is lowered.

2. Practicability

Factors considered may include those such as cost, impact on operations, personnel safety, and practicality of implementation. In carrying out the MMPA's mandate, we apply the previously described context-specific balance between the manner in which and the degree to which measures are expected to reduce impacts to the affected species or stocks and their habitat and practicability for the applicant. The effects of concern, addressed previously in the ''Potential Effects of the Specified Activity on Marine Mammals and Their Habitat'' section, include auditory injury, severe behavioral reactions, disruptions of critical behaviors, and potentially detrimental chronic and/or cumulative effects to acoustic habitat (see discussion of this concept in the ''Anticipated Effects on Marine Mammal Habitat'' section). Here, we focus on measures with proven or reasonably presumed ability to avoid or reduce the intensity of acute exposures that may potentially result in these effects with an understanding of the drawbacks of these requirements, while also evaluating time-area restrictions that would avoid or reduce both acute and chronic impacts. To the extent of the information available to us, we consider practicability concerns, as well as potential undesired consequences of the measures, *e.g.,* extended periods using the acoustic source due to the need to reshoot lines. We also recognize that instantaneous protocols, such as shutdown requirements, are not capable of avoiding all acute effects, and are not suitable for avoiding many cumulative or chronic effects and do not provide targeted protection in areas of greatest importance for marine mammals. Therefore, in addition to a basic suite of seismic mitigation protocols, we also consider measures that may not be appropriate for other activities (*e.g.,* time-area restrictions specific to the proposed surveys discussed here) but that are warranted here given the scope of these specified activities and associated higher potential for population-level effects and/or a large magnitude of take of individuals of certain species, in the absence of such mitigation.

In order to satisfy the MMPA's least practicable adverse impact standard, we propose a suite of basic mitigation protocols that are required regardless of the status of a stock. Additional or enhanced protections are proposed for species whose stocks are in poor health and/or are subject to some significant additional stressor that lessens that stock's ability to weather the effects of the specified activity without worsening its status. We reviewed the mitigation measures proposed in the petition, the requirements specified in BOEM's PEIS, seismic mitigation protocols required or recommended elsewhere (*e.g.,* HESS, 1999; DOC, 2013; IBAMA, 2005; Kyhn *et al.,* 2011; JNCC, 2017; DEWHA, 2008; BOEM, 2016; DFO, 2008; GHFS, 2015; MMOA, 2015; Nowacek *et al.,* 2013; Nowacek and Southall, 2016), and the available scientific literature. We also considered recommendations given in a number of review articles (*e.g.,* Weir and Dolman, 2007; Compton *et al.,* 2008; Parsons *et al.,* 2009; Wright and Cosentino, 2015; Stone, 2015b). The suite of mitigation measures proposed here differs in some cases from the measures proposed in the petition and/or those specified by BOEM in the preferred alternative identified in their PEIS in order to reflect what we believe to be the most appropriate suite of measures to satisfy the requirements of the MMPA.

For purposes of defining mitigation requirements, we differentiate here between requirements for two classes of airgun survey activity: Deep penetration and shallow penetration, with surveys using arrays greater than 400 in^3 total airgun volume considered deep penetration. We consider this a reasonable cutoff as most arrays or single airguns of this size or smaller will typically be purposed for shallow penetration surveys—BOEM states in the petition that airgun sources used for shallow penetration surveys typically range from 40–400 in^3, while the Associations state in their comments on the petition that deep penetration array volumes used in the GOM range from approximately 2,000 to 8,400 in^3. We also consider a third general class of surveys, referred to here as HRG surveys and including those surveys using the non-airgun sources described previously. HRG surveys are treated differentially on the basis of water depth, with 200 m as the divider between shallow and deep HRG. We use this as an indicator for surveys (shallow) that should be expected to have less potential for impacts to marine mammals, because HRG sources used in shallow waters are typically higher-frequency, lower power, and/or having some significant directionality to the beam pattern. Finally, HRG surveys using only sources operating at frequencies greater than or equal to 200 kHz would be exempt from the mitigation requirements described herein, with the exception of adherence to vessel strike avoidance protocols. We do not make any distinction in standard required mitigations on the basis of BOEM's planning areas (*i.e.,* Western Planning Area (WPA), CPA, EPA).

As described previously in the ''Marine Mammal Hearing'' section, the upper limit of hearing for marine mammals is approximately 160 kHz; therefore, they would not be expected to detect signals from systems operating at frequencies of 200 kHz and greater. Sounds that are above the functional hearing range of marine animals may be audible if sufficiently loud (*e.g.,* Møhl, 1968). However, the typical relative output levels of these sources mean that they would potentially be detectable to marine mammals at maximum distances of only a few meters, and are highly unlikely to be of sufficient intensity to result in Level B harassment. Sources operating at high frequencies also generally have short duration signals and highly directional beam patterns, meaning that any individual marine mammal would be unlikely to even receive a signal that would almost certainly be inaudible.

We are aware of two studies (Deng *et al.,* 2014; Hastie *et al.,* 2014) demonstrating some behavioral reaction by marine mammals to acoustic systems operating at user-selected frequencies above 200 kHz. These studies generally indicate only that sub-harmonics could be detectable by certain species at distances up to several hundred meters. However, this detectability is in reference to ambient noise, not to thresholds for assessing the potential for incidental take for these sources. Source levels of the secondary peaks considered in these studies—those within the hearing range of some marine mammals—range from 135–166 dB, meaning that these sub-harmonics would either be below levels likely to result in Level B harassment or would attenuate to such a level within a few meters. Therefore, acoustic sources operating at frequencies greater than or equal to 200 kHz are not expected to have any effect on marine mammals. Further, recent sound source verification testing of these and other similar systems did not observe any sub-

harmonics in any of the systems tested under controlled conditions (Crocker and Fratantonio, 2016). While this can occur during actual operations, the phenomenon may be the result of issues with the system or its installation on a vessel rather than an issue that is inherent to the output of the system. We do not discuss these surveys further and none of the requirements described below (other than vessel strike avoidance procedures) would apply to these surveys.

Our consideration of the two major points described above (*i.e.,* ability of the measure to reduce the probability or severity of adverse impacts on marine mammal species or stocks and their habitat and practicability for the applicant) points to the need for a basic system of mitigation protocols that reasonably may be expected to achieve the following outcomes: (1) Avoid or minimize effects of concern that otherwise could accrue in a way that could cause or appreciably increase the risk of population-level impacts; (2) be easily implemented in the field; (3) reduce subjective decision-making for observers to the extent possible; and, (4) appropriately weigh a range of potential outcomes from sound exposure in determining what should be avoided or minimized where possible. Subsequently, we describe measures specific to the GOM in relation to specific contextual concerns.

Mitigation-Related Monitoring

Avoidance or minimization of acute exposure is first and foremost dependent upon detection of animals present in the vicinity of the survey activity. Requirements necessary to adequately detect marine mammals incur costs, which we consider in scaling mitigation-related monitoring requirements relative to the expected effects of the specific activity (as described above, we bin activity types and detail below the proposed monitoring requirements associated with each). Visual monitoring is a critical component of any detection system, as evidenced by the inclusion of visual monitoring requirements in every set of protocols and recommendations we reviewed, and has long been accepted as such. However, visual monitoring is only effective during periods of good visibility and when animals are available for detection (*i.e.,* at the surface).

Acoustic monitoring is an equally critical component of an effective detection system, supplanting visual monitoring during periods of poor visibility and supplementing during periods of good visibility. There are multiple explanations of how marine mammals could be in a shutdown zone and yet go undetected by observers. Animals are missed because they are underwater (availability bias) or because they are available to be seen, but are missed by observers (perception and detection biases) (*e.g.,* Marsh and Sinclair, 1989). Negative bias on perception or detection of an available animal may result from environmental conditions, limitations inherent to the observation platform, or observer ability. Species vary widely in the inherent characteristics that inform expected bias on their availability for detection or the extent to which availability bias is convolved with detection bias (*e.g.,* Barlow and Forney (2007) estimate probabilities of detecting an animal directly on a transect line ($g(0)$), ranging from 0.23 for small groups of Cuvier's beaked whales to 0.97 for large groups of dolphins). Typical dive times range widely, from just a few minutes for Bryde's whales (Alves *et al.,* 2010) to more than 45 minutes for sperm whales (Jochens *et al.,* 2008; Watwood *et al.,* 2006), while $g(0)$ for cryptic species such as *Kogia* spp. declines more rapidly with increasing Beaufort sea state than it does for other species (Barlow, 2015). Barlow and Gisiner (2006) estimated that when weather and daylight considerations were taken into account, visual monitoring would detect fewer than two percent of beaked whales that were directly in the path of the ship. PAM can be expected to improve on that performance, and has been used effectively as a mitigation tool by operators in the GOM since at least 2012. BOEM highlighted the importance of PAM to detection-based mitigation protocols in the petition for rulemaking, submitted to NMFS in support of industry, and we agree. However, we do not agree that use of 24-hr PAM should be limited to the Mississippi Canyon and De Soto Canyon lease blocks (as proposed by BOEM). Species that are difficult to detect but vocally active are present in significant numbers outside those areas, and PAM should be a standard component of detection-based mitigation anywhere such species are expected to be present.

PAM does have limitations, *e.g.,* animals may only be detected when vocalizing, species making directional vocalizations must vocalize towards the array to be detected, and species identification and localization may be difficult. However, for certain species and in appropriate environmental conditions it is an indispensable complement to visual monitoring during good sighting conditions and it is the only meaningful monitoring technique during periods of poor visibility; without PAM, there can be no expectation that any animal would be detected at night, and even during good conditions many deep-diving and/or cryptic species would go undetected much of the time. In the GOM, beaked whales and sperm whales (both vocally active) are two taxa of greatest concern; beaked whales would rarely be detected by visual means alone (an analysis of six years of GOM survey data found only 11 records for beaked whales; Barkaszi *et al.,* 2012), and, while commonly observed when they are at the surface, sperm whales spend significant amounts of time in locations where they are unavailable for visual detection. However, acoustic monitoring imposes additional costs on operators and, as discussed by Nowacek *et al.* (2013), we consider this in relation to the anticipated effects of the survey type. Thus, while PAM should be required during the deep penetration airgun surveys of greatest concern, we do not propose to require it for other survey types.

Note that, although we propose requirements related only to observation of marine mammals, we hereafter use the generic term ''protected species observer'' (PSO). Monitoring by dedicated, trained marine mammal observers is required in all water depths and, for certain surveys, observers must be independent. Additionally, for some surveys, we propose to require that some PSOs have prior experience in the role. Independent observers are employed by a third-party observer provider; vessel crew may not serve as PSOs when independent observers are required. Dedicated observers are those who have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct the geophysical survey operator (*i.e.,* vessel captain and crew) with regard to the presence of marine mammals and mitigation requirements. Communication with the operator may include brief alerts regarding maritime hazards. We are proposing to define trained PSOs as having successfully completed an approved PSO training course (see the ''Proposed Monitoring and Reporting'' section), and experienced PSOs as having additionally gained a minimum of 90 days at-sea experience working as a PSO, with no more than 18 months having elapsed since the conclusion of the relevant at-sea experience. Training and experience is specific to either visual or acoustic PSO duties (where

required). Furthermore, we propose that an experienced visual PSO must have completed approved, relevant training and must have gained the requisite experience working as a visual PSO. An experienced acoustic PSO must have completed a passive acoustic monitoring (PAM) operator training course and must have gained the requisite experience working as an acoustic PSO. Hereafter, we also refer to acoustic PSOs as PAM operators, whereas when we use ''PSO'' without a qualifier, the term refers to either visual PSOs or PAM operators (acoustic PSOs).

NMFS expects to provide informal approval for specific training courses in consultation with BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) as needed to approve PSO staffing plans. NMFS does not propose to formally administer any training program or to sanction any specific provider, but will approve courses that meet the curriculum and trainer requirements specified herein (see the ''Proposed Monitoring and Reporting'' section). We propose this in context of the need to ensure that PSOs have the necessary training to carry out their duties competently while also approving applicant staffing plans quickly. In order for PSOs to be approved, we propose that NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.,* experience, training completed, or educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating the PSO's successful completion of the course. Although we are proposing that NMFS must affirm PSO approvals, third-party observer providers and/or companies seeking PSO staffing should expect that observers having satisfactorily completed approved training and with the requisite experience (if required) will be quickly approved and, if NMFS does not respond within one week of having received the required information, we propose that such PSOs shall be considered to be approved. A PSO may be trained and/or experienced as both a visual PSO and PAM operator and may perform either duty, pursuant to scheduling requirements. Where multiple PSOs are required and/or PAM operators are required, we propose that PSO watch schedules shall be devised in consideration of the following restrictions: (1) A maximum of two consecutive hours on watch followed by a break of at least one hour between watches for visual PSOs (periods typical of observation for research purposes and as used for airgun surveys in certain circumstances (Broker *et al.,* 2015)); (2) a maximum of four consecutive hours on watch followed by a break of at least two consecutive hours between watches for PAM operators; and (3) a maximum of 12 hours observation per 24-hour period. Further information regarding PSO requirements may be found in the ''Proposed Monitoring and Reporting'' section, later in this document. NMFS has discussed the PSO requirements specified herein with BSEE and with third-party observer providers; these parties have indicated that the requirements should not be expected to result in any labor shortage. For example, a significantly greater amount of survey activity was occurring in the GOM during 2013–2015 than at present (*i.e.,* as many as 30 source vessels) with requirements similar to those described here. No labor shortage was experienced. We request comment on this assumption. We also invite comment on the proposed definitions of trained and experienced PSOs, requirements for PSO approval by NMFS, and watch schedule for visual PSO and PAM operators.

Deep Penetration Airgun—During deep penetration airgun survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur; whenever the acoustic source is in the water, whether activated or not), we propose the additional requirement that a minimum of two independent PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and 30 minutes prior to and during nighttime ramp-ups of the airgun array (see ''Ramp-ups'' below). PSOs should use NOAA's solar calculator (*www.esrl.noaa.gov/gmd/grad/solcalc/*) to determine sunrise and sunset times at their specific location. We recognize that certain daytime conditions (*e.g.,* fog, heavy rain) may reduce or eliminate effectiveness of visual observations; however, on-duty PSOs shall remain alert for marine mammal observational cues and/or a change in conditions.

We propose that all source vessels must carry a minimum of one experienced visual PSO, who shall be designated as the lead PSO, coordinate duty schedules and roles, and serve as primary point of contact for the operator. Experience is critical to best performance of the PSO team (*e.g.,* Stone, 2015b), *e.g.,* Mori *et al.* (2003) found that observers classed as having limited experience were significantly less successful in detecting animals than were experienced observers. A survey of professional PSOs and other experts (GHFS, 2015) highlighted the importance of experience as a best practice in selecting PSOs, both for improved performance in detecting animals but also due to the unique challenges a PSO faces while charged with implementing required mitigations onboard a working survey vessel. Experience breeds the confidence and professionalism necessary to maintain positive relations with the vessel operator while making sometimes difficult decisions regarding implementation of mitigation. However, while it is desirable for all PSOs to be qualified through experience, we are also mindful of the need to expand the workforce by allowing opportunity for newly trained PSOs to gain experience. Therefore, the lead PSO shall devise the duty schedule such that experienced PSOs are on duty with trained PSOs (*i.e.,* those PSOs with appropriate training but who have not yet gained relevant experience) to the maximum extent practicable in order to provide necessary mentorship.

With regard to specific observational protocols, we are proposing to largely follow those described in Appendix B of BOEM's PEIS (BOEM, 2017). The lead PSO shall determine the most appropriate observation posts that will not interfere with navigation or operation of the vessel while affording an optimal, elevated view of the sea surface; these should be the highest elevation available on each vessel, with the maximum viewable range from the bow to 90 degrees to port or starboard of the vessel. PSOs shall coordinate to ensure 360° visual coverage around the vessel, and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. All source vessels must be equipped with pedestal-mounted ''bigeye'' binoculars that will be available for PSO use. Within these broad outlines, the lead PSO and PSO team will have discretion to determine the most appropriate vessel- and survey-specific system for implementing effective marine mammal observational effort. Any observations of marine mammals by crew members aboard any vessel associated with the survey, including receiver or chase vessels, should be relayed to the source vessel and to the PSO team.

We are proposing that all source vessels must use a towed PAM system for potential detection of marine mammals at all times when operating the sound source in waters deeper than 100 m. In shallower waters, only two

species are typically present (bottlenose and Atlantic spotted dolphin; rough-toothed dolphins are the only other species potentially encountered in shelf waters but are typically found in deep water (Davis *et al.,* 1998; Fulling *et al.,* 2003; Maze-Foley and Mullin, 2006)). While dolphins may be detected using PAM, we are not proposing to require shutdowns of the source for dolphin presence (described below); therefore, the mitigation would be of low value relative to the estimated cost of equipment and additional personnel.

We are proposing that the system must be monitored at all times during use of the acoustic source, and acoustic monitoring must begin at least 30 minutes prior to ramp-up. PAM operators must be independent. Because the role of PAM operator is more technically complex than is the role of visual PSO, experience is more important (D. Epperson, BSEE, pers. comm.) and we are proposing that all source vessels shall carry a minimum of two experienced PAM operators, which is a stricter requirement than for visual PSOs. PAM operators shall communicate all detections to visual PSOs, when visual PSOs are on duty, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination. Further detail regarding PAM system requirements may be found in the ''Proposed Monitoring and Reporting'' section, later in this document. The effectiveness of PAM depends to a certain extent on the equipment and methods used and competency of the PAM operator, but no established standards are currently in place. We do offer some specifications later in this document and would require that applicants follow any standards that are established in the future.

Visual monitoring must begin at least 30 minutes prior to ramp-up (described below) and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset. If any marine mammal is observed at any distance from the vessel, a PSO would record the observation and monitor the animal's position (including latitude/longitude of the vessel and relative bearing and estimated distance to the animal) until the animal dives or moves out of visual range of the observer. A PSO would continue to observe the area to watch for the animal to resurface or for additional animals that may surface in the area. Visual PSOs shall communicate all observations to PAM operators, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

As noted previously, all source vessels must carry a minimum of one experienced visual PSO and two experienced PAM operators. The observer designated as lead PSO (including the full team of visual PSOs and PAM operators) must have experience as a visual PSO. The applicant may determine how many additional PSOs are required to adequately fulfill the requirements specified here. To summarize, these requirements are: (1) 24-Hour acoustic monitoring during use of the acoustic source in waters deeper than 100 m; (2) visual monitoring during use of the acoustic source by two PSOs during all daylight hours, with one visual PSO on-duty during nighttime ramp-ups; (3) maximum of two consecutive hours on watch followed by a minimum of one hour off watch for visual PSOs and a maximum of four consecutive hours on watch followed by a minimum of two consecutive hours off watch for PAM operators; and (4) maximum of 12 hours of observational effort per 24-hour period for any PSO, regardless of duties. We invite comment on the mitigation-related monitoring requirements proposed for deep penetration airgun survey operations.

Shallow Penetration Airgun—We are proposing that shallow penetration airgun surveys (those using a total volume of airguns less than or equal to 400 in^3) follow the same requirements described above for deep penetration surveys, with one notable exception. The use of PAM is not required, except to begin use of the airgun(s) at night in waters deeper than 100 m. A nighttime start-up must follow the same protocol described above for deep-penetration surveys: Monitoring of the PAM system during a 30-minute pre-clearance period and during the ramp-up period (if applicable). If a PAM system is used during a shallow penetration survey, the PAM operator must have prior experience and training but may be a crew member, and the PAM system does not need to be monitored during full-power firing.

Non-Airgun HRG Surveys—HRG surveys would differ from the previously described protocols for airgun surveys and, as described previously, we differentiate between deep-water (greater than 200 m) and shallow-water HRG. Water depth in the GOM provides a reliable indicator of the marine mammal fauna that may be encountered and, therefore, the complexity of likely observations and concern related to potential effects on deep-diving and/or sensitive species. We are proposing to generally follow the HRG protocol described in Appendix B of BOEM's PEIS (BOEM, 2017), with some differences.

Deep-water HRG surveys would be required to employ a minimum of one independent visual PSO during all daylight operations, in the same manner as was described for airgun surveys. Shallow-water HRG surveys would be required to employ a minimum of one visual PSO, which may be a crew member. PSOs employed during shallow-water HRG surveys would only be required during a pre-clearance period. PAM would not be required for any HRG survey.

PAM Malfunction—Emulating sensible protocols described by the New Zealand Department of Conservation for airgun surveys conducted in New Zealand waters (DOC, 2013), we are proposing that survey activity may continue for brief periods of time when the PAM system malfunctions or is damaged. Activity may continue for 30 minutes without PAM while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional two hours without acoustic monitoring under the following conditions:

- Daylight hours and sea state is less than or equal to Beaufort sea state (BSS) 4;
- No marine mammals (excluding delphinids) detected solely by PAM in the exclusion zone (see below) in the previous two hours;
- NMFS is notified via email as soon as practicable with the time and location in which operations began without an active PAM system; and
- Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of four hours in any 24-hour period.

Practicability—As discussed above, both visual and acoustic monitoring capabilities are critical components of any detection-based mitigation plan, and are routine requirements around the world. Without the use of acoustic monitoring, even during periods of good visibility, species projected to bear the greatest consequences of effects from the specified activity (*e.g.,* beaked whales and sperm whales; see ''Negligible Impact Analysis and Preliminary Determination'') would go undetected much of the time. In addition, the data collected through both visual and acoustic monitoring comprises a majority of the separate monitoring requirements proposed here to satisfy the requirements of the MMPA (see ''Proposed Monitoring and Reporting'').

The use of visual observers has historically been required by BOEM; therefore, the RIA does not assess the costs associated with our proposal to continue this requirement. The use of PAM came into use in the GOM via an incentive scheme introduced in MMS's 2007 Notice to Lessees concerning ''Implementation of Seismic Survey Mitigation Measures and Protected Species Observer Program'' (NTL No. 2007–G02), which allowed nighttime start-ups conditional upon use of PAM. More recently, use of PAM in the GOM was expanded pursuant to the terms of the 2013 settlement agreement (as amended and extended through stipulated agreements) referenced above, in which industry parties agreed to use PAM in water depths greater than 100 m during times of reduced visibility. The RIA considers the likely incremental costs of our proposal to require the use of PAM at all times in waters greater than 100 meters in depth and associated shutdowns for detections of ''whales'' (*i.e.,* sperm whales, baleen whales, beaked whales, and *Kogia* spp.), reflecting the increased costs associated with hardware, software, personnel, and additional shutdowns due to acoustic detections relative to both pre-2013 settlement agreement and post-2013 settlement agreement. The range of costs shown in Table 10 reflects the range of projected activity levels provided by BOEM. Please see the RIA for full details. Operationally, use of PAM should not present meaningful difficulty to operators because PAM has been used in some form in the GOM for many years.

In consideration of the expected benefits of the expanded PAM requirements in reducing the probability or severity of impacts to marine mammals species or stocks and the practicability for applicant implementation (*e.g.,* in light of the costs and historical use), we preliminarily determine these measures are warranted. We invite comment on the costs for the additional observer and monitoring requirements and our interpretation of the analysis for determining what measures are warranted.

Exclusion Zone and Buffer Zone

For deep penetration airgun surveys, we are proposing that the PSOs shall establish and monitor a 500-m exclusion zone and additional 500-m buffer zone (total 1 km) during the pre-clearance period and a 500-m exclusion zone during the ramp-up and operational periods. PSOs should focus their observational effort within this 1-km zone, although animals observed at greater distances should be recorded and mitigation action taken as necessary (see below). For shallow penetration airgun surveys, we are proposing that the PSO shall establish and monitor a 200-m exclusion zone with additional 200-m buffer (total 400 m zone) during the pre-clearance period and a 200-m exclusion zone during the ramp-up (for small arrays only, versus single airguns) and operational periods. These zones would be based upon radial distance from any element of the airgun array or from a single airgun (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source, occurrence of marine mammals within the buffer zone (but outside the exclusion zone) would be communicated to the operator to prepare for the potential shutdown of the acoustic source. Use of the buffer zone in relation to ramp-up is discussed under ''Ramp-up.'' Further detail regarding the exclusion zone and shutdown requirements is given under ''Exclusion Zone and Shutdown Requirements.''

For deep-water non-airgun HRG surveys, the PSO would establish and monitor a 400-m zone during the pre-clearance period and a 200-m exclusion zone during the operational periods (the latter as required under BOEM's HRG protocol). For shallow-water non-airgun HRG surveys, the PSO would establish and monitor and 200-m pre-clearance zone (no shutdowns required during operational periods).

Ramp-Up

Ramp-up of an acoustic source is intended to provide a gradual increase in sound levels, enabling animals to move away from the source if the signal is sufficiently aversive prior to its reaching full intensity. We are proposing that ramp-up is required for all airgun surveys (unless using only one airgun), but is not required for non-airgun HRG surveys, as the types of acoustic sources used in such surveys are not typically amenable to ''ramping up'' the acoustic output in the way that multi-element airgun surveys are. We infer on the basis of behavioral avoidance studies and observations that this measure results in some reduced potential for auditory injury and/or more severe behavioral reactions. Stone (2015a) reported on behavioral observations during airgun surveys from 1994–2010, stating that detection rates of cetaceans during ramp-up were significantly lower than when the airguns were not firing and on surveys with large arrays (defined in that study as greater than 500 in^3), more cetaceans were observed avoiding or traveling away from the survey vessel during the ramp-up than at any other time. Dunlop *et al.* (2016) studied the effect of ramp-up during an airgun survey on migrating humpback whales, comparing ramp-up versus use of a constant source level operating at a higher level than the initial ramp-up stage but lower than at full power. Although behavioral response indicating potential avoidance was observed, there was no evidence that audibly increasing levels during ramp-up was more effective in this experimental context at causing aversion than was a constant source. Regardless, the majority of whale groups did avoid the source vessel at distances greater than the radius of most mitigation zones (Dunlop *et al.,* 2016). Von Benda-Beckmann *et al.* (2013), in a study of the effectiveness of ramp-up for sonar, found that ramp-up procedures reduced the risk of auditory injury for killer whales, and that extending the duration of ramp-up did not have a corresponding effect on mitigation benefit. Although this measure is not proven and some arguments have been made that use of ramp-up may not have the desired effect of aversion (which is itself a potentially negative impact assumed to be better than the alternative), ramp-up remains a relatively low-cost, common-sense component of standard mitigation for airgun surveys. Ramp-up is most likely to be effective for more sensitive species (*e.g.,* beaked whales) (*e.g.,* Tyack *et al.,* 2011; DeRuiter *et al.,* 2013; Miller *et al.,* 2015).

The ramp-up procedure involves a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved. Ramp-up would be required at all times as part of the activation of the acoustic source (including source tests; see ''Miscellaneous Protocols'' for more detail) and may occur at times of poor visibility, assuming appropriate acoustic monitoring with no detections in the 30 minutes prior to beginning ramp-up. Acoustic source activation should only occur at night where operational planning cannot reasonably avoid such circumstances. For example, a nighttime initial ramp-up following port departure is reasonably avoidable and may not occur. Ramp-up may occur at night following acoustic source deactivation due to line turn or mechanical difficulty. The operator must notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up. A designated

PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

We are proposing that ramp-up procedures follow the recommendations of IAGC (2015). Ramp-up would begin by activating a single airgun (*i.e.,* array element) of the smallest volume in the array. Ramp-up continues in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Total duration should be not less than approximately 20 minutes but is not prescribed and will vary depending on the total number of stages. There will generally be one stage in which doubling the number of elements is not possible because the total number is not even. This should be the last stage of the ramp-up sequence. We are proposing that the operator would be required to provide information to the PSO documenting that appropriate procedures were followed, and request comment on how this information would best be documented. Ramp-ups should be scheduled so as to minimize the time spent with source activated prior to reaching the designated run-in. We are proposing to adopt this approach to ramp-up (increments of array elements) because we believe it is relatively simple to implement for the operator as compared with more complex schemes involving activation by increments of array volume, or activation on the basis of element location or size. Such approaches may also be more likely to result in irregular leaps in sound output due to variations in size between individual elements within an array and their geometric interaction as more elements are recruited. It may be argued whether smooth incremental increase is necessary, but stronger aversion than is necessary should be avoided. The approach proposed here is intended to ensure a perceptible increase in sound output per increment while employing increments that produce similar degrees of increase at each step. We request comment on the proposed ramp-up procedures and requirements.

During deep penetration airgun surveys, we are proposing that PSOs must monitor a 1,000-m zone (or to the distance visible if less than 1,000 m) for a minimum of 30 minutes prior to ramp-up (*i.e.,* pre-clearance) or start-up (for single airgun or non-airgun surveys). While the delineation of zones is typically associated with shutdown, the period during which use of the acoustic source is being initiated is critical, and in order to avoid more severe behavioral reactions it is important to be cautionary regarding marine mammal presence in the vicinity when the source is turned on. This requirement has broad acceptance in other required protocols: The Brazilian Institute of the Environment and Natural Resources requires a 1,000-m pre-clearance zone (IBAMA, 2005), the New Zealand Department of Conservation requires that a 1,000-m zone be monitored as both a pre-clearance and a shutdown zone for most species (DOC, 2013), and the Australian Department of the Environment, Water, Heritage and the Arts requires an even more protective scheme, in which a 2,000-m ''power down'' zone is maintained for higher-power surveys (DEWHA, 2008). Broker *et al.* (2015) describe the use of a precautionary 2-km exclusion zone in the absence of sound source verification (SSV), with a minimum zone radius of 1 km (regardless of SSV results). We believe that the simple doubling of the proposed exclusion zone described here is appropriate for use as a pre-clearance zone. Thus, the pre-clearance zone would be 1,000 m for deep penetration airgun surveys, 400 m for shallow penetration airgun surveys or deep-water HRG surveys, and 200 m for shallow-water HRG surveys. We request comment on this interpretation of a pre-clearance zone which would provide the appropriate protections for the different survey types.

The pre-clearance period may occur during any vessel activity (*i.e.,* transit, line turn). Ramp-up must be planned to occur during periods of good visibility when possible; operators may not target the period just after visual PSOs have gone off duty. Following deactivation of the source for reasons other than mitigation, the operator must communicate the near-term operational plan to the lead PSO with justification for any planned nighttime ramp-up. Any suspected patterns of abuse must be reported by the lead PSO to be investigated by NMFS. Ramp-up may not be initiated if any marine mammal is within the designated 1,000-m zone. If a marine mammal is observed within the zone during the pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zone or until an additional time period has elapsed with no further sightings. We suggest an appropriate elapsed time period should be 15 minutes for small odontocetes and 30 minutes for all other species, and request comment on this proposal. PSOs will monitor the 500-m exclusion zone during ramp-up, and ramp-up must cease and the source shut down upon observation of marine mammals within or approaching the zone.

Exclusion Zone and Shutdown Requirements

Deep Penetration Airgun—An exclusion zone is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce potential for certain outcomes, *e.g.,* auditory injury, more severe disruption of behavioral patterns. For deep penetration airgun surveys, we propose that PSOs must establish a minimum exclusion zone with a 500-m radius as a perimeter around the outer extent of the airgun array (rather than being delineated around the center of the array or the vessel itself). If a marine mammal appears within or enters this zone, the acoustic source would be shut down (*i.e.,* power to the acoustic source must be immediately turned off). If a non-delphinid marine mammal is detected acoustically, the acoustic source would be shut down, unless the PAM operator is confident that the animal detected is outside the exclusion zone or that the detected species is not subject to the shutdown requirement.

The 500-m radial distance of the standard exclusion zone is expected to contain sound levels exceeding peak pressure injury criteria for all hearing groups other than, potentially, high-frequency cetaceans, while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Although significantly greater distances may be observed from an elevated platform under good conditions, we believe that 500 m is likely regularly attainable for PSOs using the naked eye during typical conditions. In addition, an exclusion zone is expected to be helpful in avoiding more severe behavioral responses. Behavioral response to an acoustic stimulus is determined not only by received level but by context (*e.g.,* activity state) including, importantly, proximity to the source (*e.g.,* Southall *et al.,* 2007; Ellison *et al.,* 2012; DeRuiter *et al.,* 2013). Ellison *et al.* (2012) describe a qualitative, 10-step index for the severity of behavioral response on the basis of the observed physical magnitude of the response (*e.g.,* minor change in orientation, change in respiration rate, fleeing the area) and its potential biological significance (*e.g.,* cessation of vocalizations, abandonment of feeding, separation of mother and offspring). In prescribing an exclusion zone, we seek not only to avoid most potential auditory injury but also to reduce the likely severity of the behavioral

response at a given received level of sound.

Use of monitoring and shutdown or power-down measures within defined exclusion zone distances is inherently an essentially instantaneous proposition—a rule or set of rules that requires mitigation action upon detection of an animal. This indicates that definition of an exclusion zone on the basis of cumulative sound exposure level (cSEL) thresholds, which require that an animal accumulate some level of sound energy exposure over some period of time (*e.g.,* 24 hours), has questionable relevance as a standard protocol. A PSO aboard a mobile source will typically have no ability to monitor an animal's position relative to the acoustic source over relevant time periods for purposes of understanding whether auditory injury is likely to occur on the basis of cumulative sound exposure and, therefore, whether action should be taken to avoid such potential.

Cumulative SEL thresholds are more relevant for purposes of modeling the potential for auditory injury than they are for dictating real-time mitigation, though they can be informative (especially in a relative sense). We recognize the importance of the accumulation of sound energy to an understanding of the potential for auditory injury and that it is likely that, at least for low-frequency cetaceans, some potential auditory injury is likely impossible to mitigate and should be considered for authorization.

Considering both the dual-metric thresholds described previously (and shown in Table 7) and hearing group-specific marine mammal auditory weighting functions in the context of the airgun sources considered here, auditory injury zones indicated by the peak pressure metric are expected to be predominant for both mid- and high-frequency cetaceans, while zones indicated by cSEL criteria are expected to be predominant for low-frequency cetaceans. Assuming a source level of 255.2 dB 0-pk SPL for the notional 8,000 in^3 array and spherical spreading propagation, distances for exceedance of group-specific peak injury thresholds are as follows: 65 m (LF), 18 m (MF), and 457 m (HF) (for high-frequency cetaceans, although the notional source parameters indicate a zone less than 500 m, we recognize that actual isopleth distances will vary based on specific array characteristics and site-specific propagation characteristics, and that it is therefore possible that a real-world distance to the injury threshold could exceed 500 m). Assuming a source level of 227.7 dB 0-pk SPL for the notional 90 in^3 single airgun and spherical spreading propagation, these distances would be 3 m (LF) and 19 m (HF) (the source level is lower than the threshold criterion value for mid-frequency cetaceans).

Consideration of auditory injury zones based on cSEL criteria are dependent on the animal's applied hearing range and how that overlaps with the frequencies produced by the sound source of interest in relation to marine mammal auditory weighting functions (NMFS, 2016). As noted above, these are expected to be predominant for low-frequency cetaceans because their most susceptible hearing range overlaps the low frequencies produced by airguns, while the modeling indicates that zones based on peak pressure criteria dominate for mid- and high-frequency cetaceans. In order to evaluate notional zone sizes and to incorporate the technical guidance's weighting functions over a seismic array's full acoustic band, we obtained unweighted spectrum data (modeled in 1 Hz bands) for a reasonably equivalent acoustic source (*i.e.,* a 36-airgun array with total volume of 6,600 in^3). Using these data, we made adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. We then converted these adjusted/weighted spectrum levels to pressures (micropascals) in order to integrate them over the entire broadband spectrum, resulting in broadband weighted source levels by hearing group that could be directly incorporated within NMFS's User Spreadsheet (*i.e.,* override the spreadsheet's more simple weighting factor adjustment). Using the User Spreadsheet's ''safe distance'' methodology for mobile sources (described by Sivle *et al.,* 2014) with appropriate dB adjustments derived from the methodology described above, and inputs assuming a 231.8 dB SEL source level for the notional 8,000 in^3 array, spherical spreading propagation, a source velocity of 4.5 kn, pulse duration of 100 ms, and a 25-m shot interval (shot intervals may vary, with longer shot intervals resulting in smaller calculated zones), distances for group-specific threshold criteria are as follows: 574 m (LF), 0 m (MF), and 1 m (HF).

We also assessed the potential for injury based on the accumulation of energy resulting from use of the single airgun and, assuming a source level of 207.8 dB SEL, there would be no realistic zone within which injury would occur. On the basis of this finding as well as the potential zone sizes based on the peak pressure criteria described above, we do not expect any reasonable potential for auditory injury resulting from use of the single airgun. No potential injurious exposures were predicted for single airgun surveys (Zeddies *et al.,* 2015, 2017a).

We expect that the proposed 500-m exclusion zone would typically contain the entirety of any potential injury zone for mid-frequency cetaceans (realistically, there is no such zone), while the zones within which injury could occur may be larger for high-frequency cetaceans (on the basis of peak pressure and depending on the specific array) and for low-frequency cetaceans (on the basis of cumulative sound exposure). These findings indicate that auditory injury is unlikely for mid-frequency cetaceans.

In summary, our intent in prescribing a standard exclusion zone distance is to (1) encompass zones for most species within which auditory injury could occur on the basis of instantaneous exposure; (2) provide additional protection from the potential for more severe behavioral reactions (*e.g.,* panic, antipredator response) for marine mammals at relatively close range to the acoustic source; (3) provide consistency and ease of implementation for PSOs, who need to monitor and implement the exclusion zone; and (4) to define a distance within which detection probabilities are reasonably high for most species under typical conditions. Our use of 500 m as the zone is not based directly on any quantitative understanding of the range at which auditory injury would be entirely precluded or any range specifically related to disruption of behavioral patterns. Rather, we believe it is a reasonable combination of factors. This zone has been proven as a feasible measure through past implementation by operators in the GOM. In summary, a practicable criterion such as this has the advantage of familiarity and simplicity while still providing in most cases a zone larger than relevant auditory injury zones, given realistic movement of source and receiver. Increased shutdowns, without a firm idea of the outcome the measure seeks to avoid, simply displace survey activity in time and increase the total duration of acoustic influence as well as total sound energy in the water (due to additional ramp-up and overlap where data acquisition was interrupted). The shutdown requirement described here would be required for most marine mammals, with the exception of small delphinoids, described in the following section; and Bryde's whales, any large whale observed with calf, sperm whales, beaked whales, and *Kogia* spp.,

described in the subsequent section entitled ''Other Shutdown Requirements.'' We request comment on our interpretation of the data, proposed standard exclusion zone, and shutdown requirements for most species (see subsequent proposed exceptions) during deep penetration airgun surveys.

Dolphin Exception—As defined here, the small delphinoid group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.,* bow riding). This exception to the shutdown requirement applies solely to specific genera of small dolphins—*Steno, Tursiops, Stenella,* and *Lagenodelphis* (see Table 3)—and applies under all circumstances, regardless of what the perception of the animal(s) behavior or intent may be. Variations of this measure that include exceptions based on animal behavior—*e.g.,* ''bow-riding'' dolphins, or only ''traveling'' dolphins, meaning that the intersection of the animal and exclusion zone may be due to the animal rather than the vessel—have been proposed by both NMFS and BOEM and have been criticized, in part due to the subjective on-the-spot decision-making this scheme would require of PSOs. If the mitigation requirements are not sufficiently clear and objective, the outcome may be differential implementation across surveys as informed by individual PSOs' experience, background, and/or training. The proposal here is based on several factors: The lack of evidence of or presumed potential for the types of effects to these species of small delphinoid that our shutdown proposal for other species seeks to avoid, the uncertainty and subjectivity introduced by such a decision framework, and the practicability concern presented by the operational impacts. While there may be some potential for adverse impacts to dolphins—Gray and Van Waerebeek (2011) report an observation of a pantropical spotted dolphin exhibiting severe distress in close proximity to an airgun survey, examine other potential causes for the display, and ultimately suggest a cause-effect relationship—we are not aware of other such incidents despite a large volume of observational effort during airgun surveys in the GOM, where dolphin shutdowns have not previously been required. Dolphins have a relatively high threshold for the onset of auditory injury (*i.e.,* permanent threshold shift) and more severe adverse behavioral responses seem less likely given the evidence of purposeful approach and/or maintenance of proximity to vessels with operating airguns.

The best available scientific evidence indicates that auditory injury as a result of airgun sources is extremely unlikely for mid-frequency cetaceans, primarily due to a relative lack of sensitivity and susceptibility to noise-induced hearing loss at the frequency range output by airguns (*i.e.,* most sound below 500 Hz) as shown by the mid-frequency cetacean auditory weighting function (NMFS, 2016). Criteria for temporary threshold shift (TTS) in mid-frequency cetaceans for impulsive sounds were derived by experimental measurement of TTS in beluga whales exposed to pulses from a seismic watergun; dolphins exposed to the same stimuli in this study did not display TTS (Finneran *et al.,* 2002). Moreover, when the experimental watergun signal was weighted appropriately for mid-frequency cetaceans, less energy was filtered than would be the case for an airgun signal. More recently, Finneran *et al.* (2015) exposed bottlenose dolphins to repeated pulses from an airgun and measured no TTS.

While dolphins are observed voluntarily approaching source vessels (*e.g.,* bow-riding or interacting with towed gear), the reasons for the behavior are unknown. In context of an active airgun array, the behavior cannot be assumed to be harmless. Although bow-riding comprises approximately 30 percent of behavioral observations in the GOM, there is a much lower incidence of the behavior when the acoustic source is active (Barkaszi *et al.,* 2012), and this finding was replicated by Stone (2015a) for surveys occurring in United Kingdom waters. There appears to be strong evidence of aversive behavior by dolphins during firing of airguns. Barkaszi *et al.* (2012) found that the median closest distance of approach to the acoustic source was at significantly greater distances during times of full-power source operation when compared to silence, while Stone (2015a) and Stone and Tasker (2006) reported that significant behavioral responses, including avoidance and changes in swimming or surfacing behavior, were evident for dolphins during firing of large arrays. Goold and Fish (1998) described a ''general pattern of localized disturbance'' for dolphins in the vicinity of an airgun survey. However, while these general findings—typically, dolphins will display increased distance from the acoustic source, decreased prevalence of ''bow-riding'' activities, and increases in surface-active behaviors—are indicative of adverse or aversive responses that may be construed as ''take'' (as defined by the MMPA), they are not indicative of any response of a severity such that the need to avoid it outweighs the impact on practicability for the industry and operators.

Additionally, increased shutdowns resulting from such a measure would require source vessels to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area.

Instead of shutdown, if a dolphin of the indicated genera (*Steno, Tursiops, Stenella,* and *Lagenodelphis*) appears within or enters the 500-m exclusion zone, or is acoustically detected and localized within the zone, we present two alternatives.

- *Proposal 1:* The acoustic source would be powered down to the smallest single element of the array. The power-down is intended to minimize potential disturbance to dolphins in a practicable way, by reducing the acoustic output while maintaining what should be an aversive stimulus. Power-down conditions would be maintained until the animal(s) is observed exiting the exclusion zone or for 15 minutes beyond the last observation of the animal, following which full-power operations may be resumed without ramp-up. A source vessel traveling at a typical speed of approximately 4.5 kn would transit approximately 2 km during this period. We expect that the resulting gap in data acquisition would be sufficiently small as to not require reshooting for infill; therefore, increased time over which acoustic energy is output, as well as significant operational impacts, would be avoided while maintaining reasonable protections for dolphins.
- *Proposal 2:* No shutdown or power-down would be required. We described above the information that supports our preliminary decision that an exception to the general shutdown requirement is warranted for small dolphins, as well as the information that we believe indicates that a power-down requirement is warranted in lieu of shutdown. However, members of the public may interpret this information as supporting an exception to the shutdown requirement with no power-down requirement.

We request comment on both proposals and other variations of these proposals, including our interpretation of the data and any other data that support the necessary findings regarding small dolphins for no shutdown and no power-down or no shutdown but a power-down.

Although other mid-frequency hearing specialists (*e.g.,* large delphinoids) are considered no more likely to incur auditory injury than are small delphinoids, they are much less likely to approach vessels. Therefore, we have evaluated that retaining a shutdown requirement for large delphinoids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a shutdown requirement for large delphinoids in that it simplifies somewhat the total array of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the source vessel. The variations in regulatory text for these proposals can be found in ''Alternative Regulatory Text,'' later in this preamble, and in the regulatory text at the end of the document.

Practicability—The requirement to use a generalized 500-m exclusion zone and to require shutdown upon observation of whales within that zone has historically been required by BOEM. Here, we assess practicability for possible dolphin shutdowns (described in full in the RIA). The IAGC provided information in response to a 2014 survey regarding the costs of survey activities including, by survey type, average survey duration, mobilization and pre-mobilization costs, and vessel operating costs per day, allowing for estimates of total average survey costs. IAGC also provided information relating to estimated average shutdown time following marine mammal observations in the exclusion zone and typical additional hours required to reshoot the areas missed during the shutdown period. For the latter, estimates ranged from 1–2 additional hours up to 12 hours (for 3D WAZ surveys). Barkaszi *et al.* (2012) found that small dolphins were observed within the exclusion zone on 5.7 percent of days, and that large dolphins were observed in the exclusion zone on 1.2 percent of days (unidentified delphinid species were observed on an additional 1.2 percent of days). The cost of shutdowns for dolphins in the exclusion zone is a function of the total number of days added to a survey, which accrue via (1) total time from shutdown until resuming data acquisition (1.6–2 hours) and (2) time required to reshoot an interrupted survey line (1–12 hours, depending on the survey type). To quantify this cost, the total number of added days is multiplied by the daily vessel operating cost for each survey type that uses airguns, with resulting annualized costs for shutdowns due to dolphins in the exclusion zone depending on actual level of activity (see RIA for cost estimates). In consideration of the preceding discussion of expected benefit from shutdowns for dolphins in context with these impacts on operations, we do not consider full shutdown for small dolphins in the exclusion zone to be warranted. The alternative presented requiring power-down for small dolphins in the exclusion zone is expected to cost less because of the ability to start back up without a ramp-up and the potentially reduced need to reshoot lines. The same would hold true for the alternative presented requiring no power-down based on there being no need to modify the survey at all. Operationally, we have attempted to minimize the potential for subjective and potentially inconsistent decision-making by PSOs. NMFS expects that large delphinoids (*e.g.,* false killer whales, melon-headed whales) in general are easily distinguished from small delphinoids (*e.g.,* spotted dolphins, Clymene dolphins) in general by trained, experienced observers on the basis of differences in size, color, and cranial/dorsal morphology, and requests any information relating to this assumption. Based on the protective value of the described measure and the understanding of practicability, we preliminarily determine the power-down measures are warranted.

Other Shutdown Requirements—We are proposing that shutdown of the acoustic source should also be required in the event of certain other observations regardless of the defined exclusion zone. It must be noted up front that any such observations would still be within range of where behavioral disturbance of some form and degree would be likely to occur, *e.g.,* Zeddies *et al.* (2015) estimated unweighted mean 95 percent range to 160 dB rms threshold (*i.e.,* the 50 percent midpoint for behavioral disturbance) levels across water depths and seasons at approximately 13 km (range 7.7–21.8 km) for the 8,000 in^3 array (Zeddies *et al.,* 2015). Thus, for the species or situations listed below, we present two alternatives:

- *Proposal 1:* Shutdown of the acoustic source would occur in the circumstances listed below, with no distance limit (*i.e.,* at any distance from the source). While visual PSOs would focus observational effort within the vicinity of the acoustic source and vessel (*i.e.,* approximately 1 km radius), this does not preclude them from periodic scanning of the remainder of the visible area, and we do not have a reason to believe that such periodic scans by professional PSOs would hamper the ability to maintain observation of areas closer to the source and vessel.
- *Proposal 2:* Shutdown of the acoustic source would occur in the circumstances listed below, only within 1 km of the source (measured as the radial distance from any element of the airgun array).

We request comment on both proposals and other variations of these proposals, including our interpretation of the data and any other data that support the necessary findings regarding initiating shutdown for certain circumstances at any distance or within 1 km. The variations in regulatory text for these proposals can be found in ''Alternative Regulatory Text,'' later in this preamble, and in the regulatory text at the end of the document.

Circumstances triggering Proposal 1 or Proposal 2 include:

- Upon detection (visual or acoustic) of a Bryde's whale. On the basis of the findings of NMFS's status review (described in a NOAA technical memorandum; Rosel *et al.,* 2016), NMFS has proposed to list the GOM Bryde's whale as an endangered species pursuant to the ESA (81 FR 88639; December 8, 2016). These whales form a small and resident population in the northeastern GOM, with a highly restricted geographic range and a very small population abundance (fewer than 100)—recently determined by a status review team to be ''at or below the near-extinction population level'' (Rosel *et al.,* 2016). The review team stated that, aside from the restricted distribution and small population, the whales face a significant suite of anthropogenic threats, one of which is noise produced by geophysical surveys. We believe it appropriate to eliminate potential effects to individual Bryde's whales to the extent practicable. As described previously, there may be rare sightings of vagrant baleen whales of other species in the GOM; if identification of the observed whale is inconclusive the shutdown must be implemented.
- Upon observation of a large whale (*i.e.,* sperm whale or any baleen whale) with calf, with ''calf'' defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult. Groups of whales are likely to be more susceptible to disturbance when calves are present (*e.g.,* Bauer *et al.,* 1993), and disturbance of cow-calf pairs could potentially result in separation of

vulnerable calves from adults. McCauley *et al.* (2000a) found that groups of humpback whale females with calves consistently avoided a single operating airgun, while male humpbacks were attracted to it, concluding that cow-calf pairs are more likely to exhibit avoidance responses to unfamiliar sounds and that such responses should be a focus of management. Behavioral disturbance has been implicated in mother-calf separations for odontocete species as well (Noren and Edwards, 2007; Wade *et al.,* 2012). Separation, if it occurred, could be exacerbated by airgun signals masking communication between adults and the separated calf (Videsen *et al.,* 2017). Absent separation, airgun signals can disrupt or mask vocalizations essential to mother-calf interactions. Given the status of large whales in the GOM, the consequences of potential loss of calves, as well as the functional sensitivity of the mysticete whales to frequencies associated with the subject geophysical survey activity, we believe this measure is warranted by the MMPA's least practicable adverse impact standard.

• Upon acoustic detection of a sperm whale. Sperm whales are not necessarily expected to display physical avoidance of sound sources (*e.g.,* Madsen *et al.,* 2002a; Jochens *et al.,* 2008; Winsor *et al.,* 2017). Although Winsor *et al.* (2017) report that distances and orientations between tagged whales and active airgun arrays appeared to be randomly distributed with no evidence of horizontal avoidance, it must be noted that their study was to some degree precipitated by an earlier observation of significantly decreased sperm whale density in the presence of airgun surveys (Mate *et al.,* 1994). However, effects on vocal behavior are common (*e.g.,* Watkins and Schevill, 1975; Watkins *et al.,* 1985). In response to a low-frequency tone, sperm whales were observed to cease vocalizing (vocalizations detected during 24 percent of a baseline period and not detected during transmission; vocalizations resumed at most 36 hours post-transmission). Although the signal characteristics in this study were dissimilar to airgun signals, the authors also note that an airgun survey was being conducted simultaneously with signals exceeding background noise by 10–15 dB (Bowles *et al.,* 1994). The sperm whale's primary means of locating prey is echolocation (Miller *et al.,* 2004), and multiple studies have shown that noise can disrupt feeding behavior and/or significantly reduce foraging success for sperm whales at relatively low levels of exposure (*e.g.,* Miller *et al.,* 2009, 2012; Isojunno *et al.,* 2016; Sivle *et al.,* 2012; Cure *et al.,* 2016). Effects on energy intake with no immediate compensation, as is suggested by disruption of foraging behavior without corollary movements to new locations, would be expected to result in bioenergetics consequences to individual whales. Farmer *et al.* (2018) developed a stochastic life-stage structured bioenergetic model to evaluate the consequences of reduced foraging efficiency in sperm whales, finding that individual resilience to foraging disruptions is primarily a function of size (*i.e.,* reserve capacity) and daily energetic demands, and that the ultimate effects on reproductive success and individual fitness are largely dependent on the duration and frequency of disturbance.

Sperm whales in the GOM spend the majority of their time foraging, engaging in dive cycles consisting of deep dives of approximately 45 minutes followed by shorter surface intervals (resting bouts) of approximately 10 minutes (Watwood *et al.,* 2006). Sperm whales alternate between shallow and deep dives over periods of several hours, targeting predominantly epipelagic prey during shallow dives and benthopelagic prey during deep dives (Fais *et al.,* 2015). During the search phase of their dive, whales emit regular clicks with high directionality, high source levels, and frequencies around 15 kHz, suitable for long-range sonar (Møhl *et al.,* 2003). During the capture phase, interclick interval, amplitude, and signal duration decrease dramatically, providing rapid updates on the location of prey during capture, creating a sound termed as either a creak or a buzz (Madsen *et al.,* 2002b; Miller *et al.,* 2004). On the basis of observed echolocation during the ascent phase, Fais *et al.* (2015) concluded that sperm whale decisions about where to forage during subsequent dives may be based on both prior foraging success and information gathered during ascent, suggesting that sperm whales can perform auditory stream segregation of multiple targets when echolocating, simultaneously tracking several targets for sequential capture and perceptually organizing a multi-target auditory scene. As stated by Farmer *et al.* (2018), this complex information-gathering allows sperm whales to efficiently locate and access prey resources in a dark, patchy, and vast environment while leaving whales vulnerable to reduction in sensory volume and/or interference with complex auditory stream signal processing (Fais *et al.,* 2015). Such effects, which may result from increased noise in the environment, can increase search effort required to locate resources and ultimately reduce foraging efficiency (*e.g.,* Zollner and Lima, 1999). As deep-diving animals, sperm whales may be expected to be more consistently exposed to elevated sound levels in the downward-refracting acoustic environment.

Miller *et al.* (2009) showed that GOM sperm whales are susceptible to disruption of foraging behavior upon exposure to relatively moderate sound levels at distances greater than contemplated for our proposed general exclusion zone. Although tagged whales did not change behavioral state during exposure or show horizontal avoidance, they increased energy put into swimming and their buzz rates (a proxy for attempts to capture prey) were approximately 20 percent lower (though not a statistically significant result). One whale, despite not showing avoidance behavior, engaged in an unusually long resting bout of 265 minutes (compared with typical duration of approximately 10 min), representing a significant delay in foraging effort (Miller *et al.,* 2008, 2009). This finding is of particular importance, as it indicates that sperm whales may not be as likely to show avoidance of active sound sources which would then leave them more vulnerable to subsequent foraging disruption—an effect of greater significance. Analysis conducted by Jochens *et al.* (2008) suggested that, for these whales, a 20 percent decrease in foraging activity was more likely than no change in foraging activity, with one whale showing a statistically significant decrease of 60 percent.

The income breeding strategy used by sperm whales requires stable or predictable environments that enable continuous energy acquisition throughout the year, at rates of up to thousands of kilograms of prey per day (Irvine *et al.,* 2017; Clarke *et al.,* 1993; Farmer *et al.,* 2018). On days when sperm whale foraging is impaired, whales would likely compensate for the caloric deficit by depleting carbohydrate reserves and, secondarily, lipid and protein reserves (Lockyer, 1991; Castellini and Rea, 1992; Farmer *et al.,* 2018). Energy reserves are available from carbohydrates in the blubber and muscle; lipids in the blubber, muscle, and viscera; and proteins in the muscle and viscera. However, physiological evidence suggests that sperm whales are poorly adapted to handle periods of food shortage, as the energy density of sperm whale blubber is much lower than that of baleen whales; sperm whales do not exhibit appreciable

changes in blubber thickness relative to body length, even during lactation; and the vast majority of blubber lipids are stored in a form that helps to conserve oxygen during metabolism but is less accessible as a source of energy (Lockyer, 1981; Koopman, 2007; Farmer *et al.,* 2018). If total energy reserves are depleted below critical levels, an individual's body condition would be expected to decline over time and, for pregnant or lactating females, fetus abortion or calf abandonment could occur (*e.g.,* New *et al.,* 2013). In this way, responses to airgun survey noise can accrue towards population-level impacts (*e.g.,* New *et al.,* 2014; King *et al.,* 2015; Fleishman *et al.,* 2016).

Sperm whales in the northern GOM have a relatively small population abundance, and with a relatively narrow distribution that overlaps almost completely with areas of current and future geophysical survey activity and other oil and gas industry activity. Further, most resident female sperm whale movements in the GOM range within smaller areas—approximately 200 km around a core home range—although larger individual and group movements were also observed (Jochens *et al.,* 2008). The bioenergetic simulations of Farmer et al. (2018) show that frequent disruptions in foraging, as might be expected when large amounts of survey activity overlap with areas of importance for sperm whales, can have potentially severe fitness consequences. Even partial disturbances of foraging, if sufficiently frequent, may lead to lower body condition, with potential indirect effects of delayed sexual maturation or reduced reproductive fitness (Farmer *et al.,* 2018). It is also unlikely that any ''hunger response'' following disruption of foraging would result in increases in daily growth rate that could be expected to offset the effects of sustained foraging disruption (Farmer *et al.,* 2018). While the modeling exercise conducted by Farmer *et al.* (2018) shows that terminal starvation is an unlikely outcome—though possible in mature whales repeatedly exposed to sound levels that result in reduced foraging ability over periods of weeks to months—minor disruptions can cause substantial reductions in available reserves over time.

Multiple lines of evidence indicate that sperm whales in the northern GOM are somewhat isolated from global sperm whale populations (Jochens *et al.,* 2008). The estimated annual rate of increase from reproduction for GOM sperm whales is less than one percent per year, while Chiquet *et al.* (2013) found that reducing the survivorship rate of mature female sperm whales by as little as 2.2 percent or the survivorship rate of mothers by as little as 4.8 percent would drop the asymptotic growth rate of the northern GOM sperm whale population below one, *i.e.,* a declining population. NOAA estimates that the DWH oil spill may have caused reproductive failure in 7 percent of female sperm whales (DWH MMIQT, 2015). Separately, NOAA estimates that 16 percent of the sperm whale population was exposed to high concentrations of oil both at the surface and sub-surface, high concentrations of volatile gases that could be inhaled at the surface, and response activities including increased vessel operations, dispersant applications, and oil burns (DWH MMIQT, 2015). Independent of other factors, the DWH oil spill may have a long-term impact of reducing the GOM sperm whale population by up to 7 percent, with an estimated time to recovery of 21 years (DWH MMIQT, 2015). Therefore, even in the absence of other future stressors, the environmental baseline for the GOM sperm whale population requires that meaningful measures be taken to minimize disruption of foraging behavior. Such measures are all the more important, as we have considered but eliminated a time-area restriction for sperm whales (described below).

We also considered requirement of shutdown upon visual detection of sperm whales. Here, we assume that acoustic detections of sperm whales would most likely be representative of the foraging behavior we intend to minimize disruption of, while visual observations of sperm whales would represent resting between bouts of such behavior. Occurrence of resting sperm whales at distances beyond the exclusion zone may not indicate a need to implement shutdown. We consider these assumptions in conjunction with an assessment of the costs and operational feasibility of these measures in ''Practicability,'' below.

- Upon observation (visual or acoustic) of a beaked whale or *Kogia* spp. These species are behaviorally sensitive deep divers and it is possible that disturbance could provoke a severe behavioral response leading to injury (*e.g.,* Wursig *et al.,* 1998; Cox *et al.,* 2006). Unlike the sperm whale, we recognize that there are generally low detection probabilities for beaked whales and *Kogia* spp., meaning that many animals of these species may go undetected. Barlow (1999) estimates such probabilities at 0.23 to 0.45 for Cuvier's and Mesoplodont beaked whales, respectively. However, Barlow and Gisiner (2006) predict a roughly 24–48 percent reduction in the probability of detecting beaked whales during seismic mitigation monitoring efforts as compared with typical research survey efforts, and Moore and Barlow (2013) noted a decrease in $g(0)$ for Cuvier's beaked whales from 0.23 at BSS 0 (calm) to 0.024 at BSS 5. Similar detection probabilities have been noted for *Kogia* spp., though they typically travel in smaller groups and are less vocal, thus making detection more difficult (Barlow and Forney, 2007). As discussed previously in this document (see the ''Estimated Take'' section), there are high levels of predicted exposures for beaked whales in particular. Because it is likely that only a small proportion of beaked whales and *Kogia* spp. potentially affected by the proposed surveys would actually be detected, it is important to avoid potential impacts when practicable. Additionally for *Kogia* spp.—the one species of high-frequency cetacean likely to be encountered—auditory injury zones relative to peak pressure thresholds are significantly greater than for other cetaceans—approximately 500 m from the acoustic source, depending on the specific real world array characteristics (NMFS, 2016).

Practicability—In the bulleted subsections above, we evaluated the importance of offering expanded protections via shutdown for these species/circumstances and, as discussed, we find that avoidance to extent practicable of acute impacts for Bryde's whales, sperm whales, beaked whales, and *Kogia* spp., as well as for large whales with calves, is important to a reduction of effects for these species. In the RIA, we evaluate the annualized incremental costs of these expanded measures (note that the costs of additional shutdowns based on acoustic detections is included in our previous discussion of costs associated with expanded use of PAM). Additional requirements for shutdowns based on visual detections outside the exclusion zone result in a small cost relative to the benefits afforded by the measures. Additionally, due to the rarity of visual observations of these species groups, we do not believe that the expanded shutdowns would cause any undue operational burden.

In the GOM, we expect that the optimum detection range of sperm whales in low-noise conditions is likely to be approximately 2–3 km. This relatively short detection range is likely due to the propagation conditions resulting when a relatively warmer mixed surface layer provides a strong negative sound velocity profile, causing strong downward refraction of acoustic rays. While the maximum detection

range of vocalizing marine mammals continues to be a challenging area in use of PAM for mitigation monitoring, basic signal detection theory dictates that received levels have to exceed certain noise levels in order for the signal to be detected. We consider the following sonar equations:

$$EL = SL - TL \quad (1)$$
$$SNR = EL - NR \quad (2)$$
$$SE = SNR - DT \quad (3)$$

where EL is the received level, SL the source level, TL the transmission loss, SNR the signal-to-noise ratio, NR the received noise spectral density, SE the signal excess, and DT the detection threshold.

As the signal (in this case, a sperm whale click) propagates from its source (the whale) through the environment to a receiver (a hydrophone), its intensity (acoustic power within a unit area) is reduced due to acoustic energy divergence and attenuation (absorption and scattering). By the time the whale click reaches the hydrophone, its received intensity level is greatly reduced from its original source level. In addition, for the received level to be detected by the hydrophone, the signal-to-noise ratio (received level minus the background noise spectral density) must be above a certain detection threshold, *i.e.,* there must be a positive signal excess.

Based on various studies (Madsen and Mohl, 2000; Mohl *et al.,* 2000; Thode *et al.,* 2002; Zimmer *et al.,* 2005), the source levels of sperm whale clicks fall between 202 and 223 dB re 1 μPa, with a pronounced directionality and significant energy above 10 kHz. However, these values are selected from the most intense clicks from each sequence so they are likely to have been recorded close to the acoustic axis (Mohl *et al.,* 2000). Considering all recordings, Mohl *et al.* (2000) suggest that sperm whale click maximum source levels are in the range of 175 to 200 dB re 1 μPa. By using a middle range of the maximum source level of 188 dB re 1 μPa with a 50 percent detection range at 4 km, and assume an ambient noise spectral density at 75 dB with a detection threshold of 6 dB, the transmission loss at this range would be 107 dB. By simply applying a geometric spreading model, it can be shown that the transmission loss (TL) follows $TL = 29.7\log_{10}(R)$, where R is the distance from the source in meters. Please note that this approximation is based on a very low ambient noise spectrum density (Wenz, 1962).

In the presence of an airgun survey, the background noise level is expected to be significantly increased as a result of the reverberant field generated from intense pulses (Guerra *et al.,* 2011; Guan *et al.,* 2015). It has been shown that the level of elevated inter-pulse noise levels can be as high as 20 dB within 1 km of an active firing airgun array of 640 in^3 (Guan *et al.,* 2015) to 30–45 dB for a 3,147 cu^3 airgun array (Guerra *et al.,* 2011). Given that towing hydrophones for PAM used for marine mammal monitoring would be within 1 km from the airgun source, the received noise spectral density is expected to be very high. Using a relatively low 25 dB increase from the inter-pulse noise level to compute detection with the otherwise the same parameters from the above example in the quiet environment, one would find that a 50 percent detection probability is quickly reduced to 576 m. If, given the unfavorable signal propagation conduction in the GOM in comparison to the more favorable conditions in the North Pacific (Barlow and Taylor, 2005), a 50 percent detection probability at 3 km in quiet conditions would be reduced to 462 m during the active airgun survey. A 50 percent detection probability at 2 km in quiet conditions would further reduce the detection range to 339 m.

However, we recognize that the addition of sperm whale shutdowns based on visual detections beyond the exclusion zone would result in a larger estimated additional cost per year. Based on these costs, and our previous discussion of assumptions related to acoustic versus visual detections of sperm whales, we preliminarily do not believe the addition of shutdowns for sperm whales based on visual detections at any distance to be warranted, and request any information from the public that would be relevant to this determination. For this proposed rule, we preliminarily determine that the addition of the proposed shutdown measures described above are warranted when their likely ability to reduce the probability or severity of impacts on species or stocks and their habitat is considered along with their practicability.

Other Surveys—Shutdowns for shallow penetration airgun surveys or deep-water non-airgun HRG surveys would be similar to those described for deep penetration airgun surveys, except that the exclusion zone would be defined as a 200-m radial distance around the perimeter of the acoustic source, in keeping with BOEM's exclusion zone requirements for their ''HRG survey protocol.'' The special circumstance shutdowns described above for deep penetration airgun surveys would not be required. The dolphin exception described for deep penetration airgun surveys would apply; if the survey is using a small airgun array (*i.e.,* less than or equal to 400 in^3, versus a single airgun), then power-down should be implemented as described for deep penetration airgun surveys. As described previously, no shutdowns would be required for shallow-water non-airgun HRG surveys.

Shutdown Implementation Protocols—Any PSO on duty has the authority to delay the start of survey operations or to call for shutdown of the acoustic source. When shutdown is called for by a PSO, the acoustic source must be immediately deactivated and any dispute resolved only following deactivation. The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch; hand-held UHF radios are recommended. When both visual PSOs and PAM operators are on duty, all detections must be immediately communicated to the remainder of the on-duty team for potential verification of visual observations by the PAM operator or of acoustic detections by visual PSOs and initiation of dialogue as necessary. When there is certainty regarding the need for mitigation action on the basis of either visual or acoustic detection alone, the relevant PSO(s) must call for such action immediately.

Upon implementation of shutdown, the source may be reactivated after the animal(s) has been observed exiting the exclusion zone or following a 30-minute clearance period with no further observation of the animal(s). Where there is no relevant zone (*e.g.,* shutdowns at any distance), a 30-minute clearance period must be observed following the last detection of the animal(s).

If the acoustic source is shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for brief periods (*i.e.,* less than 30 minutes), it may be activated again without ramp-up if PSOs have maintained constant visual and acoustic observation and no visual detections of any marine mammal have occurred within the exclusion zone and no acoustic detections have occurred. We define ''brief periods'' in keeping with other clearance watch periods and to avoid unnecessary complexity in protocols for PSOs. For any longer shutdown (*e.g.,* during line turns), pre-clearance watch and ramp-up are required. For any shutdown at night or in periods of poor visibility (*e.g.,* BSS 4 or greater), ramp-up is required but if the shutdown period was brief and

constant observation maintained, pre-clearance watch is not required.

Power-Down

Power-down, as defined here, refers to reducing the array to a single element as a substitute for full shutdown. We address use of a single airgun as a ''mitigation source'' below. In a power-down scenario, it is assumed that reducing the size of the array to a single element reduces the ensonified area such that an observed animal is outside of any area within which injury or more severe behavioral reactions could occur. Zeddies *et al.* (2015) modeled the 95 percent ranges for a single airgun as 360 m to the 160-dB rms SPL threshold and 42 m to the 180-dB rms SPL threshold. As proposed here, power-down to the single smallest array element is required when a small dolphin enters the defined EZ, but is not allowed for any other reason (*e.g.,* to avoid pre-clearance and/or ramp-up). Our rationale is that this is a necessary corollary to the dolphin exception described previously. As described previously, use of the acoustic source at full power may resume following visual observation of the animal(s) exiting the exclusion zone or 15 minutes following the last observation of the animal. If ramp-up were required, it is likely that infill of the missed line would be necessary, thereby reducing the benefit of the dolphin exception.

Mitigation Source

Mitigation sources may be separate individual airguns or may be an airgun of the smallest volume in the array, and have historically been used when the full array is not being used (*e.g.,* during line turns) in order to allow ramp-up during poor visibility. The difference between use of a single airgun in a power-down scenario and as a ''mitigation source'' is that the power-down scenario is conditional upon the presence of animals in the exclusion zone, whereas the mitigation source was historically used during times when the array would otherwise not be in use at all. The general premise is that this lower-intensity source, if operated continuously, would be sufficiently aversive to marine mammals to ensure that they are not within an exclusion zone, and therefore, ramp-up may occur at times when pre-clearance visual watch is minimally effective. There is no information to suggest that this is an effective protective strategy, yet we are certain that this technique involves input of extraneous sound energy into the marine environment, even when use of the mitigation source is limited to some maximum time period. For these reasons, we do not believe use of the mitigation source is appropriate and propose not to allow its use. However, as noted above, ramp-up may occur under periods of poor visibility assuming that no acoustic or visual detections are made during a 30-minute pre-clearance period. This is a change from how mitigation sources have been considered in the past in that the visual pre-clearance period was typically assumed to be highly effective during good visibility conditions and viewed as critical to avoiding auditory injury and, therefore, maintaining some likelihood of aversion through use of mitigation sources during poor visibility conditions was deemed valuable.

In light of the available information, we think it more appropriate to acknowledge the limitations of visual observations—even under good conditions, not all animals will be observed and cryptic species may not be observed at all—and recognize that while visual observation is a common sense measure it should not be determinative of when survey effort may occur. Given the lack of proven efficacy of visual observation in preventing auditory injury, we do not believe that its absence should imply such potentially detrimental impacts on marine mammals. Therefore, use of a mitigation source is not a sensible substitute component of seismic mitigation protocols. We also believe that consideration of mitigation sources in the past has reflected an outdated balance, in which the possible prevention of relatively few instances of auditory injury is outweighed by many more instances of unnecessary behavioral disturbance of animals and degradation of acoustic habitat.

Miscellaneous Protocols

The acoustic source must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source should be avoided. Firing of the acoustic source at any volume above the stated production volume would not be authorized; the operator must provide information to the lead PSO at regular intervals confirming the firing volume.

Testing of the acoustic source involving all elements requires normal mitigation protocols (*e.g.,* ramp-up). Testing limited to individual source elements or strings does not require ramp-up but does require pre-clearance.

We encourage the applicant companies and operators to pursue the following objectives in designing, tuning, and operating acoustic sources: (1) Use the minimum amount of energy necessary to achieve operational objectives (*i.e.,* lowest practicable source level); (2) minimize horizontal propagation of sound energy; and (3) minimize the amount of energy at frequencies above those necessary for the purpose of the survey. However, we are not aware of available specific measures by which to achieve such certifications. In fact, an expert panel convened by BOEM to determine whether it would be feasible to develop standards to determine a lowest practicable source level has determined that it would not be reasonable or practicable to develop such metrics (see Appendix L in BOEM, 2017). Minimizing production of sound at frequencies higher than are necessary would likely require design, testing, and use of wholly different airguns than are proposed for use by the applicants. At minimum, notified operational capacity (not including redundant backup airguns) must not be exceeded during the survey, except where unavoidable for source testing and calibration purposes. All occasions where activated source volume exceeds notified operational capacity must be noticed to the PSO(s) on duty and fully documented for reporting. The lead PSO must be granted access to relevant instrumentation documenting acoustic source power and/or operational volume. BOEM currently requires applicants for permits to conduct geophysical surveys to submit statements indicating that existing data are not available to meet the data needs identified for the applicant's survey (*i.e.,* non-duplicative survey statement) and that the operations are using the minimal source array size/power necessary to meet the survey goals and that the array is tuned to maximize radiation of the emitted energy toward the seafloor.

Restriction Areas

Below we provide discussion of various restriction areas that were considered during development of the proposed regulations. Because the purpose of these areas is to reduce the likelihood of exposing animals within the designated areas to noise from airgun surveys that is likely to result in harassment (*i.e.,* 50 percent midpoint of the Level B harassment risk probability function), we are proposing to require that source vessels maintain minimum standoff distances (*i.e.,* buffers) from the areas. Sound propagation modeling results for a notional large airgun array were provided by Matthews *et al.* (2016), specific to each of the potential time-area restrictions evaluated therein, in order to exclude SPLs exceeding 160

dB rms from those areas. Those distances are proposed for use here and are described in each section below.

Coastal Restriction—We are proposing that no airgun surveys may occur shoreward of a line indicated by the 20-m isobath, buffered by 13 km (Matthews *et al.,* 2016), during the months of February through May (Area 1; Figure 5). Waters shoreward of the 20-m isobath, where coastal dolphin stocks occur, represent the areas of greatest abundance for bottlenose dolphins (Roberts *et al.,* 2016).

The restriction is intended specifically to avoid additional stressors to bottlenose dolphin populations during the time period believed to be of greatest importance as a reproductive period. BOEM proposed a similar coastal restriction on airgun survey effort in the petition submitted in support of industry, and NMFS agrees that this is appropriate. Coastal dolphin stocks, particularly the northern coastal stock, were heavily impacted by the DWH oil spill. As described previously, NOAA estimates that potentially 23 percent of western coastal dolphins and 82 percent of northern coastal dolphins were exposed to DWH oil, resulting in an array of long-term health impacts (including reproductive failure) and possible population reductions of 5 percent and 50 percent for the western and northern stocks, respectively (DWH MMIQT, 2015). For the northern coastal stock, it is estimated that these population-level impacts could require 39 years to recovery, in the absence of other additional stressors.

NMFS's subject matter experts identified a reasonable range that in their professional judgment encompasses an important reproductive period for bottlenose dolphins in these coastal waters. Expert interpretation of the long-term data for neonate strandings is that February–April are the primary months that animals are born in the northern GOM, and that fewer but similar numbers are born in January and May. This refers to long-term averages and in any particular year the peak reproductive period can shift earlier or later. While pregnant mothers may be susceptible to the impacts of noise, we believe that neonates and/or calves are likely most susceptible, because behavioral disruption could have more severe energetic effects for lactating mothers and/or lead to disruption of mother-calf bonding and ultimate effects on rates of neonate and/or calf survivorship. Therefore, we believe that February through May represents a reasonable best estimate of the time period of most sensitivity for bottlenose dolphins in coastal waters.

While none of the dolphin strandings or deaths have been attributed to airgun survey activities, stocks in the area are stressed, and studies have shown that marine mammals react to underwater noise. Behavioral disturbance or stress may reduce fitness for individual animals and/or may exacerbate existing declines in reproductive health and survivorship. For example, stressors such as noise and pollutants can induce responses involving the neuroendocrine system, which controls reactions to stress and regulates many body processes (NAS, 2017), and there is strong evidence that petroleum-associated chemicals can adversely affect the endocrine system, providing a potential pathway for interactions with other stressors (Mohr *et al.,* 2008, 2010). Romano *et al.,* (2004) found that upon exposure to noise from a seismic watergun, bottlenose dolphins had significantly elevated levels of a stress-related hormone and, correspondingly, a decrease in immune cells. Population-level impacts related to energetic effects or other impacts of noise are difficult to determine, but the addition of other stressors can add considerable complexity due to the potential for interaction between the stressors or their effects (NAS, 2017). When a population is at risk, as is the case for these bottlenose dolphin populations, NAS (2017) recommends identifying those stressors that may feasibly be mitigated. We cannot undo the effects of the DWH oil spill, but the potentially synergistic effects of noise due to the activities that are the subject of this proposed rule may be mitigated. The post-DWH oil spill baseline condition of these populations requires caution, and this restriction may reasonably be anticipated to provide additional protection to these populations during their peak reproductive activity. Note that, in reference to the findings of Matthews *et al.,* (2016), this proposed time-area restriction would also reduce impacts to stocks of marine mammals occurring within the restriction area through reducing effects to listening area. We request comment on our proposed seasonal closure in Area 1.

Practicability—Given survey operators' ability to plan around these seasonal restrictions, we believe it is unlikely that the restrictions will affect oil and gas productivity in the GOM. Therefore, when this practicability factor is considered in light of the expected ability of these measures to reduce the probability or severity of impacts on species or stocks and their habitat, we preliminarily determine these restrictions are warranted. We request comment on our interpretation of the impact of the proposed seasonal closure for Area 1.

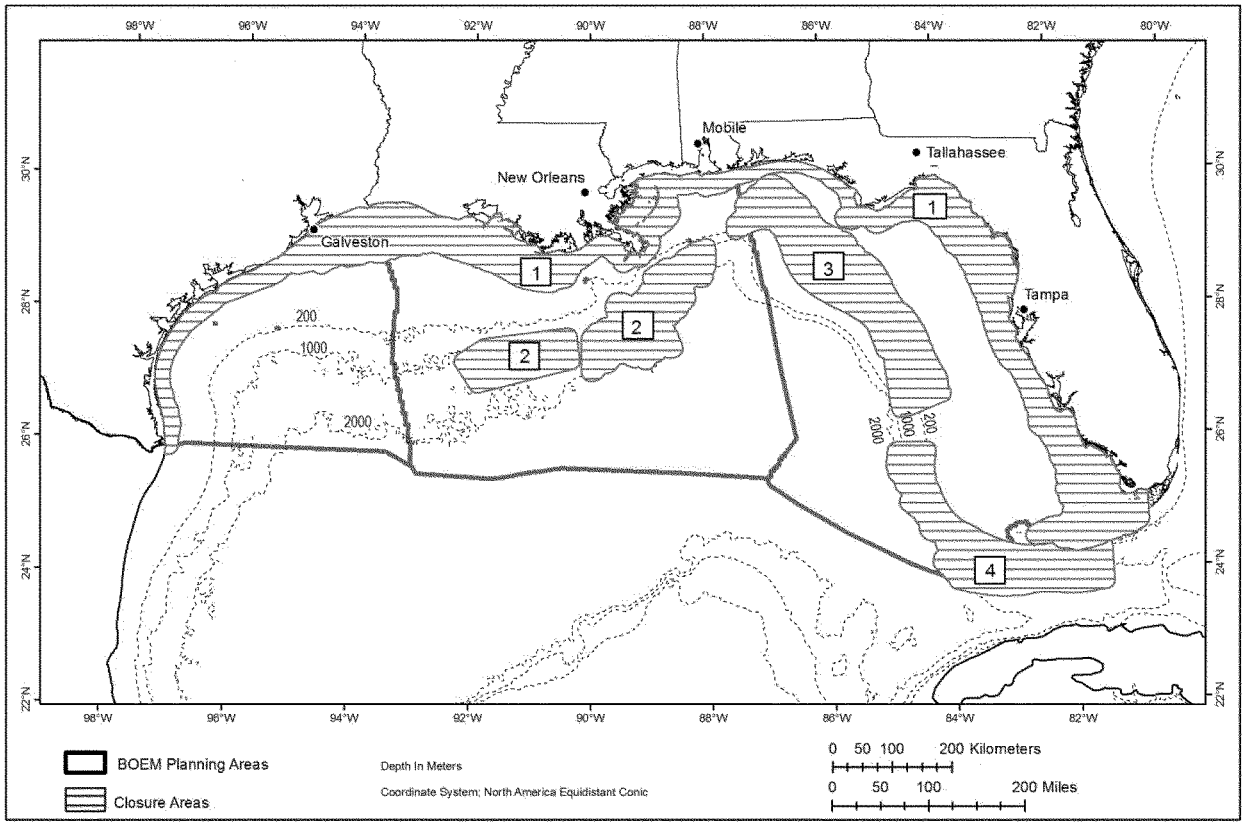


Figure 5. Proposed Time-area Restrictions. Area 2 was considered but is not proposed.

Bryde's Whale—We examined the appropriateness of restricting survey effort such that particular areas of expected importance for Bryde's whales are not ensonified by levels of sound above 160 dB rms SPL (the 50 percent midpoint for behavioral harassment) (Area 3; Figure 5). We analyzed a year-round closure of the area described herein; we request comment on this and several other alternatives. The variations in regulatory text for these proposals can be found in ''Alternative Regulatory Text,'' later in this preamble, and in the regulatory text at the end of the document. Matthews *et al.* (2016) specified a buffer distance of 5.4 km for the De Soto Canyon area, which we round to 6 km. As described previously, NOAA's status review team determined the status of the GOM Bryde's whale is considered to be precarious (described in the status review technical memorandum (Rosel *et al.* (2016)). On the basis of these findings, NMFS has proposed to list the GOM Bryde's whale as an endangered species pursuant to the ESA (81 FR 88639; December 8, 2016). These whales form a small and resident population in the northeastern GOM, with a highly restricted geographic range and a very small population abundance—recently determined by a status review team to be ''at or below the near-extinction population level'' (Rosel *et al.,* 2016). The review team stated that, aside from the restricted distribution and small population, the whales face a significant suite of anthropogenic threats, one of which is noise produced by geophysical surveys.

While various population abundance estimates are available (*e.g.,* Waring *et al.,* 2016; Roberts *et al.,* 2016; Dias and Garrison, 2016), the population abundance was almost certainly less than 100 prior to the DWH oil spill. NOAA estimated that, as a result of that event, 48 percent of the population may have been exposed to DWH oil, with 17 percent killed and 22 percent of females experiencing reproductive failure. The best estimate for maximum population reduction was 22 percent, with an estimated 69 years to recovery (to the precarious status prior to the DWH oil spill) (DWH MMIQT, 2015). It is considered likely that Bryde's whale habitat previously extended to shelf and slope areas of the western and central GOM similar to where they are found now in the eastern GOM, and that anthropogenic activity—largely energy exploration and production—concentrated in those areas could have resulted in habitat abandonment (Reeves *et al.,* 2011; Rosel and Wilcox, 2014). Further, the population exhibits very low levels of genetic diversity and significant genetic mitochondrial DNA divergence from other Bryde's whales worldwide (Rosel and Wilcox, 2014). Based on this review and further consultation with the Society for Marine Mammalogy's Committee on Taxonomy, NMFS has proposed to list the GOM Bryde's whale as an endangered species pursuant to the ESA (81 FR 88639; December 8, 2016).

The small population size, restricted range, and low genetic diversity alone place these whales at significant risk of extinction (IWC, 2017), which has been exacerbated by the effects of the DWH oil spill. Additionally, Bryde's whale dive and foraging behavior places them at heightened risk of being struck by vessels and/or entangled in fishing gear (Soldevilla *et al.,* 2017). It is in consideration of this environmental baseline and risk profile that we analyzed a year-round restriction.

LaBrecque *et al.* (2015) described a biologically important area for GOM Bryde's whales as between the 100- and

300-m isobaths in the eastern GOM, from the head of De Soto Canyon to an area northwest of Tampa Bay. The recorded Bryde's whale shipboard and aerial survey sightings between 1989 and 2015 have mainly fallen within this area (see the NOAA's status review technical memorandum (Rosel *et al.* (2016)). We are proposing to expand this area for protection of Bryde's whales following the recommendations of NOAA's status review (described in the status review technical memorandum (Rosel *et al.* (2016)), which stated that due to the depth of some sightings, the BIA for Bryde's whales in the GOM is more appropriately defined to the 400-m isobath and westward to Mobile Bay, Alabama, in order to provide some buffer around the deeper sightings and to include all sightings in the northeastern GOM. The average depth of Bryde's whale sightings is 226 m (SE = 7.9; range 199–302 m; Maze-Foley & Mullin 2006). Rice *et al.* (2014) detected sounds associated with Bryde's whales in waters south of Panama City, FL, and there are sightings of Bryde's whales along the shelf break to Tampa Bay (about 28.0° N). Bryde's whales were also detected acoustically in this area by Hildebrand *et al.* (2012). Additionally, because of past survey design, survey effort in waters less than 200 m water depth has not been as thorough as that for waters greater than 200 m; therefore, Bryde's whales may use water depths between 100–200m more regularly than we currently know. The Bryde's whale restriction is designated as the area between the 100- and 400-m isobaths, from 87.5° W to 27.5° N (Area 3; Figure 5). This area largely covers the home range (*i.e.,* 95 percent of predicted abundance) predicted by Roberts *et al.* (2016). The designated area would then be buffered by 6 km. The restriction area would also provide benefit to any other marine mammals present there—primarily Atlantic spotted dolphins and bottlenose dolphins, but possibly also including other species that may occur there in slope waters. Reporting preliminary results from a passive acoustic monitoring study, Hildebrand *et al.* (2012) found a significantly higher detection rate and a more steady presence for delphinids at this site than at four other sites (three deep-water and one shallow). Note that, in reference to the findings of Matthews *et al.* (2016), a time-area restriction would also reduce impacts to stocks of marine mammals occurring within the restriction area through reducing effects to communication space and listening area.

Given the likely condition of this population, and in the absence of a full habitat characterization and more knowledge about why Bryde's whales occur where they do, we analyzed a year-round restriction that covered the full area of Bryde's whale sightings. We request comment on our interpretation of the data and our evaluated alternative of year-round restrictions on airgun surveys in Area 3 (Figure 5). In addition, we present three less-restrictive alternatives, including seasonal restrictions and no restrictions for Area 3 with differing requirements for monitoring. We request comment on all proposals and other variations of these proposals, including our interpretation of the data and any other data that support the necessary findings regarding time-area restrictions for Bryde's whales.

- *Proposal 1:* A year-round restriction on airgun surveys in Area 3, as described above.
- *Proposal 2:* A three-month seasonal restriction on airgun surveys in Area 3. In addition to public comment on the proposal and information that may support the necessary findings in consideration of this proposal, we request information regarding the proposed duration and/or timing of such a seasonal closure, if sufficient. We note that this proposal is reflected in our proposed regulatory text, at the end of this document.
- *Proposal 3:* A three-month seasonal restriction, such as what is described just previously, but with the addition of a requirement for BOEM and/or members or representatives of the oil and gas industry to ensure real-time detection of Bryde's whales across the area of potential impact including real-time communication of detections to survey operators. This real-time detection would be used to initiate shutdowns to ensure that survey operations do not take place when a Bryde's whale is within 6 km of the acoustic source. We do not consider towed passive acoustic monitoring to be sufficient to ensure detection of the Bryde's whale and, for the three-month restriction, we propose use of a moored listening array. In addition to public comment on the proposal and information that may support the necessary findings in consideration of this proposal, as well as on the appropriate timing and/or duration of a seasonal restriction, we request information regarding appropriate alternative technologies for real-time detection of Bryde's whales.
- *Proposal 4:* No restriction, but with the addition of a requirement for BOEM and/or members or representatives of the oil and gas industry to ensure real-time detection of Bryde's whales across the area of potential impact including real-time communication of detections to survey operators. As with the previous seasonal closure with monitoring proposal, we do not consider towed passive acoustic monitoring to be sufficient to ensure detection of the Bryde's whale and seek comment on appropriate technologies for real-time detection. We request public comment on the proposal and information that may support the necessary findings in consideration of this proposal, as well as regarding appropriate alternative technologies for real-time detection of Bryde's whales.

The variations in regulatory text for these proposals can be found in ''Alternative Regulatory Text,'' later in this preamble, and in the regulatory text at the end of the document.

Practicability—There is a moratorium on leasing pursuant to GOMESA (through June 2022, or almost the entirety of the period of validity for these proposed regulations). Further, BOEM has projected very low activity levels in this area over the next 10 years (Table 1). There are two active leases in this proposed restriction area (though no platforms), and an exception to the year-round restriction requirements would be made in accordance with existing rights associated with those active leases. The RIA indicates that there is potential for effects on oil and gas productivity given delays in the ability to conduct exploratory surveys in advance of the end of the existing GOMESA moratorium (if not continued) and a year-round restriction may be warranted. As described just previously, we invite the public to evaluate and comment on the presented alternatives.

Dry Tortugas—This proposed restriction area is expected to benefit resident sperm and beaked whales. Beaked whales are acoustically sensitive, with a correspondingly high magnitude of predicted exposures, while noise from airgun surveys may have an outsize impact on sperm whale populations due to disruption of foraging behavior (as detailed previously). While the predicted impacts on these species are based on projected levels of activity elsewhere in the GOM, we acknowledge the potential importance of this area to these species and propose the restriction to ensure that this habitat is not impacted.

Sightings of both beaked whales and sperm whales are very dense in this area, and it is possible—based on unpublished observations of calves here—that sperm whales use this area as a calving area (K. Mullin, pers. comm.).

Hildebrand *et al.* (2012, 2015) conducted passive acoustic monitoring over more than 3 years (2010–2013) at three deep-water sites on the GOM slope, including within this area. In contrast with reported visual observations of sperm whales in the area, preliminary results reported by Hildebrand *et al.* (2012) showed relatively low rates of acoustic detection for sperm whales, and corresponding density estimates were lower at the Dry Tortugas site than at the other sites (*i.e.,* Mississippi Canyon and Green Canyon). However, four species of beaked whale, including an unidentified species, were detected. As reported by Hildebrand *et al.* (2015), Cuvier's beaked whale was the dominant species presence (61 percent of vocal encounters), but Gervais' beaked whales also appear to be present in significant numbers (39 percent). No Blainville's beaked whales were detected. Average densities for Cuvier's and Gervais' beaked whales were derived from vocal click counting. Combined density for the two species was very high at the Dry Tortugas site (approximately 29 whales/1,000 km^2). At two other sites where beaked whales are expected to be present in significant numbers and were detected (Mississippi Canyon and Green Canyon), the combined density value was approximately 4 whales/1,000 km^2, at both locations. Both species had a strong and consistent presence throughout the monitoring period (Hildebrand *et al.,* 2015).

The area aligns well with a portion of the predicted 25 percent core abundance area for beaked whales in the GOM, and overlaps with portions of the sperm whale 25 percent core abundance area (Roberts *et al.,* 2016; core abundance areas are explained in greater detail below in ''Central Planning Area''). The restriction area would also provide benefit to any other marine mammals present there—including other species expected to occur in deep slope waters. Hildebrand *et al.* (2012) estimated the density of *Kogia* spp. in this area at 5.9 animals/1,000 km^2. The proposed year-round restriction area includes waters bounded by the 200- to 2,000-m isobaths from the northern border of BOEM's Howell Hook leasing area to 81.5° W (Area 4; Figure 5). The defined area would be buffered by 9 km (rounded up from the 8.4 km distance provided by Matthews *et al.* (2016) for the Dry Tortugas area). Note that, in reference to the findings of Matthews *et al.* (2016), this proposed time-area restriction would also reduce impacts to stocks of marine mammals occurring within the restriction area through reducing effects to listening area. We invite the public to comment on our interpretation of the data and proposal of year-round restrictions on airgun surveys in Area 4 (Figure 5). We are interested in public comment on this proposal, including any data that may support the necessary findings regarding this proposal, including modifications that could vary the length of closure from what we proposed.

Practicability—BOEM has projected no survey activity in this area over the next 10 years. There are no active leases, and the area is subject to the GOMESA moratorium, so we do not expect that there would be any impact on industry operators. We seek comment on this assumption.

Central Planning Area (CPA)—We evaluated the possibility of implementing a restriction area in this portion of the GOM for sperm whales and for beaked whales (Area 2; Figure 5). Sperm whales, an endangered species, are considered to be acoustically sensitive and potentially subject to significant disturbance of important foraging behavior as detailed earlier in this document. Beaked whales are also considered to be behaviorally sensitive to noise exposure and are predicted to sustain a high magnitude of exposures to noise above criteria for Level B harassment. A potential CPA restriction had already been identified in BOEM (2017) on the basis of sightings data and animal telemetry studies (for sperm whales).

Based on satellite tracking studies conducted by Jochens *et al.* (2008), the home range of tagged sperm whales within the northern GOM is broad, comprising nearly the entire GOM in waters deeper than 500 m. Home range is defined as an area over which an animal or group of animals regularly travels in search of food or mates that may overlap with those of neighboring animals or groups of the same species. By contrast, the composite core area (defined as a section of the home range that is utilized more thoroughly and frequently as primary locales for activities such as feeding) of GOM sperm whales generally includes the Mississippi Canyon, Mississippi River Delta, and, to a lesser extent, the Rio Grande Slope (Jochens *et al.,* 2008). These data support the fact that sperm whales aggregate in the Mississippi Canyon area, but regularly move across the northern GOM continental slope. Reporting preliminary data from a passive acoustic monitoring study, Hildebrand *et al.* (2012) found that among three deep-water sites in the GOM, the Mississippi Canyon area was home to the greatest density of sperm whales.

Beaked whales are typically deep divers, foraging for mesopelagic squid and fish, and are often found in deep water near high-relief bathymetric features, such as slopes, canyons, and escarpments where these prey are found (*e.g.,* Madsen *et al.,* 2014; MacLeod and D'Amico, 2006; Moors-Murphy, 2014). In the GOM, all reported sightings have occurred over the continental slope or the abyss (Roberts *et al.,* 2015b). Movements or seasonal migrations of beaked whales are not known, though it is likely that their distributional patterns depend on the movement of mesoscale hydrographic features. The CPA, including waters from the slope to 2,000 m and approximately between BOEM's Atwater Valley and De Soto Canyon leasing areas, is believed to support relatively high densities of sperm whales and beaked whales (K. Mullin, pers. comm.).

In order to quantitatively evaluate this large area and produce a more refined prospective restriction area, we considered the outputs of habitat-based predictive density models (Roberts *et al.,* 2016) by creating core abundance areas, *i.e.,* an area that contains some percentage of predicted abundance for a given species or species group. Please see ''Marine Mammal Density Information,'' previously in this document, for a full description of the density models. The purpose of a core abundance area is to represent the smallest area containing some percentage of the predicted abundance of each species. Summing all the cells (pixels) in the species distribution product gives the total predicted abundance. Core area is calculated by ranking cells by their abundance value from greatest to least, then summing cells with the highest abundance values until the total is equal to or greater than the specified percentage of the total predicted abundance. For example, if a 50 percent core abundance area is produced, half of the predicted abundance falls within the identified core area, and half occurs outside of it.

To determine core abundance areas, we follow a three-step process:

- Determine the predicted total abundance of a species/time period by adding up all cells of the density raster (grid) for the species/time period. For the Roberts *et al.* (2016) density rasters, density is specified as the number of animals per 100 km^2 cell.
- Sort the cells of the species/time period density raster from highest density to the lowest.
- Sum and select the raster cells from highest to lowest until a certain percentage of the total abundance is reached.

The selected cells represent the smallest area that represents a given percentage of abundance. We created a range of core abundance areas for sperm and beaked whales, and found that there was good agreement between the outputs of the two models at a range of approximately 15 to 20 percent core abundance for sperm whales in concert with a 25 percent core abundance threshold for beaked whales. On this basis, we defined a restriction area for evaluation as follows, in two adjacent but distinct areas (which would likely be joined from an operational perspective): (1) An area bounded by 90° W and 88° W (E–W) and the 500- and 1,000-fathom isobaths (N–S), and (2) an area bounded by five sets of coordinates (Area 2, Figure 5).

Practicability—We provided a description of this area for evaluation in the RIA associated with this rule. This analysis found that our proposed CPA restriction area overlaid approximately 21 percent of active GOM leases (including 95 active production platforms) and that a significant number of wells have been spudded in the CPA restriction area in the past five years. These leases accounted for approximately 50 and 24 percent of total GOM production of oil and gas, respectively, from 2012–2016. A significant amount of the projected survey activity considered herein would be conducted in the potential CPA restriction area. Compliance costs, in terms of operational mitigation protocols such as shutdown requirements, generally would not be expected to reduce the level of oil and gas development in the GOM, given that the costs of survey activities are relatively minor compared to expenditures on drilling, engineering, installation of platforms, and production operations. However, in contrast to the findings related to operational mitigation protocols, area restrictions may lead to reductions in leasing and exploration activity. The length of time associated with the restriction is a key concern; the longer the restriction period, the more difficult for operators to plan surveys to comply and increasing the likelihood that some portion of planned surveys are delayed to future years. There is no information available in the GOM on which to base a definition of seasonality for the CPA restriction area that we evaluated. The analysis suggests the possibility that closing the CPA area could affect the broader contribution of the GOM to U.S. oil and gas activity, with shifts in effort potentially reducing domestic oil and gas production, industry income, and employment, ultimately concluding that the economic impact on the regional economy could be significant. Given that the evaluated area restrictions account for an estimated 57 percent of oil reserves and 37 percent of gas reserves, these areas account for a sizable contribution to regional economic productivity and employment. On the basis of this analysis, and in consideration of other mitigation required with regard to sperm whales (*i.e.,* expanded shutdown requirements), we preliminarily find that implementation of this restriction area is not warranted when the potential benefits to marine mammals species or stocks and their habitat are weighed against the significant costs and impracticality. We request comment on this, preliminary determination, including our interpretation of the data, our preliminary finding that inclusion of this measure is not warranted due to the significant costs and impracticality, and any other data that may support the necessary findings.

Entanglement Avoidance

We are not aware of any records of marine mammal entanglement in towed arrays, streamers, or other towed acoustic sources. Therefore, we do not believe there is evidence to indicate that there is any meaningful entanglement risk posed by those activities. However, the use of OBNs or similar equipment requiring the use of tethers or connecting lines does pose a meaningful entanglement risk. Multiple marine taxa are susceptible to entanglement in underwater lines and, in 2014, an Atlantic spotted dolphin was entangled in a nylon nodal tether line and killed during a GOM OBN survey.

In order to avoid the reasonable potential for entanglement in such lines, one must generally seek to apply common sense, including use of stiffer lines that are taut and are not positively-buoyant, and are therefore less likely to wrap or loop around animals, and secure bottom lines. Specifically, we propose that operators conducting OBN surveys adhere to the following requirements: (1) Use negatively buoyant coated wire-core tether cable (*e.g.,* ¾″ polyurethane-coated cable with ½″ wire core); (2) retrieve all lines immediately following completion of the survey; (3) attach acoustic pingers directly to the coated tether cable; acoustic releases should not be used; and (4) employ a third-party PSO aboard the node retrieval vessel in order to document any unexpected marine mammal entanglement. No unnecessary release lines or lanyards may be used and nylon rope may not be used for any component of the OBN system. Pingers must be attached directly to the nodal tether cable via shackle, with cables retrieved via grapnel. If a lanyard is required it must be as short as possible and made as stiff as possible, *e.g.,* by placing inside a hose sleeve. Similar measures, including the commonly referred to ''orange coated rope,'' have been required by BOEM as permit conditions and have proven successful in preventing further entanglements.

Vessel Strike Avoidance

These proposed measures generally follow those described in BOEM's PEIS (BOEM, 2017). These measures apply to all vessels associated with any proposed survey activity (*e.g.,* source vessels, streamer vessels, chase vessels, supply vessels); however, we note that these requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply. The proposed measures include the following:

1. Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down or stop their vessel or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel, according to the parameters stated below, to ensure the potential for strike is minimized. Visual observers monitoring the vessel strike avoidance zone can be either third-party observers or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena and broadly to identify a marine mammal as a baleen whale, sperm whale, or other marine mammal.

2. All vessels, regardless of size, must observe a 10 kn speed restriction within the EPA restriction area described previously. It is critically important to avoid vessel strike of a Bryde's whale, as single mortalities over time can be devastating for such small populations. Further, Bryde's whales engage in shallow nocturnal diving, spending significant amounts of time near the surface at night and increasing the risk of strike when vessels are transiting Bryde's whale habitat (Soldevilla *et al.,* 2017).

3. Vessel speeds must also be reduced to 10 kn or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel. A single cetacean at the surface may indicate the presence of submerged animals in the

vicinity of the vessel; therefore, precautionary measures should be exercised when an animal is observed.

4. All vessels must maintain a minimum separation distance of 500 yards (yd) (457 m) from baleen whales. Our intention is to be precautionary in prescribing avoidance measures to avoid the potential for strike of Bryde's whales—the only baleen whale that would be expected with any regularity in the GOM—but we do not expect that crew members standing watch would be able to reliably identify baleen whales to species in the GOM. The following avoidance measures should be taken if a baleen whale is within 500 yd of any vessel:

a. While underway, the vessel operator should steer a course away from the whale at 10 kn or less until the minimum separation distance has been established.

b. If a whale is spotted in the path of a vessel or within 500 yd of a vessel underway, the operator should reduce speed and shift engines to neutral. The operator should re-engage engines only after the whale has moved out of the path of the vessel and is more than 500 yd away. If the whale is still within 500 yd of the vessel, the vessel should select a course away from the whale's course at a speed of 10 kn or less. The recommendation to shift engines to neutral does not apply to any vessel towing gear due to safety concerns.

c. This procedure should also be followed if a whale is spotted while a vessel is stationary. Whenever possible, a vessel should remain parallel to the whale's course while maintaining the 500-yd distance as it travels, avoiding abrupt changes in direction until the whale is no longer in the area.

5. All vessels must maintain a minimum separation distance of 100 yd (91 m) from sperm whales. The following avoidance measures should be taken if a sperm whale is within 100 yd of any vessel:

a. The vessel underway should reduce speed and shift the engine to neutral, and should not engage the engines until the whale has moved outside of the vessel's path and the minimum separation distance has been established. This does not apply to any vessel towing gear.

b. If a vessel is stationary, the vessel should not engage engines until the whale has moved out of the vessel's path and beyond 100 yd.

6. All vessels must attempt to maintain a minimum separation distance of 50 yd (46 m) from all other marine mammals, with an exception made for those animals that approach the vessel. If an animal is encountered during transit, a vessel should attempt to remain parallel to the animal's course, avoiding excessive speed or abrupt changes in course.

Marine Debris

Any permits issued by BOEM would include guidance for the handling and disposal of marine trash and debris, similar to BSEE NTL 2015–G03 (''Marine Trash and Debris Awareness and Elimination'') (BSEE, 2015; BOEM, 2017). If there were an LOA applicant for an activity not requiring a BOEM permit, NMFS would also require adherence to this guidance.

TABLE 11—SUMMARY OF MITIGATION MEASURES WITH ALTERNATIVES FOR CONSIDERATION

Measure	Proposal	Proposal preliminarily determined to support ''least practicable adverse impact'' and ''negligible impact'' findings?	Proposal included in proposed regulatory text?
Dolphin shutdown exception	Power-down	Yes	Yes.
	No power-down	No	No.
Extended distance shutdown in certain circumstances.	Shutdown for detections at any distance	Yes	Yes.
	Shutdown for detections within 1 km	No	No.
Time-area restriction for Bryde's whales	Year-round	Yes	No.
	Seasonal	No	Yes.
	Seasonal with real-time detection	No	No.
	No restriction with real-time detection	No	No.

Based on our evaluation of the mitigation measures described in this section, as well as other measures considered by NMFS, we have preliminarily determined those mitigation measures that provide the means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. We request comment on all proposals and other variations of these proposals, including our interpretation of the data and any other data that support the necessary findings.

Proposed Monitoring and Reporting

In order to issue an LOA for an activity, Section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of the authorized taking. NMFS's MMPA implementing regulations further describe the information that an applicant should provide when requesting an authorization (50 CFR 216.104(a)(13)), including the means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and the level of taking or impacts on populations of marine mammals.

Section 101(a)(5)(A) allows that incidental taking may be authorized only if the total of such taking contemplated over the course of five years will have a negligible impact on affected species or stocks (a finding based on impacts to annual rates of recruitment and survival) and, further, section 101(a)(5)(B) requires that authorizations issued pursuant to 101(a)(5)(A) be withdrawn or suspended if the total taking is having, or may have, more than a negligible impact (or such information may inform decisions on requests for LOAs under the specific regulations). Therefore, it is clear that the necessary requirements pertaining to monitoring and reporting must address the total annual impacts to marine mammal species or stocks. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

These proposed requirements are described below under ''Data Collection'' and ''LOA Reporting.'' Additional comprehensive reporting, across LOA-holders on an annual basis,

is also proposed and is described below under ''Comprehensive Reporting.''

More specifically, monitoring and reporting requirements should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*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 important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

PSO Eligibility and Qualifications

All PSO resumes must be submitted to NMFS, and PSOs must be approved by NMFS after a review of their qualifications. NMFS expects to maintain a list of approved PSOs, which will minimize review time for previously approved PSOs with current experience. These qualifications include whether the individual has successfully completed the necessary training (see ''Training,'' below) and, if relevant, whether the individual has the requisite experience (and is in good standing). PSOs should provide a current resume and information related to PSO training; submitted resumes should not include superfluous information. Information related to PSO training should include (1) a course information packet that includes the name and qualifications (*e.g.,* experience, training, or education) of the instructor(s), the course outline or syllabus, and course reference material; and (2) a document stating the PSO's successful completion of the course. PSOs must be trained biologists, with the following minimum qualifications:

- A bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics;
- Experience and ability to conduct field observations and collect data according to assigned protocols (may include academic experience; required for visual PSOs only) and experience with data entry on computers;
- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target (required for visual PSOs only);
- Experience or training in the field identification of marine mammals, including the identification of behaviors (required for visual PSOs only);
- Sufficient training, orientation, or experience with the survey operation to ensure personal safety during observations;
- Writing skills sufficient to prepare a report of observations (*e.g.,* description, summary, interpretation, analysis) including but not limited to the number and species of marine mammals observed; marine mammal behavior; and descriptions of activity conducted and implementation of mitigation;
- Ability to communicate orally, by radio or in person, with survey personnel to provide real-time information on marine mammals observed in the area as necessary; and
- Successful completion of relevant training (described below), including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program.

The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver must include written justification, and prospective PSOs granted waivers must satisfy training requirements described below. Alternate experience that may be considered includes, but is not limited to, the following:

- Secondary education and/or experience comparable to PSO duties;
- Previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; and
- Previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

Training—NMFS expects to provide informal approval for specific training courses in consultation with BOEM and BSEE as needed to approve PSO staffing plans. NMFS does not propose to formally administer any training program or to sanction any specific provider, but will approve courses that meet the curriculum and trainer requirements specified herein. These requirements adhere generally to the recommendations provided by Baker *et al.* (2013). Those recommendations include the following topics for training programs:

- Life at sea, duties, and authorities;
- Ethics, conflicts of interest, standards of conduct, and data confidentiality;
- Offshore survival and safety training;
- Overview of oil and gas activities (including geophysical data acquisition operations, theory, and principles) and types of relevant sound source technology and equipment;
- Overview of the MMPA and ESA as they relate to protection of marine mammals;
- Mitigation, monitoring, and reporting requirements as they pertain to geophysical surveys;
- Marine mammal identification, biology and behavior;
- Background on underwater sound;
- Visual surveying protocols, distance calculations and determination, cues, and search methods for locating and tracking different marine mammal species (visual PSOs only);
- Optimized deployment and configuration of PAM equipment to ensure effective detections of cetaceans for mitigation purposes (PAM operators only);
- Detection and identification of vocalizing species or cetacean groups (PAM operators only);
- Measuring distance and bearing of vocalizing cetaceans while accounting for vessel movement (PAM operators only);
- Data recording and protocols, including standard forms and reports, determining range, distance, direction, and bearing of marine mammals and vessels; recording GPS location coordinates, weather conditions, Beaufort wind force and sea state, etc.;
- Proficiency with relevant software tools;
- Field communication/support with appropriate personnel, and using communication devices (*e.g.,* two-way radios, satellite phones, internet, email, facsimile);
- Reporting of violations, noncompliance, and coercion; and
- Conflict resolution.

PAM operators should regularly refresh their detection skills through practice with simulation-modeling software, and should keep up to date with training on the latest software/hardware advances.

Visual Monitoring

The lead PSO is responsible for establishing and maintaining clear lines of communication with vessel crew. The vessel operator shall work with the lead PSO to accomplish this and shall ensure any necessary briefings are provided for vessel crew to understand mitigation requirements and protocols. While on duty, PSOs will continually scan the water surface in all directions around the acoustic source and vessel for presence of marine mammals, using a combination of the naked eye and high-quality binoculars (bigeye binoculars must be provided during deep penetration airgun surveys; see below), from optimum vantage points for unimpaired visual observations with minimum distractions. PSOs will collect observational data for all marine mammals observed, regardless of distance from the vessel, including species, group size, presence of calves,

distance from vessel and direction of travel, and any observed behavior (including an assessment of behavioral responses to survey activity). Upon observation of marine mammal(s), a PSO will record the observation and monitor the animal's position (including latitude/longitude of the vessel and relative bearing and estimated distance to the animal) until the animal dives or moves out of visual range of the observer, and a PSO will continue to observe the area to watch for the animal to resurface or for additional animals that may surface in the area. PSOs will also record environmental conditions at the beginning and end of the observation period and at the time of any observations, as well as whenever conditions change significantly in the judgment of the PSO on duty.

For all deep penetration airgun surveys and deep-water surveys (*i.e.,* water depths greater than 200 m) generally, the vessel operator must provide bigeye binoculars (*e.g.,* 25 × 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality (*i.e.,* Fujinon or equivalent) solely for PSO use. These should be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel. The operator must also provide a night-vision device suited for the marine environment for use during nighttime ramp-up pre-clearance, at the discretion of the PSOs. NVDs may include night vision binoculars or monocular or forward-looking infrared device (*e.g.,* Exelis PVS–7 night vision goggles; Night Optics D–300 night vision monocular; FLIR M324XP thermal imaging camera or equivalents). At minimum, the device should feature automatic brightness and gain control, bright light protection, infrared illumination, and optics suited for low-light situations. This equipment is not required for shallow penetration airgun surveys or non-airgun HRG surveys that occur in shallow water.

Other required equipment, which should be made available to PSOs by the third-party observer provider, includes reticle binoculars (*e.g.,* 7 × 50) of appropriate quality (*i.e.,* Fujinon or equivalent), GPS, digital single-lens reflex camera of appropriate quality (*i.e.,* Canon or equivalent), compass, and any other tools necessary to adequately perform the tasks described above, including accurate determination of distance and bearing to observed marine mammals.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. Monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated through an adaptive management process.

Acoustic Monitoring

Use of PAM is required for deep penetration airgun surveys. Monitoring of a towed PAM system is required at all times, from 30 minutes prior to ramp-up and throughout all use of the acoustic source. Towed PAM systems generally consist of hardware (*e.g.,* hydrophone array, cables) and software (*e.g.,* data processing and monitoring system). Some type of automated detection software must be used; while not required, we recommend use of industry standard software (*e.g.,* PAMguard, which is open source). Hydrophone signals are processed for output to the PAM operator with software designed to detect marine mammal vocalizations. Current PAM technology has some limitations (*e.g.,* limited directional capabilities and detection range, masking of signals due to noise from the vessel, source, and/or flow, localization) and there are no formal guidelines currently in place regarding specifications for hardware, software, or operator training requirements. However, a working group (led by A.M. Thode) is developing formal standards under the auspices of the Acoustical Society of America's (ASA) Accredited Standards Committee on Animal Bioacoustics (ANSI S3/SC1/WG3; ''Towed Array Passive Acoustic Operations for Bioacoustics Applications''). While no formal standards have yet been completed, a ''roadmap'' was developed during a 2016 workshop held for the express purpose of continuing development of such standards. A workshop report (Thode *et al.,* 2017) provides a highly detailed preview of what the scope and structure of the standard would be, including operator training, planning, hardware, real-time operations, localization, and performance validation. NMFS expects that LOA applicants will incorporate these considerations in developing or refining PAM plans (described below), as appropriate. NMFS proposes to adopt such standards in governing the development of PAM plans following finalization.

Our requirement to use PAM refers to the use of calibrated hydrophone arrays with full system redundancy to detect, identify and estimate distance and bearing to vocalizing cetaceans, to the extent possible. Multi-hydrophone (*i.e.,* more than four) arrays are required to allow for potential determination of bearing and range to detected animals. With regard to calibration, the PAM system should have at least one calibrated hydrophone, sufficient for determining whether background noise levels on the towed PAM system are sufficiently low to meet performance expectations. Additionally, if multiple hydrophone types occur in a system (*i.e.,* monitor different bandwidths), then one hydrophone from each such type should be calibrated, and whenever sets of hydrophones (of the same type) are sufficiently spatially separated such that they would be expected to experience ambient noise environments that differ by 6 dB or more across any integrated species cluster bandwidth, then at least one hydrophone from each set should be calibrated. The arrays should incorporate appropriate hydrophone elements (1 Hz to 180 kHz range) and sound data acquisition card technology for sampling relevant frequencies (*i.e.,* to 360 kHz). This hardware should be coupled with appropriate software to aid monitoring and listening by a PAM operator skilled in bioacoustics analysis and computer system specifications capable of running appropriate software.

In the absence of a formally defined set of prescriptions addressing any of these three facets of PAM technology, all applicants must provide a PAM plan including description of the hardware and software proposed for use prior to proceeding with any survey where PAM is required. As recommended by Thode *et al.* (2017), the plans should, at minimum, adequately address and describe (1) the hardware and software planned for use, including a hardware performance diagram demonstrating that the sensitivity and dynamic range of the hardware is appropriate for the operation; (2) deployment methodology, including target depth/tow distance; (3) definitions of expected operational conditions, used to summarize background noise statistics; (4) proposed detection-classification-localization methodology, including anticipated species clusters (using a cluster definition table), target minimum detection range for each cluster, and the proposed localization method for each cluster; (5) operation plans, including the background noise sampling schedule; (6) array design considerations for noise abatement; and (7) cluster-specific details regarding which real-time displays and automated detectors the operator would monitor. Where relevant, the plan should address the potential for PAM deployment on a

receiver vessel or other associated vessel separate from the acoustic source.

In coordination with vessel crew, the lead PAM operator will be responsible for deployment, retrieval, and testing and optimization of the hydrophone array. While on duty, the PAM operator must diligently listen to received signals and/or monitoring display screens in order to detect vocalizing cetaceans, except as required to attend to PAM equipment. The PAM operator must use appropriate sample analysis and filtering techniques and, as described below, must report all cetacean detections. While not required prior to development of formal standards for PAM use, we recommend that vessel self-noise assessments are undertaken during mobilization in order to optimize PAM array configuration according to the specific noise characteristics of the vessel and equipment involved, and to refine expectations for distance/bearing estimations for cetacean species during the survey. Copies of any vessel self-noise assessment reports must be included with the summary trip report.

Data Collection

PSOs must use standardized data forms, whether hard copy or electronic. PSOs will record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source to resume survey. If required mitigation was not implemented, PSOs should submit a description of the circumstances. We require that, at a minimum, the following information be reported:

- Vessel names (source vessel and other vessels associated with survey) and call signs;
- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon;
- Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions);
- Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-ramp-up survey, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.) (if the survey is a non-airgun survey, information relevant to the acoustic source used should be provided);
- If a marine mammal is sighted, the following information should be recorded:
  - Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
  - PSO who sighted the animal;
  - Time of sighting;
  - Vessel location at time of sighting;
  - Water depth;
  - Direction of vessel's travel (compass direction);
  - Direction of animal's travel relative to the vessel;
  - Pace of the animal;
  - Estimated distance to the animal and its heading relative to vessel at initial sighting;
  - Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;
  - Estimated number of animals (high/low/best);
  - Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
  - Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
  - Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
  - Animal's closest point of approach (CPA) and/or closest distance from the acoustic source;
  - Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other); and
  - Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.); time and location of the action should also be recorded; and
- If a marine mammal is detected while using the PAM system, the following information should be recorded:
  - An acoustic encounter identification number, and whether the detection was linked with a visual sighting;
  - Time when first and last heard;
  - Types and nature of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal, etc.); and
  - Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

LOA Reporting

PSO effort, survey details, and sightings data should be recorded continuously during surveys and reports prepared each day during which survey effort is conducted. These reports would include amount and location of line-kms surveyed, all marine mammal observations with closest approach distance, and corrected numbers of marine mammals ''taken.'' We propose submission of such reports to NMFS within 90 days of survey completion or following expiration of an issued LOA. In the event that an LOA is issued for a period exceeding one year, annual reports would be submitted during the period of validity.

There are multiple reasons why marine mammals may be present and yet be undetected by observers. Animals are missed because they are underwater (availability bias) or because they are available to be seen, but are missed by observers (perception and detection biases) (*e.g.,* Marsh and Sinclair, 1989). Negative bias on perception or detection of an available animal may result from environmental conditions, limitations inherent to the observation platform, or observer ability. In this case, we do not have prior knowledge of any potential negative bias on detection probability due to observation platform or observer ability. Therefore, observational data corrections must be made with respect to assumed species-specific detection probability as evaluated through consideration of environmental factors (*e.g., f*(0)). In order to make these corrections, we propose a method recommended by the Marine Mammal Commission for estimating the number of cetaceans in the vicinity of geophysical surveys based on the number of groups detected.

This method incorporates *f*(0) and BSS-specific *g*(0) values from Barlow (2015) that were derived using Distance sampling methods (Buckland *et al.,* 2001) and sightings data. If we know that we have detected *n* groups, and the probability of detecting each group is *p,* a standard way to estimate the total number of groups is n/p. We know *n* for each species from the data collected during each survey, so the problem is to find *p* for each species. During scientific marine mammal surveys, *p* is estimated from the data collected on each survey as part of a line-transect analysis. The probability *p* for each species depends

principally on the distance of the animals from the observer, but may also depend on other factors such as group size and sea state.

In the absence of a line-transect analysis, the Commission suggests taking estimates of p from other studies which use ships of similar size and searching methods. For line-transect analysis, p is a product of the probability of detecting a group of animals directly on the trackline ($g(0)$) and the probability of detecting a group of animals within the half-strip width on each side of the trackline (μ/w, where w is the transect truncation distance beyond which data are not recorded and μ is the effective strip half-width). The effective strip half-width also may be expressed as $\mu = 1/f(0)$, where $f(0)$ is the estimated probability density function of observed perpendicular distances y evaluated at $y = 0$.

The species discussed in Barlow (2015) may be different from those observed during a geophysical survey, but data from similar species can be used. Since $g(0)$ and $f(0)$ values for each species or genera depend on group size, BSS, swell height and other factors, those factors should be taken into account if possible.

The probability of detecting a group of cetaceans can therefore be expressed as:

$$p = g(0)\frac{\mu}{w} = \frac{g(0)}{wf(0)}$$

If there are n sightings of a species along a section of trackline, the estimated number of Groups for a given BSS, within a perpendicular distance w on each side of the trackline, and within the Level B harassment zone is:

$$N_{groups} = \frac{n}{p} = \frac{nwf(0)}{g(0)} = \frac{nw}{\mu g(0)}$$

and the estimated number of individual animals in that given BSS then is:

$$N = \frac{n}{p}S = \frac{nw}{\mu g(0)}S$$

where S is the mean group size for the species.

The number of animals seen within each BSS should be summed for each Level B harassment zone. That total number then must be scaled by the distance to the Level B harassment threshold relative to the truncation distance to estimate the total number of animals potentially taken during a given survey. Examples of the application of this process are given in the Commission's letter, relevant portions of which are available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.*

As noted, a draft report must be submitted to NMFS within 90 days of the completion of survey effort or following expiration of the LOA (whichever comes first), or annually (if a multi-year LOA is issued), and must include all information described above under ''Data Collection.'' The report will describe the operations conducted and sightings of marine mammals near the operations. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report will summarize the dates and locations of survey operations, and all marine mammal sightings (dates, times, locations, activities, associated survey activities); information regarding locations where the acoustic source was used must be provided. The LOA-holder shall provide geo-referenced time-stamped vessel tracklines for all time periods in which airguns (full array or single) were operating. Tracklines should include points recording any change in airgun status (*e.g.,* when the airguns began operating, when they were turned off, or when they changed from full array to single gun or vice versa). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates should be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available to NMFS. This report must also include a validation document concerning the use of PAM (if PAM was required), which should include necessary noise validation diagrams and demonstrate whether background noise levels on the PAM deployment limited achievement of the planned detection goals.

The report will also include estimates of the number of takes based on the observations and in consideration of the detectability of the marine mammal species observed (as described above). Applicants must provide an estimate of the number (by species) of marine mammals that may have been exposed (based on observational data and accounting for animals present but unavailable for sighting) to the survey activity within areas associated with the relevant frequency-weighted sound fields (*i.e.,* 140/160/180 dB rms). The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report. A final report must be submitted within 30 days following resolution of any comments on the draft report.

Comprehensive Reporting

Individual LOA-holders will be responsible for collecting and submitting monitoring data to NMFS, as described above. In addition, on an annual basis, LOA holders will also collectively be responsible for compilation and analysis of those data for inclusion in subsequent annual synthesis reports. Individual LOA-holders may collaborate to produce this report or may elect to have their trade associations support the production of such a report. These reports would summarize the data presented in the individual LOA-holder reports, provide analysis of these synthesized results, discuss the implementation of required mitigation, and present any recommendations. This comprehensive annual report would be the basis of an annual adaptive management process (described below in ''Adaptive Management''). The following topics should be described in comprehensive reporting:

- Summary of geophysical survey activity by survey type, geographic zone (*i.e.,* the seven zones described in the modeling report), month, and acoustic source status (*e.g.,* inactive, ramp-up, full-power, power-down);
- Summary of monitoring effort (on-effort hours and/or distance) by acoustic source status, location, and visibility conditions (for both visual and acoustic monitoring);
- Summary of mitigation measures implemented (*e.g.,* delayed ramp-ups, shutdowns, course alterations for vessel strike avoidance) by survey type and location;
- Sighting rates of marine mammals during periods with and without acoustic source activities and other variables that could affect detectability of marine mammals, such as:
  - Initial sighting distances of marine mammals relative to source status;
  - Closest point of approach of marine mammals relative to source status;
  - Observed behaviors and types of movements of marine mammals relative to source status;
  - Distribution/presence of marine mammals around the survey vessel relative to source status;
  - Analysis of the effects of various factors influencing the detectability of marine mammals (*e.g.,* wind speed, sea state, swell height, presence of glare or fog); and
  - Estimates of the number of marine mammals taken by harassment, corrected for animals potentially missed by observers;
- Summary and conclusions from monitoring in previous year; and
- Recommendations for adaptive management.

Each annual comprehensive report should cover one full year of monitoring effort and must be submitted for review by October 1 of each year. Therefore, to allow for adequate preparation, each

report should analyze survey and monitoring effort described in reports submitted by individual LOA-holders from July 1 of one year through June 30 of the next. Of necessity, the first annual report may cover a different period of time, *e.g.,* from the date of issuance of a rule until October 1 of the next year.

Reporting Injured or Dead Marine Mammals

In the event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by the authorization (if issued), such as a serious injury or mortality, the LOA-holder shall immediately cease the specified activities and immediately report the take to NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- 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 LOA-holder shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. NMFS would work with the LOA-holder to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The LOA-holder may not resume their activities until notified by NMFS.

In the event that the LOA-holder discovers an injured or dead marine mammal, and the lead PSO 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 LOA-holder will immediately report the incident to NMFS. 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 LOA-holder to determine whether modifications to the activities are appropriate.

In the event that the LOA-holder 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 specified activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the LOA-holder would report the incident to NMFS within 24 hours of the discovery. The LOA-holder would provide photographs or video footage (if available) or other documentation of the animal to NMFS.

Negligible Impact Analysis and Preliminary 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,'' NMFS considers other factors, such as the type of take (*e.g.,* mortality, injury), 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).

For each potential activity-related stressor, we consider the potential impacts on affected marine mammals and the likely significance of those impacts to the affected stock or population as a whole. Potential risk due to vessel collision and related mitigation measures as well as potential risk due to entanglement and contaminant spills were addressed under ''Proposed Mitigation'' and ''Potential Effects of the Specified Activity on Marine Mammals'' and are not discussed further, as there are minimal risks expected from these potential stressors.

The ''specified activity'' for these regulations is a broad program of geophysical survey activity that could occur at any time of year in U.S. waters of the GOM. In recognition of the broad scale of this activity in terms of geographic and temporal scales, we propose use of a new analytical framework—first described by Ellison *et al.* (2015)—through which an explicit, systematic risk assessment methodology is applied to evaluate potential effects of aggregated discrete acoustic exposure events (*i.e.,* proposed geophysical survey activities) on marine mammals. We believe the approach described here addresses the scope and scale of potential impacts to marine mammal populations from these activities. Development of the approach was supported collaboratively by BOEM and NMFS, which together provided guidance to an expert working group (EWG) in terms of application to relevant regulatory processes. The framework and preliminary results are described by Southall *et al.* (2017), which is available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* That document is a companion to this analysis, and is referred to hereafter as the ''EWG report.'' The risk assessment framework described below was developed and preliminarily implemented by Southall *et al.* (2017) in relation to the specified activity described herein; we incorporate the framework and its results into our analysis as appropriate.

As described previously, Zeddies *et al.* (2015, 2017a) provided marine mammal noise exposure estimates based on BOEM-provided projections of future survey effort and based on best available modeling of sound propagation, animal distribution, and animal movement. This provided a conservative but reasonable best estimate of potential acute noise exposure events that may result from the described suite of activities. The primary goal in this new analytical effort was to develop a systematic framework that would use those modeling results to put into biologically-relevant context the level of potential risk of injury and/or disturbance to marine mammals. The framework considers both the aggregation of acute effects as well as the broad temporal and spatial scales over which chronic effects may occur. Previously, Wood *et al.* (2012) conducted an analysis of a proposed airgun survey, in which they derived a qualitative risk assessment method of

considering the biological significance of exposures predicted to be consistent with the onset of physical injury and behavioral disturbance (the latter determined according to the same approach used here). Subsequently, Ellison *et al.* (2015) described development of a more systematic and (in some cases) quantitative basis for a risk-assessment approach to assess the biological significance and potential population consequences of predicted noise exposures. The approach here, which incorporated the results of Zeddies *et al.* (2015, 2017a) as an input, includes certain modifications to and departures from the conceptual approach described by Ellison *et al.* (2015). These are described in greater detail in the EWG report.

Generally, this approach is a relativistic risk assessment that provides an interpretation of the exposure estimates within the context of key biological and population parameters (*e.g.,* population size, life history factors, compensatory ability of the species, animal behavioral state, aversion), as well as other biological, environmental, and anthropogenic factors. The analysis is performed specifically on a species-specific basis for each effort scenario (''high,'' ''moderate,'' and ''low'') within each modeling zone (Figure 2). The end result provides an indication of the biological significance of these exposure numbers for each affected marine mammal stock (*i.e.,* yielding the severity of impact and vulnerability of stock/population information), as well as forecasting the likelihood of any such impact. This result is expressed as relative impact ratings of overall risk that couple potential severity of effect on a stock and likely vulnerability of the population to the consequences of those effects, given biologically relevant information (*e.g.,* compensatory ability).

Spectral, temporal, and spatial overlaps between survey activities and animal distribution are the primary factors that drive the type, magnitude, and severity of potential effects on marine mammals, and these considerations are integrated into both the severity and vulnerability assessments. In discussion with BOEM and NMFS, the EWG developed a strategic approach to balance the weight of these considerations between the two assessments, specifying and clarifying where and how the interactions between potential disturbance and species within these dimensions are evaluated. Overall ratings are then considered in conjunction with our proposed mitigation strategy (and any additional relevant contextual information) to ultimately inform our preliminary determinations. Elements of this approach are subjective and relative within the context of this program of projected actions and, overall, the analysis necessarily requires the application of professional judgment.

Severity of Effect

Level A Harassment—In order to evaluate the potential severity of the expected potential takes by Level A harassment (Table 9) on the species or stock, the EWG report uses a PBR-equivalent metric. As described previously, PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. To be clear, NMFS does not expect any of the potential occurrences of injury (*i.e.,* PTS) that may be authorized under this rule to result in mortality of marine mammals, nor do we believe that Level A harassment should be considered a ''removal'' in the context of PBR when used to inform a negligible impact determination. PTS is not appropriately considered equivalent to serious injury. However, PBR can serve as a gross indicator of the status of the species and a good surrogate for population vulnerability/health and, accordingly, PBR or a related metric can be used appropriately to inform a separate analysis to evaluate the potential relative severity to the population of a permanent impact such as PTS on a given number of individuals. This analysis is used to assess relative risks to populations as a result of PTS; NMFS does not expect that Level A harassment could directly result in mortality and our use of the PBR metric in this context should not be interpreted as such.

However, because habitat-based density models (Roberts *et al.,* 2016) were used to predict cetacean distribution and abundance in the GOM, exposure estimates cannot appropriately be directly related to the PBR values found in NMFS's SARs. Therefore, a modified PBR value was derived on the basis of the typical pattern for NMFS's PBR values, where the value varies between approximately 0.6–0.9 percent of the minimum population abundance depending upon population confidence limits (higher with increasing confidence). For endangered species, PBR values are typically ⅕ of the values for non-endangered species due to assumption of a lower recovery factor—endangered species are typically assigned recovery factors of 0.1, while species of unknown status relative to the optimum sustainable population level (*i.e.,* most species) are typically assigned factors of 0.5. This basic relationship of population size relative to PBR (*e.g.,* considered equivalent to estimated X percent of PBR) was used to define the following relative risk levels due to Level A harassment.

- Very high—Level A takes greater than 1.5 or 0.3 percent (the latter figure is used for endangered species) of zone-specific estimated population abundance.
- High—0.75–1.5 or 0.15–0.3 percent of zone-specific population.
- Moderate—0.375–0.75 or 0.075–0.15 percent of zone-specific population.
- Low—0.075–0.375 or 0.015–0.075 percent of zone-specific population.
- Very low—less than 0.075 or less than 0.015 percent of zone-specific population.

Relative severity scores by zone (Figure 2) and species for high, moderate, and low annual activity scenarios are shown in Tables 4–7 of the EWG report. However, as described previously, we do not believe that Level A harassment is likely to actually occur for mid-frequency cetaceans and therefore do not predict any take by Level A harassment for these species. The risk presented by Level A harassment to mid-frequency species is therefore expected to be none to very low.

Due to the combination of density estimates and effort projections, the predicted takes by Level A harassment (accounting for aversion) for both Bryde's whale and *Kogia* spp. are expected to represent a ''very high'' risk for the moderate and low effort scenarios in Zone 4 (note that the ''high'' effort scenario, while including the most survey days when aggregating across the entire GOM, includes no projected survey days in Zone 4). For *Kogia* spp. only, all three effort scenarios represent a ''very high'' risk in Zones 6 and 7. All other combinations of effort and zone result in overall evaluated risk of none to low for these species. We note that regardless of the relative risk assessed in this framework, because of the anticipated received levels and duration of sound exposure expected for any marine mammals exposed above Level A harassment criteria, no individuals of any species or stock are expected to receive more than a relatively minor degree of PTS, which would not be expected to meaningfully increase the likelihood or severity of any potential population-level effects.

Level B Harassment—As described above in ''Estimated Take,'' a significant model assumption was that populations of animals were reset for each 24-hr period. Exposure estimates for the 24-hr period were then aggregated across all

assumed survey days as completely independent events, assuming populations turn over completely within each large zone on a daily basis. While the modeling provides reasonable estimates of the total number of instances of exposure exceeding Level B harassment criteria, it is likely that it leads to substantial overestimates of the numbers of individuals potentially disturbed, given that all animals within the areas modeled are unlikely to be completely replaced on a daily basis. Therefore, in assuming an increased number of individuals impacted, these results would lead to an overestimation of the potential population-level consequences of the estimated exposures. In order to evaluate modeled daily exposures and determine more realistic exposure probabilities for individuals across multiple days, we use information on species-typical movement behavior to determine a species-typical offset of modeled daily exposures, using the exploratory analysis discussed under ''Estimated Take'' (*i.e.,* Test Scenario 1). In this test scenario, modeled results were compared for a 30-day period versus the aggregation of 24-hr population reset intervals. When conducting computationally-intensive modeling over the full assumed 30-day survey period (versus aggregating the smaller 24-hr periods for 30 days), results showed about 10–45 percent of the total number of takes calculated using a 24-hr reset of the population, with differences relating to species-typical movement and residency patterns. Given that many of the evaluated survey activities occur for 30-day or longer periods, particularly some of the larger surveys for which the majority of the modeled exposures occur, using such a scaling process is appropriate in order to evaluate the likely severity of the predicted exposures. However, as noted earlier, even with this correction factor the resulting number of predicted takes of individuals is still an overestimate because individuals are expected to be exposed to multiple surveys in a year and many surveys are longer than 30 days. This approach is also discussed in more detail in the EWG report.

The test scenario modeled six representative GOM species/guilds: Bryde's whale, sperm whale, beaked whales, bottlenose dolphin, *Kogia* spp., and short-finned pilot whale. For purposes of this analysis, bottlenose dolphin was used as a proxy for other small dolphin species, and short-finned pilot whale was used as a proxy for other large delphinids. Tables 22–23 in the modeling report provide information regarding the number of modeled animals receiving exposure above criteria for average 24-hr sliding windows scaled to the full 30-day duration and percent change in comparison to the same number evaluated when modeling the full 30-day duration. This information was used to derive 30-day scalar ratios which, when applied to the total instances of exposure given in Table 9, captures repeated takes of individuals at a 30-day sampling level. Scalar ratios are as follows: Bryde's whale, 0.189; sperm whale, 0.423; beaked whales, 0.101; bottlenose dolphin, 0.287; *Kogia* spp., 0.321; and short-finned pilot whale, 0.295. Application of the re-scaling method reduced the overall magnitude of modeled takes for all species by slightly more than double to up to ten-fold. This output was used in a severity assessment.

TABLE 12—SCENARIO-SPECIFIC EXPECTED TAKE NUMBERS, INSTANCES AND INDIVIDUALS [1]

Species	Survey effort scenario [2]									
	High		Moderate #1		Moderate #2		Low #1		Low #2	
	Ins.	Ind.	Ins.	Ind.	Ins.	Ind.	Ins.	Ind.	Ins.	Ind.
Bryde's whale	560	106	413	78	498	94	386	73	402	76
Sperm whale	43,504	18,395	27,271	11,531	33,340	14,097	26,651	11,269	27,657	11,694
Kogia spp.	16,189	5,189	11,428	3,663	13,644	4,373	10,743	3,443	11,165	3,579
Beaked whale	235,615	23,704	162,134	16,311	190,777	19,193	151,708	15,262	156,584	15,753
Rough-toothed dolphin	37,666	10,793	30,192	8,651	31,103	8,912	28,663	8,213	26,315	7,540
Bottlenose dolphin	653,405	187,222	977,108	279,974	596,824	171,010	938,322	268,860	579,403	166,018
Clymene dolphin	110,742	31,731	72,913	20,892	87,615	25,105	69,609	19,945	72,741	20,843
Atlantic spotted dolphin	133,427	38,231	174,705	50,059	116,698	33,438	164,824	47,228	109,857	31,478
Pantropical spotted dolphin	606,729	173,848	419,738	120,269	511,037	146,429	399,581	114,493	419,824	120,293
Spinner dolphin	82,779	23,719	59,623	17,084	73,013	20,921	56,546	16,202	59,253	16,978
Striped dolphin	44,038	12,618	29,936	8,578	36,267	10,392	28,522	8,172	29,890	8,564
Fraser's dolphin	13,858	3,971	9,654	2,766	11,394	3,265	9,127	2,615	9,391	2,691
Risso's dolphin	27,062	7,754	18,124	5,193	21,914	6,279	17,309	4,960	18,092	5,184
Melon-headed whale	68,900	20,355	47,548	14,047	56,791	16,777	44,842	13,247	46,631	13,776
Pygmy killer whale	18,029	5,326	12,278	3,627	14,788	4,369	11,677	3,450	12,141	3,587
False killer whale	25,511	7,536	17,631	5,209	20,828	6,153	16,774	4,955	17,163	5,070
Killer whale	1,493	441	1,031	305	1,258	372	984	291	1,036	306
Short-finned pilot whale	19,258	5,689	12,155	3,591	14,163	4,184	11,523	3,404	11,900	3,516

[1] Instances of take (''Ins.'') reflects expected scenario-based takes by Level B harassment given previously in Table 9. Scalar ratios were applied as described in preceding text to derive expected numbers of individuals taken (''Ind.'').

[2] High survey effort scenario correspond level of effort projections given previously for Year 1 (Table 1). Moderate #1 and #2 and Low #1 and #2 correspond with Years 4, 5, 8, and 9, respectively.

As was done in evaluating severity of Level A harassment, the scaled Level B harassment takes were rated through a population-dependent binning system. For each species, scaled takes were divided by the zone-specific predicted abundance, and these proportions were used to evaluate the relative severity of modeled exposures based on the distribution of values across species to evaluate behavioral risk across species—a simple, logical means of evaluating relative risk across species and areas. Relative risk ratings using percent of area population size were defined as follows:

- Very high—Adjusted behavioral takes greater than 800 percent of zone-specific population;
- High—Adjusted behavioral takes 400–800 percent of zone-specific population;
- Moderate—Adjusted behavioral takes 200–400 percent of zone-specific population;
- Low—Adjusted behavioral takes 100–200 percent of zone-specific population; and
- Very low—Adjusted behavioral takes less than 100 percent of zone-specific population.

Results of severity ranking for Level B harassment are shown in Tables 8–10 of Southall *et al.* (2017). Note that these have been adjusted here to account for

the erroneous density value that underlies the exposure predictions given by Zeddies *et al.* (2015, 2017b) for Bryde's whales in Zone 6.

Vulnerability of Affected Population

Vulnerability rating seeks to evaluate the relative risk of a predicted effect given species-typical and population-specific parameters (*e.g.,* species-specific life history, population factors) and other relevant interacting factors (*e.g.,* human or other environmental stressors). The assessment includes consideration of four categories within two overarching risk factors (species-specific biological and environmental risk factors). These values were selected to capture key aspects of the importance of spatial (geographic), spectral (frequency content of noise in relation to species-typical hearing and sound communications), and temporal relationships between sound and receivers. Explicit numerical criteria for identifying severity scores were specified where possible, but in some cases qualitative judgments based on a reasonable interpretation of given aspects of the proposed activity and how it relates to the species in question and the environment within the specified area were required. Factors considered in the vulnerability assessment were detailed in Southall *et al.* (2017) and are reproduced here (Table 13); note that the effects of the DWH oil spill are accounted for through the non-noise chronic anthropogenic risk factor identified below, while the effects to acoustic habitat and on individual animal behavior via masking described in ''Potential Effects of the Specified Activity on Marine Mammals and Their Habitat'' are accounted for through the masking chronic anthropogenic noise risk factors. Species-specific vulnerability scoring according to this scheme is shown in Table 14. Based on the range in vulnerability assessment scoring, an overall vulnerability rating was selected from the zone- and species-specific aggregate vulnerability score as shown in Table 15.

TABLE 13—VULNERABILITY ASSESSMENT FACTORS

	Score
Masking: Degree of spectral overlap between biologically important acoustic signals and predominant noise source of proposed activity (max: 7 out of 30):	
Communication masking: Predominant noise energy directly/partially overlaps [1] species-specific signals utilized for communication	+3/+1
Foraging masking: Predominant noise energy directly/partially overlaps [1] species-specific signals utilized in foraging (including echolocation and other foraging coordination signals)	+2/+1
Navigation/Orientation signal masking: Predominant noise energy directly/partially overlaps [1] signals likely utilized in spatial orientation to which species is well capable of hearing	+2/+1
Species population: Stock status, trend, and size (max: 7 out of 30):	
Population status: Endangered (ESA) and/or depleted (MMPA) (Y/N)	+3/0
Trend rating: Decreasing/unknown or data deficient/stable (*i.e.,* within 5 percent)/increasing (last three SARs for which new population estimates were updated)	+2/+1/0/−1
Population size: Small (less than 2,500)	+2
Species habitat use and compensatory abilities: Degree to which activity within a specified area [2] overlaps with species habitat and distribution (max: 7 out of 30):	
Habitat use: Survey area contains greater than 30/15–30/5–15/less than 5 percent of total region-wide estimated population (during defined survey period)	+4/+2/+1/0
Temporal sensitivity: Survey overlaps temporally with well-defined species-specific biologically-important period (*e.g.,* calving)	Up to +3
Other (chronic) noise and non-noise stressors: Magnitude of other potential sources of disturbance or other stressors that may influence a species response to additional noise and disturbance of the proposed activity (max: 9 out of 30):	
Chronic anthropogenic noise: Species subject to high/moderate degree of current or known future (overlapping activity) chronic anthropogenic noise	+2/+1
Chronic anthropogenic risk factors (non-noise): Species subject to high/moderate degree of current or known future risk from other chronic, non-noise anthropogenic activities (*e.g.,* fisheries interactions, ship strike)	Up to +4/+2
Chronic biological risk factors (non-noise): Known presence of disease, parasites, prey limitation, or high predation pressure	Up to +3

[1] Direct or partial overlap means that the predominant spectral content of received noise exposure from activity specific sources is expected to occur at identical frequencies as signals of interest, or that secondary (lower-level) spectral content of received noise exposure from activity specific sources is expected to occur at identical frequencies as signals of interest.

[2] This is the area over which a specified activity is evaluated and a local population is determined, in this case the seven modeling zones.

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Table 14. Vulnerability Assessment Scoring[1].

Species	Communication	Foraging	Navigation	Status	Trend	Size	Habitat	Time	Chronic noise	Chronic other	Biological risk	Range	Overall
Bryde's whale	3	2	2	3	2	2	0-4	0-1	1-2	0-3	0	16-23	23
Sperm whale	1	1	2	3	2	2	0-4	0-1	1-2	0-3	0	14-18	17
Kogia spp.	0	0	1	0	2	2	0-4	0-1	1-2	0-3	0	8-13	11
Beaked whale	0	0	1	0	1	0	0-4	0-1	1-2	0-3	1	6-13	9
Rough-toothed dolphin	0	0	1	0	2	0	1-4	0-1	1-2	0-3	0	6-10	8
Bottlenose dolphin	1	0	1	0	-1	0	0-4	0-1	1-2	0-3	0	2-10	8
Clymene dolphin	0	0	1	0	2	0	0-4	0-1	1-2	0-3	0	6-10	9
Atlantic spotted dolphin	1	0	1	0	1	0	0-4	0-1	1-2	0-3	2	6-14	13
Pantropical spotted dolphin	0	0	1	0	2	0	0-4	0-1	1-2	0-3	0	6-10	9
Spinner dolphin	0	0	1	0	0	0	0-4	0-1	1-2	0-3	0	3-9	8
Striped dolphin	0	0	1	0	2	0	0-4	0-1	1-2	0-3	0	6-10	9
Fraser's dolphin	0	0	1	0	1	2	0-4	0-1	1-2	0-3	0	7-11	10
Risso's dolphin	0	0	1	0	-1	0	0-4	0-1	1-2	0-3	1	4-9	7
Melon-headed whale	0	0	1	0	2	0	0-4	0-1	1-2	0-3	0	6-10	9
Pygmy killer whale	0	0	1	0	2	2	0-4	0-1	1-2	0-3	0	8-12	11
False killer whale	0	0	1	0	-1	0	0-4	0-1	1-2	0-3	0	3-7	6
Killer whale	1	0	1	0	2	2	0-4	0-1	1-2	0-3	0	9-12	12
Short-finned pilot whale	1	0	1	0	0	2	0-4	0-1	1-2	0-3	1	7-13	11

[1]Factors with a single value presented are those that remain constant across zones; other factors vary based on zone and a range of values is presented.

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TABLE 15—VULNERABILITY RATING SCHEME

Total score	Risk probability (% of total)	Vulnerability rating
24–30	80–100	Very high
18–23	60–79	High
12–17	40–59	Moderate
6–11	20–39	Low
0–5	0–19	Very low

Risk

In the final step of the framework, severity and vulnerability ratings are integrated to provide relative impact ratings of overall risk. The likely severity of effect was assessed as the percentage of total population affected based on scaled modeled Level B harassment takes relative to zone population size. There is no risk when there is no survey activity in a given zone for a given effort scenario, and zones predicted to contain abundance of less of five or less individuals of a species were also considered to have de minimis risk. Severity and vulnerability assessments each produce a numerical rating (1–5) corresponding with the qualitative rating (*i.e.,* very low, low, moderate, high, very high). A matrix is then used to integrate these two scores to provide an overall risk assessment. The matrix is shown in Table 2 of Southall *et al.* (2017). Please see Tables 8–10 of the EWG report for species- and zone-specific severity and vulnerability ratings for each of three activity scenarios. Tables 16–17 provide relative impact ratings by zone, and Table 18 provides GOM-wide relative impact ratings, for overall risk associated with predicted takes by Level B harassment, for each of three activity scenarios.

TABLE 16—OVERALL EVALUATED RISK BY ZONE AND ACTIVITY SCENARIO
[Zones 1–4]

Species	Zone 1 [1]	Zone 2			Zone 3			Zone 4 [1]	
	High	High	Moderate	Low	High	Moderate	Low	Moderate	Low
Bryde's whale	Low	n/a	n/a	n/a	n/a	n/a	n/a	Moderate	Moderate.
Sperm whale	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Moderate	Low.
Kogia spp.	Low	n/a	n/a	n/a	n/a	n/a	n/a	Low	Low.
Beaked whale	n/a	n/a	n/a	n/a	n/a	n/a	n/a	High	Low.
Rough-toothed dolphin	Low	Moderate	High	High	Very low	Very low	Very low	Low	Very low.
Bottlenose dolphin	Low	Low	High	Moderate	Very low	Very low	Very low	Very low	Very low.
Clymene dolphin	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Moderate	Low.
Atlantic spotted dolphin	Low	Moderate	High	High	Very low	Very low	Very low	Very low	Very low.
Pantropical spotted dolphin	Low	n/a	n/a	n/a	n/a	n/a	n/a	Very low	Very low.
Spinner dolphin	Very low	n/a	n/a	n/a	n/a	n/a	n/a	Very low	Very low.
Striped dolphin	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Low	Very low.
Fraser's dolphin	Low	Low	High	Moderate	n/a	n/a	n/a	Low	Very low.
Risso's dolphin	Low	n/a	n/a	n/a	n/a	n/a	n/a	Very low	Very low.
Melon-headed whale	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Moderate	Moderate.
Pygmy killer whale	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Low	Very low.
False killer whale	Low	Low	Moderate	Moderate	Very low	Very low	Very low	Very low	Very low.
Killer whale	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Low	Very low.
Short-finned pilot whale	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Low	Very low.

n/a = no activity projected for zone or five or less individuals predicted in zone.
[1] No activity is projected in Zone 1 under the moderate and low activity scenarios, and no activity is projected in Zone 4 under the high activity scenario.

TABLE 17—OVERALL EVALUATED RISK BY ZONE AND ACTIVITY SCENARIO
[Zones 5–7]

Species	Zone 5			Zone 6			Zone 7		
	High	Moderate	Low	High	Moderate	Low	High	Moderate	Low
Bryde's whale	Very high	Very high	Very high	n/a	n/a	n/a	n/a	n/a	n/a.
Sperm whale	Very high	Very high	Very high	Very high	Very high	High	Moderate	Moderate	Moderate.
Kogia spp.	High	High	Moderate	Moderate	Moderate	Low	Moderate	Low	Low.
Beaked whale	Very high	Very high	Very high	High	Moderate	Moderate	High	High	High.
Rough-toothed dolphin	High	High	Moderate	Moderate	Low	Low	Low	Low	Low.
Bottlenose dolphin	High	High	Moderate	Low	Very low	Very low	Low	Very low	Very low.
Clymene dolphin	High	High	Moderate	Moderate	Low	Low	Low	Low	Low.
Atlantic spotted dolphin	High	High	High	Moderate	Low	Low	n/a	n/a	n/a.
Pantropical spotted dolphin	High	High	Moderate	Moderate	Low	Low	Low	Low	Low.
Spinner dolphin	High	High	Moderate	Low	Very low	Very low	Low	Very low	Very low.
Striped dolphin	High	High	Moderate	Moderate	Low	Low	Low	Low	Low.
Fraser's dolphin	High	High	Moderate	Moderate	Low	Low	Low	Low	Low.
Risso's dolphin	High	High	High	Low	Very low	Very low	Very low	Very low	Very low.
Melon-headed whale	High	High	Moderate	Moderate	Low	Low	Moderate	Low	Low.
Pygmy killer whale	High	High	Moderate	Moderate	Low	Low	Low	Low	Low.
False killer whale	High	High	Moderate	Low	Very low	Very low	Low	Low	Low.
Killer whale	High	High	High	Moderate	Low	Low	Low	Low	Low.
Short-finned pilot whale	High	High	Moderate	Moderate	Low	Moderate	Moderate	Low	Low.

n/a = no activity projected for zone or five or less individuals predicted in zone.

TABLE 18—OVERALL EVALUATED RISK BY ACTIVITY SCENARIO, GOM-WIDE

Species	High activity scenario	Moderate activity scenario	Low activity scenario
Bryde's whale	Moderate	Moderate	Moderate.
Sperm whale	Very high	High	High.
Kogia spp.	Moderate	Low	Low.
Beaked whale	Very high	High	High.
Rough-toothed dolphin	Moderate	Low	Low.
Bottlenose dolphin	Low	Moderate	Low.
Clymene dolphin	Moderate	Low	Low.
Atlantic spotted dolphin	Low	Low	Low.
Pantropical spotted dolphin	Moderate	Low	Low.
Spinner dolphin	Low	Low	Low.
Striped dolphin	Moderate	Low	Low.
Fraser's dolphin	Moderate	Low	Low.
Risso's dolphin	Moderate	Low	Low.
Melon-headed whale	Moderate	Moderate	Moderate.
Pygmy killer whale	Moderate	Low	Low.
False killer whale	Moderate	Low	Low.
Killer whale	Moderate	Low	Low.
Short-finned pilot whale	Moderate	Low	Low.

Overall, the results of the risk assessment show that (as expected), risk is highly correlated with effort and density. Areas where little or no survey activity is predicted to occur or areas within which few or no animals of a particular species are believed to occur have very low or no potential risk of negatively affecting marine mammals, as seen across activity scenarios in Zones 1, 3, and 4. Areas with consistently high levels of effort (Zones 2, 5, 6, and 7) are generally predicted to have higher overall evaluated risk across all species. However, fewer species of animals are expected to be present in Zone 2, where we primarily expect shelf species such as bottlenose and Atlantic spotted dolphins. In Zone 7, animals are expected to be subject to less other chronic noise and non-noise stressors, which is reflected in the vulnerability scoring for that zone. Therefore, despite consistently high levels of projected effort, overall rankings for that zone are lower than for Zones 5 and 6.

Zones 5 and 6 were the only zones with ''very high'' levels of risk due to behavioral disturbance, identified for three species of particular concern in Zone 5 (Bryde's, beaked, and sperm whales) and two in Zone 6 (beaked and sperm whales). Projected effort levels were sufficiently high in Zone 5 that the rankings were not generally sensitive to activity scenario, while in Zone 6 the highest rankings were associated with the high activity scenario. As particularly sensitive species, beaked whales and sperm whales consistently receive relatively high severity scores. Bryde's whales receive very high vulnerability scoring across zones, due in large part to the differential susceptibility to masking, while sperm whales were also typically ranked as being highly vulnerable. Relatively high levels of risk were also identified for other species in some contexts, and these are generally explained by the interaction of specific factors related to survey effort concentration and areas of heightened geographic distribution or specific factors related to population trends or zone-related differences in vulnerability. When considered across the entire GOM and all activity scenarios, the only species considered to have relatively high risk are the sperm whale and beaked whales, while the Bryde's whale and melon-headed whales have relatively moderate risk.

Although the scores generated by the EWG framework, and further aggregated across zones as described by NMFS above, are species-specific, additional stock-specific information can be gleaned through the zone-specific nature of the analysis in that, for example with bottlenose dolphins, the zones align with stock range edges. These species-specific risk scores are broadly applied in NMFS's negligible impact analysis to all of the multiple stocks that are analyzed in this rule (Table 3), however, NMFS is also considering additional stock-specific information in our analysis, where appropriate, as indicated in our ''Description of Marine Mammals in the Area of the Specified Activity,'' ''Potential Effects of the Specified Activity on Marine Mammals and Their Habitat,'' and ''Proposed Mitigation'' sections (*e.g.,* coastal bottlenose dolphins were heavily impacted by the DWH oil spill and we have therefore recommended a time/area restriction to reduce impacts).

In order to more fully place the predicted amount of take into meaningful context, it is useful to understand the duration of exposure at or above a given level of received sound, as well as the likely number of repeated exposures across days. While a momentary exposure above the criteria for Level B harassment counts as an instance of take, that accounting does not make any distinction between fleeting exposures and more severe encounters in which an animal may be exposed to that received level of sound for a longer period of time. However, this information is meaningful to an understanding of the likely severity of the exposure, which is relevant to the negligible impact evaluation, and is not directly incorporated into the risk assessment framework described above. For example, for bottlenose dolphin exposed to noise from 3D WAZ surveys in Zone 6, the modeling report shows that approximately 72 takes (Level B harassment) would be expected to occur in a 24-hr period. However, each animat modeled has a record or time history of received levels of sound over the course of the modeled 24-hr period. The 50th percentile of the cumulative distribution function indicates that the time spent exposed to levels of sound above 160 dB rms SPL (*i.e.,* the 50 percent midpoint for behavioral harassment) would be only 1.8 minutes—a minimal amount of exposure carrying little potential for significant disruption of behavioral activity. We provide summary information regarding the total time in a 24-hr period that an animal would spend in this received level condition in Table 19.

Additionally, as we discussed in the ''Estimated Take'' section for Test Scenario 1, by comparing exposure estimates generated by multiplying 24-hr exposure estimates by the total number of survey days versus modeling for a full 30-day survey duration for six representative species, we were able to refine the exposure estimates to better reflect the number of individuals exposed above threshold. Using this same comparison and scalar ratios described above, we are able to predict an average number of days each of the representative species modeled in the test scenario were exposed above the Level B harassment thresholds. As with the duration of exposures discussed above, the number of repeated exposures is important to our understanding of the severity of effects. Specifically, for example, the ratio for beaked whales indicates that the 30-day modeling showed that approximately 10 percent as many individual beaked whales could be expected to be exposed above harassment thresholds as was reflected in the results given by multiplying average 24-hr exposure results by the survey duration (*i.e.,* 30 days). However, the approach of scaling up the 24-hour exposure estimates appropriately reflects the instances of exposure above threshold (which cannot be more than 1 in 24 hours), so the inverse of the scalar ratio suggests the average number of days in the 30-day modeling period that beaked whales are exposed above threshold is approximately ten. It is important to remember that this is an average and that it is likely some individuals would be exposed on fewer days and some on more. Table 19 reflects the average days exposed above threshold for the indicated species having applied the scalar ratios described previously.

TABLE 19—TIME IN MINUTES (PER DAY) SPENT ABOVE 160 dB RMS SPL (50TH PERCENTILE) AND AVERAGE NUMBER OF DAYS INDIVIDUALS EXPOSED ABOVE THRESHOLD DURING 30-DAY SURVEY

Species	Survey type and time (min/day) above 160 dB rms				Average number of days exposed above threshold during 30-day survey
	2D	3D NAZ	3D WAZ	Coil	5.3
Bryde's whale	5.1	11.8	4.6	19.5	2.4
Sperm whale	4.7	9.5	4.0	17.2	3.1
Kogia spp.	3.3	8.0	3.0	16.3	9.9
Beaked whale	4.8	10.1	4.0	20.3	3.5
Rough-toothed dolphin	3.6	7.8	3.1	14.2	3.5
Bottlenose dolphin	3.3	8.4	2.9	15.1	3.5
Clymene dolphin	3.2	7.9	2.9	13.7	3.5
Atlantic spotted dolphin	5.5	12.8	5.0	23.6	3.5
Pantropical spotted dolphin	3.2	7.9	2.9	13.7	3.5
Spinner dolphin	3.2	7.9	2.9	13.7	3.5
Striped dolphin	3.2	7.9	2.9	13.7	3.5
Fraser's dolphin	3.3	8.0	3.0	16.3	3.5
Risso's dolphin	4.5	10.9	3.9	18.6	3.5
Melon-headed whale	3.3	8.0	3.0	16.3	3.1
Pygmy killer whale	3.6	7.7	3.1	14.2	3.1
False killer whale	3.6	7.7	3.1	14.2	3.1
Killer whale	9.3	23.3	8.0	35.4	3.1
Short-finned pilot whale	3.3	8.0	3.0	14.7	3.1

We expect that Level A harassment could occur for low-frequency species (*i.e.,* Bryde's whale)—due to these species' heightened sensitivity to frequencies in the range output by airguns, as shown by their auditory weighting function—and for high-frequency species, due to their heightened sensitivity to noise in general (as shown by their lower threshold for the onset of PTS) (NMFS, 2016). However, to the extent that Level A harassment occurs it will be in the form of PTS, and the degree of injury is expected to be mild. If hearing impairment occurs, it is most likely that the affected animal would lose a few dB in its hearing sensitivity, which in most cases is not likely to affect its ability to survive and reproduce. Hearing impairment that occurs for these individual animals would be limited to at and slightly above the dominant frequency of the noise sources, *i.e.,* in the low-frequency region below 2–4 kHz. Therefore, the degree of PTS is not likely to affect the echolocation performance of the *Kogia* spp., which use frequencies between 60–120 kHz (Wartzok and Ketten, 1999). Further, modeled exceedance of Level A harassment criteria typically resulted from being near an individual source once rather than accumulating energy from multiple sources. Overall, the modeling indicated that exceeding the SEL threshold is a rare event and having four vessels close to each other (350 m between tracks) did not cause appreciable accumulation of energy at the ranges relevant for injury exposures. Accumulation of energy from independent surveys is expected to be negligible. For *Kogia* spp., because of expected sensitivity, we expect that aversion may play a stronger role in avoiding exposures above the peak pressure threshold than we have accounted for. For these reasons, and in conjunction with our proposed mitigation plan, we do not believe that Level A harassment will play a meaningful role in the overall degree of impact experienced by marine mammal populations as a result of the projected survey activity.

We consider the relative impact ratings described above in conjunction with our proposed mitigation and other relevant contextual information in order to produce a final assessment of impact to the stock or species, *i.e.,* our preliminary negligible impact determination. Annual levels of human-caused mortality are less than PBR for all GOM stocks aside from the Bryde's whale and, for most species, are zero (Hayes *et al.,* 2017). The effects of the DWH oil spill, which is not reflected in NMFS's published values for annual human-caused mortality, are accounted for through our vulnerability scoring (Table 14). We developed mitigation requirements, including time-area restrictions, designed specifically to provide benefit to certain populations for which we predict a relatively high amount of risk in relation to exposure to survey noise. The proposed time-area restrictions, described in detail in ''Proposed Mitigation'' and depicted in Figure 5, are designed specifically to provide benefit to the bottlenose dolphin, Bryde's whale, and beaked and sperm whales, with additional benefits to *Kogia* spp., which are often found in higher densities in the same locations of greater abundance for beaked and sperm whales. In addition, we expect these areas to provide some subsidiary benefit to additional species that may be present. The Atlantic spotted dolphin would also benefit from the coastal restriction proposed for bottlenose dolphins, and multiple shelf-break associated species would benefit from both the Bryde's whale and Dry Tortugas restrictions. The output of the Roberts *et al.* (2016) models, as used in core abundance area analyses (described in detail in ''Proposed Mitigation''), provides information about species most likely to derive subsidiary benefit from the proposed restrictions. Notably, high densities of *Kogia* spp. are predicted in the area of the Dry Tortugas restriction. Other shelf-break/pelagic species that are abundant in the eastern GOM include the melon-headed whale, Risso's dolphin, and rough-toothed dolphin, but numerous other species would be expected to be present in varying numbers at various times.

These proposed measures benefit both the primary species for which they were designed and the species that may benefit secondarily by likely reducing

the number of individuals exposed to survey noise and, for resident species in areas where seasonal restrictions are proposed, reducing the numbers of times that individuals are exposed to survey noise. However, and perhaps of greater importance, we expect that these restrictions will reduce disturbance of these species in the places most important to them for critical behaviors such as foraging and socialization. The Bryde's whale area is the only known habitat of the species in the GOM, while the Dry Tortugas area is assumed to be an area important for beaked whale foraging and sperm whale reproduction. The coastal restriction would provide protection for the bottlenose dolphin populations most severely impacted by the DWH oil spill during a time of importance for reproduction. Further detail regarding rationale for these restrictions is provided under ''Proposed Mitigation.''

The endangered sperm whale and the Bryde's whale received special consideration in our development of proposed mitigation. The alternative of a year-round closure alternative with a 6-km buffer is designed to avoid impacts to the Bryde's whale by completely avoiding known habitat. Survey activities must avoid all areas where the Bryde's whale is found, and we propose to require shutdown of the acoustic source upon observation of any Bryde's whale at any distance. The Bryde's whale is proposed for listing as endangered, has a very low population size, is more sensitive to the low frequencies output by airguns, and faces significant additional stressors. Therefore, regardless of impact rating, we believe that the year-round closure alternative and 6-km buffer described previously would allow us to make the necessary negligible impact finding. We preliminarily find, were this alternative finalized, that the total potential marine mammal take from the projected survey activities will have a negligible impact on the Bryde's whale.

While the economic analysis accompanying this proposed rule indicates that a CPA restriction benefiting sperm whales would not be practicable, we propose to require a shutdown of the acoustic source upon any acoustic detection of sperm whales. We also propose shutdown requirements upon any detection of beaked whales or *Kogia* spp. (although these two species are rarely detected visually). If the observed animal is within the behavioral harassment zone, it would still be considered to have experienced harassment, but by immediately shutting down the acoustic source the duration and degree of disruption is minimized and the significance of the harassment event reduced as much as possible. Therefore, in consideration of the proposed mitigation, we preliminarily find that the total potential marine mammal take from the projected survey activities will have a negligible impact on the sperm whale, beaked whales, and *Kogia* spp.

The risk assessment process rates impacts as moderate or less for all other affected species. Therefore, in consideration of the proposed mitigation, we preliminarily find that the total potential marine mammal take from the projected survey activities will have a negligible impact on all other affected species, including all affected stocks of bottlenose dolphin.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the affected species or stocks through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Level A harassment not expected for species other than Bryde's whale and *Kogia* spp., and not expected to be a meaningful source of harm for these species;
- Risk assessment process rates impacts as moderate or less, for most species in most places and higher risk species have associated mitigation to lessen impacts;
- Known habitat for Bryde's whales protected;
- Shutdown requirements for species of concern (Bryde's whale, sperm whale, beaked whales, *Kogia* spp.); and
- Modeling resulted in daily exposures totaling 3–35 minutes, which, in most situations, is likely insufficient time to result in disruptions of behavior that raise concerns about fitness consequences.

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, with a year-round closure in Bryde's whale habitat (Area 3; Figure 5), we preliminarily find 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

What are small numbers?

The MMPA does not define ''small numbers.'' NMFS's and the U.S. Fish and Wildlife Service's joint 1989 implementing regulations defined small numbers as a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock. This definition was invalidated in *Natural Resources Defense Council* v. *Evans,* 279 F.Supp.2d 1129 (2003) (N.D. Cal. 2003), based on the court's determination that the regulatory definition of small numbers was improperly conflated with the regulatory definition of ''negligible impact,'' which rendered the small numbers standard superfluous. As the court observed, ''the plain language indicates that small numbers is a separate requirement from negligible impact.'' Since that time, NMFS has not applied the definition found in its regulations. Rather, consistent with Congress' pronouncement that small numbers is not a concept that can be expressed in absolute terms (House Committee on Merchant Marine and Fisheries Report No. 97–228 (September 16, 1981)), NMFS now makes its small numbers findings based on an analysis of whether the number of individuals taken annually from a specified activity is small relative to the stock or population size. The Ninth Circuit has upheld a similar approach. See *Center for Biological Diversity* v. *Salazar,* No. 10–35123, 2012 WL 3570667 (9th Cir. Aug. 21, 2012). However, we have not previously indicated what we believe the upper limit of small numbers is. Here, we provide additional information and clarification regarding our consideration of small numbers pursuant to paragraphs (A) and (D) of section 101(a)(5) of the MMPA.

To maintain an interpretation of small numbers as a proportion of a species or stock that does not conflate with negligible impact, we propose the following framework. A plain reading of ''small'' implies as corollary that there also could be ''medium'' or ''large'' numbers of animals from the species or stock taken. We therefore propose a simple approach that establishes three equal bins corresponding to small, medium, and large numbers of animals: Small is comprised of 1–33 percent, medium 34–66 percent, and large 67–100 percent of the population abundance.

NMFS's practice for making small numbers determinations is to compare the number of individuals estimated to be taken against the best available abundance estimate for that species or stock. Although NMFS's implementing regulations require applications for incidental take to include an estimate of the marine mammals to be taken, there is nothing in paragraphs (A) or (D) of section 101(a)(5) that requires NMFS to quantify or estimate numbers of marine mammals to be taken for purposes of evaluating whether the number is small.

While it can be challenging to predict the numbers of individual marine mammals that will be taken by an activity (many models calculate instances of take and are unable to account for repeated exposures of individuals), in some cases we are able to generate a reasonable estimate utilizing a combination of quantitative tools and qualitative information. When it is possible to predict with relative confidence the number of individual marine mammals of each species or stock that are likely to be taken, we recommend the small numbers determination be based directly upon whether or not these estimates exceed one third of the stock abundance. In other words, as in past practice, when the estimated number of animals is up to, but generally not greater than, one third of the species or stock abundance, NMFS will determine that the numbers of marine mammals of a species or stock are small.

When sufficient quantitative information is not available to estimate the number of individuals that might be taken (typically due to insufficient information about presence, density, or daily or seasonal movement patterns of the species in an area), we consider other factors, such as the spatial scale of the specified activity footprint as compared with the range of the affected species or stock and/or the duration of the activity in order to infer the relative proportion of the affected species or stock that might reasonably be expected to be taken by the activity. For example, an activity that is limited to a small spatial scale (*e.g.,* a coastal construction project or HRG survey) and relatively short duration might not be expected to result in take of more than a small number of a comparatively wider-ranging species. Unlike direct quantitative modeling of a number of individuals taken, this comparison may necessitate the presentation of some additional information and logical inferences to make a small numbers determination.

Another circumstance in which NMFS considers it appropriate to make a small numbers finding in the absence of a quantitative estimate is in the case of a species or stock that may potentially be taken but is either rarely encountered or only expected to be taken on rare occasions. In that circumstance, one or two assumed encounters with a group of animals (meaning a group that is traveling together or aggregated, and thus exposed to a stressor at the same approximate time) could reasonably be considered small numbers, regardless of consideration of the proportion of the stock (if known), as rare brief encounters resulting in take of one or two groups should be considered small relative to the range and distribution of any stock.

In summary, when quantitative take estimates of individual marine mammals are available or inferable through consideration of additional factors, and the number of animals taken is one third or less of the best available abundance estimate for the species or stock, NMFS would consider it to be of small numbers. When quantitative take estimates are not available, NMFS will examine other factors, such as the spatial extent of the take zone compared to the species or stock range and/or the duration of the activity to determine if the take will likely be small relative to the abundance of the affected species or stocks. Last, NMFS may appropriately find that one or two predicted group encounters will result in small numbers of take relative to the range and distribution of a species, regardless of the estimated proportion of the abundance.

How is the small numbers standard evaluated within the structure of the section 101(a)(5)(A) process?

Neither the MMPA nor NMFS's implementing regulations address whether the small numbers determination should be based upon the total annual taking for all activities occurring under incidental take regulations or to individual LOAs issued thereunder. The MMPA does not define small numbers or explain how to apply the term in either paragraph (A) or (D) of section 101(a)(5), including how to apply the term in a way that allows for consistency between those two very similar provisions. NMFS has not previously made a clear and deliberate policy choice or specifically explored applying the small numbers finding to each individual LOA under regulations that cover multiple concurrent LOA holders. Here we propose a reasonable interpretation of how to make a small numbers determination based on a permissible interpretation of the statute.

Specifically, section 101(a)(5)(A)(i)(I) explicitly states that the negligible impact determination for a specified activity must take into account the total taking over the five-year period, but the small numbers language is not tied explicitly to the same language. As the provision is structured, the small numbers language is not framed as a standard for the issuance of the authorization, but rather appears in the chapeau as a limitation on what the Secretary may allow. The regulatory vehicle for authorizing (*i.e.,* allowing) the take of marine mammals is the LOA.

Given NMFS's discretion in light of the ambiguities in the statute regarding how to apply the small numbers standard, and the clear benefits of application as described here, we have determined that the small numbers finding should be applied to the annual take authorized in each LOA. To demonstrate why this approach is preferred, we first describe below why it is beneficial to NMFS, the public, and the resource (marine mammals) to utilize section 101(a)(5)(A) for multiple activities, where possible.

- From a resource protection standpoint, it is more protective to conduct a comprehensive negligible impact analysis that considers all of the activities covered under the rule and ensures that the total combined taking from those activities will have a negligible impact on the affected marine mammal species or stocks and no unmitigable adverse impact on subsistence uses. Furthermore, mitigation and monitoring are more effective when considered across all activity and years covered under regulations.
- From an agency resource standpoint, it ultimately will save significant time and effort to cover multi-year activities under a rule instead of multiple incidental harassment authorizations (IHAs). While regulations require more analysis up front, additional public comment and internal review, and additional time to promulgate compared to a single IHA, they are effective for up to five years and can cover multiple actors within a year. The process of issuing individual LOAs under incidental take regulations utilizes the analysis, public comment, and review that was conducted for the regulations, and takes significantly less time than it takes to issue an IHA.
- From an applicant standpoint, incidental take regulations offer more regulatory certainty than IHAs (five years versus one year) and significant cost savings, both in time and environmental compliance analysis and documentation, especially for situations like here, where multiple applicants will be applying for individual LOAs under regulations. In the case of this proposed rule, the certainty afforded by the promulgation of a regulatory framework (*e.g.,* by using previously established take estimates, mitigation and monitoring requirements, and procedures for requesting and obtaining an LOA) is a significant benefit for prospective applicants.

A review of IHAs we have issued suggests that bundling together two or three IHAs that might be ideal subjects for a combined incidental take regulation (*e.g.,* for ongoing maintenance construction activities, or seismic surveys in the Arctic) would very often result in greater than small numbers of one or more species being taken if we were to apply the small numbers standard across all activity contemplated by the regulation in a

year, thereby precluding the use of section 101(a)(5)(A) in many cases. Application of the small numbers standard across the total annual taking covered by regulations, inasmuch as potential applicants can see that the total take may exceed one third of species or stock abundance, creates an incentive for applicants to pursue individual IHAs, and will often preclude the ability to gain the benefits of regulations outlined above.

Our conclusion is that NMFS can appropriately elect to make a ''small numbers'' finding based on the estimated annual take in individual LOAs issued under the rule. This approach does not affect the negligible impact analysis, which is the biologically relevant inquiry and based on the total annual estimated taking for all activities the regulations will govern. Making the small numbers finding based on the estimated annual take in individual LOAs allows NMFS to take advantage of the associated administrative and environmental benefits of utilizing section 101(a)(5)(A) that would be precluded in many cases if small numbers were required to be applied to the total annual taking under the regulations.

Although this application of small numbers may be argued as being less protective of marine mammals, NMFS disagrees. As specifically differentiated from the negligible impact finding, the small numbers standard has little biological relevance. The negligible impact determination, which does have biological significance, is still controlling, and the total annual taking authorized across all LOAs under an incidental take regulation still could not exceed the overall amount analyzed for the negligible impact determination. Moreover, to the extent that this process is perceived as less protective than applying the small numbers standard across all activity occurring annually under the regulations (in that the small numbers standard can be met more readily under our proposed approach), that perception ignores the fact that applicants could always opt to pursue an IHA to circumvent a more restrictive approach to applying small numbers under section 101(A)(5)(A) (in cases where there is no serious injury or mortality).

How will small numbers be evaluated under this proposed GOM rule?

In this proposed rule, up-to-date species information is available, and sophisticated models have been used to estimate take in a manner that will allow for quantitative comparison of the take of individuals versus the best available abundance estimates for the species or stocks. Specifically, while the modeling effort utilized in the rule enumerates the estimated instances of takes that will occur across days as the result of the operation of certain survey types in certain areas, the modeling report also includes the evaluation of a test scenario that allows for a reasonable modification of those generalized take estimates to better estimate the number of individuals that will be taken within one survey. LOA applicants using modeling results from the rule to inform their applications will be able to reasonably estimate the number of marine mammal individuals taken by their proposed activities. LOA applications that do not use the modeling provided in the rule to estimate take for their activities will need to be independently reviewed, and applicants will be required to ensure that their estimates adequately inform the small numbers finding. Additionally, if applicants use the modeling provided by this rule to estimate take, additional public input will not be deemed necessary (unless other conditions necessitating public review exist, as described in the ''Letters of Authorization'' section); if they do not, however, NMFS will publish a notice in the **Federal Register** soliciting public comment. The estimated take of marine mammals for each species will then be compared against the best available scientific information on species or stock abundance estimate as determined by NMFS, and estimates that do not exceed one-third of that estimate will be considered small numbers.

Adaptive Management

The regulations governing the take of marine mammals incidental to geophysical survey activities would contain an adaptive management component. The comprehensive reporting requirements associated with this proposed rule (see the ''Proposed Monitoring and Reporting'' section) are designed to provide NMFS with monitoring data from the previous year to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the LOA-holders regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammal species or stocks or their habitat and if the measures are practicable. The adaptive management process and associated reporting requirements would serve as the basis for evaluating performance and compliance.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs or that the specified activity may be having more than a negligible impact on affected stocks.

Under this proposed rule, NMFS proposes an annual adaptive management process involving BOEM, BSEE, and industry operators (including geophysical companies as well as exploration and production companies). Industry operators may elect to be represented in this process by their respective trade associations. NMFS, BOEM, and BSEE (*i.e.,* the regulatory agencies) and industry operators who have conducted or contracted for survey operations in the GOM in the prior year (or their representatives) will provide an agreed-upon description of roles and responsibilities, as well as points of contact, in advance of each year's adaptive management process. The foundation of the adaptive management process would be the annual comprehensive reports produced by LOA-holders (or their representatives), as well as the results of any relevant research activities, including research supported voluntarily by the oil and gas industry and research supported by the Federal government. Please see the ''Monitoring Contribution Through Other Research'' section below for a description of representative past research efforts. The outcome of the annual adaptive management process would be an assessment of effects to marine mammal populations in the GOM relative to NMFS's determinations under the MMPA and ESA, recommendations related to mitigation, monitoring, and reporting, and recommendations for future research (whether supported by industry or the regulatory agencies).

Data collection and reporting by individual LOA-holders would occur on an ongoing basis, per the terms of issued LOAs. In a given annual cycle, we propose that the comprehensive annual report would summarize and synthesize the LOA-specific reports received from

July 1 of one year through June 30 of the next, with report development (supported through collaboration of individual LOA-holders or by their representatives) occurring from July 1 through September 30 of a given year. Review and revision of the report, followed by a joint meeting of the parties, would occur between October 1 and December 31 of each year. Any agreed-upon modifications would occur through the process for modifications and/or adaptive management described in the proposed regulatory text following this preamble.

Monitoring Contribution Through Other Research

NMFS's MMPA implementing regulations require that applicants for incidental take authorizations describe the suggested means of coordinating research opportunities, plans, and activities relating to reducing incidental taking and evaluating its effects (50 CFR 216.104(a)(14)). Such coordination can serve as an effective supplement to the monitoring and reporting required pursuant to issued LOAs and/or incidental take regulations. We expect that relevant research efforts will inform the annual adaptive management process describe above, and that levels and types of research efforts will change from year to year in response to identified needs and evolutions in knowledge, emerging trends in the economy and available funding, and available scientific and technological resources. Here, we describe examples of relevant research efforts, which may not be predictive of any future levels and types of research efforts. Research occurring in locations other than the GOM may be relevant to understanding the effects of geophysical surveys on marine mammals or marine mammal populations or the effectiveness of mitigation.

Industry—In 2006, several exploration and production (E&P) companies and industry associations began a multi-year research program known as the E&P Sound and Marine Life Joint Industry Program (JIP). The aim of the program was to advance scientific understanding of the effects of sound generated by offshore oil and gas industry operations on living marine resources, including marine mammals. Since its inception, the JIP, the largest nongovernmental funder of research on this topic, has allocated $55 million to fund a wide range of different projects. The JIP website (*www.soundandmarinelife.org*) hosts a database of available products funded partially or fully through the JIP. As of June 2017, this database contained records for 133 JIP data products, including 41 project reports and 83 peer-reviewed publications, as well as the other notable products mentioned below. JIP policies stipulate that the research results be shared in public reports and submitted to peer-reviewed scientific journals to ensure maximum transparency and value to the wider research, stakeholder, and regulatory communities. JIP-funded projects and products are organized into six research categories: (1) Sound source characterization; (2) physical and physiological effects and hearing; (3) behavioral reactions and biologically significant effects; (4) mitigation and monitoring; (5) research tools; and (6) communication. Below, we summarize certain key studies as well as additional initiatives that are planned or underway (note that this is a small sample of studies and that not all of the initiatives described below have been funded through the JIP).

- Analyses of existing PSO data: The GOM is one of three regions currently being reviewed under a JIP contract, initiated in 2016, to assess the utility of existing PSO data. Visual PSO and PAM data through 2015 are being examined for quality and consistency, and assessments will be made about the data's utility in the validation of risk modeling, assessing behavioral responses, and the potential for deriving animal density and distribution information. This work will complement and reinforce similar efforts by BOEM (see below). An earlier JIP study resulted in standardizing the basic data recording formats used by vessel operators in the UK and other jurisdictions (*jncc.defra.gov.uk/page-1534*).
- Acoustic measurements and modeling: The JIP has funded measurement of the acoustic output of both single airgun sources as well as airgun arrays that help increase confidence in the source and propagation models used in the GOM. These include extensive near-field, mid-field, and far-field in-water acoustic measurements (conducted in Norwegian waters in 2007–2010) of the most commonly used single-source and two-element configurations over a range of volumes, depths, and pressures with the objective of measuring acoustic output at higher frequencies up to 50 kHz. More recently, measurements of the sound field from a fully operational airgun array in the GOM have been completed, with fully analyzed data products anticipated in 2018. Additionally, the JIP is funding work into the development of standard procedures for underwater noise measurements for activities related to offshore oil and gas exploration and production, to ensure that processing of selected acoustic metrics used to describe the characteristics of a sound signal propagating in water can be analyzed in a consistent and systematic manner, and is funding a review of available marine acoustic propagation models.
- PAMGuard: Industry has funded ongoing development and at-sea testing of this now-standard, open source real-time PAM software to improve mitigation capabilities during operations. More information and the software itself is available online at *www.pamguard.org.*
- Alternative technology: Pursuant to the terms of a settlement agreement (as amended) concerning pending litigation between the Natural Resources Defense Council *et al.* and the Department of Interior (joined by industry as intervenor-defendants) (*NRDC et al.* v. *Zinke et al.,* Civil Action No. 2:10 cv-01882 (E.D. La.)), industry has conducted a study of vibroseis technology, including construction and testing of prototypes. Development of vibroseis technology is promising in terms of reducing potential harm to marine mammals because the system outputs lower peak amplitude, and consequently less high-frequency energy, while maintaining the main bandwidth necessary for seismic data acquisition.
- Advanced dive behavior tag technology development: The JIP co-funded, with BOEM's predecessor agency (MMS) and the U.S. Navy's Office of Naval Research (ONR), initial development of advanced dive behavior tracking technology that has been used to study sperm whale diving and foraging behavior in the GOM.
- Effects of sound on marine mammal hearing: The JIP funds multiple hearing research projects specifically focused on defining the impacts of seismic sound sources on the hearing systems of various marine mammal species, *e.g.,* TTS, TTS growth, and masking in bottlenose dolphins and harbor porpoise. For example, the JIP funded research by the U.S. Navy's Marine Mammal Program that specifically examined the physiological effect of airgun sound on hearing in bottlenose dolphins by measuring TTS after exposure to multiple seismic pulses (Finneran *et al.,* 2015). New and ongoing studies are aimed at developing an understanding of the role of hearing recovery between exposures from intermittent sound sources, like airguns, in the process of TTS generation, as well as developing TTS growth functions to better refine TTS/PTS threshold relationships. The JIP has also funded research into modeling work to better estimate baleen whale hearing.
- Behavioral response study: The JIP and BOEM jointly funded a study examining how humpback whales respond to airgun sound in general and to the ramp-up procedure specifically (Behavioral Response of Australian Humpback Whales to Seismic Surveys (BRAHSS)). The experimental design progressed from using a single airgun source to a fully operational commercial array with a ramp-up procedure, and involved treatment and control groups, a pre-trial statistical power analysis, a range of exposures, and a four-stage ramp-up design. For more details of the study and results, please see Cato *et al.* (2013) and Dunlop *et al.* (2013, 2015, 2016, 2017).

BOEM—BOEM's Environmental Studies Program (ESP) develops, funds, and manages scientific research to inform policy decisions regarding OCS resource development. These environmental studies cover a broad range of disciplines, including physical

oceanography, biology, protected species, and the environmental impacts of energy development. Through the ESP, BOEM is a leading contributor to the growing body of scientific knowledge about the marine and coastal environment. BOEM and its predecessor agencies have funded more than $1 billion in research since the studies program began in 1973. Technical summaries of more than 1,200 BOEM-sponsored environmental research projects and more than 3,400 research reports are publicly available online through the Environmental Studies Program Information System (ESPIS). Below, we summarize certain key studies, as well as additional initiatives that are planned or underway. For the latest information on BOEM's ongoing environmental studies work, please visit *www.boem.gov/studies.*

- Analyses of existing PSO data: MMS previously funded an analysis of GOM PSO data from 2002–2008 (Barkaszi *et al.,* 2012), and BOEM has currently contracted for additional analyses of PSO data from 2009–2015.
- Development of PAM standards: As discussed in ''Proposed Monitoring and Reporting,'' BSEE is working with Scripps Institute of Oceanography to develop standards for towed PAM systems.
- Passive acoustic monitoring: BOEM is funding a fixed PAM array for 5 years. Hydrophones will be deployed, maintained, and redeployed on a regular schedule throughout the GOM. Placement will include shelf, slope and deep water depths as well as all planning areas in order to gather a comprehensive data set representative of the entire GOM. This program is expected to establish a relative baseline for ambient noise in the GOM against which to evaluate potential future noise impacts from permitted activities as well as characterize the sound budget from other kinds of noise already occurring in the GOM (*e.g.,* shipping). In addition, acoustic recorders will be able to detect vocalizing marine mammals, providing both spatial and temporal information about cetacean species in the GOM.
- Sperm whale studies: The Sperm Whale Acoustic Monitoring Program (SWAMP) began in 2000 with joint support from MMS, ONR, and NMFS and laid the groundwork for future study by developing new methods for studying sperm whale behavior and their responses to sound. Subsequently, the Sperm Whale Seismic Study (SWSS) began in 2002 to evaluate potential effects of geophysical exploration on sperm whales in the GOM (*e.g.,* Jochens *et al.,* 2008). SWSS included support from MMS, ONR, the National Science Foundation (NSF), and a coalition of industry funders. In 2009, MMS (through an interagency agreement with NMFS) began the Sperm Whale Acoustic Prey Study (SWAPS), which studied how airgun noise may affect sperm whale prey species (*e.g.,* squid and small pelagic fish).
- GoMMAPPS: BOEM is supporting a multi-year, multi-disciplinary study of marine protected species in the GOM (Gulf of Mexico Marine Assessment Program for Protected Species (GoMMAPPS)), which is patterned after the successful Atlantic Marine Assessment Program for Protected Species (AMAPPS) that began in 2010 and has provided valuable information on the seasonal distribution and abundance of protected species in U.S. waters of the Atlantic Ocean. The overall goals are to improve our understanding of living marine resource abundance, distribution, habitat use, and behavior in the GOM to facilitate appropriate mitigation and monitoring of potential impacts from human activities, including geophysical survey activities. The study will utilize a variety of methods, depending on target species, including aerial surveys, shipboard surveys, satellite tagging and tracking, and genetic analyses. GoMMAPPS is a joint partnership of BOEM, NMFS, the U.S. Fish and Wildlife Service, and the U.S. Geological Survey. More information is available online at (*www.boem.gov/GOMMAPPS/*).
- Workshops: BOEM has funded various workshops, including a 2012 workshop focused on mitigation and monitoring associated with seismic surveys and a 2013 workshop concerning quieting technologies for reducing noise during seismic surveying (BOEM, 2014).

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by these actions. Therefore, we have 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 (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 promulgation of regulations and potential issuance of LOAs, NMFS consults internally whenever we propose to authorize take for ESA-listed marine mammal species. The sperm whale is listed as endangered under the ESA, and the GOM Bryde's whale has been proposed to be listed as endangered. Consultation under section 7 of the ESA will be concluded prior to issuance of any final incidental take regulations.

Letters of Authorization

Under issued incidental take regulations, industry operators would be able to apply for and obtain LOAs, as described in NMFS's MMPA implementing regulations (50 CFR 216.106). LOAs may be issued for multiple years, depending on the degree of specificity with which an operator can describe their planned survey activities. Because the specified activity described herein does not provide actual specifics of the timing, location, and survey design for activities that would be the subject of issued LOAs, such requests must include, at minimum, the information described at 50 CFR 216.104(a)(1 and 2), and should include an affirmation of intent to adhere to the mitigation, monitoring, and reporting requirements described in the regulations. The level of effort proposed by an operator would be used to develop an LOA-specific take estimate based on the results of Zeddies *et al.* (2015, 2017a). The annual estimated take, per zone and per species, would serve as a cap on the number of authorizations that could be issued. Applicants may choose to present additional information in a request for LOA, *e.g.,* independent exposure estimates, description of proposed mitigation and monitoring (if more stringent than the requirements in issued regulations). However, such additional information would be subject to NMFS review and approval as well as public review via a 30-day comment period prior to issuance. Any substantive departure from the activity and exposure estimation parameters described here and which form the basis for our preliminary determinations would be subject to public review.

Technologies continue to evolve to meet the technical, environmental, and economic challenges of oil and gas development. The use of ''new and unusual technologies'' (NUT), *i.e.,* technologies other than those described herein, would be evaluated on a case-by-case basis and may require public review. Some seemingly new technologies proposed for use by operators are often extended applications of existing technologies and interface with the environment in essentially the same way as well-known or conventional technologies. For such evaluations, we propose to follow the existing process used by BOEM, by using the following considerations:

- Has the technology or hardware been used previously or extensively in the U.S. GOM under operating conditions similar to those anticipated for the activities proposed by the operator? If so, the technology would not be considered a NUT;
- Does the technology function in a manner that potentially causes different impacts to the environment than similar equipment or procedures did in the past? If

so, the technology would be considered a NUT;

- Does the technology have a significantly different interface with the environment than similar equipment or procedures did in the past? If so, the technology would be considered a NUT; and
- Does the technology include operating characteristics that are outside established performance parameters? If so, the technology would be considered a NUT.

We would consult with BOEM as well as with NMFS's Endangered Species Act Interagency Cooperation Division regarding the level of review necessary for issuance of an LOA in which a NUT is proposed for use.

Alternative Regulatory Text

Please see Table 11 for a summary of mitigation measures with alternatives for consideration, for which alternative regulatory text is presented here.

Area Restriction

- Based on our analyses-to-date (''Proposed Mitigation'' and ''Negligible Impact Analysis and Preliminary Determination''), we evaluated a year-round restriction on airgun surveys in Area 3 (Figure 5), and our preliminary finding of negligible impact on the Gulf of Mexico stock of Bryde's whale is based on a year-round restriction in this area. Alternative regulatory text at § 217.184(e)(2) for this proposal would read: ''No use of airguns may occur within the area bounded by the 100- and 400-m isobaths, from 87.5° W to 27.5° N (buffered by 6 km).''

For our proposals of no restriction or a seasonal restriction, but with the addition of a requirement for BOEM and/or members or representatives of the oil and gas industry to ensure real-time detection of Bryde's whales across the area of potential impact including real-time communication of detections to survey operators, which would be used to initiate shutdowns to ensure that survey operations do not take place when a Bryde's whale is within 6 km of the acoustic source, the proposed regulatory text would be the following. For the three-month restriction, we are proposing using a moored listening array and thus the alternative regulatory text at § 217.184(e)(2) would read: ''No use of airguns may occur within the area bounded by the 100- and 400-m isobaths, from 87.5° W to 27.5° N (buffered by 6 km), during June through August. During September through May, LOA-holders conducting airgun surveys must monitor the area of potential impact using a moored passive listening array and may not use airguns when Bryde's whales are detected within 6 km of the acoustic source.'' For no restriction plus a requirement of real-time detection using the moored array in the area of impact alone, alternative regulatory text at § 217.184(e)(2) would read: ''In the area bounded by the 100- and 400-m isobaths, from 87.5° W to 27.5° N (buffered by 6 km), LOA-holders conducting airgun surveys must monitor a moored passive listening array and may not use airguns when a confirmed or potential Bryde's whale is detected within 6 km of the acoustic source.''

The proposal of a three-month seasonal restriction on airgun surveys in Area 3 with no additional monitoring requirement is included in the regulatory text at the end of this document, following the preamble.

As mentioned in the ''Proposed Mitigation'' section, we are interested in public comment on these proposals, including any data that may support the necessary findings regarding potential impacts to the GOM Bryde's whale for these proposals, as well as any additional alternative proposals that could vary the time period or length of seasonal closure from what NMFS has proposed.

Shutdowns

For the proposal requiring shutdown upon a confirmed acoustic detection of sperm whales within 1 km or upon a confirmed visual or acoustic detection of Bryde's whales, large whales with calf, beaked whales, or *Kogia* spp. within 1 km, the regulatory text at § 217.184(b)(6) would read: ''Buffer Zone and Exclusion Zone—The PSOs shall establish and monitor a 500-m exclusion zone and additional 500-m buffer to the exclusion zone. For all confirmed detections of baleen whales, beaked whales, and *Kogia* spp., and for confirmed acoustic detections of sperm whales, the full 1,000-m zone shall function as an exclusion zone. These zones shall be based upon radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source, occurrence of marine mammals within the buffer zone (but outside the exclusion zone) shall be communicated to the operator to prepare for the potential shutdown of the acoustic source. PSOs must monitor the 1,000-m zone for a minimum of 30 minutes prior to ramp-up (*i.e.,* pre-clearance).'' Regulatory text at § 217.184(b)(8)(ii) would read: ''Upon completion of ramp-up, if a marine mammal appears within, enters, or appears on a course to enter the exclusion zone, the acoustic source must be shut down (*i.e.,* power to the acoustic source must be immediately turned off). If a marine mammal (excluding delphinids) is detected acoustically and is determined to be within 1 km of the acoustic source, the acoustic source must be shut down.'' Regulatory text at § 217.184(b)(8)(iv) would read: ''Shutdown of the acoustic source is required upon detection (visual or acoustic) of a baleen whale, beaked whale, or *Kogia* spp. within 1 km.''

For the proposal waiving the shutdown or power-down requirement upon detection of small dolphins within a 500-m exclusion zone, regulatory text at § 217.184(b)(8)(iii) would read: ''This shutdown requirement is waived for dolphins of the following genera: *Tursiops, Stenella, Steno,* and *Lagenodelphis.* If there is uncertainty regarding identification (*i.e.,* whether the observed animal(s) belongs to the group described above), shutdown must be implemented.''

The other proposals discussed in the ''Proposed Mitigation'' section for detection of Bryde's whales, beaked whales, sperm whales, *Kogia* spp., and small dolphins are included in the regulatory text following the preamble. As mentioned in the ''Proposed Mitigation'' section, we are interested in public comment on these proposals.

Scope of the Rule

NMFS requests comment on the issuance of incidental take regulations that do not apply to BOEM's Eastern Planning Area. In the regulatory text, 217.180(b) would be replaced with the following text: ''The taking of marine mammals by oil and gas industry operators may be authorized in a Letter of Authorization (LOA) only if it occurs within the Bureau of Ocean Energy Management's Western or Central Planning Areas in the Gulf of Mexico.'' Under this alternative scope, NMFS would continue working on a programmatic approach to the authorization of take incidental to geophysical survey operations in the Eastern Planning Area, but applicants could apply for individual permits (IHAs) until that process is completed.

This revision of scope, if it occurred, would result in less impacts to affected species or stocks of marine mammals relative to what was considered in the analyses presented previously in this preamble. Based on the analysis included in the preceding sections, if no other changes are made to the scope of the rule or the required mitigation measures analyzed in the preceding sections (*i.e.,* the measures are not modified as considered above in this Alternatives for Consideration section), we preliminarily find that the total marine mammal take from the proposed activity (reflecting the revised scope considered here) will have a negligible impact on all affected marine mammal species or stocks and the mitigation

measures included would effect the least practicable adverse impact on the affected species and stocks and their habitat.

Request for Information

NMFS requests interested persons to submit comments, information, and suggestions concerning the proposed rule and regulations, including the variations of the proposed rule, two economic baselines, and other information provided in the Regulatory Impact Analysis and associated appendices (*www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas*) (see **ADDRESSES**). All comments will be reviewed and evaluated as we prepare the final rule. This proposed rule and referenced documents provide all environmental information relating to our proposed action for public review.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this proposed rule is significant. Accordingly, a regulatory impact analysis (RIA) has been prepared and is available for review online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* The RIA evaluates the potential costs and benefits of these proposed incidental take regulations, as well as a more stringent alternative, against two baselines. The baselines correspond with regulatory requirements associated with management of geophysical survey activity in the GOM prior to 2013 (pursuant to BOEM's authorities under the Outer Continental Shelf Lands Act) and conditions in place since 2013 pursuant to a settlement agreement, as amended through stipulated agreement, involving a stay of litigation (*NRDC et al.* v. *Zinke et al.,* Civil Action No. 2:10 cv–01882 (E.D. La.)). Under the settlement agreement that is in effect, industry trade groups representing operators agreed to include certain mitigation requirements for geophysical surveys in the GOM. As described previously in this preamble (''Economic Baseline''), NMFS is seeking comment on the most appropriate baseline against which to measure the costs and benefits of the proposed regulatory action.

The proposed rule would require new mitigation measures relative to the baseline and, thus, new costs for survey operators. However, the proposed rule would also alleviate the regulatory burden of implementing minimum separation distance requirements for deep penetration airgun surveys. The proposed rule also would result in indirect (but non-monetized) costs as a result of the proposed time-area restrictions. However, we do not believe that these would be significant, as described in the RIA and in the ''Proposed Mitigation'' section. Moreover, as described in the RIA, total costs related to compliance for survey activities are small compared with expenditures on other aspects of oil and gas industry operations, and direct compliance costs of the regulatory requirements are unlikely to result in materially reduced oil and gas activities in the GOM.

The proposed rule would also result in certain non-monetized benefits. The protection of marine mammals afforded by this rule (pursuant to the requirements of the MMPA) would benefit the regional economic value of marine mammals via tourism and recreation to some extent, as mitigation measures applied to geophysical survey activities in the GOM region are expected to benefit the marine mammal populations that support this economic activity in the GOM. In addition, some degree of benefits can be expected to accrue solely via ecological benefits to marine mammals and other wildlife as a result of the proposed regulatory requirements. The published literature (described in the RIA) is clear that healthy populations of marine mammals and other co-existing species benefit regional economies and provide social welfare benefits to people; however, it does not provide a basis for quantitatively valuing the cost of anticipated incremental changes in environmental disturbance and marine mammal harassment associated with the proposed rule.

Notably, the proposed rule would also afford significant benefit to the regulated industry by providing an efficient framework within which to achieve compliance with the MMPA, and the attendant regulatory certainty. In particular, cost savings may be generated by the reduced administrative effort required to obtain an LOA under the framework established by a rule compared to what would be required to obtain an incidental harassment authorization (IHA) under section 101(a)(5)(D). Absent the rule, survey operators in the GOM would likely be required to apply for an IHA. Although not monetized in the RIA, NMFS's analysis indicates that the upfront work associated with the rule (*e.g.,* analyses, modeling, process for obtaining LOA) would likely save significant time and money for operators. A conservative cost savings calculation, based on estimates of the costs for IHA applications (provided by a contractor providing such services) relative to LOA application costs and an assumption of the number of likely authorizations based on total annual survey days and survey estimates included in the RIA, ranges from $500,000 to $1.5 million annually. In terms of timing, NMFS recommends that IHA applicants contact the agency six to nine months in advance of the planned activity, whereas NMFS anticipates a timeframe of just three months for LOA applications under a rule.

We prepared an initial regulatory flexibility analysis (IRFA), as required by Section 603 of the Regulatory Flexibility Act (RFA), for this proposed rule. The IRFA describes the economic effects this proposed rule, if adopted, would have on small entities. A description of this action, why it is being considered, the objectives of, and legal basis for this proposed rule are contained in the preamble of this proposed rule. A copy of the full analysis is available online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* The MMPA provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A summary of the IRFA follows.

This proposed rule is expected to directly regulate businesses that conduct geophysical surveys in the GOM with the potential to incidentally take marine mammals. Some of these businesses may be defined as small entities. The IRFA identifies these businesses as well as potential indirect impacts to small business boat owners and operators, who would not be directly regulated by the rule, but who may be involved in the implementation of the survey activities. The IRFA found that, for ten years of relevant permit data (2006–2015), 62 U.S. based-companies applied for 284 permits for relevant surveys, in 15 different industry NAICS codes. The IRFA also found that, for the period 2012–2014, 33 U.S.-flagged vessels operated under contract to permit applicants; the parent companies and primary NAICS codes under which those vessels operated were also identified where possible.

Of the total number of relevant survey applications from 2006–2015, 12 percent (75 applications) were put forth by small entities. In total, 34 U.S.-based small businesses applied for relevant permits in the GOM between 2006–2015, representing only 12 percent of permit applications during this period.

Foreign businesses and U.S.-based large businesses applied for more permits per business than did small businesses. Companies involved in crude petroleum and natural gas extraction (NAICS 211111) and support activities for oil and gas (NAICS 213112) conducted the majority of the surveys by small companies (87 percent of companies). Historically, small entities undertook a larger percentage of HRG surveys (airgun and non-airgun) than did businesses as a whole (85 percent of surveys conducted by small businesses were HRG, compared to 57 percent of surveys by all entities). Small businesses did not undertake larger surveys (*e.g.,* 3D WAZ), according to the permit database reviewed.

Using this information, the IRFA finds that small entities would participate in approximately 33 to 57 surveys over the five years, or approximately 7 to 11 surveys annually, and that approximately 15 to 26 small companies will likely apply for relevant permits over the five years (approximately 3 to 5 small companies each year). The future distribution of small companies by industry is not known, but the historical pattern suggests that companies involved in crude petroleum and natural gas extraction (NAICS 211111) and support activities for oil and gas (213112) will conduct the majority of the surveys by small companies.

Annual median revenues for small entities who applied for relevant permits were $12.26 million. Incremental costs of the proposed rule for non-airgun surveys, which comprised most of the HRG surveys (95 percent are forecast to be non-airgun, as opposed to airgun, surveys), are anticipated to range from $5,700 to $12,300 per survey. Airgun HRG survey costs are anticipated to range from $25,800 to $37,500 per survey. Approximately four small entities are anticipated to be involved in survey activities annually over the five years. As such, impacts would not be universally experienced by all small entities, and would depend on the specific survey types the companies engaged in. Incremental impacts for HRG surveys, which historically comprised most small business surveys, are anticipated to increase costs to small entities by one percent or less of annual revenues. For those entities engaged in other types of surveys, costs could comprise a larger portion of annual revenues.

In summary, the IRFA finds: (1) In the majority of cases (88 percent), survey permit applicants are large businesses; (2) When the permit applicants are small businesses, the majority of the time (63 percent) they are oil and gas extractors (NAICS 211111); (3) Together these permits (for large businesses and small businesses with high annual revenues for which rule costs are a small fraction) account for 96 percent of the survey permits; (4) While small entities in other industries occasionally apply for permits (four percent historically), these businesses are quite small, with average annual revenues in the millions or even less. Given their size, it is unlikely that these permit applicants bear survey costs; otherwise it would be reflected in their annual revenues (*i.e.,* their revenues on average would reflect that they recover their costs). Accordingly, we expect it is most likely the survey costs are passed on to oil and gas extraction companies who commission the surveys or purchase the data; and (5) Overall, up to five small businesses (NAICS 211111) per year may experience increased costs of between 0.1 and 1.1 percent of average annual revenues.

NMFS's RIA evaluates the incremental regulatory impact of the proposed rule, as well as the incremental regulatory impact of a more stringent alternative to the mitigation, monitoring, and reporting requirements of the proposed rule. NMFS is requesting comment on the costs of these proposed incidental take regulations on small entities, with the goal of ensuring a thorough consideration and discussion at the final rule stage. We request comments on the analysis of entities affected, as well as information on regulatory alternatives that would simultaneously reduce the burden on small entities and afford appropriate protections to affected marine mammal species and stocks.

This proposed rule contains a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act (PRA). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. These requirements have been approved by OMB under control number 0648–0151, currently under application for renewal, and include applications for regulations, subsequent LOAs, and reports. Send comments regarding any aspect of this data collection, including suggestions for reducing the burden, to NMFS and the OMB Desk Officer (see **ADDRESSES**).

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: June 12, 2018.

Donna S. Wieting,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 217 is proposed to be amended as follows:

PART 217—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. The heading of part 217 is revised to read as set forth above.

■ 3. Add Subpart S to read as follows:

Subpart S—Taking Marine Mammals Incidental to Geophysical Survey Activities in the Gulf of Mexico

Sec.
217.180 Specified activity and specified geographical region.
217.181 Effective dates.
217.182 Permissible methods of taking.
217.183 Prohibitions.
217.184 Mitigation requirements.
217.185 Requirements for monitoring and reporting.
217.186 Letters of Authorization (LOA).
217.187 Renewals and modifications of Letters of Authorization.
217.188 [Reserved]
217.189 [Reserved]

Subpart S—Taking Marine Mammals Incidental to Geophysical Survey Activities in the Gulf of Mexico

§ 217.180 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to oil and gas industry operators (LOA-holders), and those persons authorized to conduct activities on their behalf, for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to geophysical survey activities.

(b) The taking of marine mammals by oil and gas industry operators may be authorized in a Letter of Authorization (LOA) only if it occurs within the Gulf of Mexico.

§ 217.181 Effective dates.

Regulations in this subpart are effective from [EFFECTIVE DATE OF FINAL RULE] through [DATE 5 YEARS AFTER EFFECTIVE DATE OF FINAL RULE].

§ 217.182 Permissible methods of taking.

Under LOAs issued pursuant to § 216.106 of this chapter and § 217.186, LOA-holders may incidentally, but not intentionally, take marine mammals within the area described in § 217.180(b) by Level A and Level B harassment associated with geophysical survey activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 217.183 Prohibitions.

Notwithstanding takings contemplated in § 217.180 and § 217.182, and authorized by a LOA issued under § 216.106 of this chapter and § 217.186, no person in connection with the activities described in § 217.180 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under § 216.106 of this chapter and § 217.186;

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs in any manner other than as specified;

(d) Take a marine mammal specified in such LOAs if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOAs if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

§ 217.184 Mitigation requirements.

When conducting the activities identified in § 217.180, the mitigation measures contained in any LOA issued under § 216.106 of this chapter and § 217.186 must be implemented. These mitigation measures shall include but are not limited to:

(a) General conditions:

(1) A copy of any issued LOA must be in the possession of the LOA-holder, the vessel operator and other relevant personnel, the lead protected species observer (PSO), and any other relevant designees of the LOA-holder operating under the authority of the LOA.

(2) The LOA-holder shall ensure that the vessel operator and other relevant vessel personnel are briefed on all responsibilities, communication procedures, marine mammal monitoring protocol, operational procedures, and LOA requirements prior to the start of survey activity, and when relevant new personnel join the survey operations. The LOA-holder shall instruct relevant vessel personnel with regard to the authority of the protected species monitoring team, and shall ensure that relevant vessel personnel and protected species monitoring team participate in a joint onboard briefing led by the vessel operator and lead PSO to ensure that responsibilities, communication procedures, marine mammal monitoring protocol, operational procedures, and LOA requirements are clearly understood. This briefing must be repeated when relevant new personnel join the survey operations.

(b) Deep penetration airgun surveys:

(1) Deep penetration airgun surveys are defined as surveys using airgun arrays with total volume greater than 400 in^3.

(2) The LOA-holder must use independent, dedicated, trained PSOs, meaning that the PSOs must be employed by a third-party observer provider, may have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and must have successfully completed an approved PSO training course. NMFS will maintain a list of approved PSOs and, for PSOs not on the list, NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.,* experience, training completed, and educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating the PSO's successful completion of the course. NMFS shall have one week to approve PSOs from the time that the necessary information is submitted, after which PSOs meeting the minimum requirements shall automatically be considered approved.

(3) At least one visual PSO and two acoustic PSOs must have a minimum of 90 days at-sea experience working in those roles, respectively, during a deep penetration seismic survey, with no more than eighteen months elapsed since the conclusion of the at-sea experience. One visual PSO with such experience shall be designated as the lead for the entire protected species observation team. The lead shall coordinate duty schedules and roles for the PSO team and serve as primary point of contact for the vessel operator. To the maximum extent practicable, the lead PSO shall devise the duty schedule such that experienced PSOs are on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

(4) Visual observation:

(i) During survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of two PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and 30 minutes prior to and during nighttime ramp-ups of the airgun array.

(ii) Visual monitoring must begin not less than 30 minutes prior to ramp-up and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset.

(iii) Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

(iv) Visual PSOs shall immediately communicate all observations to acoustic PSOs, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

(v) Visual PSOs may be on watch for a maximum of two consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period.

(vi) Any observations of marine mammals by crew members aboard any vessel associated with the survey shall be relayed to the PSO team.

(vii) During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

(5) Acoustic observation:

(i) All surveys must use a towed passive acoustic monitoring (PAM) system at all times when operating in waters deeper than 100 m, which must be monitored beginning at least 30 minutes prior to ramp-up and at all times during use of the acoustic source.

(ii) Acoustic PSOs shall immediately communicate all detections to visual PSOs, when visual PSOs are on duty, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

(iii) Acoustic PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least two hours between watches and may conduct a maximum of 12 hours of observation per 24-hour period.

(iv) Survey activity may continue for brief periods of time when the PAM system malfunctions or is damaged. Activity may continue for 30 minutes without PAM while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional two hours without acoustic monitoring under the following conditions:

(A) Daylight hours and sea state is less than or equal to BSS 4;

(B) No marine mammals (excluding delphinids) detected solely by PAM in the exclusion zone in the previous two hours;

(C) NMFS is notified via email as soon as practicable with the time and location in which operations began without an active PAM system; and

(D) Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of four hours in any 24-hour period.

(6) Exclusion Zone and Buffer Zone—The PSOs shall establish and monitor a 500-m exclusion zone and additional 500-m buffer zone. These zones shall be based upon radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source, occurrence of marine mammals within the buffer zone (but outside the exclusion zone) shall be communicated to the operator to prepare for the potential shutdown of the acoustic source. PSOs must monitor the 1,000-m zone for a minimum of 30 minutes prior to ramp-up (*i.e.,* pre-clearance).

(7) Ramp-up—A ramp-up procedure, involving a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of the acoustic source. Ramp-up may not be initiated if any marine mammal is within the designated exclusion zone or buffer zone. If a marine mammal is observed within these zones during the pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the 1,000-m zone or until an additional time period has elapsed with no further sightings (*i.e.,* 15 minutes for small odontocetes and 30 minutes for all other species). PSOs shall monitor the exclusion zone during ramp-up, and ramp-up must cease and the source shut down upon observation of marine mammals within the zones. Ramp-up may occur at times of poor visibility if appropriate acoustic monitoring has occurred with no detections in the 30 minutes prior to beginning ramp-up. Acoustic source activation may only occur at times of poor visibility where operational planning cannot reasonably avoid such circumstances. The operator must notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed. Ramp-up shall begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Duration should not be less than 20 minutes. The operator must provide information to the PSO documenting that appropriate procedures were followed. Ramp-ups shall be scheduled so as to minimize the time spent with source activated prior to reaching the designated run-in.

(8) Shutdown requirements:

(i) Any PSO on duty has the authority to delay the start of survey operations or to call for shutdown of the acoustic source pursuant to the requirements of this subpart. When shutdown is called for by a PSO, the acoustic source must be immediately deactivated and any dispute resolved only following deactivation. The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When there is certainty regarding the need for mitigation action on the basis of either visual or acoustic detection alone, the relevant PSO(s) must call for such action immediately. When there is uncertainty regarding the nature of the observation, all on duty PSOs must agree upon the mitigation action. When only the acoustic PSO is on duty and there is uncertainty regarding the need for mitigation action on the basis of a detection, the PSO may request that the acoustic source be shut down as a precaution.

(ii) Upon completion of ramp-up, if a marine mammal appears within, enters, or is clearly on a course to enter the exclusion zone, the acoustic source must be shut down (*i.e.,* power to the acoustic source must be immediately turned off). If a marine mammal (excluding delphinids) is detected acoustically, the acoustic source must be shut down.

(iii) This shutdown requirement is waived for dolphins of the following genera: *Tursiops, Stenella, Steno,* and *Lagenodelphis.* Instead of shutdown, the acoustic source must be powered down to the smallest single element of the array if a dolphin of the indicated genera appears within or enters the 500-m exclusion zone, or is acoustically detected and localized within the zone. Power-down conditions shall be maintained until the animal(s) is observed exiting the exclusion zone or for 15 minutes beyond the last observation of the animal, following which full-power operations may be resumed without ramp-up.

(iv) Shutdown of the acoustic source is required upon detection (visual or acoustic) of a baleen whale, beaked whale, or *Kogia* spp. at any distance.

(v) Shutdown of the acoustic source is required upon observation of a whale (*i.e.,* sperm whale or any baleen whale) with calf at any distance, with ''calf'' defined as an animal less than two-thirds the body size of an adult observed to be in close association with the calf.

(vi) Upon implementation of shutdown, the source may be reactivated after the animal(s) has been observed exiting the exclusion zone or following a 30-minute clearance period with no further observation of the animal(s). Where there is no relevant zone (*e.g.,* shutdown due to observation of a baleen whale), a 30-minute clearance period must be observed following the last observation of the animal(s).

(vii) If the acoustic source is shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for brief periods (*i.e.,* less than 30 minutes), it may be activated again without ramp-up if PSOs have maintained constant visual and acoustic observation and no visual detections of any marine mammal have occurred within the exclusion zone and no acoustic detections (excluding delphinids) have occurred. For any longer shutdown, pre-clearance watch and ramp-up are required. For any shutdown at night or in periods of poor visibility (*e.g.,* BSS 4 or greater), ramp-up is required but if the shutdown period was brief and constant observation maintained, pre-clearance watch is not required.

(9) Miscellaneous protocols:

(i) The acoustic source must be deactivated when not acquiring data or preparing to acquire data, except as

necessary for testing. Unnecessary use of the acoustic source shall be avoided. Notified operational capacity (not including redundant backup airguns) must not be exceeded during the survey, except where unavoidable for source testing and calibration purposes. All occasions where activated source volume exceeds notified operational capacity must be noticed to the PSO(s) on duty and fully documented. The lead PSO must be granted access to relevant instrumentation documenting acoustic source power and/or operational volume.

(ii) Testing of the acoustic source involving all elements requires normal mitigation protocols (*e.g.,* ramp-up). Testing limited to individual source elements or strings does not require ramp-up but does require pre-clearance.

(c) Shallow penetration surveys:

(1) Shallow penetration surveys are defined as surveys using airgun arrays with total volume equal to or less than 400 in^3 or boomers.

(2) LOA-holders shall follow the requirements defined for deep penetration airgun surveys at § 217.184(b), with the following exceptions:

(i) Use of a towed PAM system is not required except to begin use of the airgun(s) at night in waters deeper than 100 m. Use of a PAM system is required for nighttime start-up, with monitoring by a trained and experienced acoustic PSO during a 30-minute pre-clearance period and during the ramp-up period (if applicable). The required acoustic PSO may be a crew member.

(ii) Ramp-up is not required for shallow penetration surveys using only a single airgun or boomer.

(iii) The exclusion zone shall be established at a distance of 200 m, with an additional 200-m buffer monitored during pre-clearance.

(iv) No shutdown or power-down action is required upon detection of the dolphin genera described at § 217.184(b)(8)(iii) for surveys using a single airgun or boomer.

(v) Shutdowns are not required for observations beyond the exclusion zone under any circumstance.

(d) Non-airgun surveys:

(1) Non-airgun surveys are defined as surveys using an acoustic source other than an airgun(s) or boomer that operates at frequencies less than 200 kHz (*i.e.,* side-scan sonar, multibeam echosounder, or subbottom profiler).

(2) LOA-holders conducting non-airgun surveys shall follow the requirements defined for shallow penetration surveys at § 217.184(c), with the following exceptions:

(i) Use of a towed PAM system is not required under any circumstances;

(ii) Ramp-up is not required under any circumstances;

(iii) Non-airgun surveys shall employ a minimum of one trained and experienced independent visual PSO during all daylight operations (as described at § 217.184(b)) when operating in waters deeper than 200 m. In waters shallower than 200 m, non-airgun surveys shall employ one trained visual PSO, who may be a crew member, to monitor the exclusion zone and buffer during the pre-clearance period; and

(iv) No shutdown or power-down action is required upon detection of the dolphin genera described at § 217.184(b)(8)(iii).

(e) Restriction areas:

(1) From February 1 through May 31, no use of airguns may occur shoreward of the 20-m isobath (buffered by 13 km).

(2) No use of airguns may occur within the area bounded by the 100- and 400-m isobaths, from 87.5° W to 27.5° N (buffered by 6 km), during June through August.

(3) No use of airguns may occur within the area bounded by the 200- and 2,000-m isobaths from the northern border of BOEM's Howell Hook leasing area to 81.5° W (buffered by 9 km).

(f) To avoid the risk of entanglement, LOA-holders conducting surveys using ocean-bottom nodes or similar gear must:

(1) Use negatively buoyant coated wire-core tether cable;

(2) Retrieve all lines immediately following completion of the survey;

(3) Attach acoustic pingers directly to the coated tether cable; acoustic releases should not be used; and

(4) Employ a third-party PSO aboard the node retrieval vessel in order to document any unexpected marine mammal entanglement.

(g) To avoid the risk of vessel strike, LOA-holders must adhere to the following requirements:

(1) Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down or stop their vessel or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel, which shall be defined according to the parameters stated in this subsection, to ensure the potential for strike is minimized. Visual observers monitoring the vessel strike avoidance zone can be either third-party observers or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena and broadly to identify a marine mammal as a baleen whale, sperm whale, or other marine mammal;

(2) All vessels, regardless of size, must observe a 10 kn speed restriction within the restriction area described previously at § 217.184(e)(2);

(3) Vessel speeds must also be reduced to 10 kn or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel;

(4) All vessels must maintain a minimum separation distance of 500 yd (457 m) from baleen whales;

(5) All vessels must maintain a minimum separation distance of 100 yd (91 m) from sperm whales;

(6) All vessels must attempt to maintain a minimum separation distance of 50 yd (46 m) from all other marine mammals, with an exception made for those animals that approach the vessel;

(7) When cetaceans are sighted while a vessel is underway, vessels shall attempt to remain parallel to the animal's course, and shall avoid excessive speed or abrupt changes in direction until the animal has left the area; and

(8) If cetaceans are sighted in a vessel's path or in close proximity to a moving vessel, the vessel shall reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear.

§ 217.185 Requirements for monitoring and reporting.

(a) LOA-holders must provide bigeye binoculars (*e.g.,* 25 x 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality (*i.e.,* Fujinon or equivalent) solely for PSO use. These shall be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel. The operator must also provide a night-vision device suited for the marine environment for use during nighttime ramp-up pre-clearance, at the discretion of the PSOs. At minimum, the device should feature automatic brightness and gain control, bright light protection, infrared illumination, and optics suited for low-light situations.

(b) PSOs must also be equipped with reticle binoculars (*e.g.,* 7 x 50) of appropriate quality (*i.e.,* Fujinon or equivalent), GPS, a digital single-lens reflex camera of appropriate quality (*i.e.,* Canon or equivalent), a compass, and any other tools necessary to adequately perform necessary tasks, including accurate determination of

distance and bearing to observed marine mammals.

(c) PSO qualifications:

(1) PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program.

(2) PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived by NMFS if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Requests shall be granted or denied (with justification) by NMFS within one week of receipt of submitted information. Alternate experience that may be considered includes, but is not limited to:

(i) Secondary education and/or experience comparable to PSO duties;

(ii) Previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or

(iii) Previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

(d) Data collection—PSOs must use standardized data forms, whether hard copy or electronic. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source to resume survey. If required mitigation was not implemented, PSOs should record a description of the circumstances. We require that, at a minimum, the following information be recorded:

(1) Vessel names (source vessel and other vessels associated with survey) and call signs;

(2) PSO names and affiliations;

(3) Dates of departures and returns to port with port name;

(4) Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;

(5) Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;

(6) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;

(7) Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon;

(8) Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions);

(9) Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-ramp-up survey, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.); and

(10) If a marine mammal is sighted, the following information should be recorded:

(i) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

(ii) PSO who sighted the animal;

(iii) Time of sighting;

(iv) Vessel location at time of sighting;

(v) Water depth;

(vi) Direction of vessel's travel (compass direction);

(vii) Direction of animal's travel relative to the vessel;

(viii) Pace of the animal;

(ix) Estimated distance to the animal and its heading relative to vessel at initial sighting;

(x) Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), also note the composition of the group if there is a mix of species;

(xi) Estimated number of animals (high/low/best);

(xii) Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);

(xiii) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

(xiv) Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

(xv) Animal's closest point of approach (CPA) and/or closest distance from the center point of the acoustic source;

(xvi) Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other); and

(xvii) Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.); time and location of the action should also be recorded.

(11) If a marine mammal is detected while using the PAM system, the following information should be recorded:

(i) An acoustic encounter identification number, and whether the detection was linked with a visual sighting;

(ii) Time when first and last heard;

(iii) Types and nature of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal, etc.); and

(iv) Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

(e) LOA-holders shall provide to NMFS within 90 days of survey conclusion geo-referenced time-stamped vessel tracklines for all time periods in which airguns were operating. Tracklines should include points recording any change in airgun status (*e.g.,* when the airguns began operating, when they were turned off, or when they changed from full array to single gun or vice versa). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system.

(f) Reporting:

(1) Annual reporting: LOA-holders shall submit an annual summary report to NMFS on all activities and monitoring results within 90 days of the completion of the survey or expiration of the LOA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals near the activities, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). Geospatial data regarding locations where the acoustic source was used, provided to NMFS under subparagraph § 217.185(e), must

be provided as an ESRI shapefile with all necessary files and appropriate metadata. The report must summarize the data collected as required under § 217.185(d). In addition to the report, all raw observational data shall be made available to NMFS. The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly to NMFS a statement concerning implementation and effectiveness of the required mitigation and monitoring. A final report must be submitted within 30 days following resolution of any comments on the draft report.

(2) Comprehensive reporting: LOA-holders shall contribute to the compilation and analysis of data for inclusion in an annual synthesis report addressing all data collected and reported through annual reporting in each calendar year. The synthesis period shall include all annual reports deemed to be final by NMFS from July 1 of one year through June 30 of the subsequent year. The report must be submitted to NMFS by October 1 of each year.

(g) Reporting of injured or dead marine mammals:

(1) In the unanticipated event that the activity defined in § 217.180 clearly causes the take of a marine mammal in a prohibited manner, the LOA-holder shall immediately cease such activity and report the incident to the Office of Protected Resources (OPR), NMFS, and to the Southeast Regional Stranding Coordinator, NMFS. Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the LOA-holder to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The LOA-holder may not resume their activities until notified by NMFS. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Name and type of vessel involved;

(iii) Vessel's speed during and leading up to the incident;

(iv) Description of the incident;

(v) Status of all sound source use in the 24 hours preceding the incident;

(vi) Water depth;

(vii) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility);

(viii) Description of all marine mammal observations in the 24 hours preceding the incident;

(ix) Species identification or description of the animal(s) involved;

(x) Fate of the animal(s); and

(xii) Photographs or video footage of the animal(s).

(2) In the event that the LOA-holder discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), the LOA-holder shall immediately report the incident to OPR and the Southeast Regional Stranding Coordinator, NMFS. The report must include the information identified in paragraph (f)(1) of this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the LOA-holder to determine whether additional mitigation measures or modifications to the activities are appropriate.

(3) In the event that the LOA-holder discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities defined in § 217.180 (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), the LOA-holder shall report the incident to OPR and the Southeast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. The LOA-holder shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

§ 217.186 Letters of Authorization (LOA).

(a) To incidentally take marine mammals pursuant to these regulations, prospective LOA-holders must apply for and obtain a LOA.

(b) A LOA, unless suspended or revoked, may be effective for a period not to exceed the expiration date of these regulations.

(c) In the event of projected changes to the activity or to mitigation and monitoring measures required by a LOA, the LOA-holder must apply for and obtain a modification of the LOA as described in § 217.187.

(d) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species or stock and its habitat; and

(3) Requirements for monitoring and reporting.

(e) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

(f) For LOA issuance, where either:

(1) The conclusions put forth in an application (*e.g.,* take estimates) are based on analytical methods that differ substantively from those used in the development of the rule; or

(2) The proposed activity or anticipated impacts vary substantively in scope or nature from those analyzed in the preamble to the rule, NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the differences, and solicit public comment before making a decision regarding issuance of the LOA.

(g) Notice of issuance or denial of a LOA shall be published in the **Federal Register** within thirty days of a determination.

§ 217.187 Renewals and modifications of Letters of Authorization.

(a) A LOA issued under § 216.106 of this chapter and § 217.186 for the activity identified in § 217.180 shall be modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that result in more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under § 216.106 of this chapter and § 217.186 for the activity identified in § 217.180 may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the LOA-holder regarding the practicability of the modifications) if doing so is practicable and creates a

reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations;

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a LOA:

(A) Results from monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in a LOA issued pursuant to § 216.106 of this chapter and § 217.186, a LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within thirty days of the action.

§ 217.188 [Reserved]

§ 217.189 [Reserved]

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Part IV

Office of Personnel Management

SES Positions That Were Career Reserved During CY 2017; Notice

OFFICE OF PERSONNEL MANAGEMENT

SES Positions That Were Career Reserved During CY 2017

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: As required by section 3132(b)(4) of title 5, United States Code, this gives notice of all positions in the Senior Executive Service (SES) that were career reserved during calendar year 2017.

FOR FURTHER INFORMATION CONTACT: Phyllis Proctor, Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Below is a list of titles of SES positions that were career reserved at any time during calendar year 2017, regardless of whether those positions were still career reserved as of December 31, 2017. Section 3132(b)(4) of title 5, United States Code, requires that the head of each agency publish such lists by March 1 of the following year. The Office of Personnel Management is publishing a consolidated list for all agencies.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017

Agency	Organization	Title
ADMINISTRATIVE CONFERENCE OF THE UNITED STATES	ADMINISTRATIVE CONFERENCE OF THE UNITED STATES.	DIRECTOR OF FINANCE AND OPERATIONS.
		GENERAL COUNSEL.
		EXECUTIVE DIRECTOR.
		RESEARCH DIRECTOR.
ADVISORY COUNCIL ON HISTORIC PRESERVATION	OFFICE OF THE EXECUTIVE DIRECTOR.	EXECUTIVE DIRECTOR.
DEPARTMENT OF AGRICULTURE	MIDWEST AREA OFFICE	DIRECTOR, NATIONAL CENTER FOR AGRICULTURE UTILIZATION.
		DIRECTOR, MIDWEST AREA.
		ASSOCIATE DIRECTOR, MIDWEST AREA (2).
	NORTHEAST AREA OFFICE	ASSOCIATE DIRECTOR, NORTHEAST AREA.
		DIRECTOR, EASTERN REGIONAL RESEARCH CENTER.
		DIRECTOR, BELTSVILLE AGRICULTURAL RESEARCH CENTER.
		DIRECTOR NORTHEAST AREA OFFICE.
		ASSOCIATE DIRECTOR, NORTHEAST AREA.
	OFFICE OF NATIONAL PROGRAMS	DEPUTY ADMINISTRATOR, ANIMAL PRODUCTION AND PROTECTION.
		DEPUTY ADMINISTRATOR FOR NATURAL RESOURCES AND SUSTAINABLE ARGICULTURE SYSTEMS.
		DEPUTY ADMINISTRATOR, NUTRITION, FOOD SAFETY AND QUALITY.
		ASSOCIATE ADMINISTRATOR, NATIONAL PROGRAMS.
		DEPUTY ADMINISTRATOR, CROP PRODUCTION AND PROTECTION.
	PACIFIC WEST AREA OFFICE	ASSOCIATE DIRECTOR, PACIFIC WEST AREA.
		DIRECTOR, WESTERN REGIONAL RESEARCH CENTER.
		ASSOCIATE DIRECTOR, PACIFIC WEST AREA OFFICE.
		DIRECTOR, PACIFIC WEST AREA OFFICE.
		DIRECTOR, WESTERN HUMAN NUTRITION RESEARCH CENTER.
	PLAINS AREA OFFICE	ASSOCIATE DIRECTOR, PLAINS AREA.
		DIRECTOR, PLAINS AREA.
		ASSOCIATE DIRECTOR, PLAINS AREA OFFICE.
		DIRECTOR, UNITED STATES MEAT ANIMAL RESEARCH CENTER.
	SOUTHEAST AREA OFFICE	DIRECTOR, SOUTHERN REGIONAL RESEARCH CENTER.
		ASSOCIATE DIRECTOR, SOUTHEAST AREA (2).
		DIRECTOR, SOUTH EAST AREA.
	PLANT PROTECTION AND QUARANTINE SERVICE.	EXECUTIVE DIRECTOR, POLICY MANAGEMENT.
		EXECUTIVE DIRECTOR, WESTERN REGION, PLANT PROTECTION AND QUARANTINE.
		EXECUTIVE DIRECTOR, EASTERN REGION, PLANT PROTECTION AND QUARANTINE.
	VETERINARY SERVICES	DIRECTOR, WESTERN REGION, VETERINARY SERVICES.
		EXECUTIVE DIRECTOR, SCIENCE, TECHNOLOGY AND ANALYSIS SERVICE.
		EXECUTIVE DIRECTOR, SURVEILLANCE, PREPAREDNESS AND RESPONSE SERVICES, VETERINARY SERVICES.
		ASSOCIATE DEPUTY ADMINISTRATOR, NATIONAL ANIMAL HEALTH POLICY PROGRAMS.
	OFFICE OF ADVOCACY AND OUTREACH.	DIRECTOR, OFFICE OF ADVOCACY AND OUTREACH.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF HOMELAND SECURITY AND EMERGENCY COORDINATION.	DEPUTY DIRECTOR OF HOMELAND SECURITY & EMERGENCY COORDINATION.
	OFFICE OF HUMAN RESOURCES MANAGEMENT.	PROVOST, USDA VIRTUAL UNIVERSITY.
		EXECUTIVE DIRECTOR, EXECUTIVE RESOURCES MANAGEMENT DIVISION.
	OFFICE OF OPERATIONS	DEPUTY DIRECTOR OF OPERATIONS.
		DIRECTOR OFFICE OF OPERATIONS.
	PROCUREMENT AND PROPERTY MANAGEMENT.	DEPUTY DIRECTOR, OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT.
		DIRECTOR, PROCUREMENT AND PROPERTY MANAGEMENT.
	FIELD UNITS	NORTHEAST AREA DIRECTOR, STATE AND PRIVATE FORESTRY.
		DIRECTOR, NORTHERN RESEARCH STATION.
		DIRECTOR, PACIFIC NORTHWEST RESEARCH STATION.
		DIRECTOR, PACIFIC SOUTHWEST FOREST AND RANGE EXPERIMINT STATION (VALLEJO).
		DIRECTOR, ROCKY MOUNTAIN FOREST AND RANGE EXPERIMINT STATION (FORT COLLINS).
		DIRECTOR, SOUTHERN RESEARCH STATION (ASHEVILLE).
		DIRECTOR, FOREST PRODUCTS LABORATORY (MADISON).
	INTERNATIONAL FOREST SYSTEM	DIRECTOR INTERNATIONAL INSTITUE OF TROPICAL FOREST (RIO PIEDRAS).
	NATIONAL FOREST SYSTEM	DIRECTOR, ECOSYSTEM MANAGEMENT COORINATION.
		DIRECTOR, LANDS MANAGEMENT STAFF.
		DIRECTOR, ENGINEERING.
		DIRECTOR, FOREST MANAGEMENT STAFF.
		DIRECTOR, RANGELAND MANAGEMENT.
		DIRECTOR, MINERALS AND GEOLOGY MANAGEMENT STAFF.
		DIRECTOR, WATER, FISH, WASTELAND, AIR AND RARE PLANTS.
	RESEARCH	DIRECTOR, SCIENCE POLICY, PLANNING, AND INFORMATION STAFF.
		DIRECTOR, SUSTAINABLE FOREST MANAGEMENT.
		DIRECTOR, RESOURCE USE SCIENCES.
		DIRECTOR, ENVIRONMENTAL SCIENCES.
	STATE AND PRIVATE FORESTRY	DIRECTOR COOPERATIVE FORESTRY.
		DIRECTOR, FOREST HEALTH PROTECTION.
		SENIOR ADVISOR TO THE DEPUTY CHIEF, STATE AND PRIVATE FORESTRY.
	ECONOMIC RESEARCH SERVICE	DIRECTOR, INFORMATION SERVICES DIVISION.
		DIRECTOR, RESOURCE AND RURAL ECONOMICS DIVISION.
		ADMINISTRATOR, ECONOMIC RESEARCH SERVICE.
		ASSOCIATE ADMINISTRATOR, ECONOMIC RECEARCH SERVICE.
		DIRECTOR, FOOD ECONOMICS DIVISION.
		DIRECTOR, MARKET AND TRADE ECONOMICS DIVISION.
	NATIONAL AGRICULTURAL STATISTICS SERVICE.	DIRECTOR, WESTERN FIELD OPERATIONS.
		ASSOCIATE ADMINISTRATOR.
		ADMINISTRATOR, NATIONAL AGRICULTURAL STATISTICS SERVICE.
		DIRECTOR, NATIONAL OPERATIONS CENTER.
		DIRECTOR EASTERN FIELD OPERATIONS.
		DIRECTOR, STATISTICS DIVISION.
		DIRECTOR, CENSUS AND SURVEY DIVISION.
		DIRECTOR, INFORMATION TECHNOLOGY DIVISION.
		DIRECTOR, METHODOLOGY DIVISION.
	RURAL BUSINESS SERVICE	DEPUTY ADMINISTRATOR, BUSINESS PROGRAMS.
		DEPUTY ADMINISTRATOR, ENERGY PROGRAMS.
	RURAL HOUSING SERVICE	DEPUTY ADMINISTRATOR, CENTRALIZED SERVICING CENTER.
		CHIEF FINANCIAL OFFICER.
		DIRECTOR, RURAL HOUSING SERVICE.
		DEPUTY ADMINISTRATOR, MULTI-FAMILY HOUSING.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY ADMINISTRATOR FOR OPERATIONS AND MANAGEMENT.
		DIRECTOR, BUDGET DIVISION.
		DIRECTOR, HUMAN RESOURCES.
	NATIONAL FINANCE CENTER	DEPUTY DIRECTOR, NATIONAL FINANCE CENTER.
		DIRECTOR, INFORMATION TECHNOLOGY MANAGEMENT DIVISION.
		DIRECTOR, FINANCIAL SERVICES DIVISION.
	NATIONAL INSTITUE OF FOOD AND AGRICULTURE.	DEPUTY DIRECTOR, INSTITUTE OF FOOD SAFETY AND NUTRITION.
		DEPUTY DIRECTOR, INSTITUTE OF BIOENERGY, CLIMATE, AND ENVIRONMENT.
		DEPUTY DIRECTOR, OFFICE OF INFORMATION TECHNOLOGY.
		DEPUTY DIRECTOR, OFFICE OF GRANTS AND FINANCIAL MANAGEMENT.
	OFFICE OF COMMUNICATIONS	DEPUTY DIRECTOR, CREATIVE DEVELOPMENT.
	OFFICE OF THE CHIEF ECONOMIST	CHAIRPERSON.
		DIRECTOR, OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.
		DEPUTY CHIEF ECONOMIST.
		DIRECTOR, OFFICE OF ENERGY POLICY AND NEW USES.
		DIRECTOR GLOBAL CHANGE PROGRAM OFFICE.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DEPUTY CHIEF FINANCIAL OFFICER.
		ASSOCIATE CHIEF FINANCIAL OFFICER FOR FINANCIAL POLICY AND PLANNING.
		ASSOCIATE CHIEF FINANCIAL OFFICER, FINANCIAL SYSTEMS PLANNING AND MANAGEMENT.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	DEPUTY CHIEF INFORMATION OFFICER FOR OPERATIONS AND INFRASTRUCTURE.
		ASSOCIATE CHIEF INFORMATION OFFICER, INTERNATIONAL TECHNOLOGY SERVICES.
	OFFICE OF THE GENERAL COUNSEL.	ASSOCIATE GENERAL COUNSEL, GENERAL LAW AND RESEARCH DIVISION.
		ASSISTANT GENERAL COUNSEL, NATURAL RESOURCES AND ENVIRONMENT DIVISION.
	OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY.	DEPUTY UNDER SECRETARY FOR FOOD SAFETY.
	OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION, AND ECONOMICS.	DIRECTOR OFFICE OF THE USDA CHIEF SCIENTIST.
	FOOD SAFETY AND INSPECTION SERVICE.	ASSISTANT ADMINISTRATOR, OFFICE OF DATA INTEGRATION AND FOOD PROTECTION.
		DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF DATA INTEGRATION AND FOOD PROGRAM.
		DEPUTY ADMINISTRATOR.
		ASSISTANT ADMINISTRATOR, OFFICE OF FIELD OPERATIONS.
		CHIEF FINANCIAL OFFICER.
		ASSISTANT ADMINISTRATOR, OFFICE OF MANAGEMENT.
		CHIEF INFORMATION OFFICER.
		INTERNATIONAL AFFAIRS LIAISON OFFICER.
		UNITED STATES MANAGER FOR CODEX.
		DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF MANAGEMENT.
		EXECUTIVE ASSOCIATE FOR REGULATORY OPERATIONS, OFFICE OF FIELD OPERATIONS.
		EXECUTIVE ASSOCIATE FOR PUBLIC HEALTH.
		ASSISTANT ADMINISTRATOR, OFFICE OF INVESTIGATION, ENFORCEMENT AND AUDITING.
		ASSISTANT ADMINISTRATOR, OFFICE OF PUBLIC AFFAIRS AND CONSUMER EDUCATION.
		EXECUTIVE ASSOCIATE FOR REGULATORY OPERATIONS, OFFICE OF FIELD OPERATIONS (2).
		EXECUTIVE ASSOCIATE FOR LABORATORY SERVICES, OFFICE OF PUBLIC HEALTH SCIENCE.
		ASSISTANT ADMINISTRATOR, OOEET.
		DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF FIELD OPERATIONS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF PUBLIC HEALTH SCIENCE.
		EXECUTIVE ASSOCIATE FOR REGULATORY OPERATIONS, OFFICE OF FIELD OPERATIONS.
		DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF INVESTIGATION, ENFORCEMENT AND AUDIT.
		ASSISTANT ADMINISTRATOR, OFFICE OF POLICY AND PROGRAM DEVELOPMENT.
		CHIEF OPERATING OFFICER.
		DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF POLICY AND PROGRAM DEVELOPMENT.
	FOOD AND NUTRITION SERVICE	ASSOCIATE ADMINISTRATOR FOR MANAGEMENT AND FINANCE.
		PROGRAM MANAGER (DEPUTY ADMINISTRATOR FOR MANAGEMENT).
		FINANCIAL MANAGER.
		PROGRAM MANAGER (ASSOCIATE ADMINISTRATOR FOR REGIONAL OPERATIONS AND SUPPORT).
	AGRICULTURAL MARKETING SERVICE.	DEPUTY ADMINISTRATOR, TRANSPORTATION AND MARKETING PROGRAMS.
		DEPUTY ADMINISTRATOR, COTTON AND TOBACCO PROGRAMS.
		DEPUTY ADMINISTRATOR, INFORMATION TECHNOLOGY SERVICES.
		ASSOCIATE ADMINISTRATOR.
		DEPUTY ADMINISTRATOR, FAIR TRADE PRACTICES PROGRAM.
		DEPUTY ADMINISTRATOR FOR NATIONAL ORGANIC PROGRAMS.
		DEPUTY ADMINISTRATOR, COMPLIANCE AND ANALYSIS.
		DEPUTY ADMINISTRATOR, SPECIALTY CROPS.
		DEPUTY ADMINISTRATOR, DAIRY PROGRAMS.
		DEPUTY ADMINISTARTOR, LIVESTOCK AND SEED PROGRAMS.
		DEPUTY ADMINISTRATOR, SCIENCE AND TECHNOLOGY PROGRAMS.
	ANIMAL AND PLANT HEALTH INSPECTION SERVICE.	ASSISTANT DEPUTY ADMINISTRATOR, EMERGENCY AND DOMESTIC PROGRAMS.
		EXECUTIVE DIRECTOR, CENTER FOR PLANT HEALTH SCIENCE AND TECHNOLOGY.
		ASSOCIATE DEPUTY ADMINISTRATOR, WILDLIFE SERVICES.
		DEPUTY ADMINISTRATOR FOR INTERNATIONAL SERVICES.
		DEPUTY ADMINISTRATOR, LEGISLATIVE AND PUBLIC AFFAIRS.
		ASSOCIATE DEPUTY ADMINISTRATOR, EMERGING AND INTERNATIONAL PROGRAMS.
		DIRECTOR, INFORMATION TECHNOLOGY DIVISION.
		DIRECTOR, INVESTIGATIVE AND ENFORCEMENT SERVICES.
		DIRECTOR, NATIONAL WILDLIFE RESEARCH CENTER.
		HUMAN RESOURCES OFFICER.
		DEPUTY ADMINISTRATOR, BIOTECHNOLOGY REGULATORY PROGRAMS.
		CHIEF FINANCIAL OFFICER.
		ASSOCIATE DEPUTY ADMINISTRATOR FOR ANIMAL CARE.
		DIRECTOR, NATIONAL IMPORT EXPORT SERVICE.
		ASSISTANT DEPUTY ADMINISTRATOR, NATIONAL IMPORT EXPORT SERVICES.
		CHIEF ADVISOR (GOVERNMENT, ACADEMIA AND INDUSTRY PARTNERSHIP).
		ASSOCIATE DEPUTY ADMINISTRATOR, SURVEILLANCE, PREPAREDNESS AND RESPONSE SERVICES.
		ASSOCIATE DEPUTY ADMINISTRATOR, VETERINARY SERVICES.
		DEPUTY ADMINISTRATOR, WILDLIFE SERVICES.
		DEPUTY ADMINISTRATOR, ANIMAL CARE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSOCIATE DEPUTY ADMINISTRATOR FOR MARKETING AND REGULATORY PROGRAMS—BUSNINESS SERVICES.
		DIRECTOR, EASTERN REGION, WILDLIFE SERVICES.
		EXECUTIVE DIRECTOR, WESTERN REGION, WILDLIFE SERVICES.
		ASSOCIATE DEPUTY ADMINISTRATOR, VETERINARY SERVICES.
		DEPUTY ADMINISTRATOR FOR MARKETING AND REGULATORY PROGRAMS—BUSINESS SERVICES.
	GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION.	DIRECTOR FIELD MANAGEMENT DIVISION.
	AGRICULTURAL RESEARCH SERVICE.	DEPUTY ADMINISTRATOR FOR ADMINISTRATIVE AND FINANCIAL MANAGEMENT.
		ASSOCIATE DEPUTY ADMINISTRATOR FOR ADMINISTRATIVE AND FINANCIAL MANAGEMENT.
		CHIEF INFORMATION OFFICER.
		CHIEF FINANCIAL OFFICER.
		ASSOCIATE ADMINISTRATOR, RESEARCH OPERATIONS AND MANAGEMENT.
		ASSISTANT ADMINISTRATOR FOR TECHNOLOGY TRANSFER.
		DIRECTOR, OFFICE OF PEST MANAGEMENT POLICY.
	FARM SERVICE AGENCY	DIRECTOR, HUMAN RESOURCES DIVISION.
		DEPUTY DIRECTOR, OFFICE OF BUDGET AND FINANCE (2).
		ASSISTANT DEPUTY ADMINISTRATOR FARM PROGRAMS.
		DIRECTOR, BUSINESS AND PROGRAM INTEGRATION.
		DEPUTY ADMINISTRATOR FOR FARM LOAN PROGRAMS.
		DIRECTOR, OFFICE OF BUDGET AND FINANCE.
	FOREIGN AGRICULTURAL SERVICE	ASSOCIATE ADMINISTRATOR (CHIEF OPERATING OFFICER).
		DEPUTY ADMINISTRATOR, OFFICE OF GLOBAL ANALYSIS.
	RISK MANAGEMENT AGENCY	DEPUTY ADMINISTRATOR FOR PRODUCT MANAGEMENT.
		DEPUTY ADMINISTRATOR FOR INSURANCE SERVICES DIVISION.
	FOREST SERVICE	DIRECTOR, ACQUISITION MANAGEMENT.
		ASSOCIATE DEPUTY CHIEF FOR BUSINESS OPERATIONS.
		DEPUTY CHIEF, BUSINESS OPERATIONS.
		CHIEF FINANCIAL OFFICER.
		DIRECTOR, FIRE AND AVIATION MANAGEMENT.
		ASSOCIATE DEPUTY CHIEF, RESEARCH AND DEVELOPMENT.
		DIRECTOR, LAW ENFORCEMENT AND INVESTIGATIONS.
	NATURAL RESOURCES CONSERVATION SERVICE.	DEPUTY CHIEF FOR STRATEGIC PLANNING AND ACCOUNTABILITY.
		CHIEF PROCUREMENT AND PROPERTY OFFICER.
		DIRECTOR, EASEMENT PROGRAMS DIVISION.
		ASSOCIATE CHIEF FOR OPERATIONS/CHIEF OPERATING OFFICER.
		DIRECTOR, CONSERVATION ENGINEERING DIVISION.
		DIRECTOR ECOLOGICAL SCIENCES DIVISION.
		DIRECTOR, SOIL SCIENCE DIVISION.
		DIRECTOR, RESOURCE ECONOMICS, ANALYSIS AND POLICY DIVISION.
		SPECIAL ASSISTANT TO CHIEF.
		HUMAN RESOURCES OFFICER.
		DEPUTY CHIEF FOR PROGRAMS.
		DIRECTOR, FINANCIAL ASSISTANCE PROGRAMS DIVISION.
		REGIONAL CONSERVATIONIST (NORTHEAST).
		CHIEF FINANCIAL OFFICER.
DEPARTMENT OF AGRICULTURE OFFICE OF THE INSPECTOR GENERAL.	DEPARTMENT OF AGRICULTURE OFFICE OF THE INSPECTOR GENERAL.	COUNSEL TO THE INSPECTOR GENERAL.
		DEPUTY INSPECTOR GENERAL.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	ASSISTANT INSPECTOR GENERAL FOR AUDIT.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		ASSISTANT INSPECTOR GENERAL FOR OFFICE OF DATA SCIENCES.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT.
	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
	ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.	ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
AMERICAN BATTLE MONUMENTS COMMISSION.	DIRECTOR, EUROPEAN REGION	DIRECTOR, EUROPEAN REGION.
	EXECUTIVE DIRECTOR	DEPUTY SECRETARY.
ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (UNITED STATES ACCESS BOARD).	ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (UNITED STATES ACCESS BOARD).	EXECUTIVE DIRECTOR.
		DIRECTOR OFFICE OF TECHNICAL AND INFORMATION SERVICES.
BROADCASTING BOARD OF GOVERNORS.	INTERNATIONAL BROADCASTING BUREAU.	CHIEF EXECUTIVE OFFICER.
DEPARTMENT OF COMMERCE	CLIMATE PREDICTION CENTER	DIRECTOR, CLIMATE PREDICTION CENTER.
	NATIONAL CENTERS FOR ENVIRONMENTAL PREDICTION CENTRAL OPERATIONS.	DIRECTOR, CENTRAL OPERATIONS.
	STORM PREDICTION CENTER	DIRECTOR, STORM PREDICTION CENTER.
	TROPICAL PREDICTION CENTER	DIRECTOR, NATIONAL HURRICANE CENTER.
	DEPUTY ASSISTANT SECRETARY FOR ANTI-DUMPING/COUNTERVAILING DUTY OPERATIONS.	SENIOR DIRECTOR.
		SENIOR DIRECTOR, ANTI-DUMPING/COUNTERVAILING DUTY ENFORCEMENT OFFICE VII.
		ASSOCIATE DEPUTY ASSISTANT SECRETARY FOR ANTI–DUMPING/COUNTERVAILING DUTY OPERATIONS.
	DEPUTY ASSISTANT SECRETARY FOR TRADE, POLICY AND ANALYSIS.	DIRECTOR, OFFICE OF STANDARDS AND INVESTMENT POLICY.
	ASSOCIATE DIRECTOR FOR INDUSTRY ACCOUNTS.	ASSOCIATE DIRECTOR FOR INDUSTRY ACCOUNTS.
	ASSOCIATE DIRECTOR FOR INTERNATIONAL ECONOMICS.	CHIEF, BALANCE OF PAYMENTS DIVISION.
		ASSOCIATE DIRECTOR FOR INTERNATIONAL ECONOMICS.
		CHIEF DIRECT INVESTMENT DIVISION.
	ASSOCIATE DIRECTOR FOR REGIONAL ECONOMICS.	ASSOCIATE DIRECTOR FOR REGIONAL ECONOMICS.
	BUREAU OF ECONOMIC ANALYSIS ..	ASSOCIATE DIRECTOR FOR NATIONAL ECONOMIC ACCOUNTS.
		CHIEF NATIONAL INCOME AND WEALTH DIVISION.
	OFFICE OF THE DIRECTOR	DIRECTOR, BUREAU OF ECONOMIC ANALYSIS.
		DEPUTY DIRECTOR, BUREAU OF ECONOMIC ANALYSIS.
		CHIEF INNOVATION OFFICER.
		CHIEF ECONOMIST.
		CHIEF ADMINISTRATIVE OFFICER.
		CHIEF INFORMATION OFFICER.
	OFFICE OF THE ASSISTANT SECRETARY FOR EXPORT ENFORCEMENT.	DEPUTY DIRECTOR, OFFICE OF EXPORT ENFORCEMENT.
		DIRECTOR OFFICE OF EXPORT ENFORCEMENT.
		DIRECTOR, OFFICE OF ENFORCEMENT ANALYSIS.
		DEPUTY ASSISTANT SECRETARY FOR EXPORT ENFORCEMENT.
	ASSOCIATE DIRECTOR FOR ADMINISTRATION AND CHIEF FINANCIAL OFFICER.	CHIEF FINANCIAL OFFICER.
		CHIEF, FINANCE DIVISION.
		CHIEF ADMINISTRATIVE OFFICER.
		CHIEF, BUDGET DIVISION.
		CHIEF, HUMAN RESOURCES DIVISION.
		CHIEF, ACQUISITION DIVISION.
	ASSOCIATE DIRECTOR FOR ECONOMIC PROGRAMS.	CHIEF, ECONOMIC INDICATORS DIVISION.
		CHIEF, ECONOMIC STATISTICAL METHODS AND RESEARCH DIVISION.
		CHIEF, ECONOMIC APPLICATIONS DIVISION.
		ASSOCIATE DIRECTOR FOR ECONOMIC PROGRAMS.
		ASSISTANT DIRECTOR FOR ECONOMIC PROGRAMS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		CHIEF, ECONOMY-WIDE STATISTICS DIVISION.
		CHIEF, ECONOMIC MANAGEMENT DIVISION.
		CHIEF, INTERNATIONAL TRADE MANAGEMENT DIVISION.
		CHIEF, ECONOMIC REIMBURSABLE SURVEYS DIVISION.
	ASSOCIATE DIRECTOR FOR FIELD OPERATIONS.	CHIEF NATIONAL PROCESSING CENTER.
		ASSOCIATE DIRECTOR FOR FIELD OPERATIONS.
		CHIEF, FIELD DIVISION.
		ASSISTANT DIRECTOR FOR FIELD OPERATIONS.
		CHIEF, OFFICE OF SURVEY AND CENSUS ANALYTICS.
	ASSOCIATE DIRECTOR FOR INFORMATION TECHNOLOGY AND CHIEF INFORMATION OFFICER.	CHIEF, COMPUTER SERVICES DIVISION.
		CHIEF, OFFICE OF INFORMATION SECURITY.
		CHIEF, APPLICATION SERVICES DIVISION.
		ASSISTANT DIRECTOR FOR IT AND DEPUTY CHIEF INFORMATION OFFICER.
		CHIEF TECHNOLOGY OFFICER.
		ASSOCIATE DIRECTOR FOR INFORMATION TECHNOLOGY AND CHIEF INFORMATION OFFICER.
	OFFICE OF THE DIRECTOR	SENIOR ADVISOR FOR PROJECT MANAGEMENT.
		ASSOCIATE DIRECTOR FOR PERFORMANCE IMPROVEMENT.
		SENIOR ADVISOR FOR BUSINESS TRANSFORMATION.
	BUREAU OF INDUSTRY AND SECURITY.	CHIEF FINANCIAL OFFICER AND DIRECTOR OF ADMINISTRATION.
		CHIEF INFORMATION OFFICER.
	ECONOMICS AND STATISTICS ADMINISTRATION.	CHIEF FINANCIAL OFFICER AND DIRECTOR FOR ADMINISTRATION.
		DIRECTOR FOR POLICY AND PLANNING.
	MINORITY BUSINESS DEVELOPMENT AGENCY.	ASSOCIATE DIRECTOR FOR MANAGEMENT.
	NATIONAL TECHNICAL INFORMATION SERVICE.	DEPUTY DIRECTOR, NATIONAL TECHNICAL INFORMATION SERVICE.
	OFFICE OF THE INSPECTOR GENERAL.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR ECONOMIC AND STATISTICAL PROGRAM ASSESSMENT.
	DEPUTY ASSISTANT SECRETARY FOR CHINA.	EXECUTIVE DIRECTOR FOR CHINA.
	OFFICE OF THE DEPUTY ASSISTANT SECRETARY.	CHIEF FINANCIAL OFFICER AND CHIEF ADMINISTRATIVE OFFICER.
	ASSOCIATE DIRECTOR FOR DECENNIAL CENSUS.	ASSOCIATE DIRECTOR FOR DECENNIAL CENSUS.
		CHIEF, DECENNIAL MANAGEMENT DIVISION.
		CHIEF, DECENNIAL STATISTICAL STUDIES DIVISION.
		CHIEF, DECENNIAL CONTRACTS EXECUTION OFFICE.
		CHIEF, DECENNIAL INFORMATION TECHNOLOGY DIVISION.
		CHIEF, DECENNIAL COMMUNICATIONS AND STAKEHOLDER RELATIONSHIPS.
		ASSISTANT DIRECTOR FOR DECENNIAL CENSUS PROGRAMS.
		CHIEF, AMERICAN COMMUNITY SURVEY OFFICE.
		CHIEF, GEOGRAPHY DIVISION.
	ASSOCIATE DIRECTOR FOR DEMOGRAPHIC PROGRAMS.	ASSISTANT DIRECTOR FOR DEMOGRAPHIC PROGRAMS.
		ASSOCIATE DIRECTOR FOR DEMOGRAPHIC PROGRAMS.
		CHIEF, DEMOGRAPHIC STATISTICAL METHODS DIVISION.
		CHIEF, DEMOGRAPHIC SURVEYS DIVISION.
		CHIEF, POPULATION DIVISION.
		CHIEF, SOCIAL, ECONOMIC, AND HOUSING STATISTICS DIVISION.
	ASSOCIATE DIRECTOR FOR RESEARCH AND METHODOLOGY.	CHIEF, CENTER FOR SURVEY MEASUREMENT.
		ASSISTANT DIRECTOR FOR RESEARCH AND METHODOLOGY.
		ASSOCIATE DIRECTOR FOR RESEARCH AND METHODOLOGY.
		CHIEF, CENTER FOR ECONOMIC STUDIES AND CHIEF ECONOMIST.
		CHIEF, STATISTICAL RESEARCH DIVISION.
		CHIEF, CENTER FOR ADMINISTRATIVE RECORDS RESEARCH AND APPLICATIONS.
		CHIEF, CENTER FOR ADAPTIVE DESIGN.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	ATLANTIC OCEAN AND METEOROLOGY LABORATORY.	DIRECTOR, ATLANTIC OCEANOGRAPHIC AND METEOROLOGICAL.
	GEOPHYSICAL FLUID DYNAMICS LABORATORY.	DIRECTOR, OFFICE OF GEOPHYSICAL FLUID DYNAMICS LABORATORY.
	GREAT LAKE ENVIRONMENTAL RESEARCH LABORATORY.	DIRECTOR, OFFICE OF GREAT LAKES ENVIRONMENTAL RESEARCH LABORATORY.
	PACIFIC MARINE ENVIRONMENTAL RESEARCH LABORATORY.	DIRECTOR, OFFICE OF PACIFIC MARINE ENVIRONMENTAL LABORATORY.
	BOULDER SITE MANAGEMENT OFFICE.	BOULDER LABORATORIES SITE MANAGER.
	CENTER FOR NANOSCALE SCIENCE AND TECHNOLOGY.	DIRECTOR, CENTER FOR NANOSCALE SCIENCE AND TECHNOLOGY.
		DEPUTY DIRECTOR, CENTER FOR NANOSCALE SCIENCE AND TECHNOLOGY.
	ENGINEERING LABORATORY	DEPUTY DIRECTOR ENGINEERING LABORATORY.
		DIRECTOR, SMART GRID AND CYBER-PHYSICAL SYSTEMS PROGAM OFFICE.
		DIRECTOR, ENGINEERING LABORATORY.
	HOLLINGS MANUFACTURING EXTENSION PARTNER SHIP PROGRAM.	DEPUTY DIRECTOR, MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.
		DIRECTOR, MANUFACTURING EXTENSION PARTNERSHIP PROGRAMS.
	INFORMATION TECHNOLOGY LABORATORY.	DEPUTY DIRECTOR, INFORMATION TECHNOLOGY LABORATORY.
		DIRECTOR, INFORMATION TECHNOLOGY LABORATORY.
	MATERIAL MEASUREMENT LABORATORY.	DIRECTOR, MATERIAL MEASUREMENT LABORATORY.
	NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY CENTER FOR NEUTRON RESEARCH.	DEPUTY DIRECTOR, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY CENTER FOR NEUTRON RESEARCH.
		DIRECTOR, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY CENTER FOR NEUTRON RESEARCH.
	OFFICE OF ACQUISITION AND AGREEMENTS MANAGEMENT.	DIRECTOR, OFFICE OF ACQUISITION AND AGREEMENTS MANAGEMENT.
	OFFICE OF FACILITIES AND PROPERTY MANAGEMENT.	CHIEF FACILITIES MANAGEMENT OFFICER.
	OFFICE OF FINANCIAL RESOURCE MANAGEMENT.	CHIEF FINANCIAL OFFICER FOR NIST.
	OFFICE OF INFORMATION SYSTEMS MANAGEMENT.	CHIEF INFORMATION OFFICER FOR NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.
	OFFICE OF SAFETY, HEALTH AND ENVIRONMENT.	CHIEF SAFETY OFFICER.
	OFFICE OF THE UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.	SENIOR SCIENCE ADVISOR.
		DIRECTOR, ADVANCED MANUFACTURING PROGRAM OFFICE.
		CHIEF SCIENTIST.
		SENIOR ADVISOR TO THE UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.
		CHIEF OF STAFF FOR NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY.
		ASSOCIATE DIRECTOR FOR INNOVATION AND INDUSTRY SERVICES.
		ASSOCIATE DIRECTOR FOR MANAGEMENT RESOURCES.
		ASSOCIATE DIRECTOR FOR LABORATORY PROGRAMS.
		DIRECTOR, COMMUNICATIONS TECHNOLOGY LABORATORY.
	PHYSICAL MEASUREMENT LABORATORY.	DEPUTY DIRECTOR, PHYSICAL MEASUREMENT LABORATORY.
		DIRECTOR, PHYSICAL MEASUREMENT LABORATORY.
		SENIOR ADVISOR TO THE DIRECTOR, PHYSICAL MEASUREMENT LABORATORY.
	SPECIAL PROGRAMS OFFICE	DIRECTOR, SPECIAL PROGRAMS OFFICE.
		DEPUTY DIRECTOR, SPECIAL PROGRAMS OFFICE.
	STANDARDS COORDINATION OFFICE.	DIRECTOR, STANDARDS COORDINATION OFFICE.
	OFFICE OF SCIENCE AND TECHNOLOGY.	DIRECTOR, OFFICE OF SCIENCE AND TECHNOLOGY.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	REGIONAL OFFICES	SCIENCE AND RESEARCH DIRECTOR, NORTHEAST REGION.
		SCIENCE AND RESEARCH DIRECTOR, PACIFIC ISLAND REGION.
		SCIENCE AND RESEARCH DIRECTOR, SOUTHWEST REGION.
		SCIENCE AND RESEARCH DIRECTOR, NORTHWEST REGION.
		SCIENCE AND RESEARCH DIRECTOR, ALASKA REGION.
		SCIENCE AND RESEARCH DIRECTOR, SOUTHEAST REGION.
	CENTER FOR OPERATIONAL OCEANOGRAPHIC PRODUCTS AND SERVICES.	DIRECTOR, CENTER FOR OPERATIONAL OCEANOGRAPHIC PRODUCTS AND SERVICES.
	NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COASTAL SERVICES CENTER.	DIRECTOR, NATIONAL CENTERS FOR COASTAL OCEAN SCIENCE.
	OFFICE OF NATIONAL GEODETIC SURVEY.	DIRECTOR, OFFICE OF NATIONAL GEODTIC SURVEY.
	OFFICE OF RESPONSE AND RESTORATION.	DIRECTOR, OFFICE OF RESPONSE AND RESTORATON.
	NATIONAL CENTERS FOR ENVIRONMENTAL PREDICTION.	DIRECTOR, ENVIRONMENTAL MODELING CENTER.
		DIRECTOR, OCEAN PREDICTION CENTER.
		DIRECTOR, SPACE WEATHER PREDICTION CENTER.
		DIRECTOR, WEATHER PREDICTION CENTER.
		DIRECTOR, AVIATION WEATHER CENTER.
		DIRECTOR, NATIONAL CENTERS FOR ENVIRONMENTAL PREDICTION.
	OFFICE OF ASSISTANT ADMINISTRATOR SATELLITE, DATA INFORMATION SERVICE.	DEPUTY ASSISTANT ADMINISTRATOR FOR SYSTEMS.
		DIRECTOR, OFFICE OF PROJECTS, PARTNERSHIPS AND ANALYSIS.
		DEPUTY DIRECTOR, NATIONAL CENTER FOR ENVIRONMENTAL INFORMATION.
		DIRECTOR, NATIONAL CENTER FOR ENVIRONMENTAL INFORMATION.
		SYSTEM PROGRAM DIRECTOR FOR GOES–R PROGRAM.
		DIRECTOR, JOINT POLAR SATELLITE SYSTEMS.
		DIRECTOR, OFFICE OF SYSTEMS ARCHITECTURE AND ADVANCED PLANNING.
		ASSISTANT CHIEF INFORMATION OFFICER FOR NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORTMATION SERVICE.
		CHIEF FINANCIAL OFFICER/CHIEF ADMINISTRATIVE OFFICER.
		DIRECTOR SATELLITE GROUND SERVICES.
	OFFICE OF ASSISTANT ADMINISTRATOR, OCEAN AND ATMOSPHERIC RESEARCH.	CHIEF FINANCIAL OFFICER/CHIEF ADMINISTRATIVE OFFICER.
		DIRECTOR, OFFICE OF WEATHER AIR QUALITY.
		DEPUTY ASSISTANT ADMINISTRATOR FOR SCIENCE.
	OFFICE OF EDUCATION AND SUSTAINABLE DEVELOPMENT.	DIRECTOR, OFFICE OF EDUCATION.
	OFFICE OF HABITAT CONSERVATION.	DIRECTOR, OFFICE OF HABITAT CONSERVATION.
	OFFICE OF HIGH PERFORMANCE COMPUTING AND COMMUNICATIONS.	DEPUTY CHIEF INFORMATION OFFICER.
		CHIEF DATA OFFICER.
		CHIEF INFORMATION OFFICER AND DIRECTOR FOR HIGH PERFORMANCE COMPUTING AND COMMUNICATIONS.
	OFFICE OF MARINE AND AVIATION OPERATIONS.	DEPUTY ASSISTANT ADMINISTRATOR FOR PROGRAMS AND ADMINISTRATION.
	OFFICE OF OCEANIC EXPLORATION AND RESEARCH.	DIRECTOR, OFFICE OF OCEAN EXPLORATION AND RESEARCH.
	OFFICE OF RESEARCH AND APPLICATIONS.	DIRECTOR, CENTER FOR SATELLITE APPLICATIONS AND RESEARCH.
	OFFICE OF SATELLITE AND PRODUCT OPERATIONS.	DEPUTY DIRECTOR, OFFICE OF SATELLITE AND PRODUCT OPERATIONS.
	OFFICE OF THE ASSISTANT ADMINISTRATOR FOR WEATHER SERVICES.	CHIEF FINANCIAL OFFICER/CHIEF ADMINISTRATOR OFFICER.
		DIRECTOR, OFFICE OF PLANNING AND PROGRAMMING FOR SERVICE DELIVERY.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		CHIEF ENGINEER.
		CHIEF OPERATING OFFICER.
		DIRECTOR, OFFICE OF OBSERVATIONS.
		DIRECTOR, OFFICE OF SCIENCE AND TECHNOLOGY INTEGRATION.
		DIRECTOR, OFFICE OF FACILITIES.
		DIRECTOR, ANALYZE, FORECAST AND SUPPORT OFFICE.
		DIRECTOR, OFFICE OF CENTRAL PROCESSING.
		OFFICE OF ORGANIZATIONAL EXCELLENCE.
		DIRECTOR, OFFICE OF DISSEMINATION.
		DIRECTOR, OFFICE OF WATER PREDICTION.
		DEPUTY DIRECTOR, OFFICE OF WATER PREDICTION.
	OFFICE OF UNDER SECRETARY	DIRECTOR, BUDGET OFFICE.
		CHIEF ADMINISTRATIVE OFFICER.
		DIRECTOR, PROGRAM EVALUATION, PLANNING AND RISK MANAGEMENT OFFICE.
		DIRECTOR FOR WORKFORCE MANAGEMENT.
		DEPUTY DIRECTOR, ACQUISITION AND GRANTS OFFICE.
		DIRECTOR, ACQUISITION AND GRANTS OFFICE.
		DIRECTOR, FINANCE OFFICE/COMPTROLLER.
		CHIEF FINANCIAL OFFICER.
		DEPUTY DIRECTOR FOR WORKFORCE MANAGEMENT.
	FIRST RESPONDER NETWORK AUTHORITY.	CHIEF TECHNOLOGY OFFICER, FIRST RESPONDER NETWORK AUTHORITY.
		CHIEF ADMINISTRATIVE OFFICER, FIRST RESPONDER NETWORK AUTHORITY.
		CHIEF INFORMATION OFFICER, FIRST RESPONDER NETWORK AUTHORITY.
		CHIEF FINANCIAL OFFICER, FIRST RESPONDER NETWORK AUTHORITY.
		CHIEF PROCUREMENT OFFICER.
	INSTITUTE FOR TELECOMMUNICATION SCIENCES.	ASSOCIATE ADMINISTRATOR FOR TELECOMMUNICATION SCIENCES AND DIRECTOR, INSTITUTE FOR TELECOMMUNICATION SCIENCES.
	OFFICE OF INTERNATIONAL AFFAIRS.	ASSOCIATE ADMINISTRATOR, OFFICE OF INTERNATIONAL AFFAIRS.
	OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION.	CHIEF DIGITAL OFFICER.
		CHIEF INFORMATION OFFICER AND DEPUTY DIRECTOR OF ADMINISTRATION.
		CHIEF FINANCIAL OFFICER AND DIRECTOR OF ADMINISTRATION.
	ALASKA REGION	DIRECTOR, ALASKA REGION.
	CENTERAL REGION	DIRECTOR, CENTRAL REGION.
	EASTERN REGION	DIRECTOR, EASTERN REGION.
	SOUTHERN REGION	DIRECTOR, SOUTHERN REGION.
	WESTERN REGION	DIRECTOR, WESTERN REGION.
	NATIONAL MARINE FISHERIES SERVICE.	DIRECTOR, OFFICE OF ENFORCEMENT.
		DEPUTY ASSISTANT ADMINISTRATOR FOR OPERATIONS.
		DIRECTOR, OFFICE OF SUSTAINABLE FISHERIES.
		CHIEF FINANCIAL OFFICER/CHIEF ADMINISTRATIVE OFFICER.
		DIRECTOR, SCIENTIFIC PROGRAMS AND CHIEF SCIENCE ADVISOR.
	NATIONAL OCEAN SERVICE	DEPUTY ASSISTANT ADMINISTRATOR FOR OCEAN SERVICE AND COASTAL ZONE MANAGEMENT.
		DIRECTOR, OFFICE OF COASTAL MANAGEMENT.
		DIRECTOR, INTEGRATED OCEAN OBSERVING SYSTEM.
		CHIEF FINANCIAL OFFICER/CHIEF ADMINISTRATIVE OFFICER.
	EARTH SYSTEM RESEARCH LABORATORY.	DIRECTOR, CHEMICAL SCIENCE DIVISION.
		DIRECTOR, PHYSICAL SCIENCE DIVISION.
		DIRECTOR, GLOBAL MONITORING DIVISION.
		DIRECTOR, GLOBAL SYSTEMS DIVISION.
	OFFICE OF NATIONAL SEVERE STORMS LABORATORY.	DIRECTOR, NATIONAL SEVERE STORMS LABORATORY.
	CLIMATE PROGRAM OFFICE	DIRECTOR, CLIMATE PROGRAM OFFICE.
	NATIONAL SEA GRANT COLLEGE PROGRAM.	DIRECTOR, NATIONAL SEA GRANT COLLEGE PROGRAM.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	NATIONAL DATA BUOY CENTER	DIRECTOR, NATIONAL DATA BUOY CENTER.
	RADAR OPERATIONS CENTER	DIRECTOR, RADAR OPERATIONS CENTER.
	METEOROLOGICAL DEVELOPMENT LABORATORY.	DIRECTOR, METEOROLOGICAL DEVELOPMENT LABORATORY.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	ASSISTANT CHIEF INFORMATION OFFICER FOR WEATHER SERVICE.
	OFFICE OF THE DEPUTY ASSISTANT SECRETARY FOR RESOURCE MANAGEMENT.	DEPUTY ASSISTANT SECRETARY FOR RESOURCE MANAGEMENT.
	OFFICE OF THE DEPUTY CHIEF FINANCIAL OFFICER FOR FINANCIAL MANAGEMENT.	DIRECTOR FOR FINANCIAL MANAGEMENT AND DEPUTY CHIEF FINANCIAL OFFICER.
		DIRECTOR, OS FINANCIAL MANAGEMENT.
		DIRECTOR, FINANCIAL REPORTING AND INTERNAL CONTROLS.
		DEPUTY DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT SYSTEMS.
	GROUP DIRECTORS	GROUP DIRECTOR—2600 (5).
		GROUP DIRECTOR—2900.
		GROUP DIRECTOR—3600 (5).
		GROUP DIRECTOR—1600 (3).
		GROUP DIRECTOR—3700 (5).
		GROUP DIRECTOR—1700 (3).
		GROUP DIRECTOR—2800 (3).
		GROUP DIRECTOR—2400 (3).
		GROUP DIRECTOR—2100 (3).
	OFFICE OF ACQUISITION MANAGEMENT.	DIRECTOR, OFFICE OF ACQUISITION MANAGEMENT.
		DEPUTY FOR ACQUISITION PROGRAM MANAGEMENT.
		DEPUTY FOR PROCUREMENT MANAGEMENT, POLICY AND PERFORMANCE EXCELLENCE.
	OFFICE OF FACILITIES AND ENVIRONMENTAL QUALITY.	DEPUTY DIRECTOR FOR FACILITIES AND ENVIRONMENTAL QUALITY.
		DIRECTOR FOR FACILITIES AND ENVIRONMENTAL QUALITY.
	OFFICE OF HUMAN RESOURCES MANAGEMENT.	DIRECTOR FOR HUMAN RESOURCES MANAGEMENT AND CHIEF HUMAN CAPITAL OFFICER.
		DEPUTY DIRECTOR FOR HUMAN RESOURCES MANAGEMENT AND DEPUTY CHIEF HUMAN CAPITAL OFFICER.
		DIRECTOR, HUMAN CAPITAL STRATEGY AND DIVERSITY.
		DIRECTOR, HUMAN CAPITAL CLIENT SERVICES.
	OFFICE OF SECURITY	DIRECTOR, OFFICE OF SECURITY.
		DEPUTY DIRECTOR, OFFICE OF SECURITY.
	OFFICE OF BUDGET	DIRECTOR OF THE OFFICE OF BUDGET.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	DIRECTOR OF CYBER SECURITY AND CHIEF INFORMATION SECURITY OFFICER.
		DEPUTY CHIEF INFORMATION OFFICER AND CHIEF TECHNOLOGY OFFICER.
		DEPUTY CHIEF INFORMATION OFFICER FOR POLICY AND BUSINESS MANAGEMENT.
	OFFICE OF THE INSPECTOR GENERAL.	COUNSEL TO THE INSPECTOR GENERAL.
	OFFICE OF INSPECTIONS AND PROGRAM EVALUATION.	ASSISTANT INSPECTOR GENERAL FOR INSPECTIONS AND PROGRAM EVALUATION.
	OFFICE OF INSPECTOR GENERAL	ASSISTANT INSPECTOR GENERAL FOR ADMINISTRATION.
		ASSISTANT INSPECTOR GENERAL FOR SYSTEMS EVALUATION.
	OFFICE OF INVESTIGATIONS	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
	OFFICE OF THE DEPUTY SECRETARY.	DIRECTOR, HUMAN RESOURCES SERVICES, ENTERPRISE SERVICES.
		CHIEF FINANCIAL OFFICER AND DIRECTOR OF ADMINISTRATION.
		DEPUTY DIRECTOR FOR ENTERPRISE SERVICES FOR OPERATIONS.
	OFFICE OF THE GENERAL COUNSEL.	CHIEF, CONTRACT LAW DIVISION.
		CHIEF, ETHICS DIVISION.
	OFFICE OF THE UNDER SECRETARY.	CHIEF, FINANCIAL AND ADMINISTRATIVE OFFICER.
		DEPUTY CHIEF FINANCIAL AND ADMINISTRATIVE OFFICER.
		DEPUTY CHIEF INFORMATION OFFICER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	BALDRIDGE PERFORMANCE EXCELLENCE PROGRAM.	DIRECTOR, BALDRIGE PERFORMANCE EXCELLENCE PROGRAM.
	OFFICE OF POLICY AND INTERNATIONAL AFFAIRS.	DEPUTY CHIEF POLICY OFFICER.
		DIRECTOR, GOVERNMENTAL AFFAIRS.
		DEPUTY CHIEF POLICY OFFICER FOR OPERATIONS.
	OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER.	DIRECTOR, OFFICE OF ADMINISTRATIVE SERVICES.
		DEPUTY CHIEF ADMINISTRATIVE OFFICER.
		DIRECTOR, HUMAN CAPITAL MANAGEMENT.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DIRECTOR, OFFICE OF PLANNING AND BUDGET.
		DIRECTOR, OFFICE OF FINANCE.
		DIRECTOR, OFFICE OF PROCUREMENT.
		DEPUTY CHIEF FINANCIAL OFFICER.
		CHIEF FINANCIAL OFFICER.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	DIRECTOR, APPLICATION ENGINEERING AND DEVELOPMENT.
		DIRECTOR, OFFICE OF PROGRAM ADMINISTRATION ORGANIZATION.
		DIRECTOR, OFFICE OF INFORMATION MANAGEMENT SERVICES.
		DIRECTOR, OFFICE OF POLICY AND GOVERNANCE.
		DIRECTOR OF ORGANIZATIONAL POLICY AND GOVERANCE.
		CHIEF TECHNOLOGY OFFICER.
		DEPUTY CHIEF INFORMATION OFFICER.
		DIRECTOR, OFFICE OF INFRASTRUCTURE ENGINEERING AND OPERATIONS.
	OFFICE OF THE COMMISSIONER FOR PATENTS.	DEPUTY DIRECTOR, PATENT TRAINING ACADEMY.
		PROGRAM DIRECTOR, INTERNATIONAL PATENT COOPERATION.
		DEPUTY COMMISSIONER FOR PATENT QUALITY.
		DIRECTOR, OFFICE OF PATENT QUALITY ASSURANCE.
		DEPUTY COMMISSIONER FOR PATENT EXAMINATION POLICY.
		DIRECTOR, OFFICE OF PATENT LEGAL ADMINISTRATION.
		DIRECTOR, OFFICE OF CENTRAL REEXAMINATION UNIT.
		ASSOCIATE COMMISSIONER FOR PATENT INFORMATION MANAGEMENT.
		DEPUTY COMMISSIONER FOR PATENT ADMINISTRATION.
		ASSISTANT DEPUTY COMMISSIONER FOR PATENTS (3).
		ASSISTANT DEPUTY COMMISSIONER FOR PATENTS OPERATIONS (2).
		ASSOCIATE COMMISSIONER FOR PATENT EXAMINATION POLICY.
		ASSOCIATE COMMISSIONER FOR PATENT RESOURCES AND PLANNING.
		ASSOCIATE COMMISSIONER FOR PATENT QUALITY.
		ASSOCIATE COMMISSIONER FOR INNOVATION AND DEVELOPMENT.
		DIRECTOR, OFFICE OF PATENT TRAINING.
		DEPUTY COMMISSIONER FOR PATENT OPERATIONS.
		DEPUTY COMMISSIONER FOR INTERNATIONAL PATENT COOPERATION.
	OFFICE OF THE COMMISSIONER FOR TRADEMARKS.	DEPUTY COMMISSIONER FOR TRADEMARK OPERATIONS.
		GROUP DIRECTOR, TRADEMARK LAW OFFICES.
		DEPUTY COMMISSIONER FOR TRADEMARK ADMINISTRATION.
		DEPUTY COMMISSIONER FOR TRADEMARK EXAMINATION POLICY.
		GROUP DIRECTOR, TRADEMARK LAW OFFICES (2).
	OFFICE OF THE GENERAL COUNSEL.	DEPUTY GENERAL COUNSEL FOR ENROLLMENT AND DISCIPLINE.
		DEPUTY GENERAL COUNSEL FOR GENERAL LAW.
		DEPUTY SOLICITOR AND ASSISTANT GENERAL COUNSEL FOR INTELLECTUAL PROPERY LAW.
		DEPUTY GENERAL COUNSEL FOR INTELLECTUAL PROPERTY LAW AND SOLICITOR.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF THE UNDER SECRETARY.	VICE CHIEF ADMINISTRATIVE PATENT JUDGE.
		PATENT TRIAL AND APPEAL BOARD EXECUTIVE.
		REGIONAL DIRECTOR—DETROIT.
		DEPUTY CHIEF ADMINISTRATIVE TRADEMARK JUDGE.
		DIRECTOR, OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY AND DIVERSITY.
		REGIONAL DIRECTOR—DENVER.
		DEPUTY CHIEF ADMINISTRATIVE PATENT JUDGE.
		CHIEF ADMINISTRATIVE PATENT JUDGE.
		VICE CHIEF ADMINISTRATIVE PATENT JUDGE (3).
		VICE CHIEF ADMINISTRATIVE PATENT JUDGE FOR ENGAGEMENT.
		REGIONAL DIRECTOR—DALLAS.
		REGIONAL DIRECTOR—SAN JOSE.
		CHIEF, TRADEMARK TRIAL AND APPEAL BOARD.
DEPARTMENT OF COMMERCE OFFICE OF THE INSPECTOR GENERAL.	OFFICE OF INSPECTOR GENERAL ...	DEPUTY INSPECTOR GENERAL.
	OFFICE OF ECONOMIC AND STATISTICAL PROGRAM ASSESSMENT.	ASSISTANT INSPECTOR GENERAL FOR ECONOMIC AND STATISTICAL PROGRAM ASSESSMENT.
	OFFICE OF PROGRAM ASSESSMENT.	ASSISTANT INSPECTOR GENERAL FOR ADMINISTRATION.
	OFFICE OF SYSTEMS ACQUISITIONS AND INFORMATION TECHNOLOGY SECURITY.	ASSISTANT INSPECTOR GENERAL FOR SYSTEMS ACQUISITIONS AND INFORMATION TECHNOLOGY SECURITY.
	OFFICE OF AUDIT AND EVALUATION	ASSISTANT INSPECTOR GENERAL FOR AUDITS.
		PRINCIPAL ASSISTANT INSPECTOR GENERAL FOR AUDIT AND EVALUATION.
		ASSISTANT INSPECTOR GENERAL FOR ACQUISITION AND SPECIAL PROGRAM AUDITS.
	OFFICE OF COUNSEL	COUNSEL TO THE INSPECTOR GENERAL.
	OFFICE OF INVESTIGATIONS	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.	COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.	EXECUTIVE DIRECTOR.
CONSUMER PRODUCT SAFETY COMMISSION.	OFFICE OF EXECUTIVE DIRECTOR ..	ASSISTANT EXECUTIVE DIRECTOR FOR INFORMATION AND TECH SERVICES.
		DEPUTY EXECUTIVE DIRECTOR FOR OPERATIONS SUPPORT.
		ASSISTANT EXECUTIVE DIRECTOR FOR COMPLIANCE AND FIELD OPERATIONS.
OFFICE OF EXECUTIVE DIRECTOR ...	OFFICE OF HAZARD IDENTIFICATION AND REDUCTION.	DEPUTY ASSISTANT EXECUTIVE DIRECTOR FOR HAZARD IDENTIFICATION AND REDUCTION.
		ASSISTANT EXECUTIVE DIRECTOR FOR HAZARD IDENTIFICATION AND REDUCTION.
		ASSOCIATE EXECUTIVE DIRECTOR FOR ENGINEERING SCIENCES.
		ASSOCIATE EXECUTIVE DIRECTOR FOR EPIDEMIOLOGY.
		ASSOCIATE EXECUTIVE DIRECTOR FOR ECONOMIC ANALYSIS.
	OFFICE OF IMPORT SURVEILLANCE	DIRECTOR, OFFICE OF IMPORT SURVEILLANCE.
		DIRECTOR, OFFICE OF IMPORT SURVEILLANCE.
COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA.	COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA.	ASSOCIATE DIRECTOR, LEGISLATIVE, INTERGOVERNMENTAL AND PUBLIC AFFAIRS.
		DEPUTY DIRECTOR.
		ASSOCIATE DIRECTOR FOR HUMAN RESOURCES.
		ASSOCIATE DIRECTOR FOR ADMINISTRATION.
		CHIEF INFORMATION OFFICER.
		ASSOCIATE DIRECTOR FOR COMMUNITY SUPERVISION.
		ASSOCIATE DIRECTOR FOR COMMUNITY JUSTICE PROGRAMS.
		MANAGEMENT AND PROGRAM ANALYSIS OFFICER CHIEF OF STAFF.
		ASSOCIATE DIRECTOR FOR RESEARCH AND EVALUATION.
		CHIEF FINANCIAL OFFICER.
	PRETRIAL SERVICES AGENCY	DIRECTOR.
		ASSOCIATE DIRECTOR FOR MANAGEMENT AND ADMINISTRATION.
		ASSOCIATE DIRECTOR FOR OPERATIONS.
		DEPUTY DIRECTOR.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
OFFICE OF THE SECRETARY OF DEFENSE.	OFFICE OF THE SECRETARY OF DEFENSE.	SENIOR ADVISOR TO THE DIRECTOR, DEFEMSE JI,AM RESOURCES ACTIVITY.
	REGIONAL MANAGERS	ASSISTANT DIRECTOR, INTEGRITY AND QUALITY ASSURANCE.
	PENTAGON FORCE PROTECTION AGENCY.	DIRECTOR, PENTAGON FORCE PROTECTION AGENCY.
		PRINCIPAL DEPUTY DIRECTOR, PENTAGON FORCE PROTECTION AGENCY.
		ASSISTANT DIRECTOR, LAW ENFORCEMENT.
	WASHINGTON HEADQUARTERS SERVICES.	DEPUTY DIRECTOR, DEFENSE FACILITIES DIRECTORATE.
		DEPUTY DIRECTOR, HUMAN RESOURCES DIRECTORATE.
		DIRECTOR, POLICY, PLANS AND REQUIREMENTS.
		DIRECTOR, ACQUISITION DIRECTORATE.
		DIRECTOR, FACILITIES SERVICES DIRECTORATE.
		DIRECTOR, DEPARTMENT OF DEFENSE CONSOLIDATED ADJUDICATIONS FACILITY.
		PRINCIPAL ASSISTANT RESPONSIBLE FOR CONTRACTING.
		DIRECTOR, HUMAN RESOURCES DIRECTORATE.
	DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.	DIRECTOR, TACTICAL TECHNOLOGY OFFICE.
		DEPUTY DIRECTOR, DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.
		SPECIAL ASSISTANT FOR PROCUREMENT POLICY STRATEGY.
		DIRECTOR, STRATEGIC RESOURCES.
		DIRECTOR, CONTRACTS MANAGEMENT OFFICE.
		GENERAL COUNSEL.
		DIRECTOR, SUPPORT SERVICES OFFICE.
	DEFENSE COMMISSARY AGENCY	DIRECTOR.
	DEFENSE CONTRACT AUDIT AGENCY.	DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY.
		DEPUTY REGIONAL DIRECTOR, EASTERN REGION.
		DEPUTY REGIONAL DIRECTOR, CENTRAL.
		DEPUTY REGIONAL DIRECTOR, WESTERN REGION.
		ASSISTANT DIRECTOR, HUMAN CAPITAL AND RESOURCE MANAGEMENT.
		DIRECTOR, FIELD DETACHMENT.
		CORPORATE AUDIT DIRECTOR (2).
		CORPORATE AUDIT DIRECTOR (D).
		CORPORATE AUDIT DIRECTOR (C).
		DEPUTY DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY.
		ASSISTANT DIRECTOR, OPERATIONS.
		ASSISTANT DIRECTOR, POLICY AND PLANS.
		REGIONAL DIRECTOR, EASTERN.
		REGIONAL DIRECTOR, CENTRAL.
		REGIONAL DIRECTOR, WESTERN.
		REGIONAL DIRECTOR, MID-ATLANTIC.
		DIRECTOR, FIELD DETACHMENT.
	DEFENSE CONTRACT MANAGEMENT AGENCY.	DEPUTY DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY.
		EXECUTIVE DIRECTOR, QUALITY ASSURANCE.
		CHIEF OPERATIONS OFFICER.
		EXECUTIVE DIRECTOR, CONTRACTS.
		DEPUTY EXECUTIVE DIRECTOR, PORTFOLIO MANAGEMENT AND INTEGRATION.
		DEPUTY GENERAL COUNSEL.
		EXECUTIVE DIRECTOR, TECHNICAL DIRECTORATE.
		EXECUTIVE DIRECTOR, COST AND PRICING CENTER.
		GENERAL COUNSEL.
		EXECUTIVE DIRECTOR, FINANCIAL AND BUSINESS OPERATIONS AND COMPTROLLER.
	DEFENSE HUMAN RESOURCES ACTIVITY.	DEPUTY DIRECTOR, DEFENSE MANPOWER DATA CENTER.
		CHIEF ACTUARY, DEFENSE HUMAN RESOURCES ACTIVITY.
		DEPUTY DIRECTOR, DEFENSE HUMAN RESOURCES ACTIVITY.
	DEFENSE INFORMATION SYSTEMS AGENCY.	CHIEF TECHNOLOGY OFFICER.
		PRINCIPAL DIRECTOR, OPERATIONS DIRECTOR.
		DIRECTOR FOR NETWORK SERVICES.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, ENTERPRISE ENGINEERING.
		WORKFORCE MANAGEMENT EXECUTIVE.
		SERVICES EXECUTIVE.
		CHIEF INFORMATION ASSURANCE EXECUTIVE AND PROGRAM EXECUTIVE OFFICER FOR MISSION ASSURANCE AND NETWORK OPERATIONS.
		CYBER SECURITY, RISK MANAGEMENT AND AUTHORIZING OFFICIAL EXECUTIVE.
		DIRECTOR, DEFENSE SPECTRUM ORGANIZATION.
		PROCUREMENT SERVICES EXECUTIVE AND HEAD OF CONTRACTING ACTIVITY.
		COMPONENT ACQUISITION EXECUTIVE.
		CYBER DEVELOPMENT EXECUTIVE.
		VICE DIRECTOR, DEVELOPMENT AND BUSINESS CENTER.
		VICE DIRECTOR, CENTER FOR OPERATIONS.
		RISK MANAGEMENT EXECUTIVE.
		OPERATIONS EXECUTIVE.
		DIRECTOR, DEVELOPMENT AND BUSINESS CENTER.
		CYBER SECURITY RISK MANAGEMENT AND AUTHORIZING OFFICIAL EXECUTIVE.
		NATIONAL LEADERSHIP COMMAND CAPABILITIES EXECUTIVE.
		DEPUTY DIRECTOR, JOINT SERVICE PROVIDER.
		DIRECTOR, CENTER FOR OPERATIONS (2).
		EXECUTIVE DEPUTY DIRECTOR.
		SERVICES DEVELOPMENT EXECUTIVE.
		INFRASTRUCTURE EXECUTIVE.
		DIRECTOR, PERSONNEL SECURITY PROGRAM.
		VICE DIRECTOR, RMC/DEPUTY COMPTROLLER.
		VICE PROCUREMENT SERVICES EXECUTIVE/DEPUTY CHIEF, DEFENSE IT CONTRACTING ORG.
		DIRECTOR, DEPARTMENT OF DEFENSE INFORMATION NETWORK READINESS AND SECURITY INSPECTIONS.
		DEPUTY CHIEF FINANCIAL EXECUTIVE/COMPTROLLER.
		CONGRESSIONAL LIAISON OFFICER.
		CHIEF FINANCIAL EXECUTIVE/COMPTROLLER.
	DEFENSE LOGISTICS AGENCY	DEPUTY COMMANDER, DEFENSE LOGISTICS AGENCY ENERGY.
		EXECUTIVE DIRECTOR, TROOP SUPPORT CONTRACTING AND ACQUISITION MANAGEMENT.
		DIRECTOR, DEFENSE LOGISTICS AGENCY DISPOSITION SERVICES.
		EXECUTIVE DIRECTOR, OPERATIONS AND SUSTAINMENT.
		DEPUTY DIRECTOR, DEFENSE LOGISTICS AGENCY ACQUISITION.
		CHIEF OF STAFF.
		EXECUTIVE DIRECTOR, CONTRACTING AND ACQUISITION MANAGEMENT.
		DIRECTOR, DEFENSE LOGISTICS AGENCY ACQUISITION (J–7).
		EXECUTIVE DIRECTOR OPERATIONS AND SUSTAINMENT.
		VICE DIRECTOR, DEFENSE LOGISTICS AGENCY.
		PROGRAM EXECUTIVE OFFICER, DEFENSE LOGISTICS AGENCY INFORMATION OPERATIONS.
		EXECUTIVE DIRECTOR, JOINT CONTINGENCY ACQUISITION SUPPORT OFFICE.
		DEPUTY DIRECTOR, INFORMATION OPERATIONS/CHIEF TECHNICAL OFFICER.
		DIRECTOR, DEFENSE LOGISTICS AGENCY FINANCE.
		EXECUTIVE DIRECTOR, SUPPORT—POLICY AND STRATEGIC PROGRAMS.
		DEPUTY COMMANDER, DEFENSE LOGISTICS AGENCY LAND AND MARITIME.
		DEPUTY COMMANDER, DLA AVIATION.
		DEPUTY COMMANDER, DEFENSE LOGISTICS AGENCY TROOP SUPPORT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY GENERAL COUNSEL, DEFENSE LOGISTICS AGENCY.
		DEPUTY COMMANDER, DEFENSE LOGISTICS AGENCY DISTRIBUTION.
		DEPUTY DIRECTOR, DEFENSE LOGISTICS AGENCY FINANCE.
		EXECUTIVE DIRECTOR, AVIATION CONTRACTING AND ACQUISITION MANAGEMENT.
		DIRECTOR, DEFENSE LOGISTICS AGENCY INFORMATION OPERATION.
		DIRECTOR, DEFENSE LOGISTICS AGENCY HUMAN RESOURCES.
		GENERAL COUNSEL.
	DEFENSE THREAT REDUCTION AGENCY.	DIRECTOR, INFORMATION OPERATIONS DIRECTORATE.
		DIRECTOR, TREATIES AND PARTNERSHIPS DEPARTMENT.
		DIRECTOR, CHIEF SCIENTIST AND INNOVATION DEPARTMENT.
		DIRECTOR, COOPERATIVE THREAT REDUCTION DEPARTMENT.
		DIRECTOR, CHEMICAL AND BIOLOGICAL TECHNOLOGIES DEPARTMENT.
		GENERAL COUNSEL.
		DIRECTOR, ACQUISITION, FINANCE AND LOGISTICS DIRECTORATE.
		EXECUTIVE DIRECTOR.
		DIRECTOR, OPERATIONS, READINESS AND EXERCISES DIRECTORATE.
		DIRECTOR, COUNTER WEAPONS OF MASS DESTRUCTION TECHNOLOGIES DEPARTMENT.
		DIRECTOR, INTELLIGENCE, PLANS AND RESOURCE INTEGRATION DIRECTORATE.
		DIRECTOR, RESEARCH AND DEVELOPMENT DIRECTORATE.
		DIRECTOR, NUCLEAR TECHNOLOGIES DEPARTMENT.
		DIRECTOR, BASIC AND APPLIED SCIENCES DEPARTMENT.
	DIRECTOR, OPERATIONAL TEST AND EVALUATION.	DEPUTY DIRECTOR FOR LIVE FIRE TEST AND EVALUATION.
	MISSILE DEFENSE AGENCY	DIRECTOR, CONTRACTING.
		DIRECTOR FOR ACQUISITION.
		DEPUTY PROGRAM DIRECTOR, BC.
		PROGRAM DIRECTOR FOR BATTLE MANAGEMENT, COMMAND AND CONTROL.
		DEPUTY PROGRAM DIRECTOR, AEGIS BALLISTIC MISSILE DEFENSE.
		PROGRAM DIRECTOR, GROUND-BASED MIDCOURSE DEFENSE.
		DEPUTY FOR ENGINEERING.
		DIRECTOR FOR OPERATIONS.
		DEPUTY PROGRAM MANAGER FOR ASSESSMENT AND INTEGRATIONS, BMDS.
		DIRECTOR FOR ADVANCED TECHNOLOGY.
		CHIEF ENGINEER.
		DIRECTOR FOR SYSTEMS ENGINEERING AND INTEGRATION.
		PROGRAM DIRECTOR, TARGETS AND COUNTERMEASURES.
	OFFICE OF THE DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER.	JOINT FORCE HEADQUARTERS DEPARTMENT OF DEFENSE INFORMATION NETWORK EXECUTIVE.
	OFFICE OF THE GENERAL COUNSEL.	DIRECTOR, OFFICE OF LITIGATION.
		DIRECTOR, DEFENSE OFFICE OF HEARINGS AND APPEALS.
	OFFICE OF THE JOINT CHIEFS OF STAFF.	EXECUTIVE DIRECTOR.
		VICE DEPUTY DIRECTOR, REGIONAL OPERATIONS AND FORCE MANAGEMENT.
		VICE DIRECTOR, C4 CYBER.
		VICE DIRECTOR, MANPOWER AND PERSONNEL.
		ASSISTANT DEPUTY DIRECTOR FOR COMMAND AND CONTROL.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		VICE DIRECTOR, JOINT FORCE DEVELOPMENT.
	OFFICE OF THE UNDER SECRETARY OF DEFENSE (ACQUISITION, TECHNOLOGY, AND LOGISTICS).	DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS.
		PRINCIPAL DEPUTY, ACQUISITION RESOURCES AND ANALYSIS.
		DIRECTOR FOR ADMINISTRATION.
		DIRECTOR, DEFENSE PROCUREMENT AND ACQUISITION POLICY.
		DEPUTY DIRECTOR, TREATY COMPLIANCE AND HOMELAND DEFENSE.
		DEPUTY DIRECTOR, OSD STUDIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER MANAGEMENT.
		DEPUTY DIRECTOR, ACQUISITION TECHNOLOGY.
		PRINCIPAL DEPUTY DIRECTOR, ADMINISTRATION.
		DEPUTY DIRECTOR, ENTERPRISE INFORMATION.
		DEPUTY DIRECTOR FOR PROGRAM DEVELOPMENT AND IMPLEMENTATION.
	OFFICE OF THE UNDER SECRETARY OF DEFENSE (COMPTROLLER).	DEPUTY CHIEF FINANCIAL OFFICER.
	OFFICE OF THE UNDER SECRETARY OF DEFENSE (PERSONNEL AND READINESS).	CHIEF OF STAFF.
	OFFICE OF THE UNDER SECRETARY OF DEFENSE (POLICY).	SPECIAL ASSISTANT (CAREER BROADENING).
	OFFICE OF THE DEPUTY CHIEF MANAGEMENT OFFICER.	DIRECTOR, MANAGEMENT AND REQUIREMENTS ANALYSIS DIVISION.
		DIRECTOR, POLICY AND DECISION SUPPORT DIVISION.
		DIRECTOR OF ADMINISTRATION.
		DIRECTOR, ENTERPRISE PERFORMANCE DIVISION.
		DIRECTOR, OVERSIGHT AND COMPLIANCE.
		DOD SENIOR INTELLIGENCE OVERSIGHT OFFICIAL AND DEPUTY DIRECTOR, OVERSIGHT AND COMPLIANCE.
		DIRECTOR, MANAGEMENT POLICY AND ANALYSIS DIRECTORATE.
		DIRECTOR, PLANNING, PERFORMANCE AND ASSESSMENT DIRECTORATE.
	ASSISTANT SECRETARY OF DEFENSE (ACQUISITION).	DEPUTY DIRECTOR, CONTRACT POLICY AND INTERNATIONAL CONTRACTING.
		DEPUTY DIRECTOR, ASSESSMENTS AND SUPPORT.
		DEPUTY DIRECTOR, NAVAL WARFARE.
		PRINCIPAL DEPUTY ASSISTANT SECRETARY OF DEFENSE (ACQUISITION).
		TECHNICAL DIRECTOR, FORCE DEVELOPMENT.
		DEPUTY DIRECTOR, DEFENSE ACQUISITION REGULATIONS SYSTEM.
		DEPUTY DIRECTOR, PROGRAM ACQUISITION AND STRATEGIC SOURCING.
	ASSISTANT TO THE SECRETARY OF DEFENSE FOR NUCLEAR AND CHEMICAL AND BIOLOGICAL DEFENSE PROGRAMS.	DEPUTY ASSISTANT SECRETARY OF DEFENSE (NUCLEAR MATTERS).
	OFFICE OF THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.	PRINCIPAL DEPUTY ASSISTANT SECRETARY OF DEFENSE (RESEARCH AND ENGINEERING)/DIRECTOR, PLANS AND PROGRAMS.
		DIRECTOR, HUMAN PERFORMANCE, TRAINING AND BIOSYSTEMS.
		DEPUTY DIRECTOR, INFORMATION SYSTEMS AND CYBER TECHNOLOGIES.
		DIRECTOR, SPACE AND SENSOR TECHNOLOGY.
		DIRECTOR FOR WEAPONS SYSTEMS.
DEPARTMENT OF THE AIR FORCE	DEPARTMENT OF THE AIR FORCE ..	DEPUTY DIRECTOR OF LOGISTICS.
		DEPUTY DIRECTOR LEGISLATIVE LIAISON.
		DIRECTOR OF COMMUNICATIONS.
		DIRECTOR, INSTALLATION, LOGISTICS AND MISSION SUPPORT.
		DEPUTY DIRECTOR, STRATEGIC PLANNING.
		DEPUTY DIRECTOR, SECURITY, SPECIAL PROGRAM OVERSIGHT, AND INFORMATION PROTECTION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, SPACE SECURITY AND DEFENSE PROGRAM.
		DIRECTOR, CYBER CAPABILITIES AND COMPLIANCE.
		DIRECTOR, DIVERSITY AND INCLUSION.
		AIR FORCE PROGRAM EXECUTIVE OFFICER FOR COMBAT AND MISSION SUPPORT.
		DEPUTY DIRECTOR, INFORMATION DOMINANCE.
		DIRECTOR, LOGISTICS, ENGINEERING AND FORCE PROTECTION.
		DEPUTY DIRECTOR OF OPERATIONS.
		DIRECTOR OF POLICY, PROGRAMS AND STRATEGY, INTERNATIONAL AFFAIRS.
		ASSOCIATE DEPUTY ASSISTANT SECRETARY FOR PROGRAMS.
		DEPUTY ASSISTANT SECRETARY (LOGISTICS).
		CHIEF INFORMATION OFFICER AND DEPUTY DIRECTOR, PLANS AND INTEGRATION.
		DIRECTOR, DIVERSITY AND INCLUSION.
		DEPUTY DIRECTOR, STRATEGY, CONCEPTS AND ASSESSMENTS.
		EXECUTIVE DIRECTOR, AIR NATIONAL GUARD.
		EXECUTIVE DIRECTOR.
		DIRECTOR, HEADQUARTERS AIR FORCE INFORMATION MANAGEMENT.
		DEPUTY DIRECTOR OF POLICY, PROGRAMS AND STRATEGY, INTERNATIONAL AFFAIRS.
		DEPUTY DIRECTOR, SECURITY FORCES.
		DIRECTOR, CIVILIAN FORCE MANAGEMENT.
		DEPUTY DIRECTOR OF LOGISTICS.
	AERONAUTICAL SYSTEMS CENTER	PROGRAM EXECUTIVE OFFICER FOR AGILE COMBAT SUPPORT.
		EXECUTIVE DIRECTOR, AIR FORCE LIFE CYCLE MANAGEMENT CENTER.
		PROGRAM EXECUTIVE OFFICER, MOBILITY AIRCRAFT.
	AIR FORCE FLIGHT TEST CENTER ...	EXECUTIVE DIRECTOR, AIR FORCE TEST CENTER.
	AIR FORCE MATERIEL COMMAND LAW OFFICE.	DIRECTOR, AIR FORCE MATERIEL COMMAND LAW OFFICE.
		COMMAND COUNSEL.
	AIR FORCE OFFICE OF SCIENTIFIC RESEARCH.	DIRECTOR, AIR FORCE OFFICE OF SCIENTIFIC RESEARCH.
	AIR FORCE RESEARCH LABORATORY.	EXECUTIVE DIRECTOR, AIR FORCE RESEARCH LABORATORY.
		DIRECTOR, PLANS AND PROGRAMS.
		DIRECTOR, MATERIELS AND MANUFACTURING.
		DIRECTOR, AEROSPACE SYSTEMS.
	AIR LOGISTICS CENTER, OGDEN	DIRECTOR OF CONTRACTING.
		DIRECTOR, ENGINEERING AND TECHNICAL MANAGEMENT.
	AIR LOGISTICS CENTER, OKLAHOMA CITY.	DIRECTOR OF LOGISTICS, AIR FORCE SUSTAINMENT CENTER.
		DIRECTOR, 448TH SUPPLY CHAIN MANAGEMENT WING.
		DIRECTOR OF CONTRACTING.
		DIRECTOR OF ENGINEERING AND TECHNICAL MANAGEMENT.
	AIR LOGISTICS CENTER, WARNER ROBINS.	DIRECTOR OF CONTRACTING.
	ELECTRONIC SYSTEMS CENTER	DIRECTOR, ENGINEERING AND TECHNICAL MANAGEMENT.
		PROGRAM EXECUTIVE OFFICER, BATTLE MANAGEMENT.
	ENGINEERING AND TECHNICAL MANAGEMENT.	DIRECTOR, ENGINEERING AND TECHNICAL MANAGEMENT.
	FINANCIAL MANAGEMENT AND COMPTROLLER.	DEPUTY DIRECTOR, FINANCIAL MANAGEMENT.
	LOGISTICS	DEPUTY DIRECTOR, LOGISTICS, INSTALLATIONS AND MISSION SUPPORT.
	DIRECTED ENERGY DIRECTORATE	DIRECTOR, DIRECTED ENERGY.
	HUMAN EFFECTIVENESS DIRECTORATE.	DIRECTOR, HUMAN EFFECTIVENESS DIRECTORATE.
	INFORMATION DIRECTORATE	DIRECTOR OF CONTRACTING.
	SENSORS DIRECTORATE	DIRECTOR SENSORS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	SPACE AND MISSLE SYSTEMS CENTER.	DIRECTOR, MILITARY SATELLITE COMMUNICATIONS DIRECTORATE.
		DIRECTOR, LAUNCH ENTERPRISE.
	AIR FORCE AUDIT AGENCY (FIELD OPERATING AGENCY).	ASSISTANT AUDITOR GENERAL, ACQUISTION, LOGISTICS AND FINANCIAL AUDITS.
		ASSISTANT AUDITOR GENERAL, OPERATIONS AND SUPPORT AUDITS.
	AIR COMBAT COMMAND	DIRECTOR, ACQUISITION MANAGEMENT AND INTEGRATION CENTER.
		DEPUTY DIRECTOR OF LOGISTICS, ENGINEERING, AND FORCE PROTECTION.
		DEPUTY DIRECTOR, REQUIREMENTS.
	AIR EDUCATION AND TRAINING COMMAND.	DIRECTOR, INTERNATIONAL TRAINING AND EDUCATION.
		DIRECTOR, LOGISTICS, INSTALLATIONS AND MISSION SUPPORT.
	AIR FORCE MATERIEL COMMAND	DIRECTOR, FINANCIAL MANAGEMENT.
		PROGRAM EXECUTIVE OFFICER FOR BUSINESS ENTERPRISE SYSTEMS.
		DIRECTOR, INSTALLATION SUPPORT.
		DIRECTOR OF CONTRACTING.
		DIRECTOR, FINANCIAL MANAGEMENT AND COMPTROLLER.
		DIRECTOR, ENGINEERING AND TECHNICAL MANAGEMENT.
		DIRECTOR OF ENGINEERING AND TECHNICAL MANAGEMENT, F–35 LIGHTNING II JOINT PROGRAM OFFICE.
		DIRECTOR, ENGINEERING AND TECHNICAL MANAGEMENT.
		DIRECTOR OF PROPULSION.
		DIRECTOR OF CONTRACTING (2).
		EXECUTIVE DIRECTOR, AIR FORCE MATERIEL COMMAND.
		EXECUTIVE DIRECTOR.
		DIRECTOR, HYBRID PRODUCT SUPPORT INTEGRATOR TRANSITION OPERATIONS.
		DIRECTOR, RESOURCES.
		DEPUTY DIRECTOR, AIR, SPACE AND CYBERSPACE OPERATIONS.
		EXECUTIVE DIRECTOR, AIR FORCE INSTALLATION AND MISSION SUPPORT CENTER.
		DIRECTOR OF LOGISTICS AND LOGISTICS SERVICES.
		DIRECTOR, ENGINEERING AND TECHNICAL MANAGEMENT.
		EXECUTIVE DIRECTOR, AIR FORCE SUSTAINMENT CENTER.
		DIRECTOR, AIR FORCE CIVIL ENGINEER CENTER.
		DIRECTOR, MANPOWER, PERSONNEL AND SERVICES.
		DIRECTOR, NATIONAL MUSEUM OF THE UNITED STATES AIR FORCE.
		EXECUTIVE DIRECTOR, AIR FORCE NUCLEAR WEAPONS CENTER.
		DEPUTY DIRECTOR, STRATEGIC PLANS, PROGRAMS, REQUIREMENTS AND ANALYSES.
		DIRECTOR INSTALLATIONS.
	AIR FORCE RESERVE COMMAND	DIRECTOR OF STAFF.
	AIR FORCE SPACE COMMAND	EXECUTIVE DIRECTOR, AIR FORCE SPACE COMMAND.
	AIR FORCE SPECIAL OPERATIONS COMMAND.	EXECUTIVE DIRECTOR AIR FORCE SPECIAL OPERATIONS COMMAND.
		DEPUTY CHIEF FINANCIAL OFFICER.
	DEPUTY CHIEF OF STAFF FOR INTELLIGENCE, SURVEILLANCE AND RECONNAISSANCE.	DIRECTOR OF INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE INNOVATIONS AND UNMANNED AERIAL SYSTEMS TASK FORCE.
	JOINT STAFF	DIRECTOR, JOINT INFORMATION OPERATIONS WARFARE CENTER.
	OFFICE OF ASSISTANT SECRETARY AIR FORCE FOR ACQUISITION.	ASSOCIATE DEPUTY ASSISTANT SECRETARY (ACQUISITION INTEGRATION).
		DIRECTOR, INFORMATION DOMINANCE PROGRAMS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSOCIATE DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE FOR SCIENCE, TECHNOLOGY AND ENGINEERING.
		DEPUTY ASSISTANT SECRETARY (SCIENCE, TECHNOLOGY AND ENGINEERING).
		DEPUTY ASSISTANT SECRETARY (ACQUISITION INTEGRATION).
		DIRECTOR OF CONTRACTING, AIR FORCE RAPID CAPABILITIES OFFICE.
		DIRECTOR OF CONTRACTING (SPECIAL ACCESS PROGRAMS).
	OFFICE OF ASSISTANT SECRETARY AIR FORCE FOR FINANCIAL MANAGEMENT AND COMPTROLLER.	CHIEF INFORMATION OFFICER.
	OFFICE OF ASSISTANT SECRETARY AIR FORCE, INSTALLATIONS, ENVIRONMENT, AND ENERGY.	DEPUTY ASSISTANT SECRETARY (ENERGY).
	OFFICE OF ASSISTANT SECRETARY OF THE AIR FORCE FOR MANPOWER AND RESERVE AFFAIRS.	DEPUTY ASSISTANT SECRETARY FOR RESERVE AFFAIRS.
	OFFICE OF THE CHIEF OF STAFF	DEPUTY DIRECTOR OF STAFF, HEADQUARTERS UNITED STATES AIR FORCE.
	OFFICE OF THE GENERAL COUNSEL.	PRINCIPAL DEPUTY GENERAL COUNSEL.
		DEPUTY GENERAL COUNSEL (INTELLIGENCE, INTERNATIONAL AND MILITARY AFFAIRS).
		DEPUTY GENERAL COUNSEL (INSTALLATIONS, ENERGY AND ENVIRONMENT).
	OFFICE OF THE SECRETARY	DEPUTY DIRECTOR, AIR FORCE REVIEW BOARDS AGENCY.
		DIRECTOR, AIR FORCE RAPID CAPABILITIES OFFICE.
		DEPUTY DIRECTOR, AIR FORCE RAPID CAPABILITIES OFFICE.
	UNITED STATES CENTRAL COMMAND.	DIRECTOR OF RESOURCES, REQUIREMENTS, BUDGET AND ASSESSMENT.
		DEPUTY DIRECTOR OF LOGISTICS AND ENGINEERING.
		DEPUTY DIRECTOR OF OPERATIONS INTERAGENCY ACTION GROUP.
	UNITED STATES NORTHERN COMMAND.	DEPUTY COMMANDER, JOINT FORCES HEADQUARTERS—NATIONAL CAPITAL REGION.
		DIRECTOR OF INTERAGENCY.
		DIRECTOR, JOINT EXERCISES AND TRAINING.
		DIRECTOR, PROGRAMS AND RESOURCES.
		NORTHCOM, DEPUTY DIRECTOR OF OPERATIONS FOR SPECIAL ACTIVITIES.
	UNITED STATES SPECIAL OPERATIONS COMMAND.	DIRECTOR, PLANS, POLICY AND STRATEGY.
		DIRECTOR FOR ACQUISITION.
		DEPUTY CHIEF OF STAFF.
		PRESIDENT, JOINT SPECIAL OPERATIONS UNIVERSITY.
		DIRECTOR AND CHIEF INFOMATION OFFICER FOR SPECIAL OPERATIONS NETWORKS AND COMMUNICATIONS CENTER.
		CHIEF FINANCIAL OFFICER.
		DEPUTY DIRECTOR, CENTER FOR SPECIAL OPERATIONS ACQUISITION AND LOGISTICS.
	UNITED STATES STRATEGIC COMMAND.	DIRECTOR, COMMAND, CONTROL, COMMUNICATIONS AND COMPUTER SYSTEMS.
		TECHNICAL DIRECTOR, JOINT WARFARE ANALYSIS CENTER.
		DIRECTOR, JOINT EXCERCISES AND TRAINING.
		ASSOCIATE DIRECTOR, CAPABILITY AND RESOURCE.
		DIRECTOR, GLOBAL INNOVATION STRATEGY CENTER.
		DEPUTY DIRECTOR, PLANS AND POLICY, USSTRATCOM.
		DIRECTOR, CAPABILITY AND RESOURCE INTEGRATION, USSTRATCOM C2 FAC MGMT PMO.
		DEPUTY DIRECTOR, CAPABILITY AND RESOURCE INTEGRATION.
		DEPUTY DIRECTOR, PLANS AND POLICY.
		DEPUTY DIRECTOR, CAPABILITY DEVELOPMENTAL GROUP COMMAND ACQUISITION EXEC.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	UNITED STATES TRANSPORTATION COMMAND.	DIRECTOR, PROGRAM ANALYSIS AND FINANCIAL MANAGEMENT.
		EXECUTIVE DIRECTOR AND DEPUTY CHIEF INFORMATION OFFICER.
		DEPUTY DIRECTOR, STRATEGY, CAPABILITIES, POLICY AND LOGISTICS.
		EXECUTIVE DIRECTOR.
		DEPUTY DIRECTOR, ACQUISITION.
		DIRECTOR, ACQUISTION.
	CIVIL ENGINEER	DEPUTY DIRECTOR OF CIVIL ENGINEERS.
	RESOURCES	DIRECTOR OF RESOURCE INTEGRATION.
	AIR FORCE PERSONNEL CENTER (FIELD OPERATING AGENCY).	DIRECTOR OF PERSONNEL OPERATIONS.
		EXECUTIVE DIRECTOR, AIR FORCE PERSONNEL CENTER.
	DIRECTORATE OF SPACE AND NUCLEAR DETERRENCE.	ASSOCIATE ASSISTANT CHIEF OF STAFF STRATEGIC DETERRENCE AND NUCLEAR INTEGRATION.
		DEPUTY ASSISTANT CHIEF OF STAFF, STRATEGIC DETERRENCE AND NUCLEAR INTEGRATION.
	OFFICE DEPUTY ASSISTANT SECRETARY CONTRACTING.	ASSOCIATE DEPUTY ASSISTANT SECRETARY (CONTRACTING).
	OFFICE DEPUTY ASSISTANT SECRETARY SCIENCE, TECHNOLOGY AND ENGINEERING.	SPECIAL ASSISTANT TO THE DEPUTY ASSISTANT SECRETARY SCIENCE, TECHNOLOGY AND ENGINEERING.
	OFFICE DEPUTY ASSISTANT SECRETARY BUDGET.	ASSOCIATE DEPUTY ASSISTANT SECRETARY FOR BUDGET.
		DIRECTOR, BUDGET INVESTMENT.
	OFFICE DEPUTY ASSISTANT SECRETARY COST AND ECONOMICS.	DEPUTY ASSISTANT SECRETARY (COST AND ECONOMICS).
		ASSOCIATE DEPUTY ASSISTANT SECRETARY (COST AND ECONOMICS).
	OFFICE DEPUTY ASSISTANT SECRETARY FINANCIAL OPERATIONS.	ASSOCIATE DEPUTY ASSISTANT SECRETARY (FINANCIAL OPERATIONS).
		DEPUTY ASSISTANT SECRETARY (FINANCIAL OPERATIONS).
	OFFICE DEPUTY ASSISTANT SECRETARY INSTALLATIONS.	DEPUTY ASSISTANT SECRETARY (INSTALLATIONS).
	AIR FORCE REVIEW BOARDS AGENCY (AIR FORCE REVIEW BOARDS AGENCY)—FIELD OPERATING AGENCY.	DEPUTY FOR AIR FORCE REVIEW BOARDS.
	AIR FORCE OFFICE OF SAFETY AND AIR FORCE SAFETY CENTER (FIELD OPERATING AGENCY).	DEPUTY CHIEF OF SAFETY.
	AIR FORCE OPERATIONAL TEST AND EVALUATION CENTER (DIRECT REPORTING UNIT).	EXECUTIVE DIRECTOR, AIR FORCE OPERATIONAL TEST AND EVALUATION CENTER.
	AIR FORCE STUDIES AND ANALYSES AGENCY (DIRECT REPORTING UNIT).	DIRECTOR, AIR FORCE STUDIES AND ANALYSES, ASSESSMENTS AND LESSONS LEARNED.
		PRINCIPLE DEPUTY DIRECTOR, STUDIES AND ANALYSES, ASSESSMENTS AND LESSONS LEARNED.
	DEPUTY CHIEF OF STAFF, AIR AND SPACE OPERATIONS.	DEPUTY DIRECTOR, OPERATIONS AND READINESS.
		DIRECTOR OF WEATHER.
		ASSOCIATE DEPUTY CHIEF OF STAFF OPERATIONS, PLANS AND REQUIREMENTS.
		DEPUTY DIRECTOR OF OPERATIONAL REQUIREMENTS.
	DEPUTY CHIEF OF STAFF, PERSONNEL.	DEPUTY DIRECTOR, MANPOWER, ORGANIZATION AND RESOURCES.
		DEPUTY DIRECTOR OF SERVICES.
		ASSISTANT DEPUTY CHIEF OF STAFF MANPOWER AND PERSONNEL.
		DIRECTOR, PLANS AND INTEGRATION.
		DEPUTY DIRECTOR, MILITARY FORCE MANAGEMENT.
		DIRECTOR, FORCE DEVELOPMENT.
	DEPUTY CHIEF OF STAFF, PLANS AND PROGRAMS.	ASSISTANT DEPUTY CHIEF OF STAFF, STRATEGIC PLANS AND REQUIREMENTS.
		DEPUTY DIRECTOR OF STRATEGIC PLANNING.
	JUDGE ADVOCATE GENERAL	DIRECTOR, ADMINISTRATIVE LAW.
	TEST AND EVALUATION	DIRECTOR, TEST AND EVALUATION.
		DEPUTY DIRECTOR, TEST AND EVALUATION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS (FIELD OPERATING AGENCY).	EXECUTIVE DIRECTOR, DEFENSE CYBER CRIME CENTER.
	AUDITOR GENERAL	AUDITOR GENERAL OF THE AIR FORCE.
		ASSISTANT AUDITOR GENERAL, FIELD OFFICES DIRECTORATE.
	OFFICE OF ADMINISTRATIVE ASSISTANT TO THE SECRETARY.	EXECUTIVE DIRECTOR, OFFICE OF SPECIAL INVESTIGATIONS.
		ADMINISTRATIVE ASSISTANT.
		DEPUTY ADMINISTRATIVE ASSISTANT.
		DIRECTOR SECURITY, SPECIAL PROGRAM OVERSIGHT AND INFORMATION PROTECTION.
	OFFICE OF PUBLIC AFFAIRS	DEPUTY DIRECTOR, PUBLIC AFFAIRS.
	OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.	DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.
	OFFICE OF THE UNDER SECRETARY.	ASSOCIATE DEPUTY UNDER SECRETARY OF THE AIR FORCE (SPACE) AND DEPUTY DIRECTOR PRINCIPAL DEPARTMENT OF DEFENSE SPACE ADVISOR STAFF.
DEPARTMENT OF THE ARMY	OFFICE, CHIEF OF PUBLIC AFFAIRS	PRINCIPAL DEPUTY CHIEF OF PUBLIC AFFAIR.
	ARMY AUDIT AGENCY	DEPUTY AUDITOR GENERAL, MANPOWER AND TRAINING AUDITS.
		DEPUTY AUDITOR GENERAL, FINANCIAL MANAGEMENT AUDITS.
		PRINCIPAL DEPUTY AUDITOR GENERAL.
		DEPUTY AUDITOR GENERAL, ACQUISITION AND LOGISTICS AUDITS.
		THE AUDITOR GENERAL.
		DEPUTY AUDITOR GENERAL, INSTALLATION, ENERGY AND ENVIRONMENT AUDITS.
	CHIEF INFORMATION OFFICER/G–6	DIRECTOR, CYBERSECURITY.
		DIRECTOR FOR ARMY ARCHITECTURE INTEGRATION CELL.
		DIRECTOR, GOVERNANCE, ACQUISITION/CHIEF KNOWLEDGE OFFICER.
		DEPUTY CHIEF INFORMATION OFFICER/G–6.
	HEADQUARTERS, UNITED STATES ARMY, EUROPE.	DEPUTY CHIEF OF STAFF, G–1.
		DEPUTY CHIEF OF STAFF G–8.
	HEADQUARTERS, UNITED STATES ARMY, PACIFIC.	STRATEGIC EFFECTS DIRECTOR TO COMMANDER, US ARMY PACIFIC.
		ASSISTANT CHIEF OF STAFF, G–8.
	JOINT SPECIAL OPERATIONS COMMAND.	EXECUTIVE DIRECTOR FOR RESOURCES, SUPPORT, AND INTEGRATION.
	MILITARY SURFACE DEPLOYMENT DISTRIBUTION COMMAND.	DEPUTY TO THE COMMANDER, SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND.
		DIRECTOR, TRANSPORTATION ENGINEERING AGENCY/DIRECTOR JOINT DISTRIBUTION PROCESS ANALYSIS CENTER.
	NATIONAL GUARD BUREAU	CHIEF FINANCIAL OFFICER.
	OFFICE ADMINSTRATIVE ASSISTANT TO THE SECRETARY OF ARMY.	ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE ARMY.
		DEPUTY ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE ARMY/DIRECTOR FOR SHARED SERVICES.
		EXECUTIVE ADVISOR TO THE ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE ARMY.
		EXECUTIVE DIRECTOR, U.S. ARMY HEADQUARTERS SERVICES.
	OFFICE ASSISTANT SECRETARY ARMY (ACQUISITION, LOGISTICS AND TECHNOLOGY).	DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR DEFENSE EXPORTS AND COOPERATION.
		DEPUTY ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY/CHIEF SCIENTIST.
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (POLICY AND PROCUREMENT).
		DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR PLANS, PROGRAMS AND RESOURCES.
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (ACQUISITION POLICY AND LOGISTICS), ASSISTANT SECRETARY OF THE ARMY (ACQUISITION, LOGISTICS AND TECHNOLOGY).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		EXECUTIVE DIRECTOR FOR ACQUISITION SERVICES, ASSISTANT SECRETARY ARMY (ACQUISITION, LOGISTICS AND TECHNOLOGY).
		EXECUTIVE DIRECTOR, RAPID CAPABILITIES OFFICE.
		DIRECTOR FOR RESEARCH AND TECHNOLOGY.
		DIRECTOR, SYSTEM OF SYSTEM ENGINEERING INTEGRATION.
		SPECIAL ASSISTANT TO THE ASSISTANT SECRETARY OF ARMY (ACQUISITION, LOGISTICS AND TECHNOLOGY).
	OFFICE ASSISTANT SECRETARY ARMY (CIVIL WORKS).	SPECIAL ADVISOR TO ASA (CIVIL WORKS).
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (MANAGEMENT AND BUDGET).
	OFFICE ASSISTANT SECRETARY ARMY (FINANCIAL MANAGEMENT AND COMPTROLLER).	DIRECTOR OF INVESTMENT.
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (FINANCIAL OPERATIONS).
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (COST AND ECONOMICS).
		DEPUTY TO THE COMMANDER FOR FINANCIAL MANAGEMENT OPERATIONS.
		DIRECTOR, MILITARY PERSONNEL AND FACILITIES.
		DIRECTOR, FINANCIAL INFORMATION MANAGEMENT.
		DEPUTY DIRECTOR AND SENIOR ADVISOR FOR ARMY BUDGET (DDSA (BUDGET)).
		DIRECTOR FOR ACCOUNTABILITY AND AUDIT READINESS.
		DIRECTOR, PROGRAMS AND STRATEGY.
		DIRECTOR OF MANAGEMENT AND CONTROL.
	OFFICE ASSISTANT SECRETARY ARMY (INSTALLATIONS, ENERGY AND ENVIRONMENT).	DEPUTY ASSISTANT SECRETARY OF THE ARMY (ENVIRONMENT, SAFETY AND OCCUPATIONAL HEALTH).
		SPECIAL ADVISOR TO ASSISTANT SECRETARY ARMY (INSTALLATIONS, ENERGY AND ENVIRONMENT).
		DEPUTY ASSISTANT SECRETARY OF ARMY (STRATEGIC INTEGRATION).
	OFFICE ASSISTANT SECRETARY ARMY (MANPOWER AND RESERVE AFFAIRS).	DEPUTY ASSISTANT SECRETARY OF THE ARMY (DIVERSITY AND LEADERSHIP).
		DEPUTY ASSISTANT SECRETARY OF ARMY FOR MARKETING/DIRECTOR, ARMY MARKETING RESEARCH GROUP.
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (ARMY REVIEW BOARDS AGENCY).
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (MILITARY PERSONNEL/QUALITY OF LIFE).
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (CIVILIAN PERSONNEL)/DIRECTOR CIVILIAN SENIOR LEADER MANAGEMENT OFFICE).
		DEPUTY ASSISTANT SECRETARY OF THE ARMY (PLANS AND RESOURCES).
	OFFICE OF THE SURGEON GENERAL.	DEPUTY CHIEF OF STAFF/ASSISTANT SURGEON GENERAL, FORCE MANAGEMENT.
		CHIEF OF STAFF.
	OFFICE, ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT.	DIRECTOR INSTALLATION SERVICES.
		DIRECTOR OF RESOURCE INTEGRATION.
		CHIEF INFORMATION TECHNOLOGY OFFICER, OFFICE OF THE ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT.
		DEPUTY ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT.
	OFFICE, DEPUTY CHIEF OF STAFF, G–4.	DIRECTOR, LOGISTICS INFORMATION MANAGEMENT.
		DIRECTOR FOR MAINTENANCE POLICY, PROGRAMS AND PROCESSES.
		DIRECTOR OF RESOURCE MANAGEMENT.
		ASSISTANT DEPUTY CHIEF OF STAFF, G–4.
		DIRECTOR, LOGISITICS INNOVATION AGENCY.
		DIRECTOR FOR SUPPLY POLICY.
	OFFICE, DEPUTY CHIEF OF STAFF, G–1.	DIRECTOR FOR MANPRINT DIRECTORATE.
		DIRECTOR, PLANS AND RESOURCES.
		DIRECTOR, ARMY RESILIENCY DIRECTORATE, OFFICE, DEPUTY CHIEF OF STAFF, G–1.
		DIRECTOR, MILITARY HUMAN RESOURCES INTEGRATION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, SEXUAL HARASSMENT/ASSAULT RESPONSE AND PREVENTION.
		SPECIAL ADVISOR TO DEPUTY CHIEF OF STAFF, G–1 HEADQUARTERS DEPARTMENT OF THE ARMY.
		ASSISTANT DEPUTY CHIEF OF STAFF, G–1.
		DIRECTOR, CIVILIAN TALENT MANAGEMENT/DEPUTY DIRECTOR ARMY TALENT MANAGEMENT TASK FORCE.
	OFFICE, DEPUTY CHIEF OF STAFF, G–3.	DEPUTY DIRECTOR FOR FORCE MANAGEMENT.
		DEPUTY DIRECTOR OF TRAINING AND TTPEG CO-CHAIR.
		DEPUTY DIRECTOR FOR CYBER (G–3/5/7).
		DEPUTY DIRECTOR FOR PLANS AND POLICY.
		ASSISTANT DEPUTY CHIEF OF STAFF FOR OPERATIONS (G–3/5/7).
	OFFICE, DEPUTY CHIEF OF STAFF, G–8.	DIRECTOR, RESOURCES/DEPUTY DIRECTOR, FORCE DEVELOPMENT.
		ASSISTANT DEPUTY CHIEF OF STAFF, G–8.
	U.S. ARMY SPECIAL OPERATIONS COMMAND.	DEPUTY TO THE COMMANDING GENERAL, UNITED STATES ARMY JOHN F. KENNEDY SPECIAL WARFARE CENTER AND SCHOOL.
		DEPUTY TO THE COMMANDING GENERAL.
	UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND.	DEPUTY TO THE COMMANDING GENERAL MANUEVER SUPPORT/DIRECTOR, CAPABILITIES DEVELOPMENT AND INTEGRATION.
		DEPUTY TO THE COMMANDING GENERAL, SIGNAL CENTER OF EXCELLENCE.
		DEPUTY TO THE COMMANDING GENERAL, MANEUVER CENTER OF EXCELLENCE AND DIRECTOR, CAPABILITIES DEVELOPMENT AND INTEGRATION.
		DEPUTY TO THE COMMANDING GENERAL FIRES/DIRECTOR, CAPABILITIES, DEVELOPMENT AND INTEGRATION.
		DEPUTY CHIEF OF STAFF, G–8, TRADOC.
		DIRECTOR OF TRANSFORMATION, CYBER CENTER OF EXCELLENCE.
		DEPUTY DIRECTOR/CHIEF OF STAFF, ARMY CAPABILITIES INTEGRATION CENTER.
		DEPUTY TO THE COMMANDING GENERAL, ARMY AVIATION CENTER OF EXCELLENCE/DIRECTOR, CAPABILITIES DEVELOPMENT AND INTEGRATION.
		DEPUTY CHIEF OF STAFF, G–6 TRADOC.
		DEPUTY TO THE COMMANDING GENERAL, COMBINED ARMS SUPPORT COMMAND.
		DEPUTY CHIEF OF STAFF, G–3/5/7, TRADOC.
		DEPUTY CHIEF OF STAFF, G–1/4 (PERSONNEL AND LOGISTICS).
		PRESIDENT, ARMY LOGISTICS UNIVERSITY.
		DEPUTY TO THE COMMANDING GENERAL, COMBINED ARMS CENTER.
		ASSISTANT DEPUTY CHIEF OF STAFF, G–3/5/7 AND THE DEPUTY, G–3/5 FOR OPERATIONS AND PLANS, UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND.
	UNITED STATES AFRICA COMMAND	DEPUTY DIRECTOR OF RESOURCES (J1/J8).
		DIRECTOR OF RESOURCES (J1/J8), AFRICA COMMAND.
		DEPUTY DIRECTOR OF PROGRAM, (J5), UNITED STATES AFRICA COMMAND.
	UNITED STATES ARMY CORPS OF ENGINEERS.	DIRECTOR, RESEARCH AND DEVELOPMENT AND DIRECTOR, ENGINEERING RESEARCH AND DEVELOPMENT CENTER.
		DIRECTOR, INFORMATION TECHNOLOGY LABORATORY.
		CHIEF MILITARY PROGRAMS INTEGRATION DIVISION.
		DIRECTOR, CONTINGENCY OPERATIONS/CHIEF, HOMELAND SECURITY OFFICE.
		DIRECTOR OF CONTRACTING.
		DIRECTOR OF HUMAN RESOURCES.
		DIRECTOR, REAL ESTATE.
		DIRECTOR OF RESOURCE MANAGEMENT.
		DIRECTOR FOR CORPORATE INFORMATION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	UNITED STATES ARMY CYBER COMMAND/SECOND ARMY.	DEPUTY TO COMMANDER, ARMY CYBER COMMAND/2ND ARMY.
		DIRECTOR, ADVANCED CONCEPTS, TECHNOLOGY AND CAPABILTIES.
	UNITED STATES ARMY FORCES COMMAND.	DEPUTY CHIEF OF STAFF FOR RESOURCE MANAGEMENT.
		ASSISTANT DEPUTY CHIEF OF STAFF, G–6.
		ASSISTANT DEPUTY CHIEF OF STAFF FOR OPERATIONS, G–3/5/7.
		DEPUTY CHIEF OF STAFF, G–1.
		ASSISTANT DEPUTY CHIEF OF STAFF FOR LOGISTICS.
	UNITED STATES ARMY MATERIEL COMMAND.	DEPUTY CHIEF OF STAFF FOR LOGISTICS, G–4.
		ASSISTANT DEPUTY CHIEF OF STAFF, G–3/4 FOR LOGISTICS INTEGRATION.
		DEPUTY, G–3/4 FOR CURRENT OPERATIONS.
		CHIEF TECHNOLOGY OFFICER.
		DEPUTY CHIEF OF STAFF FOR CORPORATE INFORMATION/CHIEF INFORMATION OFFICER.
	UNITED STATES ARMY NORTH	DEPUTY TO THE COMMANDING GENERAL, ARMY NORTH.
	UNITED STATES ARMY SPACE AND MISSILE DEFENSE COMMAND.	DIRECTOR, PROGRAMS AND TECHNOLOGY.
		DEPUTY TO THE COMMANDER, UNITED STATES ARMY SPACE AND MISSILE DEFENSE COMMAND/ARMY FORCES STRATCOM.
		DIRECTOR, CAPABILITY DEV INTEGRATION DIRECTORATE, SPACE AND MISSILE DEFENSE COMMAND.
		DIRECTOR, FUTURE WARFARE CENTER.
		DIRECTOR , SPACE AND MISSILE DEFENSE TECHNICAL CENTER.
		DIRECTOR, CAPABILITY DEVELOPMENT INTEGRATION DIRECTORATE (CDID).
	UNITED STATES EUROPEAN COMMAND.	DIRECTOR, RUSSIA STRATEGIC INITIATIVE.
		DIRECTOR, INTERAGENCY PARTNERING, (J9).
	UNITED STATES FORCES KOREA	DEPUTY DIRECTOR FOR TRANSFORMATION AND RESTATIONING.
		DIRECTOR FOR FORCES, RESOURCES AND ASSESSMENTS (J8).
	UNITED STATES SOUTHERN COMMAND.	DIRECTOR FOR PARTNERING.
		DEPUTY DIRECTOR OF OPERATIONS, J3.
		DIRECTOR, J8 (RESOURCES AND ASSESSMENTS DIRECTORATE).
		DEPUTY DIRECTOR STRATEGY AND POLICY.
	ARMY CENTER OF MILITARY HISTORY (HEADQUARTERS DEPARTMENT OF THE ARMY FIELD OPERATING AGENCY AND STAFF SUPPORT AGENCY).	DIRECTOR, UNITED STATES ARMY CENTER OF MILITARY HISTORY/CHIEF OF MILITARY HISTORY.
	ARMY ACQUISITION EXECUTIVE	JOINT PROFESSIONAL EMPLOYER ORGANIZATION FOR CHEMICAL AND BIOLOGICAL DEFENSE.
		PROGRAM EXECUTIVE OFFICER, ASSEMBLED CHEMICAL WEAPONS ALTERNATIVE.
		PROGRAM EXECUTIVE OFFICER MISSILES AND SPACE.
		PROGRAM EXECUTIVE OFFICER—COMMAND CONTROL AND COMMUNICATIONS TACTICAL.
		PROGRAM EXECUTIVE OFFICER—AMMUNITION.
		DEPUTY JOINT PROGRAM EXECUTIVE OFFICER FOR CHEMICAL AND BIOLOGICAL DEFENSE.
		DEPUTY PROGRAM EXECUTIVE OFFICER, COMMAND CONTROL AND COMMUNICATIONS TACTICAL.
		DEPUTY PROGRAM EXECUTIVE OFFICER FOR AVIATION.
		DEPUTY PROGRAM EXECUTIVE OFFICER FOR SOLDIER.
		DEPUTY PROGRAM EXECUTIVE OFFICER, ENTERPRISE INFORMATION SYSTEMS.
		PROGRAM EXECUTIVE OFFICER, COMBAT SUPPORT AND COMBAT SERVICE SUPPORT.
		DEPUTY PROGRAM EXECUTIVE OFFICER, INTELLIGENCE, ELECTRONIC WARFARE AND SENSORS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY PROGRAM EXECUTIVE OFFICER, COMBAT SUPPORT AND COMBAT SERVICE SUPPORT.
		DEPUTY PROGRAM EXECTUIVE OFFICER GROUND COMBAT SYSTEMS.
		DEPUTY PROGRAM EXECUTIVE OFFICER, (SIMULATION, TRAINING AND INSTRUMENTATION).
	OFFICE OF THE INSPECTOR GENERAL.	PRINCIPAL DIRECTOR TO THE INSPECTOR GENERAL (INSPECTIONS).
	UNITED STATES ARMY NATIONAL MILITARY CEMETERIES.	SUPERINTENDENT, ARLINGTON NATIONAL CEMETERY.
		EXECUTIVE DIRECTOR OF THE ARMY NATIONAL CENETERIES PROGRAM.
	UNITED STATES ARMY MEDICAL RESEARCH AND MATERIEL COMMAND.	PRINCIPAL ASSISTANT FOR ACQUISITION.
	UNITED STATES ARMY MEDICAL DEPARTMENT CENTER AND SCHOOL.	DEPUTY TO THE COMMANDING GENERAL.
	OFFICE DEPUTY UNDER SECRETARY OF ARMY.	DIRECTOR, BUSINESS TRANSFORMATION DIRECTORATE.
		ASSISTANT TO THE DUSA/DIRECTOR OF TEST AND EVALUATION.
		SPECIAL ADVISOR TO DUSA.
	OFFICE OF BUSINESS TRANSFORMATION.	DEPUTY CHIEF MANAGEMENT OFFICER.
		DIRECTOR, BUSINESS TRANSFORMATION DIRECTORATE.
		DEPUTY DIRECTOR, OFFICE OF BUSINESS TRANSFORMATION, OFFICE OF THE UNDER SECRETARY OF THE ARMY.
	UNITED STATES ARMY INSTALLATION MANAGEMENT COMMAND.	EXECUTIVE DIRECTOR/DIRECTOR OF SERVICES.
		REGIONAL DIRECTOR (EUROPE).
		REGIONAL DIRECTOR (PACIFIC).
		DIRECTOR OF FACILITIES AND LOGISTICS.
		DIRECTOR INSTALLATION MANAGEMENT COMMAND SUPPORT (READINESS).
		DIRECTOR, PLANS, OPERATIONS & TRAIINING, G–3/5/7, INSTALLATION MANAGEMENT COMMAND.
		DIRECTOR, SUSTAINMENT (IMCOM).
		EXECUTIVE DPUTY TO COMMANDING GENERAL, INSTALLATION MANAGEMENT COMMAND.
		DIRECTOR INSTALLATION MANAGEMENT COMMAND SUPPORT (TRAINING).
		REGIONAL DIRECTOR (CENTRAL).
		REGIONAL DIRECTOR (ATLANTIC).
		DIRECTOR, FAMILY, MORALE, WELFARE AND RECREATION DIRECTORATE, G–9, INSTALLATION MANAGEMENT COMMAND.
		DIRECTOR, HUMAN RESOURCES (IMCOM).
	OFFICE, CHIEF ARMY RESERVE	ASSISTANT CHIEF OF THE ARMY RESERVE.
		DIRECTOR, HUMAN CAPITAL (OFFICE, CHIEF ARMY RESERVE).
		CHIEF EXECUTIVE OFFICER.
		DIRECTOR OF RESOURCE MANAGEMENT AND MATERIAL.
		DIRECTOR, G–1 (PERSONNEL AND HUMAN CAPITAL).
	UNITED STATES ARMY TEST AND EVALUATION COMMAND.	EXECUTIVE DIRECTOR, OPERATIONAL TEST COMMAND.
		EXECUTIVE DIRECTOR—WHITE SANDS.
		DIRECTOR, ARMY EVALUATION CENTER.
		DIRECTOR, BALLISTIC MISSILE EVALUATION DIRECTORATE, ARMY EVALUATION CENTER.
	ARMY RESEARCH INSTITUTE (DEPUTY CHIEF OF STAFF FOR PERSONNEL, FIELD OPERATING AGENCY).	DIRECTOR, UNITED STATES ARMY RESEARCH INSTITUTE AND CHIEF PSYCHOLOGIST.
	U.S. ARMY EDGEWOOD CHEMICAL BIOLOGICAL CENTER.	DIRECTOR FOR PROGRAMS INTEGRATION.
		DIRECTOR, EDGEWOOD CHEMICAL BIOLOGICAL CENTER.
		DIRECTOR, RESEARCH AND TECHNOLOGY DIRECTORATE.
		DIRECTOR, ENGINEERING DIRECTORATE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	TANK-AUTOMOTIVE RESEARCH, DEVELOPMENT AND ENGINEERING CENTER.	DIRECTOR FOR SYSTEMS INTEGRATION AND ENGINEERING.
		DIRECTOR, TANK-AUTOMOTIVE RESEARCH, DEVELOPMENT AND ENGINEERING CENTER.
		DIRECTOR, RESEARCH, TECHNOLOGY DEVELOPMENT AND INTEGRATION.
	UNITED STATES ARMY ARMAMENT RESEARCH, DEVELOPMENT AND ENGINEERING CENTER.	EXECUTIVE DIRECTOR, WEAPONS AND SOFTWARE ENGINEER CENTER.
		EXECUTIVE DIRECTOR, MUNITONS ENGINEERING TECHNOLOGY CENTER, ARDEC.
		EXECUTIVE DIRECTOR, ENTERPRISE AND SYSTEMS INTEGRATION CENTER.
		DIRECTOR FOR ARMAMENT RESEARCH, DEVELOPMENT AND ENGINEERING.
	COMMUNICATIONS ELECTRONICS COMMAND RESEARCH, DEVELOPMENT AND ENGINEERING CENTER.	DIRECTOR, COMMUNICATIONS–ELECTRONICS RESEARCH, DEVELOPMENT AND ENGINEERING CENTER.
		DIRECTOR—NIGHT VISION/ELECTROMAGNETICS SENSORS DIRECTORATE.
		DIRECTOR, SPACE AND TERRESTRIAL COMMITTEE DIRECTORATE.
		DIRECTOR, INTELLIGENCE AND INFORMATION WARFARE DIRECTORATE.
		DIRECTOR, COMMAND POWER AND INTEGRATION DIRECTORATE.
	TRAINING AND DOCTRINE COMMAND ANALYSIS CENTER.	DIRECTOR OF OPERATIONS.
		DIRECTOR, TRAINING AND DOCTRINE COMMAND ANALYSIS CENTER.
		DIRECTOR OF OPERATIONS.
	AVIATION AND MISSILE RESEARCH DEVELOPMENT AND ENGINEERING CENTER.	DIRECTOR FOR SYSTEMS SIMULATION, SOFTWARE, AND INTEGRATION.
		DIRECTOR FOR ENGINEERING.
		DIRECTOR FOR AVIATION AND MISSILE RESEARCH, DEVELOPMENT AND ENGINEERING CENTER.
		DIRECTOR FOR AVIATION DEVELOPMENT.
	AVIATION ENGINEERING DIRECTORATE.	DIRECTOR FOR WEAPONS DEVELOPMENT AND INTEGRATION.
		DIRECTOR OF AVIATION ENGINEERING.
	COLD REGIONS RESEARCH AND ENGINEERING LABORATORY HANOVER, NEW HAMSHIRE.	DIRECTOR, COLD REGIONS RESEARCH AND ENGINEERING LABORATORY.
	CONSTRUCTION ENGINEERING RESEARCH LABORATORY CHAMPAIGN, ILLINOIS.	DIRECTOR, CONSTRUCTION ENGINEERING RESEARCH LABORATORIES.
	DIRECTORATE OF CIVIL WORKS	CHIEF, PROGRAMS MANAGEMENT DIVISION.
		DIRECTOR OF CIVIL WORKS.
		CHIEF, OPERATIONS DIVISION AND REGULATORY COMMUNITY OF PRACTICE.
		CHIEF, ENGINEERING AND CONSTRUCTION DIVISION.
		CHIEF, PLANNING AND POLICY DIVISION/COMMUNITY OF PRACTICE.
	DIRECTORATE OF MILITARY PROGRAMS.	CHIEF, INTERAGENCY AND INTERNATIONAL SERVICES DIVISION.
		CHIEF, INSTALLATION SUPPORT COMMUNITY OF PRACTICE.
		DIRECTOR OF MILITARY PROGRAMS.
		CHIEF, ENVIRONMENTAL COMMUNITY OF PRACTICE.
	DIRECTORATE OF RESEARCH AND DEVELOPMENT.	DEPUTY DIRECTOR OF RESEARCH AND DEVELOPMENT.
	DIRECTORS OF ENGINEERING AND TECHNICAL SERVICES.	REGIONAL BUSINESS DIRECTOR, (MISSISSIPPI VALLEY DIVISION).
		REGIONAL BUSINESS DIRECTOR, (SOUTH ATLANTIC DIVISION).
		REGIONAL BUSINESS DIRECTOR, (NORTHWESTERN DIVISION).
		REGIONAL BUSINESS DIRECTOR (GREAT LAKES, OHIO RIVER DIVISION).
		REGIONAL BUSINESS DIRECTOR, (NORTH ATLANTIC DIVISION).
		REGIONAL BUSINESS DIRECTOR, (PACIFIC OCEAN DIVISION).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		REGIONAL BUSINESS DIRECTOR, (SOUTHWESTERN DIVISION).
		REGIONAL BUSINESS DIRECTOR, (SOUTH PACIFIC DIVISION).
	DIRECTORS OF PROGRAMS MANAGEMENT.	DIVISION PROGRAMS DIRECTOR, (SOUTH ATLANTIC DIVISION).
		DIVISION PROGRAMS DIRECTOR.
		DIVISION PROGRAMS DIRECTOR, (PACIFIC OCEAN DIVISION).
		DIVISION PROGRAMS DIRECTOR, (SOUTHWESTERN DIVISION).
		DIVISION PROGRAMS DIRECTOR, (GREAT LAKE AND OHIO RIVER DIVISION).
		DIVISION PROGRAMS DIRECTOR, (NORTHWESTERN DIVISION).
		DIVISION PROGRAMS DIRECTOR, (NORTH ATLANTIC DIVISION).
		DIVISION PROGRAMS DIRECTOR, (SOUTH PACIFIC DIVISION).
		DIVISION PROGRAMS DIRECTOR, TRANSATLANTIC DIVISION.
	ENGINEER RESEARCH AND DEVELOPMENT CENTER.	DEPUTY DIRECTOR, ENGINEER RESEARCH AND DEVELOPMENT CENTER.
		DIRECTOR, COASTAL AND HYDRAULICS LABORATORY.
		DIRECTOR,GEOTECHNICAL AND STRUCTURES LABORATORY.
		DIRECTOR, ENVIRONMENTAL LABORATORY.
	ENGINEER TOPOGRAPHIC LABORATORIES, CENTER OF ENGINEERS.	DIRECTOR, ARMY GEOSPATIAL CENTER.
	UNITED STATES ARMY NETWORK ENTERPRISE TECHNOLOGY COMMAND/9TH ARMY SIGNAL COMMAND.	DEPUTY TO COMMANDER/SENIOR TECHNICAL DIRECTOR/CHIEF ENGINEER.
	OFFICE DEPUTY COMMANDING GENERAL.	EXECUTIVE DEPUTY TO THE COMMANDING GENERAL.
	OFFICE OF DEPUTY CHIEF OF STAFF FOR LOGISTICS AND OPERATIONS.	PRINCIPAL DEPUTY, G–3 FOR OPERATIONS AND LOGISTICS.
	OFFICE OF DEPUTY CHIEF OF STAFF FOR PERSONNEL.	DEPUTY CHIEF OF STAFF FOR PERSONNEL.
	OFFICE OF THE DEPUTY CHIEF OF STAFF FOR RESOURCE MANAGEMENT.	DEPUTY CHIEF OF STAFF FOR RESOURCE MANAGEMENT.
		ASSISTANT DEPUTY CHIEF OF STAFF FOR RESOURCE MANAGEMENT, G–8/EXECUTIVE DIRECTOR FOR BUSINESS.
	RESEARCH, DEVELOPMENT AND ENGINEERING COMMAND.	DEPUTY DIRECTOR, RESEARCH, DEVELOPMENT AND ENGINEERING COMMAND.
	TANK–AUTOMOTIVE AND ARMAMENTS COMMAND (TANK–AUTOMOTIVE AND ARMAMENTS COMMAND).	DEPUTY TO THE COMMANDER.
		DIRECTOR, INTEGRATED LOGISTICS SUPPORT CENTER.
	UNITED STATES ARMY COMMUNICATIONS ELECTRONICS COMMAND.	DIRECTOR, SOFTWARE ENGINEERING DIRECTORATE.
		DEPUTY TO THE COMMANDING GENERAL/DIRECTOR LOGISTICS AND READINESS CENTER.
		DIRECTOR, COMMUNICATIONS–ELECTRONICS LIFE CYCLE MGMT CMD LOGISTICS & READINESS CTR.
	UNITED STATES ARMY JOINT MUNITIONS COMMAND.	DEPUTY TO THE COMMANDER, JOINT MUNITIONS COMMAND.
		EXECUTIVE DIRECTOR FOR AMMUNITION.
	UNITED STATES ARMY MATERIEL SYSTEMS ANALYSIS ACTIVITY.	TECHNICAL DIRECTOR.
		DIRECTOR, ARMY MATERIEL SYSTEMS ANALYSIS ACTIVITY.
	UNITED STATES ARMY AVIATION AND MISSILE COMMAND (ARMY MATERIEL COMMAND).	DIRECTOR FOR TEST MEASUREMENT DIAGNOSTIC EQUIPMENT ACTIVITY.
		ARMY AVIATION AND MISSILE COMMAND DIRECTOR, SPECIAL PROGRAMS (AVIATION).
		DEPUTY TO THE COMMANDER.
		EXECUTIVE DIRECTOR, AVIATION AND MISSILE COMMAND LOGISTICS CENTER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	UNITED STATES ARMY CONTRACTING COMMAND.	EXECUTIVE DIRECTOR, ARMY CONTRACTING COMMAND—ROCK ISLAND.
		DEPUTY TO THE COMMANDER, UNITED STATES ARMY EXPEDITIONARY CONTRACTING COMMAND.
		DEPUTY TO THE COMMANDER, MISSION INSTALLATION CONTRACTING COMMAND.
		DEPUTY TO THE COMMANDING GENERAL, ARMY CONTRACTING COMMAND.
		EXECUTIVE DIRECTOR, ARMY CONTRACTING COMMAND -WARREN.
		EXECUTIVE DIRECTOR, ARMY CONTRACTING COMMAND—REDSTONE, ATLANTA.
		EXECUTIVE DIRECTOR, ARMY CONTRACTING COMMAND—ABERDEEN.
	UNITED STATES ARMY RESEARCH LABORATORY.	DIRECTOR, UNITED STATES ARMY RESEARCH LABORATORY.
	UNITED STATES ARMY SECURITY ASSISTANCE COMMAND.	DEPUTY TO THE COMMANDING GENERAL.
	UNITED STATES ARMY SUSTAINMENT COMMAND.	EXECUTIVE DIRECTOR FOR FIELD SUPPORT.
		DEPUTY TO THE COMMANDER.
		EXECUTIVE DIRECTOR FOR LOGCAP.
	ARMY RESEARCH OFFICE	DIRECTOR, ARMY RESEARCH OFFICE.
	HUMAN RESEARCH AND ENGINEERING DIRECTORATE (ARMY RESEARCH LABORATORY).	DIRECTOR, COMPUTATIONAL AND INFORMATION SCIENCES DIRECTORATE.
		DIRECTOR, HUMAN DIMENSION SIMULATIONS AND TRAINING DIRECTORATE.
	SENSORS AND ELECTRON DEVICES DIRECTORATE (ARMY RESEARCH LABORATORY).	DIRECTOR, SENSORS AND ELECTRON DEVICES DIRECTORATE.
	SURVIVABILITY/LETHALITY ANALYSIS DIRECTORATE (ARMY RESEARCH LABORATORY).	DIRECTOR, SURVIVABILITY/LETHALITY ANALYSIS DIRECTORATE.
	WEAPONS AND MATERIEL RESEARCH DIRECTOARATE (ARMY RESEARCH LABORATORY).	DIRECTOR, WEAPONS AND MATERIALS RESEARCH DIRECTORATE.
	NATICK SOLDIER CENTER	DIRECTOR, NATICK SOLDIER RESEARCH AND DEVELOPMENT ENGINEERING CENTER.
DEPARTMENT OF THE NAVY	BUREAU OF MEDICINE AND SURGERY.	EXECUTIVE DIRECTOR, BUREAU OF MEDICINE AND SURGERY.
		DEPUTY CHIEF, TOTAL FORCE.
		DIRECTOR, BUSINESS OPERATIONS/COMPTROLLER.
	COMMANDER, NAVY INSTALLATIONS COMMAND.	DIRECTOR, TOTAL FORCE MANPOWER.
		DIRECTOR, STRATEGY AND FUTURE REQUIREMENTS.
		DIRECTOR OF OPERATIONS.
		DEPUTY COMMANDER.
		COUNSEL, COMMANDER NAVY INSTALLATIONS COMMAND.
		COMPTROLLER.
	COMMANDER, SUBMARINE FORCES	EXECUTIVE DIRECTOR, SUBMARINE FORCES.
	MILITARY SEALIFT COMMAND	DIRECTOR, MILITARY SEALIFT COMMAND MANPOWER AND PERSONNEL.
		DIRECTOR, GOVERNMENT OPERATIONS NFAF AND SPECIAL MISSION SHIPS.
		EXECUTIVE DIRECTOR.
		DIRECTOR, CONTRACTOR OPERATED SHIPS.
	NAVAL AIR SYSTEMS COMMAND HEADQUARTERS.	DIRECTOR, AIR ANTI-SUBMARINE WARFARE, ASSAULT AND SPECIAL MISSION PROGRAMS CONTRACTS DEPARTMENT.
		DEPUTY COUNSEL, OFFICE OF COUNSEL.
		DIRECTOR, PROPULSION AND POWER.
		DIRECTOR, DESIGN INTERFACE AND MAINTAINANCE PLANNING.
		DIRECTOR, AVIATION READINESS AND RESOURCE ANALYSIS.
		DIRECTOR, STRIKE WEAPONS, UNMANNED AVIATION, NAVAL AIR PROGRAMS CONTRACTS DEPARTMENT.
		DIRECTOR, INDUSTRIAL OPERATIONS.
		DIRECTOR, AIR PLATFORM SYSTEMS,.
		F–35 PRODUCT SUPPORT MANAGER.
		COUNSEL, NAVAL AIR SYSTEMS COMMAND.
		DIRECTOR, COST ESTIMATING AND ANALYSIS.
		DIRECTOR OF CONTRACTS, F–35 JSF.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, AVIATION READINESS AND RESOURCE ANALYSIS.
		CHIEF MANAGEMENT OFFICER.
		DIRECTOR, AVIONICS, SENSORS, AND ELECTRONIC WARFARE.
		ASSISTANT COMMANDER FOR CONTRACTS.
		COMPTROLLER.
		DIRECTOR, SYSTEMS ENGINEERING DEPARTMENT.
		DIRECTOR, AIR VEHICLES AND UNMANNED AIR VEHICLES.
		DIRECTOR, LOGISTICS MANAGEMENT INTEGRATION.
		DIRECTOR, TACTICAL AIRCRAFT AND MISSILES CONTRACTS DEPARTMENT.
		ASSISTANT COMMANDER FOR ACQUISITION PROCESSES AND EXECUTION.
		DEPUTY ASSISTANT COMMANDER FOR RESEARCH AND ENGINEERING.
		DEPUTY COMMANDER, NAVAL AIR SYSTEMS COMMAND.
		DEPUTY ASSISTANT COMMANDER FOR LOGISTICS AND INDUSTRIAL OPERATIONS.
		ASSISTANT COMMANDER, CORPORATE OPERATIONS AND TOTAL FORCE.
	NAVAL METEOROLOGY AND OCEANOGRAPHY COMMUNICATIONS, STENNIS SPACE CENTER, MISSISSIPPI.	TECHNICAL/DEPUTY DIRECTOR.
	NAVY CYBER FORCES	DEPUTY COMMANDER.
	OFFICE OF COMMANDER, UNITED STATES FLEET FORCES COMMAND.	DEPUTY CHIEF OF STAFF, PERSONNEL DEVELOPMENT AND ALLOCATION.
		DEPUTY CHIEF OF STAFF, FLEET INSTALLATION AND ENVIRONMENT.
		EXECUTIVE DIRECTOR, NAVY WARFARE DEVELOPMENT COMMAND.
		DIRECTOR, COMMAND, CONTROL, COMMUNICATIONS, COMPUTER, COMBAT SYSTEMS, INTELLIGENCE AND STRATEGIC/COMMAND INFORMATION OFFICER.
		DEPUTY DIRECTOR, MARITIME OPERATIONS.
	OFFICE OF THE COMMANDER, UNITED STATES PACIFIC COMMAND.	CHIEF INFORMATION OFFICER.
		DIRECTOR FOR FORCES RESOURCES AND ASSESSMENT.
		DIRECTOR, PACIFIC OUTREACH DIRECTORATE.
	OFFICE OF THE COMMANDER, UNITED STATES PACIFIC FLEET.	EXECUTIVE DIRECTOR, NAVAL AIR FORCES.
		DEPUTY FOR NAVAL MINE AND ANTI–SUBMARINE WARFARE COMMAND.
		EXECUTIVE DIRECTOR, NAVAL SURFACE FORCES.
		EXECUTIVE DIRECTOR, PACIFIC FLEET PLANS AND POLICY.
		EXECUTIVE DIRECTOR FOR COMMUNICATIONS AND INFORMATION SYSTEMS AND CIO.
		CHIEF OF STAFF.
		EXECUTIVE DIRECTOR, TOTAL FORCE MANAGEMENT.
	CHIEF OF NAVAL OPERATIONS	HEAD, CAMPAIGN ANALYSIS BRANCH.
		DEPUTY COMMANDER.
		DIRECTOR OF STRATEGY.
		DIRECTOR, NAVAL SAFETY CENTER.
		DIRECTOR, STRATEGIC MOBILITY & COMBAT LOGISTICS DIVISION.
		VICE DIRECTOR, NAVY STAFF.
		DIRECTOR OF FINANCE/COMPTROLLER.
		DIRECTOR, DIGITAL WARFARE OFFICE.
		DEPUTY CHIEF OF NAVY RESERVE.
		DEPUTY DIRECTOR FOR STRATEGY AND POLICY.
		DEPUTY DIRECTOR, ENERGY AND ENVIRONMENTAL READINESS (N45B).
		ASSISTANT DEPUTY CHIEF OF NAVAL OPERATIONS, FLEET READINESS AND LOGISTICS.
		DIRECTOR, NAVAL HISTORY AND HERITAGE COMMAND.
		DEPUTY DIRECTOR, PROGRAM DIVISION (N80B).
		DEPUTY DIRECTOR, AIR WARFARE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSISTANT DEPUTY CHIEF OF NAVAL OPERATIONS (MANPOWER, PERSONNEL, TRAINING AND EDUCATION).
		DIRECTOR, SPECIAL PROGRAMS DIVISION (N89).
		DEPUTY DIRECTOR, UNMANNED WARFARE.
		DEPUTY DIRECTOR, UNDERSEA WARFARE DIVISION.
		DEPUTY DIRECTOR, SURFACE WARFARE DIVISION.
		DEPUTY DIRECTOR, EXPEDITIONARY WARFARE DIVISION.
		DIRECTOR, SPECIAL PROGRAMS.
		DIRECTOR, STRATEGIC MOBILITY AND COMBAT LOGISTICS DIVISION.
		ASSISTANT DEPUTY CHIEF OF NAVAL OPERATIONS, WARFARE SYSTEMS.
		ASSISTANT DEPUTY CHIEF OF NAVAL OPERATIONS (RESOURCES, WARFARE REQUIREMENTS AND ASSESSMENTS) N8B.
		FINANCIAL MANAGER AND CHIEF RESOURCES OFFICER FOR MANPOWER, PERSONNEL, TRAINING AND EDUCATION.
		ASSISTANT DEPUTY CHIEF OF NAVAL OPERATIONS FOR INFORMATION DOMINANCE (N2/N6).
	MARINE CORPS SYSTEMS COMMAND.	DEPUTY TO THE COMMANDER FOR RESOURCE MANAGEMENT.
		CHIEF ENGINEER, MARINE CORPS SYSTEMS COMMAND.
		EXECUTIVE DIRECTOR.
	NAVAL FACILITIES ENGINEERING COMMAND.	DEPUTY COMMANDER, ACQUISITION.
		COUNSEL, NAVAL FACILITIES ENGINEERING COMMAND.
		EXECUTIVE DIRECTOR.
		COMPTROLLER.
		DIRECTOR OF PUBLIC WORKS.
		CHIEF ENGINEER.
		DIRECTOR OF ENVIRONMENT.
		DIRECTOR OF ASSEST MANAGEMENT.
		ASSISTANT COMMANDER/CHIEF MANAGEMENT OFFICER.
		COMPTROLLER.
	NAVAL SEA SYSTEMS COMMAND	SPECIAL ASSISTANT (KNOWLEDGE TRANSFER).
		DIRECTOR FOR MARINE ENGINEERING.
		DIVISION TECHNICAL DIRECTOR, NAVAL SURFACE WARFARE CENTER, CORONA DIVISION.
		DIVISION TECHNICAL DIRECTOR, NAVAL SURFACE WARFARE CENTER, PHILADELPHIA DIVISION.
		EXECUTIVE DIRECTOR FOR COMMANDER, NAVY REGIONAL MAINTENANCE CENTERS.
		DIRECTOR, INTEGRATED WARFARE SYSTEMS ENGINEERING GROUP.
		DIRECTOR FOR SHIP INTEGRITY AND PERFORMANCE ENGINEERING.
		EXECUTIVE DIRECTOR, ACQUISITION AND COMMONALITY.
		DIVISION TECHNICAL DIRECTOR, NAVAL SURFACE WARFARE CENTER PORT HUENEME DIVISION.
		EXECUTIVE DIRECTOR, NAVAL SURFACE AND UNDERSEA WARFARE CENTERS.
		NUCLEAR ENGINEERING AND PLANNING MANAGER.
		DEPUTY FOR WEAPONS SAFETY.
		DEPUTY COMMANDER, CORPORATE OPERATIONS DIRECTORATE.
		EXECUTIVE DIRECTOR FOR LOGISTICS MAINTENANCE AND INDUSTRIAL OPERATIONS DIRECTORATE.
		EXECUTIVE DIRECTOR, UNDERSEA WARFARE DIRECTORATE.
		DIRECTOR, REACTOR PLANT COMPONENTS AND AUXILIARY EQUIPMENT DIVISION.
		DIRECTOR, SURFACE SHIP SYSTEMS DIVISION.
		DIRECTOR, REACTOR SAFETY AND ANALYSIS DIVISION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR FOR SUBMARINE/SUBMERSIBLE DESIGN AND SYSTEMS ENGINEERING.
		PROGRAM MANAGER FOR COMMISSIONED SUBMARINES.
		DIRECTOR, OFFICE OF RESOURCE MANAGEMENT.
		DIRECTOR OF RADIOLOGICAL CONTROLS.
		DIRECTOR FOR ADVANCED UNDERSEA INTEGRATION.
		EXECUTIVE DIRECTOR.
		EXECUTIVE DIRECTOR, SURFACE WARFARE DIRECTORATE.
		DIRECTOR, NUCLEAR COMPONENTS DIVISION.
		COUNSEL, NAVAL SEA SYSTEMS COMMAND.
		DIRECTOR FOR CONTRACTS.
		DIRECTOR, REACTOR MATERIALS DIVISION.
		DIRECTOR FOR SURFACE SHIP DESIGN AND SYSTEMS ENGINEERING.
		DIRECTOR, COST ENGINEERING AND INDUSTRIAL ANALYSIS.
		DIRECTOR, SHIPBUILDING CONTRACTS DIVISION.
		ASSISTANT DEPUTY COMMANDER FOR INDUSTRIAL OPERATIONS.
		DIRECTOR, REACTOR REFUELING DIVISION.
		DEPUTY COMMANDER/COMPTROLLER.
		DIRECTOR, UNDERSEA SYSTEMS CONTRACTS DIVISION.
		HEAD, ADVANCED REACTOR BRANCH.
		DIRECTOR FOR AIRCRAFT CARRIER DESIGN AND SYSTEMS ENGINEERING.
		EXECUTIVE DIRECTOR, SHIP DESIGN, AND ENGINEERING DIRECTORATE.
		DEPUTY DIRECTOR FOR ADVANCED SUBMARINE REACTOR SERVICING AND SPENT FUEL MANAGEMENT.
		DEPUTY COUNSEL, NAVAL SEA SYSTEMS COMMAND.
		DIRECTOR, SURFACE SYSTEMS CONTRACTS DIVISION.
		DEPUTY DIRECTOR, ADVANCED AIRCRAFT CARRIER SYSTEM DIVISION.
		DIRECTOR, FLEET READINESS DIVISION.
	NAVAL SUPPLY SYSTEMS COMMAND HEADQUARTERS.	ASSISTANT COMMANDER FOR SUPPLY CHAIN MANAGEMENT (SCM) POLICY AND PERFORMANCE.
		ASSISTANT COMMANDER FOR CONTRACTING MANAGEMENT.
		DEPUTY COMMANDER, ACQUISITION, NAVAL SUPPLY SYSTEMS COMMAND.
		DEPUTY COMMANDER FOR FINANCIAL MANAGEMENT/COMPTROLLER.
		COUNSEL, NAVAL SUPPLY SYSTEMS COMMAND.
		DEPUTY COMMANDER, CORPORATE OPERATIONS.
		EXECUTIVE DIRECTOR, OFFICE OF SPECIAL PROJECTS.
		VICE COMMANDER.
		LEAD LOGISTICIAN/ENTERPRISE RESOURCE PLANNING PROGRAM MANAGER.
	OFFICE OF NAVAL RESEARCH	DIRECTOR FOR AEROSPACE SCIENCE RESEARCH DIVISION.
		DIRECTOR, OCEAN, ATMOSPHERE AND SPACE SCIENCE AND TECHNOLOGY PROCESSES AND PREDICTION DIVISION.
		DIRECTOR, ELECTRONICS, SENSORS, AND NETWORKS RESEARCH DIVISION.
		DIRECTOR, SHIP SYSTEMS AND ENGINEERING DIVISION.
		DIRECTOR, HUMAN & BIOENGINEERED SYSTEMS DIVISION.
		DIRECTOR, CONTRACTS, GRANTS AND ACQUISITIONS.
		COMPTROLLER.
		HEAD, AIR WARFARE AND WEAPONS SCIENCE AND TECHNOLOGY DEPARTMENT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, HYBRID COMPLEX WARFARE SCIENCE AND TECHNOLOGY DIVISION.
		DIRECTOR, MATHEMATICS COMPUTER AND INFORMATION SCIENCES DIVISION.
		HEAD, COMMAND, CONTROL, COMMUNICATIONS, INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE (C4ISR) SCIENCE AND TECHNOLOGY DEPARTMENT.
		DIRECTOR OF INNOVATION.
		HEAD, EXPEDITIONARY WARFARE AND COMBATING TERRORISM SCIENCE AND TECHNOLOGY DEPARTMENT.
		PATENT COUNSEL OF THE NAVY.
		COUNSEL, OFFICE OF NAVAL RESEARCH.
		EXECUTIVE DIRECTOR.
		HEAD, WARFIGHTER PERFORMANCE SCIENCE AND TECHNOLOGY DEPARTMENT.
		HEAD, OCEAN, BATTLESPACE SENSING SCIENCE AND TECHNOLOGY DEPARTMENT.
		HEAD, SEA WARFARE AND WEAPONS SCIENCE AND TECHNOLOGY DEPARTMENT.
		DIRECTOR, UNDERSEA WEAPONS AND NAVAL MATERIALS SCIENCE AND TECHNOLOGY DIVISION.
	OFFICE OF THE SECRETARY	SPECIAL ASSISTANT.
		DEPUTY ASSISTANT FOR ADMINISTRATION.
		DIRECTOR, SEXUAL ASSAULT PREVENTION AND RESPONSE.
		ASSISTANT FOR ADMINISTRATION.
	SPACE AND NAVAL WARFARE SYSTEMS COMMAND.	ASSISTANT COMMANDER FOR NAVY CYBER IMPLEMENTATION.
		DIRECTOR CORPORATE OPERATIONS/COMMAND INFORMATION OFFICER.
		EXECUTIVE DIRECTOR, FLEET READINESS DIRECTORATE.
		EXECUTIVE DIRECTOR.
		ASSISTANT CHIEF ENGINEER FOR MISSION ENGINEERING.
		ASSISTANT CHIEF ENGINEER FOR CERTIFICATION AND MISSION ASSURANCE.
		DIRECTOR, CONTRACTS.
		DIRECTOR, READINESS/LOGISTICS DIRECTORATE.
		DEPUTY CHIEF ENGINEER.
		ASSISTANT CHIEF ENGINEER FOR MISSION ARCHITECTURE AND SYSTEMS ENGINEERING.
	UNITED STATES MARINE CORPS HEADQUARTERS OFFICE.	ASSISTANT DEPUTY COMMANDANT FOR MANPOWER AND RESERVE AFFAIRS.
		DEPUTY DIRECTOR, MANPOWER PLANS AND POLICY DIVISION.
		DIRECTOR, OFFICE OF MARINE CORPS COMMUNICATION.
		ASSISTANT DEPUTY COMMANDANT, RESOURCES (PERSONNEL & READINESS).
		DIRECTOR, PROGRAM ANALYSIS AND EVALUATION DIVISION.
		DEPUTY COUNSEL FOR THE COMMANDANT OF THE MARINE CORPS.
		ASSISTANT DEPUTY COMMANDANT FOR PLANS POLICIES AND OPERATIONS (SECURITY).
		EXECUTIVE DIRECTOR, MARINE CORPS INSTALLATIONS COMMAND.
		DIRECTOR, MANPOWER PLANS AND POLICY DIVISION.
		ASSISTANT DEPUTY COMMANDANT, INSTALLATIONS AND LOGISTICS (E-BUSINESS AND CONTRACTS).
		COUNSEL FOR THE COMMANDANT.
		ASSISTANT DEPUTY COMMANDANT, INSTALLATIONS AND LOGISTICS.
		ASSISTANT DEPUTY COMMANDANT FOR PROGRAMS AND RESOURCES/FISCAL DIRECTOR OF THE MARINE CORPS.
		ASSISTANT DEPUTY COMMANDANT FOR MANPOWER AND RESERVE AFFAIRS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSISTANT DEPUTY COMMANDANT FOR AVIATION (SUSTAINMENT).
	MARINE CORPS COMBAT DEVELOPMENT COMMAND; QUANTICO, VIRGINIA.	EXECUTIVE DEPUTY TRAINING AND EDUCATION COMMAND.
	NAVAL AIR WARFARE CENTER AIRCRAFT DIVISION.	DIRECTOR, FLIGHT TEST ENGINEERING.
		DIRECTOR, BATTLESPACE SIMULATION.
		DEPUTY ASSISTANT COMMANDER FOR TEST AND EVALUATION/EXECUTIVE DIRECTOR NAVAL AIR WARFARE CENTER AIRCRAFT DIVISION/DIRECTOR, TEST AND EVALUATION NAWCAD.
		DIRECTOR, AIRCRAFT LAUNCH AND RECOVERY EQUIPMENT/SUPPORT EQUIPMENT.
		DIRECTOR, INTEGRATED STYSTEMS EVALUATION EXPERIMENTATION AND TEST DEPARTMENT.
	NAVAL AIR WARFARE CENTER TRAINING SYSTEMS DIVISION.	DIRECTOR, HUMAN SYSTEMS DEPARTMENT.
	NAVAL AIR WARFARE CENTER WEAPONS DIVISION, CHINA LAKE, CALIFORNIA.	DIRECTOR, SOFTWARE ENGINEERING.
		DIRECTOR, RANGE DEPARTMENT.
		DIRECTOR, ELECTRONIC WARFARE/COMBAT SYSTEMS.
		DIRECTOR, WEAPONS AND ENERGETICS DEPARTMENT.
		EXECUTIVE DIRECTOR, NAVAL AIR WARFARE CENTER WEAPONS DIVISION/DIRECTOR, RESEARCH ENGINEERING.
	NAVAL SHIPYARDS	NUCLEAR ENGINEERING AND PLANNING MANAGER; PORTSMOUTH NAVAL SHIPYARD.
		NAVAL SHIPYARD NUCLEAR ENGINEERING AND PLANNING MANAGER, NORFOLK NAVAL SHIPYARD.
		NUCLEAR ENGINEERING AND PLANNING MANAGER, PUGET SOUND NAVAL SHIPYARD.
	NAVAL SURFACE WARFARE CENTER.	DIVISION TECHNICAL DIRECTOR, NAVAL SURFACE WARFARE CENTER DAHLGREN DIVISION.
	NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION.	DIVISION TECNICAL DIRECTOR, NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION.
	NAVAL SURFACE WARFARE CENTER, CRANE DIVISION.	DIVISION TECHNICAL DIRECTOR, NAVAL SURFACE WARFARE CENTER, CRANE DIVISION.
	NAVAL SURFACE WARFARE CENTER, DAHLGREN DIVISION.	DIVISION TECHNICAL DIRECTOR, NAVAL SURFACE WARFARE CENTER PANAMA CITY DIVISION.
	NAVAL SURFACE WARFARE CENTER, INDIAN HEAD DIVISION.	DIVISION TECHNICAL DIRECTOR, NAVAL SURFACE WARFARE CENTER INDIAN HEAD EXPLOSIVE ORDINANCE DISPOSAL TECHNOLOGY DIVISION.
	NAVAL UNDERSEA WARFARE CENTER DIVISION, KEYPORT, WASHINGTON.	DIVISION TECHNICAL DIRECTOR, NAVAL UNDERSEA WARFARE CENTER DIVISION KEYPORT.
	NAVAL UNDERSEA WARFARE CENTER DIVISION, NEWPORT, RHODE ISLAND.	DIVISION TECHNICAL DIRECTOR, NAVAL UNDERSEA WARFARE CENTER DIVISION NEWPORT.
	FLEET AND INDUSTRIAL SUPPLY CENTERS.	VICE COMMANDER, GLOBAL LOGISTICS SUPPORT.
	NAVY SUPPLY INFORMATION SYSTEMS ACTIVITY.	DIRECTOR OF FINANCE/COMPTROLLER.
	WEAPON SYSTEMS SUPPORT	VICE COMMANDER, NAVY SUPPLY WEAPON SYSTEMS SUPPORT.
	NAVAL RESEARCH LABORATORY	SUPERINTENDENT, TACTICAL ELECTRONIC WARFARE DIVISION.
		ASSOCIATE DIRECTOR OF RESEARCH FOR BUSINESS OPERATIONS.
		ASSOCIATE DIRECTOR OF RESEARCH FOR OCEAN AND ATMOSPHERIC SCIENCE AND TECHNOLOGY.
		ASSOCIATE DIRECTOR OF RESEARCH FOR SYSTEMS.
		SUPERINTENDENT, SPACE SYSTEMS DEVELOPMENT DEPARTMENT.
		DIRECTOR, NAVAL CENTER FOR SPACE TECHNOLOGY.
		SUPERINTENDENT, MARINE METEROLOGY DIVISION.
		SUPERINTENDENT, OPTICAL SCIENCES DIVISION.
		SUPERINTENDENT, ACOUSTICS DIVISION.
		SUPERINTENDENT, MARINE GEOSCIENCES DIVISION.
		SUPERINTENDENT, OCEANOGRAPHY DIVISION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SUPERINTENDENT, SPACECRAFT ENGINEERING DEPARTMENT.
		SUPERINTENDENT, SPACE SCIENCES DIVISION.
		SUPERINTENDENT,PLASMA PHYSICS DIVISION.
		SUPERINTENDENT, ELECTRONICS SCIENCE AND TECHNOLOGY DIVISION.
		SUPERINTENDENT, RADAR DIVISION.
		SUPERINTENDENT, REMOTE SENSING DIVISION.
		SUPERINTENDANT, INFORMATION TECHNOLOGY DIVISION.
		SUPERINTENDENT, MATERIAL SCIENCE AND TECHNOLOGY DIVISION.
		DIRECTOR OF RESEARCH.
		ASSOCIATE DIRECTOR OF RESEARCH FOR MATERIAL SCIENCE AND COMPONENT TECHNOLOGY.
	OFFICE OF CIVILIAN HUMAN RESOURCES.	DIRECTOR, OFFICE OF CIVILIAN HUMAN RESOURCES.
		DIRECTOR, HUMAN RESOURCES SYSTEMS AND ANALYTICS.
		DIRECTOR, HUMAN RESOURCES OPERATIONS.
		DIRECTOR, HUMAN RESOURCES POLICY AND PROGRAMS DEPARTMENT.
	PROGRAM EXECUTIVE OFFICERS ...	DEPUTY PROGRAM EXEUCTIVE OFFICER FOR UNMANNED AVIATION PROGRAMS.
		DIRECTOR, PRODUCTION DEPLOYMENT AND FLEET READINESS.
		DIRECTOR FOR ABOVE WATER SENSORS DIRECTORATE.
		EXECUTIVE DIRECTOR, COMBATANTS, PROGRAM EXECUTIVE OFFICERS SHIPS.
		EXECUTIVE DIRECTOR, PROGRAM EXECUTIVE OFFICERS FOR AIRCRAFT CARRIERS.
		DEPUTY PROGRAM EXECUTIVE OFFICERS FOR STRIKE WEAPONS.
		DEPUTY PROGRAM EXECUTIVE OFFICERS FOR TACTICAL AIR PROGRAMS.
		EXECUTIVE DIRECTOR, PROGRAM EXECUTIVE OFFICERS FOR INTEGRATED WARFARE SYSTEMS.
		EXECUTIVE DIRECTOR, PROGRAM EXECUTIVE OFFICE SUBMARINES.
		EXECUTIVE DIRECTOR, PROGRAM EXECUTIVE OFFICE FOR SPACE SYSTEMS.
		EXECUTIVE DIRECTOR FOR COMMAND, CONTROL, COMMUNICATIONS, COMPUTERS AND INTELLIGENCE (C4I).
		EXECUTIVE DIRECTOR, PROGRAM EXECUTIVE OFFICE, LITTORAL COMBAT SHIPS.
		PROGRAM EXECUTIVE OFFICER (ENTERPRISE INFORMATION SYSTEMS).
		DIRECTOR, DEVELOPMENT AND INTEGRATION.
		DEPUTY PROGRAM EXECUTIVE OFFICERS, AIR ASSAULT AND SPECIAL MISSION.
		EXECUTIVE DIRECTOR, AMPHIBIOUS, AUXILIARY AND SEALIFT SHIPS, PROGRAM EXECUTIVE OFFICERS SHIPS.
	STRATEGIC SYSTEMS PROGRAMS ..	BRANCH HEAD REENTRY SYSTEMS BRANCH.
		TECHNICAL PLANS AND PAYLOADS INTEGRATION OFFICER.
		HEAD, RESOURCES BRANCH (COMPTROLLER) AND DEPUTY DIRECTOR, PLANS AND PROGRAM DIVISION.
		ASSISTANT FOR MISSILE ENGINEERING SYSTEMS.
		ASSISTANT FOR SYSTEMS INTEGRATION AND COMPATIBILITY.
		ASSISTANT FOR SHIPBOARD SYSTEMS.
		ASSISTANT FOR MISSILE PRODUCTION, ASSEMBLY AND OPERATIONS.
		DIRECTOR, PLANS AND PROGRAMS DIVISION.
		CHIEF ENGINEER.
		DIRECTOR, INTEGRATED NUCLEAR WEAPONS SAFETY AND SECURITY.
		COUNSEL, STRATEGIC SYSTEMS PROGRMAS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	NAVAL CRIMINAL INVESTIGATIVE SERVICE.	CRIMINAL INVESTIGATOR, EXECUTIVE ASSISTANT DIRECTOR FOR CRIMINAL OPERATIONS.
		CRIMINAL INVESTIGATOR, EXECUTIVE ASSISTANT DIRECTOR FOR ATLANTIC OPERATIONS.
		DIRECTOR, NAVAL CRIMINAL INVESTIGATIVE SERVICE.
		CRIMINAL INVESTIGATOR, EXECUTIVE ASSISTANT DIRECTOR FOR PACIFIC OPERATIONS.
		CRIMINAL INVESTIGATOR, EXECUTIVE ASSISTANT DIRECTOR FOR GLOBAL OPERATIONS.
		CRMINIAL INVESTIGATOR, EXECUTIVE ASSISTANT DIRECTOR FOR MANAGEMENT AND ADMINISTRATION.
		CRIMINAL INVESTIGATOR, DEPUTY DIRECTOR, NAVAL CRIMINIAL INVESTIGATIVE SERVICE.
	OFFICE OF THE ASSISTANT SECRETARY OF NAVY (ENERGY, INSTALLATIONS AND ENVIRONMENT).	ASSISTANT GENERAL COUNSEL (ENERGY, INSTALLATIONS AND ENVIRONMENT).
		DEPUTY ASSISTANT SECRETARY OF THE NAVY.
	OFFICE OF THE ASSISTANT SECRETARY OF NAVY (FINANCIAL MANAGEMENT AND COMPTROLLER).	DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR FINANCIAL OPERATIONS.
		ASSOCIATE DIRECTOR, OFFICE OF BUDGET/FISCAL MANAGEMENT DIVISION.
		ASSISTANT GENERAL COUNSEL (FINANCIAL MANAGEMENT AND COMPTROLLER).
		DIRECTOR, INVESTMENT AND DEVELOPMENT DIVISION.
		DIRECTOR, BUDGET AND POLICY AND PROCEDURES DIVISION.
		SPECIAL ASSISTANT.
		DEPUTY ASSISTANT SECRETARY OF THE NAVY (FINANCIAL POLICY AND SYSTEMS).
		DIRECTOR, POLICY AND PROCEDURES.
		DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR COST AND ECONOMICS.
		PRINCIPAL DEPUTY ASSISTANT SECRETARY OF THE NAVY FINANCIAL MANGEMENT AND COMPTROLLER.
		DIRECTOR, CIVILIAN RESOURCES AND BUSINESS AFFAIRS DIVISION.
	OFFICE OF THE ASSISTANT SECRETARY OF NAVY (MANPOWER AND RESERVE AFFAIRS).	DEPUTY ASSISTANT SECRETARY OF THE NAVY (RESERVE AFFAIRS AND TOTAL FORCE INTEGRATION).
		PRINCIPAL DEPUTY MANPOWER AND RESERVE AFFAIRS.
		DEPUTY ASSISTANT SECRETARY OF THE NAVY (CIVILIAN HUMAN RESOURES).
		ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS).
	OFFICE OF THE ASSISTANT SECRETARY OF THE NAVY (RESEARCH, DEVELOPMENT AND ACQUISITION).	PROGRAM EXECUTIVE OFFICER, LAND SYSTEMS MARINE CORPS.
		DEPUTY FOR TEST AND EVALUATION.
		DEPUTY ASSISTANT SECRETARY OF THE NAVY (COMMAND, CONTROL, COMMUNICATIONS, COMPUTERS AND INTELLIGENCE) SPACE).
		EXECUTIVE DIRECTOR, F–35, JOINT PROGRAM OFFICE.
		DEPUTY ASSISTANT SECRETARY OF THE NAVY (SHIPS).
		PROGRAM EXECUTIVE OFFICER FOR DEFENSE HEALTHCARE MANAGEMENT SYSTEMS.
		CHIEF OF STAFF/POLICY.
		PRINCIPAL CIVILIAN DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION WORKFORCE).
		ASSISTANT GENERAL COUNSEL (RESEARCH, DEVELOPMENT AND ACQUISITION).
		EXECUTIVE DIRECTOR, DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION AND PROCUREMENT).
		DEPUTY ASSISTANT SECRETARY OF THE NAVY (MANAGEMENT AND BUDGET).
		EXECUTIVE DIRECTOR, NAVY INTERNATIONAL PROGRAMS OFFICE.
	OFFICE OF THE GENERAL COUNSEL.	COUNSEL, MILITARY SEALIFT COMMAND.
		ASSISTANT GENERAL COUNSEL (INTELLIGENCE LAW).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SPECIAL COUNSEL FOR LITIGATION.
		ASSISTANT GENERAL COUNSEL (ACQUISITION INTEGRITY).
	OFFICE OF THE NAVAL INSPECTOR GENERAL.	DEPUTY NAVAL INSPECTOR GENERAL.
		DEPUTY INSPECTOR GENERAL OF THE MARINE CORPS.
	OFFICE OF THE AUDITOR GENERAL	DEPUTY OF BUSINESS OPERATIONS/OFFICE OF BUSINESS TRANSFORMATION.
		PRINCIPAL DIRECTOR DEPUTY UNDER SECRETARY OF THE NAVY (POLICY).
		CHIEF INFORMATION OFFICER.
		SENIOR DIRECTOR FOR SECURITY.
		SENIOR DIRECTOR, INTEGRATION SUPPORT DIRECTORATE.
		SENIOR DIRECTOR (POLICY AND STRATEGY).
		DEPUTY DIRECTOR, INTEGRATION SUPPORT DIRECTORATE.
		SENIOR DIRECTOR FOR SECURITY.
	SPACE AND NAVAL WARFARE SYSTEMS CENTER.	ASSISTANT AUDITOR GENERAL OF THE NAVY FOR RESEARCH DEVELOPMENT AND ACQUISITION.
		DEPUTY AUDITOR GENERAL OF THE NAVY.
		ASSISTANT AUDITOR GENERAL FOR INSTALLATION AND ENVIRONMENT AUDITS.
		ASSISTANT AUDITOR GENERAL FOR MANPOWER AND RESERVE AFFAIRS AUDITS.
		AUDITOR GENERAL OF THE NAVY.
		ASSISTANT AUDITOR GENERAL FOR MANPOWER & RESERVE AFFAIRS.
		ASSISTANT AUDITOR GENERAL FOR FINANCIAL MANAGEMENT AND COMPTROLLER AUDITS.
	SPACE AND NAVAL WARFARE SYSTEMS COMMAND.	COUNSEL, SPACE AND NAVAL WARFARE SYSTEMS COMMAND.
		COMPTROLLER/BUSINESS RESOURCE MANAGER.
		DIRECTOR, SCIENCE AND TECHNOLOGY.
		EXECUTIVE DIRECTOR.
	SPACE AND NAVAL WARFARE SYSTEMS CENTER, CHARLESTON.	EXECUTIVE DIRECTOR.
OFFICE OF THE SECRETARY OF DEFENSE OFFICE OF THE INSPECTOR GENERAL.	DEPARTMENT OF DEFENSE PAYMENTS AND ACCOUNTING OPERATIONS.	ASSISTANT INSPECTOR GENERAL FOR CONTRACT MANAGEMENT AND PAYMENTS.
	FINANCIAL MANAGEMENT AND REPORTING.	ASSISTANT INSPECTOR GENERAL FOR FINANCIAL MANAGEMENT AND REPORTING.
	OFFICE OF THE PRINCIPAL DEPUTY INSPECTOR GENERAL FOR AUDITING.	PRINCIPAL ASSISTANT INSPECTOR GENERAL FOR AUDITING.
	READINESS, OPERATIONS AND SUPPORT.	ASSISTANT INSPECTOR GENERAL FOR READINESS AND CYBER OPERATIONS.
	DEFENSE CRIMINAL INVESTIGATIVE SERVICE.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
	AUDIT POLICY AND OVERSIGHT	ASSISTANT INSPECTOR GENERAL FOR AUDIT POLICY AND OVERSIGHT.
	INVESTIGATIVE POLICY AND OVERSIGHT.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIVE POLICY AND OVERSIGHT.
	DEPUTY INSPECTOR GENERAL FOR ADMINISTRATIVE INVESTIGATIONS.	DEPUTY INSPECTOR GENERAL ADMINISTRATIVE INVESTIGATIONS.
	DEPUTY INSPECTOR GENERAL FOR AUDITING.	DEPUTY INSPECTOR GENERAL FOR AUDITING.
		ASSISTANT INSPECTOR GENERAL FOR ACQUISITION AND SUSTAINMENT MANAGEMENT.
	DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE AND SPECIAL PROGRAM ASSESSMENTS.	DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE AND SPECIAL PROGRAM ASSESSMENTS.
	DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS.	DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY DIRECTOR DEFENSE CRIMINAL INVESTIGATIVE SERVICE.
	DEPUTY INSPECTOR GENERAL FOR POLICY AND OVERSIGHT.	DEPUTY INSPECTOR GENERAL FOR POLICY AND OVERSIGHT.
	DEPUTY INSPECTOR GENERAL FOR SPECIAL PLANS AND OPERATIONS.	DEPUTY INSPECTOR GENERAL FOR SPECIAL PLANS AND OPERATIONS.
	OFFICE OF THE GENERAL COUNSEL.	GENERAL COUNSEL.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF THE INSPECTOR GENERAL.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS/DEPUTY DIRECTOR DEFENSE CRIMINAL INVESTIGATIVE SERVICE.
		DEPUTY CHIEF OF STAFF.
		DEPUTY INSPECTOR GENERAL FOR OVERSEAS CONTINGENCY OPERATIONS.
		PRINCIPAL DEPUTY INSPECTOR GENERAL.
DEFENSE NUCLEAR FACILITIES SAFETY BOARD.	DEFENSE NUCLEAR FACILITIES SAFETY BOARD.	TECHNICAL DIRECTOR.
		DEPUTY TECHNICAL DIRECTOR.
		DEPUTY GENERAL COUNSEL.
		DEPUTY GENERAL MANAGER.
		ASSOCIATE TECHNICAL DIRECTOR FOR ENGINEERING PERFORMANCE.
		ASSOCIATE TECHNICAL DIRECTOR FOR NUCLEAR FACILITY DESIGN AND INFRASTRUCTURE.
		ASSOCIATE TECHNICAL DIRECTOR FOR NUCLEAR MATERIALS PROCESSING AND STABILIZATION.
		ASSOCIATE TECHNICAL DIRECTOR FOR NUCLEAR PROGRAMS & ANALYSIS.
		ASSOCIATE TECHNICAL DIRECTOR FOR NUCLEAR WEAPON PROGRAMS.
DEPARTMENT OF EDUCATION	FEDERAL STUDENT AID	CHIEF FINANCIAL OFFICER.
	INSTITUTE OF EDUCATION SCIENCES.	ASSOCIATE COMMISSIONER, ASSESSMENTS DIVISION.
	OFFICE FOR CIVIL RIGHTS	ENFORCEMENT DIRECTOR (3).
		DEPUTY ASSISTANT SECRETARY FOR ENFORCEMENT.
	OFFICE OF MANAGEMENT	DEPUTY DIRECTOR OF HUMAN RESOURCES.
		CHAIRPERSON, EDUCATION APPEAL BOARD.
		DIRECTOR OF HUMAN RESOURCES.
		DIRECTOR OF SECURITY, FACILITIES AND LOGISTICAL SERVICES.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DIRECTOR, CONTRACTS AND ACQUISITIONS MANAGEMENT.
		DEPUTY CHIEF ACQUISITION OFFICER AND SENIOR PROCUREMENT EXECUTIVE.
		DEPUTY CHIEF FINANCIAL OFFICER, FINANCIAL MANAGEMENT.
		DIRECTOR, FINANCIAL IMPROVEMENT AND POST AUDIT OPERATIONS.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	DIRECTOR, INFORMATION ASSURANCE SERVICES AND CHIEF INFORMATION SECURITY OFFICER.
		CHIEF INFORMATION OFFICER.
	OFFICE OF THE GENERAL COUNSEL.	ASSISTANT GENERAL COUNSEL FOR EDUCTIONAL EQUITY.
		ASSISTANT GENERAL COUNSEL FOR BUSINESS AND ADMINISTRATION LAW.
		ASSISTANT GENERAL COUNSEL, DIVISION OF POSTSECONDARY EDUCATION ASSISTANT GENERAL COUNSEL, Division of POSTSECONDARY EDUCATION.
DEPARTMENT OF EDUCATION OFFICE OF THE INSPECTOR GENERAL.	OFFICE OF THE INSPECTOR GENERAL.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATION SERVICES.
		COUNSEL TO THE INSPECTOR GENERAL.
		DEPUTY INSPECTOR GENERAL.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT SERVICES.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATION SERVICES.
		ASSISTANT INSPECTOR GENERAL FOR INFORMATION TECHNOLOGY AUDITS AND COMPUTER CRIME INVESTIGATIONS.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT SERVICES.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT SERVICES.
DEPARTMENT OF ENERGY	ENVIRONMENTAL MANAGEMENT CONSOLIDATED BUSINESS CENTER.	CHIEF COUNSEL.
	SAVANNAH RIVER OPERATIONS OFFICE.	ASSOCIATE DEPUTY MANAGER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	ADVANCED RESEARCH PROJECTS AGENCY—ENERGY.	CHIEF COUNSEL.
	ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS.	CHIEF OPERATIONS OFFICER.
	ASSISTANT SECRETARY FOR ENERGY EFFICIENCY AND RENEWABLE ENERGY.	DIRECTOR FOR PROCUREMENT SERVICES DIVISION.
	ASSISTANT SECRETARY FOR ENVIRONMENTAL MANAGEMENT.	DIRECTOR, SPECIAL PROJECTS OFFICE.
		SITE MANAGER, OAK RIDGE.
		SENIOR ADVISOR FOR INTERNATIONAL MORTALITY DATABASE ON DISKETTE (IMDP).
		SENIOR PROJECT MANAGEMENT ADVISOR.
		SENIOR MANAGEMENT ANALYST ADVISOR.
		DIRECTOR FOR REGULATORY, INTERGOVERNMENTAL AND STAKEHOLDER ENGAGEMENT.
		SENIOR LIAISON ADVISOR FOR FIELD OPERATIONS.
		SENIOR LABORATORY ADVISOR.
	ASSISTANT SECRETARY FOR FOSSIL ENERGY.	CHIEF INFORMATION OFFICER AND CHIEF SECURITY OFFICER.
		DIRECTOR, OFFICE OF STRATEGIC PLANNING AND GLOBAL ENGAGEMENT.
		EXECUTIVE DIRECTOR, RESEARCH AND INNOVATIONS.
		EXECUTIVE DIRECTOR, TECHNOLOGY DEVELOPMENT AND INTEGRATION.
		DEPUTY DIRECTOR AND CHIEF RESEARCH OFFICER.
		DEPUTY DIRECTOR, LABORATORY OPERATIONS AND CHIEF OPERATING OFFICER.
		DEPUTY DIRECTOR, SCIENCE AND TECHNOLOGY STRATEGIC PLANS AND PROGRAMS.
		EXECUTIVE DIRECTOR, OFFICE OF FINANCE, ACQUISITION AND CHIEF FINANCIAL OFFICER.
		CHIEF COUNSEL.
		DEPUTY EXECUTIVE DIRECTOR, TECHNOLOGY DEVELOPMENT AND INTEGRATION.
		PROJECT MANAGER, STRATEGIC PETROLEUM RESERVE.
		DIRECTOR, OFFICE OF RESEARCH.
	ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS.	DIRECTOR, OFFICE OF EUROPEAN AND EURASIAN AFFAIRS.
		DIRECTOR, OFFICE OF AFRICAN AND MIDDLE EASTERN AFFAIRS.
		DEPUTY ASSISTANT SECRETARY FOR ASIA AND THE AMERICAS.
		DEPUTY ASSISTANT SECRETARY FOR MIDDLE EAST, AFRICA AND EURASIA.
		DIRECTOR, OFFICE OF EAST ASIAN AFFAIRS.
	ASSISTANT SECRETARY FOR NUCLEAR ENERGY.	ASSOCIATE DEPUTY ASSISTANT SECRETARY FOR NUCLEAR FACILITY OPERATIONS.
		DEPUTY MANAGER FOR OPERATIONS SUPPORT.
		ASSOCIATE PRINCIPAL DEPUTY ASSISTANT SECRETARY, OFFICE OF NUCLEAR ENERGY.
		DIRECTOR, OFFICE OF INNOVATIVE NUCLEAR RESEARCH.
		CHIEF OPERATING OFFICER.
		DIRECTOR, OFFICE OF USED NUCLEAR FUEL DISPOSITION RESEARCH AND DEVELOPMENT.
		ASSOCIATE DEPUTY ASSISTANT SECRETARY FOR NUCLEAR REACTOR TECHNOLOGIES.
		DIRECTOR, OFFICE OF LIGHT WATER REACTOR DEPLOYMENT.
		DIRECTOR, OFFICE OF ADVANCED REACTOR TECHNOLOGIES.
		DEPUTY DIRECTOR, OFFICE OF ADVANCED REACTOR CONCEPTS.
	ASSOCIATE UNDER SECRETARY FOR ENVIRONMENT, HEALTH, SAFETY AND SECURITY.	CHIEF OPERATING OFFICER.
		DEPUTY ASSOCIATE UNDER SECRETARY FOR SECURITY.
		SENIOR ADVISOR.
		DIRECTOR, OFFICE OF ENVIRONMENTAL PROTECTION SUSTAINIABILITY.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, OFFICE OF NUCLEAR SAFETY.
	CHICAGO OFFICE	DEPUTY MANAGER, CHICAGO OFFICE.
		MANAGER, CHICAGO OFFICE.
		ASSISTANT MANAGER, ACQUISITION AND ASSISTANCE.
		CHIEF FINANCIAL OFFICER.
	IDAHO OPERATIONS OFFICE	DEPUTY MANAGER FOR IDAHO CLEANUP PROJECT.
		DEPUTY MANAGER FOR ADMINISTRATIVE SUPPORT, CHIEF FINANCIAL OFFICER.
		MANAGER, IDAHO OPERATIONS OFFICE.
		CHIEF COUNSEL.
		ASSOCIATE DEPUTY MANAGER, IDAHO.
	LOAN PROGRAMS OFFICE	CHIEF COUNSEL.
		DIRECTOR, RISK MANAGEMENT.
		DIRECTOR, PORTFOLIO MANAGEMENT DIVISION.
	OAK RIDGE OFFICE	SITE MANAGER, OAK RIDGE NATIONAL LABORATORY SITE OFFICE.
		SITE MANAGER, THOMAS JEFFERSON NATIONAL ACCELERATOR FACILITY.
		CHIEF FINANCIAL OFFICER.
		ASSISTANT MANAGER FOR ADMINISTRATION.
		CHIEF COUNSEL.
	OFFICE OF ENTERPRISE ASSESSMENTS.	DIRECTOR, OFFICE OF ENVIRONMENT, SAFETY AND HEALTH ASSESSMENTS.
		DEPUTY DIRECTOR, OFFICE OF INDEPENDENT ENTERPRISE ASSESSMENTS.
		DEPUTY DIRECTOR, OFFICE OF ENVIRONMENT, SAFETY AND HEALTH ASSESSMENTS.
		DIRECTOR, OFFICE OF SECURITY ASSESSMENTS.
	OFFICE OF GENERAL COUNSEL	ASSISTANT GENERAL COUNSEL FOR TECHNOLOGY TRANSFER AND INTELLECTUAL PROPERTY.
		DEPUTY GENERAL COUNSEL.
		ASSISTANT GENERAL COUNSEL FOR GENERAL LAW.
		DEPUTY GENERAL COUNSEL FOR TRANSACTIONS, TECHNOLOGY, AND CONTRACTOR HUMAN RESOURCES.
		ASSISTANT GENERAL COUNSEL FOR PROCUREMENT AND FINANCIAL ASSISTANCE.
		ASSISTANT GENERAL COUNSEL FOR ENFORCEMENT.
	OFFICE OF HEARINGS AND APPEALS.	DIRECTOR, HEARINGS AND APPEALS (CHIEF ADMINISTRATIVE JUDGE).
		DEPUTY DIRECTOR, HEARINGS AND APPEALS (DEPUTY CHIEF ADMINISTRATIVE JUDGE).
	OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE.	DEPUTY DIRECTOR FOR INTELLIGENCE ANALYSIS.
		DEPUTY DIRECTOR FOR COUNTERINTELLIGENCE.
		DIRECTOR, OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE.
		PRINCIPAL DEPUTY DIRECTOR, OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE.
	OFFICE OF POLICY	DEPUTY DIRECTOR FOR ENERGY FINANCE INCENTIVES AND PROGRAM ANALYSIS.
		CHIEF OPERATING OFFICER.
		DEPUTY ASSISTANT SECRETARY FOR POLICY ANALYSIS.
	OFFICE OF SCIENCE	SITE OFFICE MANAGER, ARGONNE.
		SITE OFFICE MANAGER, FERMI.
		DIRECTOR OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.
		SITE OFFICE MANAGER, PRINCETON.
		SITE OFFICE MANAGER, BROOKHAVEN.
		MANAGER.
		DIRECTOR, OFFICE OF WORKFORCE MANAGEMENT.
		BERKELEY/SLAC SITE OFFICE MANAGER.
		CHIEF COUNSEL.
	RICHLAND OPERATIONS OFFICE	CHIEF COUNSEL.
	UNITED STATES ENERGY INFORMATION ADMINISTRATION.	SENIOR ADVISOR (2).
		DIRECTOR, OFFICE OF INFORMATION TECHNOLOGY (CHIEF INFORMATION OFFICER).
		DIRECTOR, OFFICE OF PETROLEUM AND BIOFUELS STATISTICS.
		ASSISTANT ADMINISTRATOR FOR ENERGY STATISTICS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, OFFICE OF SURVEY DEVELOPMENT AND STATISTICAL INTEGRATION.
		DIRECTOR, OFFICE OF ELECTRICITY, COAL, NUCLEAR AND RENEWABLE.
		DIRECTOR, OFFICE OF ELECTRICITY, RENEWABLES AND URANIUM STATISTICS.
		DIRECTOR, OFFICE OF ENERGY MARKETS AND FINANCIAL ANALYSIS.
		DIRECTOR, OFFICE OF ENERGY CONSUMPTION AND EFFICIENCY ANALYSIS.
		DIRECTOR, OFFICE OF PETROLEUM GAS AND BIOFUELS ANALYSIS.
		DIRECTOR, OFFICE OF INTEGRATED AND INTERNATIONAL ENERGY ANALYSIS.
		ASSISTANT ADMINISTRATOR FOR COMMUNICATIONS.
		ASSISTANT ADMINISTRATOR FOR RESOURCES AND TECHNOLOGY MANAGEMENT.
		ASSISTANT ADMINISTRATOR FOR ENERGY ANALYSIS.
		DIRECTOR, OFFICE OF OIL, GAS AND COAL SUPPLY STATISTICS.
		DEPUTY ADMINISTRATOR, ENERGY INFORMATION ADMINISTRATION.
	ASSOCIATE ADMINISTRATOR FOR ACQUISITION AND PROJECT MANAGEMENT.	DIRECTOR, OFFICE OF ENTERPRISE PROJECT MANAGEMENT.
		ASSOCIATE ADMINISTRATOR FOR ACQUISITION AND PROJECT MANAGEMENT.
		DIRECTOR, ACQUISITION MANAGEMENT.
		DEPUTY DIRECTOR, ACQUISITION MANAGEMENT.
		FEDERAL PROJECT DIRECTOR (URANIUM PROCESSING FACILITY).
		DEPUTY ASSOCIATE ADMINISTRATOR FOR ACQUISITION AND PROJECT MANAGEMENT.
	ASSOCIATE ADMINISTRATOR FOR DEFENSE NUCLEAR SECURITY.	DIRECTOR OFFICE OF SECURITY OPERATIONS AND PROGRAMMATIC PLANNING.
	DEPUTY ADMINISTRATOR FOR DEFENSE NUCLEAR NONPROLIFERATION.	ASSOCIATE ASSISTANT DEPUTY ADMINISTRATOR, OFFICE OF NONPROLIFERATION AND ARMS CONTROL.
		ASSOCIATE ASSISTANT DEPUTY ADMINISTRATOR FOR DEFENSE NUCLEAR NONPROLIFERATION RESEARCH & DEVELOPMENT.
		CHIEF SCIENCE AND TECHNOLOGY OFFICER.
		SENIOR PROGRAM ADVISOR.
		ASSISTANT DEPUTY ADMINISTRATOR FOR NONPROLIFERATION RESEARCH AND DEVELOPMENT.
		ASSOCIATE ASSISTANT DEPUTY ADMINISTATOR ADMINISTRATOR FOR DEFENSE NUCLEAR NONPROLIFERATION RESEARCH AND DEVELOPMENT.
		CHIEF OF STAFF AND OPERATIONS.
		ASSOCIATE ASSISTANT DEPUTY ADMINISTATOR MATERIEL MANAGEMENT AND MINIMIZATION.
	DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS.	URANIUM PROGRAM MANAGER.
		PROGRAM EXECUTIVE OFFICER FOR LIFE EXTENSION PROGRAMS.
		MANAGER, KANSAS CITY SITE OFFICE.
		MANAGER, SAVANNAH RIVER SITE OFFICE.
		DEPUTY MANAGER, LOS ALAMOS SITE OFFICE.
		ASSISTANT DEPUTY ADMINISTRATOR FOR STOCKPILE MANAGEMENT.
		ASSISTANT DEPUTY ADMINISTRATOR FOR RESEARCH DEVELOPMENT, TEST AND EVALUATION.
		PRINCIPAL ASSISTANT DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAM.
		ASSISTANT DEPUTY ADMINISTRATOR FOR MAJOR MODERNIZATION PROGRAMS.
		MANAGER, NATIONAL NUCLEAR SECURITY ADMINISTRATION PRODUCTION OFFICE.
		DIRECTOR, OFFICE OF INERTIAL CONFINEMENT FUSION.
		ASSISTANT DEPUTY ADMINISTRATOR FOR SYSTEMS ENGINEERING INTEGRATION.
		MANAGER, NEVADA FIELD OFFICE.
		DEPUTY MANAGER, NEVADA SITE OFFICE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		MANAGER, LOS ALAMOS SITE OFFICE.
		DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS.
	DEPUTY ADMINISTRATOR FOR NAVAL REACTORS.	DIRECTOR, NUCLEAR TECHNOLOGY DIVISION.
		DEPUTY DIRECTOR, NUCLEAR TECHNOLOGY DIVISION.
		SENIOR NAVAL REACTORS REPRESENTATIVE (GROTON, CONNECTICUT).
		DIRECTOR, ACQUISITION DIVISION.
		DIRECTOR, GOVERNMENTAL AFFAIRS.
		PROGRAM MANAGER, VIRGINIA CLASS SUBMARINE AND UNITED STATES/UNITED KINGDOM TECHNOLOGY EXCHANGE.
		SENIOR NAVAL REACTOS REPRESENTATIVE (PUGET SOUND NAVAL SHIP).
		PROGRAM MANAGER, ADVANCED TECHNOLOGY DEVELOPMENT.
		DIRECTOR, REGULATORY AFFAIRS.
		PROGRAM MANAGER, NEW SHIP DESIGN.
		SENIOR NAVAL REACTORS REPRESENTATIVE (NEWPORT NEWS, VIRGINIA).
		DEPUTY DIRECTOR, NUCLEAR TECHNOLOGY DIVISION.
		DIRECTOR, INFORMATION TECHNOLOGY MANAGEMENT.
		ASSISTANT MANAGER FOR OPERATIONS.
		PROGRAM MANAGER FOR SURFACE SHIP NUCLEAR PROPULSION.
		MANAGER, NAVAL REACTORS LABORATORY FIELD OFFICE.
		SENIOR NAVAL REACTORS REPRESENTATIVE.
		DIRECTOR, REACTOR ENGINEERING DIVISION.
		DIRECTOR, COMMISSIONED SUBMARINE SYSTEMS DIVISION.
		DEPUTY DIRECTOR, ADVANCED SUBMARINE SYSTEMS DIVISION.
		PROGRAM MANAGER, PROTOTYPE AND MOORED TRAINING SHIP OPERATIONS AND INACTIVATION PROGRAM.
		DEPUTY DIRECTOR FOR NAVAL REACTORS.
		DIRECTOR, ADVANCED SUBMARINE SYSTEMS DIVISION.
		DIRECTOR, INSTRUMENTATION AND CONTROL DIVISION.
	NATIONAL NUCLEAR SECURITY ADMINISTRATION FIELD SITE OFFICES.	URANIUM PROGRAM MANAGER.
		SENIOR POLICY ADVISOR.
		DEPUTY MANAGER, SANDIA FIELD OFFICE.
	OFFICE OF MANAGEMENT AND BUDGET.	DIRECTOR, OFFICE OF HUMAN RESOURCES.
		ASSOCIATE ADMINISTRATOR FOR MANAGEMENT AND BUDGET.
	OFFICE OF THE GENERAL COUNSEL.	GENERAL COUNSEL.
	OFFICE OF PROJECT MANAGEMENT OVERSIGHT AND ASSESSMENT.	DEPUTY DIRECTOR, OFFICE OF PROJECT MANAGEMENT OVERSIGHT AND ASSESSMENTS.
		DIRECTOR, OFFICE OF PROJECT ASSESSMENTS.
		DIRECTOR, OFFICE OF PROJECT MANAGEMENT OVERSIGHT AND ASSESSMENTS.
	ASSISTANT SECRETARY FOR ELECTRICITY DELIVERY AND ENERGY RELIABILITY.	DEPUTY ASSISTANT SECRETARY FOR CYBERSECURITY EMERGING THREATS RESEARCH.
	OFFICE OF MANAGEMENT	DIRECTOR, SUSTAINABILITY PERFORMANCE OFFICE.
		DIRECTOR, OFFICE OF HEADQUARTERS PROCUREMENT SERVICES.
		DIRECTOR.
		DIRECTOR, OFFICE OF POLICY.
		DIRECTOR, OFFICE OF ADMINISTRATION.
		DIRECTOR, OFFICE OF MANAGEMENT.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DIRECTOR, OFFICE OF CORPORATE INFORMATION SYSTEMS.
		SENIOR ADVISOR.
		ASSISTANT DIRECTOR, FINANCIAL POLICY AND INTERNAL CONTROLS.
		DIRECTOR, OFFICE OF FINANCE AND OVERSIGHT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY DIRECTOR, OFFICE OF FINANCE AND ACCOUNTING.
		ASSISTANT DEPUTY CHIEF FINANCIAL OFFICER, FINANCIAL SYSTEM INTEGRATION.
		DEPUTY DIRECTOR, BUDGET ANALYSIS AND COORDINATION.
		DEPUTY CHIEF FINANCIAL OFFICER.
		DIRECTOR, OFFICE OF BUDGET.
		DEPUTY DIRECTOR, BUDGET OPERATIONS.
	OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER.	DIRECTOR, CORPORATE HUMAN RESOURCES OPERATIONS.
		DIRECTOR, OFFICE OF TALENT MANAGEMENT.
		DIRECTOR, HUMAN CAPITAL POLICY AND ACCOUNTABILITY.
		DIRECTOR, HUMAN RESOURCES SHARED SERVICE CENTER, SCIENCE AND ENERGY.
		DIRECTOR, HUMAN RESOURCES SHARED SERVICE CENTER FOR MANAGEMENT AND PERFORMANCE.
		DIRECTOR, OFFICE OF HUMAN CAPITAL MANAGEMENT.
		DIRECTOR, OFFICE OF STRATEGY, ANALYSIS, AND PROJECT MANAGEMENT.
		DEPUTY CHIEF, HUMAN CAPITAL OFFICER.
		DIRECTOR, OFFICE OF CORPORATE EXECUTIVE MANAGEMENT.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	CHIEF PRIVACY OFFICER.
	NATIONAL NUCLEAR SECURITY ADMINISTRATION.	ASSOCIATE DEPUTY ADMINISTRATOR FOR SECURE TRANSPORTATION.
		DIRECTOR, OFFICE OF ADVANCED SIMULATION AND COMPUTING AND INSTITUTIONAL RESEARCH AND DEVELOPMENT PROGRAMS.
		DIRECTOR, OFFICE OF ADVANCED SIMULATION AND COMPUTING AND INSTITUTIONAL RESEARCH AND DEVELOPMENT PROGRAMS.
		DIRECTOR, OFFICE OF EXPERIMENTAL SCIENCES.
		ASSOCIATE ASSISTANT DEPUTY ADMNISTRATOR FOR MATERIEL MANAGEMENT AND MINIMIZATION.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR EMERGENCY MANAGEMENT AND PREPAREDNESS.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR EXTERNAL AFFAIRS.
		DEPUTY GENERAL COUNSEL FOR GENERAL LAW AND LITIGATION.
		DIRECTOR, OFFICE OF EMPLOYEE EMPOWERMENT.
		DIRECTOR, REGULATORY AFFAIRS.
		DIRECTOR, MANAGEMENT AND ADMINISTRATION.
		DEPUTY MANAGER, LIVERMORE FIELD OFFICE.
		FEDERAL PROJECT DIRECTOR, CHEMISTRY AND METALLURGY RESEARCH REPLACEMENT FACILITY.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR ENTERPRISE STEWARDSHIP.
		DIRECTOR, OFFICE OF NUCLEAR INCIDENT RESPONSE.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR SAFETY.
		CHIEF OF STAFF AND ASSOCIATE PRINCIPAL DEPUTY ADMINISTRATOR.
		DIRECTOR, OFFICE OF POLICY.
		ASSISTANT DEPUTY ADMINISTRATOR, OFFICE OF GLOBAL MATERIEL SECURITY.
		ASSOCIATE DEPUTY ADMINISTRATOR, OFFICE OF MATERIEL MANAGEMENT AND MINIMIZATION.
		ASSOCIATE ASSISTANT DEPUTY ADMINISTRATOR, OFFICE OF GLOBAL MATERIEL SECURITY.
		MANAGER, SANDIA FIELD OFFICE.
		MANAGER, LIVERMORE FIELD OFFICE.
		DIRECTOR, OFFICE OF COST ESTIMATING AND PROGRAM EVALUATION.
		ASSISTANT DEPUTY ADMINISTRATOR FOR STRATEGIC PARTNERSHIP PROGRAMS.
		ASSOCIATE ADMINISTRATOR FOR INFORMATION MANAGEMENT AND CHIEF INFORMATION OFFICER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY DIRECTOR, INSTRUMENTATION AND CONTROL DIVISION.
		CHIEF SCIENTIST.
	BONNEVILLE POWER ADMINISTRATION.	EXECUTIVE VICE PRESIDENT, BUSINESS TRANSFORMATION.
		VICE PRESIDENT, TRANSMISSION SYSTEM OPERATIONS.
		VICE PRESIDENT, ENERGY EFFICIENCY.
		GENERAL COUNSEL/EXECUTIVE VICE PRESIDENT.
		VICE PRESIDENT, BULK MARKETING.
		EXECUTIVE VICE PRESIDENT AND CHIEF FINANCIAL OFFICER.
		VICE PRESIDENT FOR GENERATION ASSET MANAGEMENT.
		VICE PRESIDENT, ENVIRONMENT, FISH AND WILDLIFE.
		VICE PRESIDENT, NORTHWEST REQUIREMENTS MARKETING.
		VICE PRESIDENT FOR TRANSMISSION FIELD SERVICES.
		VICE PRESIDENT, PLANNING AND ASSET MANAGEMENT.
		VICE PRESIDENT FOR ENGINEERING AND TECHNICAL SERVICES.
		SENIOR VICE PRESIDENT FOR POWER SERVICES.
		VICE PRESIDENT, TRANSMISSION MARKETING AND SALES.
		EXECUTIVE VICE PRESIDEN, INFORMATION TECHNOLOGY AND CHIEF INFORMATION OFFICER.
		SENIOR VICE PRESIDENT, TRANSMISSION SERVICES.
		CHIEF OPERATING OFFICER.
		DEPUTY ADMINISTRATOR.
	SOUTHWESTERN POWER ADMINISTRATION.	DEPUTY ADMINISTRATOR, OFFICE OF POWER DELIVERY.
	WESTERN AREA POWER ADMINISTRATION.	REGIONAL MANAGER, ROCKY MOUNTAIN REGION.
		TRANSMISSION INFRASTRUCTURE PROGRAM MANAGER.
		DESERT SOUTHWEST REGIONAL MANAGER.
		CHIEF INFORMATION OFFICER.
		CHIEF OPERATING OFFICER.
		CHIEF FINANCIAL OFFICER.
		REGIONAL MANAGER, SIERRA NEVADA REGION.
		REGIONAL MANAGER, UPPER GREAT PLAINS REGION.
		REGIONAL MANAGER, ROCKY MOUNTAIN REGION.
		GENERAL COUNSEL.
DEPARTMENT OF ENERGY OFFICE OF THE INSPECTOR GENERAL.	DEPARTMENT OF ENERGY OFFICE OF THE INSPECTOR GENERAL.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS.
		COUNSEL TO THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL MANAGEMENT AND ADMINISTRATION.
		ASSISTANT INSPECTOR GENERAL FOR AUDITS AND INSPECTIONS—EAST.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITS AND INSPECTIONS—WEST.
		PRINCIPAL DEPUTY INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR AUDITS AND ADMINISTRATION.
		ASSISTANT INSPECTOR GENERAL FOR AUDITS AND INSPECTIONS—WEST.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITS—CENTRAL.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITS AND INSPECTIONS—EAST.
		DEPUTY INSPECTOR GENERAL FOR AUDITS AND INSPECTIONS.
ENVIRONMENTAL PROTECTION AGENCY.	OFFICE OF ADMINISTRATIVE AND EXECUTIVE SERVICES.	DIRECTOR, OFFICE OF ADMINISTRATIVE AND EXECUTIVE SERVICES.
	OFFICE OF ENVIRONMENTAL INFORMATION.	DIRECTOR, OFFICE OF DIGITAL SERVICES AND TECHNICAL ARCHITECTURE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF THE ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT.	DIRECTOR, OFFICE OF SCIENCE INFORMATION MANAGEMENT.
		DEPUTY DIRECTOR FOR MANAGEMENT OFFICE OF SCIENCE INFORMATION MANAGEMENT.
		DIRECTOR, ENVIRONMENTAL TECHNOLOGY INNOVATION CLUSTER PROGRAM.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DEPUTY CHIEF FINANCIAL OFFICER.
		ASSOCIATE CHIEF FINANCIAL OFFICER.
	NATIONAL CENTER FOR ENVIRONMENTAL ASSESSMENT—CINCINNATI, OHIO.	DIRECTOR, NATIONAL CENTER FOR ENVIRONMENTAL ASSESSMENT.
	NATIONAL CENTER FOR ENVIRONMENTAL ASSESSMENT—WASHINGTON, DISTRICT OF COLUMBIA.	DIRECTOR, NATIONAL CENTER FOR ENVIRONMENTAL ASSESSMENT.
	NATIONAL CENTER FOR ENVIRONMENTAL RESEARCH.	DEPUTY DIRECTOR FOR MANAGEMENT.
	GULF ECOLOGY DIVISION	DIRECTOR, GULF ECOLOGY DIVISION.
	MID-CONTINENT ECOLOGY DIVISION.	DIRECTOR, MID-CONTINENT ECOLOGY DIVISION.
	WESTERN ECOLOGY DIVISION	DIRECTOR, WESTERN ECOLOGY DIVISION.
	AIR AND ENERGY MANAGEMENT DIVISION.	DIRECTOR, AIR AND ENERGY MANAGEMENT DIVISION.
	ENVIRONMENTAL APPEALS BOARD	ENVIRONMENTAL APPEALS JUDGE (4).
	OFFICE OF ACQUISITION MANAGEMENT.	DIRECTOR, OFFICE OF ACQUISITION MANAGEMENT (2).
		DEPUTY DIRECTOR, OFFICE OF ACQUISITION MANAGEMENT.
	OFFICE OF ADMINISTRATION	DIRECTOR, SAFETY AND SUSTAINABILITY DIVISION.
		DIRECTOR, FACILITIES MANAGEMENT AND SERVICES DIVISION.
		DIRECTOR, OFFICE OF ADMINISTRATION.
		DEPUTY DIRECTOR, OFFICE OF ADMINISTRATION.
	OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT—CINCINNATI OHIO.	DIRECTOR, OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT.
	OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT—RESEARCH TRIANGLE PARK, NORTH CAROLINA.	DIRECTOR, OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT.
	OFFICE OF GRANTS AND DEBARMENT.	DIRECTOR, OFFICE OF GRANTS AND DEBARMENT.
		DEPUTY DIRECTOR, OFFICE OF GRANTS AND DEBARMENT.
	OFFICE OF HUMAN RESOURCES	DIRECTOR, OFFICE OF HUMAN RESOURCES.
		DEPUTY DIRECTOR, OFFICE OF HUMAN RESOURCES.
		DIRECTOR, EXECUTIVE RESOURCES DIVISION.
	OFFICE OF POLICY AND RESOURCE MANAGEMENT.	DIRECTOR, OFFICE OF POLICY AND RESOURCE MANAGEMENT.
	OFFICE OF AIR QUALITY PLANNING AND STANDARDS.	DIRECTOR, AIR QUALITY POLICY DIVISION.
		DIRECTOR, HEALTH AND ENVIRONMENTAL IMPACTS DIVISION.
		ASSOCIATE OFFICE DIRECTOR FOR PROGRAM INTEGRATION AND INTERNATIONAL AIR QUALITY ISSUES.
		DIRECTOR, SECTOR POLICIES AND PROGRAMS DIVISION.
		DIRECTOR, OUTREACH AND INFORMATION DIVISION.
		DIRECTOR, AIR QUALITY ASSESSMENT DIVISION.
	OFFICE OF ATMOSPHERIC PROGRAMS.	DIRECTOR, CLIMATE CHANGE DIVISION.
		DIRECTOR, CLEAN AIR MARKETS DIVISION.
		DIRECTOR, CLIMATE PROTECTION PARTNERSHIP DIVISION.
	OFFICE OF RADIATION AND INDOOR AIR.	DIRECTOR, RADIATION PROTECTION DIVISION.
		DIRECTOR, INDOOR ENVIRONMENTS DIVISION.
	OFFICE OF TRANSPORTATION AND AIR QUALITY.	DIRECTOR, TESTING AND ADVANCED TECHNOLOGY DIVISION.
		DIRECTOR, TRANSPORTATION AND CLIMATE DIVISION.
		DIRECTOR, ASSESSMENT AND STANDARDS DIVISION.
		DIRECTOR, COMPLIANCE DIVISION.
	OFFICE OF PESTICIDE PROGRAMS	DIRECTOR, FIELD AND EXTERNAL AFFAIRS DIVISION.
		DIRECTOR, ANTIMICROBIALS DIVISION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, BIOPESTICIDES AND POLLUTION PREVENTION DIVISION.
		DIRECTOR, HEALTH EFFECTS DIVISION.
		DIRECTOR, ENVIRONMENTAL FATE AND EFFECTS DIVISION.
		DIRECTOR, PESTICIDES RE-EVALUATION DIVISION.
		DIRECTOR, BIOLOGICAL AND ECONOMIC ANALYSIS DIVISION.
		DIRECTOR, REGISTRATION DIVISION.
		DIRECTOR, INFORMATION TECHNOLOGY AND RESOURCES MANAGEMENT DIVISION.
	OFFICE OF POLLUTION PREVENTION AND TOXICS.	DIRECTOR, CHEMISTRY, ECONOMICS AND SUSTAINABLE STRATEGIES DIVISION.
		DIRECTOR, RISK ASSESSMENT DIVISION.
		DIRECTOR, INFORMATION MANAGEMENT DIVISION.
		DIRECTOR, CHEMICAL CONTROL DIVISION.
		DIRECTOR, NATIONAL PROGRAM CHEMICALS DIVISION.
		DIRECTOR, TOXICS RELEASE INVENTORY DIVISION.
		DIRECTOR, ENVIRONMENTAL ASSISTANCE DIVISION.
	OFFICE OF PROGRAM MANAGEMENT OPERATIONS.	ASSOCIATE ASSISTANT ADMINISTRATOR (MANAGEMENT).
	FEDERAL FACILITIES ENFORCEMENT OFFICE.	DIRECTOR, FEDERAL FACILITIES ENFORCEMENT OFFICE.
	OFFICE OF CIVIL ENFORCEMENT	DEPUTY DIRECTOR, OFFICE OF CIVIL ENFORCEMENT.
		DIRECTOR, WATER ENFORCEMENT DIVISION.
		DIRECTOR, AIR ENFORCEMENT DIVISION.
		DIRECTOR, OFFICE OF CIVIL ENFORCEMENT.
	OFFICE OF COMPLIANCE	DEPUTY DIRECTOR, OFFICE OF COMPLIANCE.
		DIRECTOR, OFFICE OF COMPLIANCE.
		DIRECTOR, MONITORING ASSISTANCE AND MEDIA PROGRAMS DIVISION.
		DIRECTOR, ENFORCEMENT TARGETING AND DATA DIVISION.
		DIRECTOR, NATIONAL ENFORCEMENT TRAINING INSTITUTE.
	OFFICE OF CRIMINAL ENFORCEMENT, FORENSICS AND TRAINING.	DIRECTOR, OFFICE OF CRIMINAL ENFORCEMENT, FORENSICS AND TRAINING.
		DIRECTOR, NATIONAL ENFORCEMENT INVESTIGATIONS CENTER.
		DEPUTY DIRECTOR, OFFICE OF CRIMINAL ENFORCEMENT, FORENSICS AND TRAINING.
		DIRECTOR, CRIMINAL INVESTIGATION DIVISION.
	OFFICE OF ENVIRONMENTAL JUSTICE.	DIRECTOR, OFFICE OF ENVIRONMENTAL JUSTICE.
	OFFICE OF FEDERAL ACTIVITIES	DIRECTOR, INTERNATIONAL COMPLIANCE ASSURANCE DIVISION.
	OFFICE OF SITE REMEDIATION ENFORCEMENT.	DIRECTOR, OFFICE OF SITE REMEDIATION ENFORCEMENT.
		DEPUTY DIRECTOR, OFFICE OF SITE REMEDIATION ENFORCEMENT.
	OFFICE OF RESOURCE CONSERVATION AND RECOVERY.	DIRECTOR, MATERIELS RECOVERY AND WASTE MANAGEMENT DIVISION.
		DIRECTOR, PROGRAM IMPLEMENTATION AND INFORMATION DIVISION.
		DIRECTOR, RESOURCE CONSERVATION AND SUSTAINABILITY DIVISION.
	OFFICE OF SUPERFUND REMEDIATION AND TECHNOLOGY INNOVATION.	DIRECTOR, TECHNOLOGY INNOVATION AND FIELD SERVICES DIVISION.
		DIRECTOR, ASSESSMENT AND REMEDIATION DIVISION.
		DIRECTOR, RESOURCES MANAGEMENT DIVISION.
	NATIONAL CENTER FOR ENVIRONMENTAL ASSESSMENT.	DEPUTY DIRECTOR FOR MANAGEMENT.
	NATIONAL EXPOSURE RESEARCH LABORATORY.	DIRECTOR, NATIONAL EXPOSURE RESEARCH LABORATORY.
		DEPUTY DIRECTOR FOR MANAGEMENT.
	NATIONAL HEALTH AND ENVIRONMENTAL EFFECTS RESEARCH LABORATORY.	ASSOCIATE DIRECTOR FOR ECOLOGY.
		DEPUTY DIRECTOR FOR MANAGEMENT.
		DIRECTOR, NATIONAL HEALTH AND ENVIRONMENTAL EFFECTS RESEARCH LABORATORY.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	NATIONAL HOMELAND SECURITY RESEARCH CENTER.	DEPUTY DIRECTOR FOR MANAGEMENT, NATIONAL HOMELAND SECURITY RESEARCH CENTER.
		DIRECTOR, NATIONAL HOMELAND SECURITY RESEARCH CENTER.
	NATIONAL RISK MANAGEMENT RESEARCH LABORATORY.	DIRECTOR, NATIONAL RISK MANAGEMENT RESEARCH LABORATORY.
		DEPUTY DIRECTOR FOR MANAGEMENT.
	OFFICE OF ADMINISTRATIVE AND RESEARCH SUPPORT.	DIRECTOR, OFFICE OF ADMINISTRATIVE AND RESEARCH SUPPORT.
		DEPUTY DIRECTOR, OFFICE OF ADMINISTRATIVE AND RESEARCH SUPPORT.
	OFFICE OF PROGRAM ACCOUNTABILITY AND RESOURCE MANAGEMENT.	DIRECTOR, OFFICE OF PROGRAM ACCOUNTABILITY AND RESOURCE MANAGEMENT.
	OFFICE OF THE SCIENCE ADVISOR	DIRECTOR, OFFICE OF THE SCIENCE ADVISOR.
	OFFICE OF GROUND WATER AND DRINKING WATER.	DIRECTOR, DRINKING WATER PROTECTION DIVISION.
		DIRECTOR, STANDARDS AND RISK MANAGEMENT DIVISION.
	OFFICE OF SCIENCE AND TECHNOLOGY.	DIRECTOR, ENGINEERING AND ANALYSIS DIVISION.
		DIRECTOR, STANDARDS AND HEALTH PROTECTION DIVISION.
		DIRECTOR, HEALTH AND ECOLOGICAL CRITERIA DIVISION.
	OFFICE OF WASTE WATER MANAGEMENT.	DIRECTOR, WATER PERMITS DIVISION.
		DIRECTOR, WATER INFRASTRUCTURE DIVISION.
	OFFICE OF WETLANDS, OCEANS AND WATERSHEDS.	DIRECTOR, OCEANS, WETLANDS AND COMMUNITIES DIVISION.
		DIRECTOR, WATERSHED RESTORATION, ASSESSMENT AND PROTECTION DIVISION.
	OFFICE OF BUDGET	DIRECTOR, OFFICE OF BUDGET.
	OFFICE OF PLANNING, ANALYSIS AND ACCOUNTABILITY.	DIRECTOR, OFFICE OF PLANNING, ANALYSIS AND ACCOUNTABILITY.
	OFFICE OF TECHNOLOGY SOLUTIONS.	DIRECTOR, OFFICE OF TECHNOLOGY SOLUTIONS.
	OFFICE OF THE CONTROLLER	DEPUTY CONTROLLER.
		CONTROLLER.
	OFFICE OF DEPUTY GENERAL COUNSEL.	DIRECTOR, RESOURCES MANAGEMENT OFFICE.
	OFFICE OF REGIONAL COUNSEL, REGION 1—BOSTON, MASSACHUSETTS.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 10—SEATTLE, WASHINGTON.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 2—NEW YORK, NEW YORK.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 3—PHILADELPHIA, PENNSYLVANIA.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 4—ATLANTA, GEORGIA.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 5—CHICAGO, ILLINOIS.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 6—DALLAS, TEXAS.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 7—LENEXA, KANSAS.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 8—DENVER, COLORADO.	REGIONAL COUNSEL.
	OFFICE OF REGIONAL COUNSEL, REGION 9—SAN FRANCISCO, CALIFORNIA.	REGIONAL COUNSEL.
	REGIONAL OFFICES, REGION 1—BOSTON, MASSACHUSETTS.	DIRECTOR, OFFICE OF ECOSYSTEM PROTECTION.
		DIRECTOR, OFFICE OF SITE REMEDIATION RESTORATION.
		DIRECTOR, OFFICE OF ENVIRONMENTAL STEWARDSHIP.
		ASSISTANT REGIONAL ADMINISTRATOR FOR ADMINISTRATION AND RESOURCES MANAGEMENT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	REGIONAL OFFICES, REGION 10—SEATTLE, WASHINGTON.	ASSISTANT REGIONAL ADMINISTRATOR FOR MANAGEMENT PROGRAMS.
		DIRECTOR, OFFICE OF ENVIRONMENTAL CLEANUP.
		DIRECTOR, OFFICE OF ENVIRONMENTAL REVIEW AND ASSESSMENT.
		DIRECTOR, OFFICE OF WATER AND WATERSHEDS.
		DIRECTOR, OFFICE OF AIR AND WASTE.
		DIRECTOR, OFFICE OF COMPLIANCE AND ENFORCEMENT.
	REGIONAL OFFICES, REGION 2—NEW YORK, NEW YORK.	DIRECTOR, ENFORCEMENT AND COMPLIANCE ASSISTANCE DIVISION.
		DIRECTOR, CLEAN AIR AND SUSTAINABILITY DIVISION.
		DIRECTOR, CLEAN WATER DIVISION.
		DIRECTOR, OFFICE OF EMERGENCY AND REMEDIAL RESPONSE.
		ASSISTANT REGIONAL ADMINISTRATOR FOR POLICY AND MANAGEMENT.
		DIRECTOR, CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION.
		DIRECTOR, DIVISION OF ENVIRONMENTAL SCIENCE AND ASSESSMENT.
	REGIONAL OFFICES , REGION 3—PHILADELPHIA, PENNSYLVANIA.	DIRECTOR, WATER PROTECTION DIVISION.
		DIRECTOR, ENVIRONMENTAL ASSESSMENT AND INNOVATION DIVISION.
		ASSISTANT REGIONAL ADMINISTRATOR FOR POLICY AND MANAGEMENT.
		DIRECTOR, AIR PROTECTION DIVISION.
		DIRECTOR, LAND AND CHEMICALS DIVISION.
		DIRECTOR, CHESAPEAKE BAY PROGRAM OFFICE.
		DIRECTOR, HAZARDOUS SITE CLEANUP DIVISION.
	REGIONAL OFFICES, REGION 4—ATLANTA, GEORGIA.	DIRECTOR, RESOURCE CONSERVATION AND RECOVERY ACT DIVISION.
		DIRECTOR, SUPERFUND DIVISION.
		ASSISTANT REGIONAL ADMINISTRATOR FOR POLICY AND MANAGEMENT.
		DIRECTOR, WATER PROTECTION DIVISION.
		DIRECTOR, AIR, PESTICIDES AND TOXICS MANAGEMENT DIVISION.
		DIRECTOR, SCIENCE AND ECOSYSTEM SUPPORT DIVISION.
		DIRECTOR, GULF OF MEXICO PROGRAM.
	REGIONAL OFFICES, REGION 5—CHICAGO, ILLINOIS.	DIRECTOR, GREAT LAKES NATIONAL PROGRAM OFFICE.
		DIRECTOR, WATER DIVISION.
		ASSISTANT REGIONAL ADMINISTRATOR FOR RESOURCES MANAGEMENT.
		DIRECTOR, LAND AND CHEMICALS DIVISION.
		DIRECTOR, SUPERFUND DIVISION.
		DIRECTOR, AIR AND RADIATION DIVISION.
	REGIONAL OFFICES, REGION 6—DALLAS, TEXAS.	ASSISTANT REGIONAL ADMINISTRATOR FOR MANAGEMENT.
		DIRECTOR, COMPLIANCE ASSURANCE AND ENFORCEMENT DIVISION.
		DIRECTOR, SUPERFUND DIVISION.
		DIRECTOR, WATER DIVISION.
		DIRECTOR, MULTIMEDIA PLANNING AND PERMITTING DIVISION.
	REGIONAL OFFICES, REGION 7—LENEXA, KANSAS.	ASSISTANT REGIONAL ADMINISTRATOR FOR POLICY AND MANAGEMENT.
		DIRECTOR, ENVIRONMENTAL SERVICES DIVISION.
		DIRECTOR, SUPERFUND DIVISION.
		DIRECTOR, AIR AND WASTE MANAGEMENT DIVISION.
		DIRECTOR, WATER, WETLANDS AND PESTICIDES DIVISON.
	REGIONAL OFFICES, REGION 8—DENVER, COLORADO.	ASSISTANT REGIONAL ADMINISTRATOR FOR WATER PROTECTION.
		ASSISTANT REGIONAL ADMINISTRATOR FOR ECOSYSTEMS PROTECTION AND REMEDIATION.
		ASSISTANT REGIONAL ADMINISTRATOR FOR PARTNERSHIPS AND REGULATORY ASSISTANCE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSISTANT REGIONAL ADMINISTRATOR FOR TECHNICAL AND MANAGEMENT SERVICES.
	REGIONAL OFFICES, REGION 9—SAN FRANCISCO, CALIFORNIA.	DIRECTOR, ENFORCEMENT DIVISION.
		ASSISTANT REGIONAL ADMINISTRATOR FOR ENVIRONMENTAL MANAGEMENT.
		DIRECTOR, LAND DIVISION.
		DIRECTOR, WATER DIVISION.
		DIRECTOR, AIR DIVISION.
		DIRECTOR, SUPERFUND DIVISION.
ENVIRONMENTAL PROTECTION AGENCY OFFICE OF THE INSPECTOR GENERAL.	ENVIRONMENTAL PROTECTION AGENCY OFFICE OF THE INSPECTOR GENERAL.	COUNSEL TO THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		ASSISTANT INSPECTOR GENERAL FOR PROGRAM EVALUATION.
		DEPUTY INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT AND EVALUATION.
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.	OFFICE OF FIELD PROGRAMS	NATIONAL SYSTEMIC INVESTIGATIONS EXECUTIVE ADVISOR.
		NATIONAL LEGAL/ENFORCEMENT EXECUTIVE ADVISOR.
		DISTRICT DIRECTOR (NEW YORK).
		DISTRICT DIRECTOR (ATLANTA).
		DISTRICT DIRECTOR (HOUSTON).
		DISTRICT DIRECTOR (SAN FRANCISCO).
		DISTRICT DIRECTOR (DALLAS).
		DISTRICT DIRECTOR (CHICAGO).
		DISTRICT DIRECTOR (ST LOUIS).
		DISTRICT DIRECTOR (MIAMI).
		DISTRICT DIRECTOR (INDIANAPOLIS).
		DISTRICT DIRECTOR (MEMPHIS).
		DISTRICT DIRECTOR (LOS ANGELES).
		DISTRICT DIRECTOR (BIRMINGHAM).
		DISTRICT DIRECTOR (PHOENIX).
		DISTRICT DIRECTOR (CHARLOTTE).
		NATIONAL MEDIATION EXECUTIVE ADVISOR.
		DISTRICT DIRECTOR (PHILADELPHIA).
	OFFICE OF THE INSPECTOR GENERAL.	INSPECTOR GENERAL.
	FIELD COORDINATION PROGRAMS	DIRECTOR, FIELD COORDINATION PROGRAMS.
	FIELD MANAGEMENT PROGRAMS	DIRECTOR FIELD MANAGEMENT PROGRAMS.
FEDERAL COMMUNICATIONS COMMISSION.	MEDIA BUREAU	CHIEF, VIDEO DIVISION, MEDIA BUREAU.
	OFFICE OF INSPECTOR GENERAL	INSPECTOR GENERAL.
FEDERAL ENERGY REGULATORY COMMISSION.	OFFICE OF ADMINISTRATIVE LITIGATION.	DIRECTOR, LEGAL DIVISION.
		DIRECTOR, TECHNICAL DIVISION.
	OFFICE OF ENERGY PROJECTS	DIRECTOR OF DAM SAFETY AND INSPECTION.
	OFFICE OF ENFORCEMENT	CHIEF ACCOUNTANT AND DIRECTOR, DIVISION OF FINANCIAL REGULATIONS.
FEDERAL LABOR RELATIONS AUTHORITY.	FEDERAL SERVICE IMPASSES PANEL.	EXECUTIVE DIRECTOR, FEDERAL SERVICE IMPASSES PANEL.
	OFFICE OF MEMBER	CHIEF COUNSEL (2).
	OFFICE OF THE CHAIRMAN	SENIOR ADVISOR.
		CHIEF COUNSEL.
		DIRECTOR, POLICY AND PERFORMANCE MANAGEMENT.
		SOLICITOR.
	OFFICE OF THE EXECUTIVE DIRECTOR.	EXECUTIVE DIRECTOR.
	OFFICE OF THE GENERAL COUNSEL.	DEPUTY GENERAL COUNSEL (2).
	OFFICE OF THE CHAIRMAN	INSPECTOR GENERAL.
	OFFICE OF THE GENERAL COUNSEL.	REGIONAL DIRECTOR–WASHINGTON, DISTRICT OF COLUMBIA.
		REGIONAL DIRECTOR, DENVER.
		REGIONAL DIRECTOR, SAN FRANCISCO.
		REGIONAL DIRECTOR, CHICAGO ILLINOIS.
		REGIONAL DIRECTOR—DALLAS.
		REGIONAL DIRECTOR—ATLANTA.
		REGIONAL DIRECTOR—BOSTON.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
FEDERAL LABOR RELATIONS AUTHORITY OFFICE OF INSPECTOR GENERAL.	.....	INSPECTOR GENERAL.
FEDERAL MARITIME COMMISSION	OFFICE OF CONSUMER AFFAIRS AND DISPUTE RESOLUTION SERVICES.	DIRECTOR, OFFICE OF CONSUMER AFFAIRS AND DISPUTE RESOLUTION SERVICES.
	OFFICE OF THE MANAGING DIRECTOR.	DEPUTY MANAGING DIRECTOR.
		DIRECTOR, STRATEGIC PLANNING AND REGULATORY REVIEW.
	BUREAU OF CERTIFICATION AND LICENSING.	DIRECTOR, BUREAU OF CERTIFICATION AND LICENSING.
	BUREAU OF ENFORCEMENT	DIRECTOR, BUREAU OF ENFORCEMENT.
	BUREAU OF TRADE ANALYSIS	DIRECTOR, BUREAU OF TRADE ANALYSIS.
	OFFICE OF THE INSPECTOR GENERAL.	INSPECTOR GENERAL.
	OFFICE OF THE SECRETARY	SECRETARY.
FEDERAL MEDIATION AND CONCILIATION SERVICE.	OFFICE OF THE DIRECTOR	DEPUTY DIRECTOR OF NATIONAL PROGRAMS AND INITIATIVES.
FEDERAL RETIREMENT THRIFT INVESTMENT BOARD.	.....	DIRECTOR OF RESOURCE MANAGEMENT.
		DIRECTOR OF COMMUNICATIONS AND EDUCATION.
		SENIOR ADVISOR FOR UNIFORMED SERVICES.
		DIRECTOR OF PARTICIPANT OPERATIONS AND POLICY.
		CHIEF FINANCIAL OFFICER.
		DIRECTOR OF ENTERPRISE RISK MANAGEMENT.
		CHIEF TECHNOLOGY OFFICER.
		CHIEF OPERATING OFFICER.
FEDERAL TRADE COMMISSION	BUREAU OF COMPETITION	DEPUTY DIRECTOR, BUREAU OF COMPETITION.
	BUREAU OF CONSUMER PROTECTION.	DEPUTY DIRECTOR, BUREAU OF CONSUMER PROTECTION.
	OFFICE OF EXECUTIVE DIRECTOR ..	CHIEF INFORMATION OFFICER.
		DEPUTY EXECUTIVE DIRECTOR.
FEDERAL TRADE COMMISSION OFFICE OF THE INSPECTOR GENERAL.	.....	INSPECTOR GENERAL.
GENERAL SERVICES ADMINISTRATION.	TECHNOLOGY TRANSFORMATION SERVICES.	DIRECTOR, PUBLIC EXPERIENCE PORTFOLIO.
	FEDERAL ACQUISITION SERVICE	ASSISTANT COMMISSIONER FOR GENERAL SUPPLIES AND SERVICES CATEGORIES.
		DIRECTOR, TELECOMMUNICATIONS SERVICES.
		DIRECTOR OF TRAVEL, EMPLOYEE RELOCATION, AND TRANSPORTATION.
		ASSISTANT COMMISSIONER FOR INFORMATION TECHNOLOGY CATEGORY.
		DEPUTY ASSISTANT COMMISSIONER FOR ACQUISITION.
		DIRECTOR, FEDERAL SYSTEMS INTEGRATION AND MANAGEMENT CENTER.
		DIRECTOR, INFORMATION TECHNOLOGY SERVICES.
		ASSISTANT COMMISSIONER FOR SYSTEMS MANAGEMENT.
		DEPUTY ASSISTANT COMMISSIONER FOR CATEGORY MANAGEMENT.
		DIRECTOR OF SUPPLY CHAIN MANAGEMENT.
		DIRECTOR OF FLEET MANAGEMENT.
		ASSISTANT COMMISSIONER FOR ENTERPRISE STRATEGY MANAGEMENT.
		DIRECTOR, INFORMATION TECHNOLOGY SCHEDULE CONTRACT OPERATIONS.
		ASSISTANT COMMISSIONER FOR POLICY AND COMPLIANCE.
		ASSISTANT COMMISSIONER FOR ASSISTED ACQUISITION SERVICES.
		ASSISTANT COMMISSIONER FOR CUSTOMER AND STAKEHOLDER ENGAGEMENT.
		ASSISTANT COMMISSIONER FOR TRAVEL, TRANSPORTATION & LOGISTICS CATEGORIES.
		DEPUTY ASSISTANT COMMISSIONER FOR INFORMATION TECHNOLOGY CATEGORY.
	OFFICE OF GOVERNMENTWIDE POLICY.	DEPUTY ASSOCIATE ADMINISTRATOR FOR ASSET AND TRANSPORTATION MANAGEMENT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR OF FEDERAL HIGH-PERFORMANCE GREEN BUILDINGS.
		DIRECTOR OF GENERAL SERVICES ACQUISITION POLICY, INTEGRITY AND WORKFORCE.
		DEPUTY CHIEF ACQUISITION OFFICER AND SENIOR PROCUREMENT EXECUTIVE.
		DIRECTOR OF GOVERNMENTWIDE ACQUISITION POLICY.
		DIRECTOR OF THE FEDERAL ACQUISITION INSTITUTE.
		PRINCIPAL DEPUTY FOR ASSET AND TRANSPORTATION MANAGEMENT.
		DIRECTOR, UNIFIED SHARED SERVICES MANAGEMENT.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR INFORMATION, INTEGRITY AND ACCESS.
	OFFICE OF GENERAL SERVICES ADMINISTRATION INFORMATION TECHNOLOGY.	ASSOCIATE CHIEF INFORMATION OFFICER FOR GOVERNMENTWIDE AND ENTERPRISE SOLUTIONS.
		DEPUTY ASSOCIATE CHIEF INFORMATION OFFICER.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR CORPORATE INFORMATION TECHNOLOGY SERVICES.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR PUBLIC BUILDINGS INFORMATION TECHNOLOGY SERVICES.
		CHIEF INFORMATION SECURITY OFFICER.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR ENTERPRISE INFRASTRUCTURE.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR ENTERPRISE PLANNING AND GOVERNANCE.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR ACQUISITION INFORMATION TECHNOLOGY SERVICES.
	OFFICE OF HUMAN RESOURCES MANAGEMENT.	CHIEF HUMAN CAPITAL OFFICER.
		DEPUTY CHIEF HUMAN CAPITAL OFFICER.
	OFFICE OF MISSION ASSURANCE ...	PRINCIPAL DEPUTY ASSOCIATE ADMINISTRATOR FOR MISSION ASSURANCE.
		ASSOCIATE ADMINISTRATOR FOR MISSION ASSURANCE.
	OFFICE OF THE ADMINISTRATOR	DIRECTOR, PRESIDENTIAL TRANSITION.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DEPUTY CHIEF FINANCIAL OFFICER.
		DIRECTOR OF BUDGET.
		DIRECTOR OF FINANCIAL MANAGEMENT.
		CHIEF FINANCIAL OFFICER.
		DIRECTOR OF REGIONAL FINANCIAL SERVICES.
		DIRECTOR, OFFICE OF ANALYTICS, PLANNING AND PERFORMANCE.
	PUBLIC BUILDINGS SERVICE	ASSISTANT COMMISSIONER FOR LEASING.
		ASSISTANT COMMISSIONER FOR ACQUISITION MANAGEMENT.
		ASSISTANT COMMISSIONER FOR PROJECT DELIVERY.
		ASSISTANT COMMISSIONER FOR REAL PROPERTY ASSET MANAGEMENT.
		CHIEF ARCHITECT.
		DEPUTY ASSISTANT COMMISSIONER FOR REAL PROPERTY ASSET MANAGEMENT.
		ASSISTANT COMMISSIONER FOR FACILITIES MANAGEMENT AND SERVICES PROGRAMS.
		ASSISTANT COMMISSIONER FOR REAL PROPERTY UTILIZATION AND DISPOSAL.
	REGIONAL ADMINISTRATORS, GREAT LAKES REGION.	REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
		REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
	REGIONAL ADMINISTRATORS, GREATER SOUTHWEST REGION.	REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
		REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE (2).
	REGIONAL ADMINISTRATORS, MID-ATLANTIC REGION.	REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
		REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	REGIONAL ADMINISTRATORS, NATIONAL CAPITAL REGION.	DIRECTOR OF FACILITIES MANAGEMENT AND SERVICES PROGRAM.
		REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
		REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
		DIRECTOR OF PORTFOLIO MANAGEMENT AND REAL ESTATE.
		DEPUTY DIRECTOR OF PORTFOLIO MANAGEMENT AND LEASING.
		DIRECTOR OF PROJECT DELIVERY.
	REGIONAL ADMINISTRATORS, NEW ENGLAND REGION.	REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
	REGIONAL ADMINISTRATORS, NORTHEAST AND CARIBBEAN REGION.	REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
		REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
	REGIONAL ADMINISTRATORS, NORTHWEST/ARCTIC REGION.	REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
		REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
	REGIONAL ADMINISTRATORS, PACIFIC RIM REGION.	REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
		REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
	REGIONAL ADMINISTRATORS, ROCKY MOUNTAIN REGION.	REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
		REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
	REGIONAL ADMINISTRATORS, SOUTHEAST SUNBELT REGION.	REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
		REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
	REGIONAL ADMINISTRATORS, THE HEARTLAND REGION.	REGIONAL COMMISSIONER FOR PUBLIC BUILDINGS SERVICE.
		REGIONAL COMMISSIONER FOR FEDERAL ACQUISITION SERVICE.
GENERAL SERVICES ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	.....	ASSISTANT INSPECTOR GENERAL FOR INSPECTIONS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR REAL PROPERTY AUDITS.
		DEPUTY INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR AUDITING.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR ACQUISITION PROGRAMS AUDITS.
		COUNSEL TO THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		ASSISTANT INSPECTOR GENERAL FOR ADMINISTRATION.
		ASSOCIATE INSPECTOR GENERAL.
GULF COAST ECOSYSTEM RESTORATION COUNCIL.	.....	DEPUTY EXECUTIVE DIRECTOR AND DIRECTOR OF PROGRAMS.
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	OFFICE OF PROGRAM SUPPORT	DIRECTOR OFFICE OF FINANCIAL MANAGEMENT.
	NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.	DEPUTY DIRECTOR FOR MANAGEMENT.
	CENTER FOR MEDICARE	DIRECTOR, MEDICARE CONTRACTOR MANAGEMENT GROUP.
	OFFICE OF THE ACTUARY	DIRECTOR, PARTS C AND D ACTUARIAL GROUP.
		DIRECTOR, OFFICE OF THE ACTUARY (CHIEF ACTUARY).
		DIRECTOR, MEDICARE AND MEDICAID COST ESTIMATES GROUP.
		DIRECTOR, NATIONAL HEALTH STATISTICS GROUP.
	OFFICE OF ACQUISITIONS AND GRANTS MANAGEMENT.	DIRECTOR, OFFICE OF ACQUISITIONS AND GRANTS MANAGEMENT.
		DEPUTY DIRECTOR, OFFICE OF ACQUISITION AND GRANTS MANAGEMENT.
	OFFICE OF FINANCIAL MANAGEMENT.	DIRECTOR OFFICE OF FINANCIAL MANAGEMENT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY DIRECTOR OFFICE OF FINANCIAL MANAGEMENT.
		DIRECTOR, ACCOUNTING MANAGEMENT GROUP.
		DIRECTOR, FINANCIAL SERVICES GROUP.
	OFFICE OF INFORMATION TECHNOLOGY.	DEPUTY DIRECTOR, OFFICE OF TECHNOLOGY SOLUTIONS.
		DIRECTOR, OFFICE OF TECHNOLOGY SOLUTIONS.
	AGENCY FOR HEALTHCARE RESEARCH AND QUALITY.	EXECUTIVE OFFICER.
	CENTERS FOR DISEASE CONTROL AND PREVENTION.	DIRECTOR, INFORMATION TECHNOLOGY SERVICES OFFICE.
		DIRECTOR, DIVISION OF EMERGENCY OPERATIONS.
		CHIEF OPERATING OFFICER.
		BUDGET OFFICER.
		DIRECTOR, OFFICE OF FINANCE AND ACCOUNTING.
		DIRECTOR OFFICE OF GRANTS SERVICES.
		DIRECTOR, PROCUREMENT AND GRANTS OFFICE.
		ISSUES ANALYSIS AND COORDINATION OFFICER.
		DIRECTOR, CENTERS FOR DISEASE CONTROL AND PREVENTION, WASHINGTON OFFICE.
		CHIEF INFORMATION SECURITY OFFICER.
		DIRECTOR, CENTER FOR GLOBAL HEALTH (2).
		DEPUTY DIRECTOR, CENTER FOR GLOBAL HEALTH (2).
		DIRECTOR, BUILDINGS AND FACILITIES OFFICE.
		CHIEF FINANCIAL OFFICER.
		DEPUTY CHIEF FINANCIAL OFFICER.
		CHIEF INFORMATION OFFICER.
	NATIONAL INSTITUTES OF HEALTH	DIRECTOR, OFFICE OF ACQUISITION AND LEGISTICS MANAGEMENT.
		DIRECTOR, OFFICE OF RESEARCH INFORMATION SYSTEMS.
		ASSOCIATE DIRECTOR FOR MANAGEMENT (3).
	OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION.	DIRECTOR, OFFICE OF PANDEMICS AND EMERGING THREATS.
	OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH.	DIRECTOR, OFFICE OF RESEARCH INTEGRITY.
	OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION.	ASSOCIATE DEPUTY ASSISTANT SECRETARY FOR PLANNING AND EVALUATION (HEALTH SERVICES POLICY).
	OFFICE OF THE GENERAL COUNSEL.	DEPUTY ASSOCIATE GENERAL COUNSEL FOR ETHICS ADVICE & POLICY (ALTERNATE DESIGNATED AGENCY ETHICS OFFICIAL).
	OFFICE OF THE INSPECTOR GENERAL.	DEPUTY INSPECTOR GENERAL FOR MANAGEMENT AND POLICY.
		PRINCIPAL DEPUTY INSPECTOR GENERAL.
		DEPUTY INSPECTOR GENERAL FOR LEGAL AFFAIRS.
	CENTER FOR BIOLOGICS EVALUATION AND RESEARCH.	DIRECTOR, OFFICE OF COMPLIANCE AND BIOLOGICS QUALITY.
	CENTER FOR DEVICES AND RADIOLOGICAL HEALTH.	DIRECTOR OFFICE OF COMPLIANCE.
	CENTER FOR DRUG EVALUATION AND RESEARCH.	ASSOCIATE DIRECTOR FOR MANAGEMENT.
		DIRECTOR, OFFICE OF COMPLIANCE.
	CENTER FOR FOOD SAFETY AND APPLIED NUTRITION.	DIRECTOR, OFFICE OF REGULATIONS AND POLICY.
	CENTER FOR VETERINARY MEDICINE.	DIRECTOR, OFFICE OF SURVEILLANCE AND COMPLIANCE.
	OFFICE OF MANAGEMENT	DIRECTOR, OFFICE OF ACQUISITIONS AND GRANTS SERVICES.
	OFFICE OF REGULATORY AFFAIRS	ASSOCIATE COMMISSIONER FOR REGULATORY AFFAIRS.
		DIRECTOR OFFICE OF CRIMINAL INVESTIGATIONS.
	OFFICE OF THE COMMISSIONER	ASSISTANT COMMISSIONER FOR GLOBAL REGULATORY OPERATIONS.
	CENTER FOR INFORMATION TECHNOLOGY.	DIRECTOR, DIVISION OF COMPUTER SYSTEM SERVICES.
		DIRECTOR, CENTER FOR INFORMATION TECHNOLOGY AND CHIEF INFORMATION OFFICER.
		DIRECTOR, OFFICE OF INFORMATION TECHNOLOGY SERVICES MANAGEMENT.
	NATIONAL CANCER INSTITUTE	DEPUTY DIRECTOR FOR MANAGEMENT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	NATIONAL CENTER FOR ADVANCING TRANSLATIONAL SCIENCES.	ASSOCIATE DIRECTOR FOR ADMINISTRATION.
	NATIONAL HEART, LUNG AND BLOOD INSTITUTE.	ASSOCIATE DIRECTOR FOR ADMINISTRATIVE MANAGEMENT.
	NATIONAL HUMAN GENOME RESEARCH INSTITUTE.	ASSOCIATE DIRECTOR FOR MANAGEMENT.
		DIRECTOR, OFFICE OF POPULATION GENOMICS.
	NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES.	ASSOCIATE DIRECTOR FOR MANAGEMENT AND OPERATIONS.
	NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH.	ASSOCIATE DIRECTOR FOR MANAGEMENT.
	NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES.	ASSOCIATE DIRECTOR FOR MANAGEMENT.
	NATIONAL INSTITUTE OF MENTAL HEALTH.	ASSOCIATE DIRECTOR FOR MANAGEMENT.
	NATIONAL INSTITUTE ON AGING	DIRECTOR OF MANAGEMENT.
	NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.	ASSOCIATE DIRECTOR FOR ADMINISTRATION.
	NATIONAL INSTITUTE ON DRUG ABUSE.	ASSOCIATE DIRECTOR FOR MANAGEMENT.
	NATIONAL INSTITUTES OF CHILD HEALTH AND HUMAN DEVELOPMENT.	ASSOCIATE DIRECTOR FOR ADMINISTRATION.
	NATIONAL INSTITUTES OF GENERAL MEDICAL SCIENCES.	ASSOCIATE DIRECTOR FOR MANAGEMENT.
	NATIONAL INSTITUTES OF HEALTH CLINICAL CENTER.	CHIEF OPERATING OFFICER.
		CHIEF FINANCIAL OFFICER.
	NATIONAL INSTITUTES OF NEUROLOGICAL DISORDERS AND STROKE.	DEPUTY DIRECTOR FOR MANAGEMENT.
	NATIONAL INSTITUTES ON DEAFNESS AND OTHER COMMUNICATION DISORDERS.	ASSOCIATE DIRECTOR FOR ADMINISTRATION.
	NATIONAL LIBRARY OF MEDICINE ...	DIRECTOR, INFORMATION SYSTEMS.
		ASSOCIATE DIRECTOR FOR LIBARY OPERATIONS.
		ASSOCIATE DIRECTOR FOR EXTRAMURAL PROGRAMS.
		ASSOCIATE DIRECTOR FOR ADMINISTRATIVE MANAGEMENT.
		DEPUTY DIRECTOR, NATIONAL LIBRARY OF MEDICINE.
	OFFICE OF THE DIRECTOR	DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT.
		DIRECTOR, OFFICE OF STRATEGIC PLANNING AND MANAGEMENT OPERATIONS.
		SENIOR POLICY OFFICER (ETHICS).
		DIRECTOR, OFFICE OF RESEARCH FACILITIES DEVELOPMENT AND OPERATIONS.
		ASSOCIATE DIRECTOR FOR SECURITY AND EMERGENCY RESPONSE.
		ERA PROGRAM MANAGER.
		DEPUTY DIRECTOR, DIVISION OF PROGRAM COORDINATION, PLANNING, AND STRATEGIC INITIATIVES.
		DIRECTOR, OFFICE OF POLICY FOR EXTRAMURAL RESEARCH ADMINISTRATION.
	OFFICE OF THE DEPUTY ASSISTANT SECRETARY FOR INFORMATION RESOURCES MANAGEMENT.	DEPUTY CHIEF INFORMATION OFFICER.
	PROGRAM SUPPORT CENTER	DIRECTOR, INFORMATION SYSTEMS MANAGEMENT SERVICE.
	OFFICE OF THE DEPUTY ASSISTANT SECRETARY FOR FINANCE.	ASSOCIATE DEPUTY ASSISTANT SECRETARY, FINANCE.
	OFFICE OPERATIONS	DIRECTOR, OFFICE OF SAFETY, SECURITY AND CRISIS MANAGEMENT.
		DIRECTOR, OFFICE OF HUMAN RESOURCES.
		DIRECTOR, DIVISION OF ETHICS AND INTEGRITY.
		DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT/CHIEF FINANCIAL OFFICER.
		DIRECTOR, OFFICE OF BUDGET.
	OFFICE OF SECURITY AND STRATEGIC INFORMATION.	ASSOCIATE DIRECTOR FOR STRATEGIC INFORMATION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, INTELLIGENCE AND COUNTERINTELLIGENCE.
		ASSOCIATE DIRECTOR FOR PERSONNEL AND CLASSIFIED INFORMATION SECURITY.
	ASSOCIATE GENERAL COUNSEL DIVISIONS.	DEPUTY ASSOCIATE GENERAL COUNSEL, BUSINESS AND ADMINISTRATIVE LAW DIVISION.
		ASSOCIATE GENERAL COUNSEL, GENERAL LAW DIVISION.
		DEPUTY ASSOCIATE GENERAL COUNSEL FOR CLAIMS AND EMPLOYMENT LAW.
	OFFICE OF THE DEPUTY INSPECTOR GENERAL FOR AUDIT SERVICES.	ASSISTANT INSPECTOR GENERAL FOR MEDICARE AND MEDICAID SERVICE AUDITS.
		ASSISTANT INSPECTOR GENERAL FOR FINANCIAL MANAGEMENT AND REGIONAL OPERATIONS.
		ASSISTANT INSPECTOR GENERAL FOR GRANTS AND INTERNAL ACTIVITIES.
		DEPUTY INSPECTOR GENERAL FOR AUDIT SERVICES.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT MANAGEMENT AND POLICY.
	OFFICE OF THE DEPUTY INSPECTOR GENERAL FOR EVALUATION AND INSPECTIONS.	DEPUTY INSPECTOR GENERAL FOR EVALUATION AND INSPECTIONS.
	OFFICE OF THE DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS (2).
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIVE OPERATIONS.
		DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS.
	OFFICE OF THE ASSISTANT SECRETARY FOR FINANCIAL RESOURCES.	DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.
	OFFICE OF FINANCIAL MANAGEMENT SERVICE.	DIRECTOR, FINANCIAL MANAGEMENT SERVICE.
	CENTER FOR MENTAL HEALTH SERVICES.	DIRECTOR CENTER FOR MENTAL HEALTH SERVICES.
		DIRECTOR DIVISION OF STATE AND COMMUNITY SYSTEMS DEVELOPMENT.
	OFFICE OF POLICY, PLANNING, AND BUDGET.	ASSOCIATE ADMINISTRATOR FOR POLICY AND PROGRAMS COORDINATOR.
DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF THE INSPECTOR GENERAL.	DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF THE INSPECTOR GENERAL.	CHIEF OF STAFF.
		PRINCIPAL DEPUTY INSPECTOR GENERAL.
	OFFICE OF AUDIT SERVICES	ASSISTANT INSPECTOR GENERAL FOR AUDIT SERVICES.
		ASSISTANT INSPECTOR GENERAL FOR FINANCIAL MANAGEMENT AND REGIONAL OPERATIONS.
		ASSISTANT INSPECTOR GENERAL FOR MEDICARE AND MEDICAID SERVICE AUDITS.
		DEPUTY INSPECTOR GENERAL FOR AUDIT SERVICES.
	OFFICE OF COUNSEL TO THE INSPECTOR GENERAL.	ASSISTANT INSPECTOR GENERAL FOR LEGAL AFFAIRS (2).
		CHIEF COUNSEL TO THE INSPECTOR GENERAL.
	OFFICE OF EVALUATION AND INSPECTIONS.	ASSISTANT INSPECTOR GENERAL FOR EVALUATION AND INSPECTIONS (2).
		DEPUTY INSPECTOR GENERAL FOR EVALUATION AND INSPECTIONS.
	OFFICE OF INVESTIGATIONS	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS (3).
		DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS.
	OFFICE OF MANAGEMENT AND POLICY.	ASSISTANT INSPECTOR GENERAL FOR INFORMATION TECHNOLOGY (CHIEF INFORMATION OFFICER).
		ASSISTANT INSPECTOR GENERAL (CHIEF DATA OFFICER).
		DEPUTY INSPECTOR GENERAL FOR MANAGEMENT AND POLICY.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND POLICY.
DEPARTMENT OF HOMELAND SECURITY.	ASSISTANT SECRETARY FOR HEALTH AFFAIRS AND CHIEF MEDICAL OFFICER.	PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR HEALTH AFFAIRS.
		DEPUTY DIRECTOR, HEALTH THREATS RESILIENCE.
		DEPUTY DIRECTOR, WORKFORCE HEALTH AND MEDICAL SUPPORT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY ASSISTANT SECRETARY FOR HEALTH THREATS RESILIENCE.
	DOMESTIC NUCLEAR DETECTION OFFICE.	CHIEF OF STAFF.
		ASSISTANT DIRECTOR, ARCHITECTURE AND PLANS DIRECTORATE.
		ASSISTANT DIRECTOR, PRODUCT ACQUISITION AND DEPLOYMENT DIRECTORATE.
		ASSISTANT DIRECTOR, NATIONAL TECHNICAL NUCLEAR FORENSICS CENTER.
		ASSISTANT DIRECTOR, TRANSFORMATIONAL AND APPLIED RESEARCH DIRECTORATE.
		DEPUTY DIRECTOR.
		ASSISTANT DIRECTOR, ASSESSMENTS DIRECTORATE.
		ASSISTANT DIRECTOR, OPERATIONS SUPPORT DIRECTORATE.
	FEDERAL EMERGENCY MANAGEMENT AGENCY.	DEPUTY ASSISTANT ADMINISTRATOR, GRANTS PROGRAM.
		ASSISTANT ADMINISTRATOR FOR FINANCIAL MANAGEMENT.
		DIRECTOR, TECHNOLOGICAL HAZARDS DIVISION.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR POLICY, PROGRAM ANALYSIS AND INTERNATIONAL AFFAIRS.
		CHIEF ADMINISTRATIVE OFFICER.
		DIRECTOR, NATIONAL PREPAREDNESS ASSESSMENT DIVISION.
		DEPUTY ASSISTANT ADMINISTRATOR, FIELD OPERATIONS DIRECTORATE.
		DIRECTOR, EMERGENCY COMMUNICATION DIVISION.
		DEPUTY PRINCIPAL LEGAL ADVISOR FOR MANAGEMENT.
		CHIEF LEARNING OFFICER.
		CHIEF TECHNOLOGY OFFICER.
		CHIEF SECURITY OFFICER.
		ASSISTANT ADMINISTRATOR FOR MITIGATION.
		DEPUTY REGIONAL ADMINISTRATOR, REGION IV, ATLANTA.
		DEPUTY ASSISTANT ADMINISTRATOR, NATIONAL PREPAREDNESS DIRECTORATE.
		DEPUTY REGIONAL ADMINISTRATOR, REGION VI, DALLAS.
		ASSISTANT ADMINISTRATOR, FUND MANAGEMENT.
		DEPUTY CHIEF ADMINISTRATIVE OFFICER.
		DIRECTOR, NATIONAL TRAINING AND EDUCATION.
		DEPUTY ASSISTANT ADMINISTRATOR FOR RISK MANAGEMENT.
		DEPUTY REGIONAL ADMINISTRATOR, REGION 1 BOSTON).
		DEPUTY REGIONAL ADMINISTRATOR, REGION II NEW YORK.
		DEPUTY REGIONAL ADMINISTRATOR, REGION III PHILADELPHIA.
		DEPUTY REGIONAL ADMINISTRATOR, REGION V CHICAGO.
		DEPUTY REGIONAL ADMINISTRATOR, REGION VII KANSAS.
		DEPUTY REGIONAL ADMINISTRATOR, (REGION VIII DENVER).
		DEPUTY REGIONAL ADMINISTRATOR, REGION IX SAN FRANCISCO.
		DEPUTY REGIONAL ADMINISTRATOR, REGION X SEATTLE.
		DEPUTY ASSISTANT ADMINISTRATOR FOR INSURANCE.
		DEPUTY CHIEF, COMPONENT HUMAN CAPITAL OFFICER.
		PLANNING DIVISION DIRECTOR, OFFICE OF RESPONSE AND RECOVERY.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR MISSION SUPPORT.
		CHIEF FINANCIAL OFFICER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, NATIONAL EXERCISE DIVISION.
		DEPUTY ASSISTANT ADMINISTRATOR FOR FINANCIAL SYSTEMS MODERNIZATION.
		CHIEF COMPONENT PROCUREMENT OFFICER.
		SUPERINTENDENT, CENTER FOR DOMESTIC PREPAREDNESS.
		DEPUTY CHIEF COUNSEL.
		DEPUTY CHIEF COMPONENT PROCUREMENT OFFICER.
		DEPUTY ASSISTANT ADMINISTRATOR FOR MITIGATION.
		ASSISTANT ADMINISTRATOR, FIELD OPERATIONS DIRECTORATE.
		DEPUTY ASSISTANT ADMINISTRATOR FOR RESPONSE.
		DEPUTY CHIEF INFORMATION OFFICER (DISASTER OPERATIONS), MISSION SUPPPORT DIRECTORATE.
		DIRECTOR, OPERATIONAL COORDINATION.
		DEPUTY DIRECTOR, EXTERNAL AFFAIRS.
		DEPUTY CHIEF FINANCIAL OFFICER.
		DEPUTY ASSISTANT ADMINISTRATOR, FEDERAL INSURANCE AND MITIGATION ADMINISTRATION.
		DIRECTOR, GRANTS MANAGEMENT DIVISION.
		DEPUTY CHIEF COUNSEL FOR GENERAL LAW.
		ASSISTANT ADMINISTRATOR FOR RISK MANAGEMENT.
		ASSISTANT ADMINISTRATOR FOR INSURANCE.
	FEDERAL LAW ENFORCEMENT TRAINING CENTER.	ASSISTANT DIRECTOR (CHIEF FINANCIAL OFFICER).
		ASSISTANT DIRECTOR (MISSION AND READINESS SUPPORT DIRECTORATE).
		ASSISTANT DIRECTOR FOR TRAINING RESEARCH AND INNOVATION DIRECTORATE.
		ASSISTANT DIRECTOR (CHIEF INFORMATION OFFICER DIRECTORATE).
		ASSISTANT DIRECTOR (REGIONAL AND INTERNATIONAL TRAINING DIRECTORATE).
		CHIEF COUNSEL.
		DIRECTOR, FEDERAL LAW ENFORCEMENT TRAINING CENTER.
		DEPUTY DIRECTOR.
		ASSISTANT DIRECTOR (CENTRALIZED TRAINING MANAGEMENT DIRECTORATE).
		ASSISTANT DIRECTOR (GLYNCO TRAINING DIRECTORATE).
		ASSISTANT DIRECTOR (WASHINGTON OPERATIONS).
	OFFICE OF THE ASSISTANT SECRETARY FOR POLICY.	DEPARTMENT OF HOMELAND SECURITY ATTACHE TO CENTRAL AMERICA.
		DEPUTY ASSISTANT SECRETARY FOR AMERICAS POLICY.
		DEPUTY ASSISTANT SECRETARY FOR UNITY OF EFFORT INTEGRATION.
		DEPUTY ASSISTANT SECRETARY FOR IMMIGRATION STATISTICS.
		DEPUTY ASSISTANT SECRETARY FOR CYBER POLICY.
	OFFICE OF THE GENERAL COUNSEL.	DEPUTY ASSOCIATE GENERAL COUNSEL FOR ACQUISITION AND PROCUREMENT.
		CHIEF OF STAFF/MANAGING COUNSEL.
		DEPUTY ASSOCIATE GENERAL COUNSEL FOR GENERAL LAW.
		LEGAL ADVISOR OF ETHICS/ALTERNATE DESIGNATED AGENCY ETHICS OFFICIAL.
	OFFICE OF THE SECRETARY	DEPARTMENT OF HOMELAND SECURITY ADVISOR TO THE DEPARTMENT OF DEFENSE.
		SENIOR DEPARTMENT OF HOMELAND SECURITY ADVISOR TO THE COMMANDER, UNITED STATES NORTHERN COMMAND/NORTH AMERICAN AEROSPACE DEFENSE COMMAND.
	OFFICE OF THE UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS.	DIRECTOR, HUMAN CAPITAL DIVISION.
		CHIEF OF STAFF.
		DIRECTOR, CYBER DIVISION.
		DIRECTOR, COLLECTION REQUIREMENTS DIVISION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, BORDER SECURITY DIVISION.
		PRINCIPAL DEPUTY UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS.
	OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT.	CHIEF, PARTNER ENGAGEMENT.
	OFFICE OF THE UNDER SECRETARY FOR NATIONAL PROTECTION AND PROGRAMS DIRECTORATE.	DEPUTY DIRECTOR, NETWORK SECURITY DEPLOYMENT.
		DEPUTY DIRECTOR CYBER THREAT DETECTION AND ANALYSIS.
		DIRECTOR, INFRASTUCTURE SECURITY COMPLIANCE.
		DEPUTY DIRECTOR, INFRASTRUCTURE SECURITY COMPLIANCE.
		NATIONAL PROTECTION AND PROGRAMS DIRECTORATE CHIEF INFORMATION OFFICER.
		DIRECTOR, OFFICE OF CYBER AND INFRASTRUCTURE ANALYSIS.
		DIRECTOR, OFFICE OF COMPLIANCE AND SECURITY.
		DIRECTOR, HUMAN RESOURCES MANAGEMENT.
		DEPUTY DIRECTOR, OFFICE OF EMERGENCY COMMUNICATIONS.
		SENIOR COUNSELOR TO THE UNDER SECRETARY FOR NATIONAL PROTECTION AND PROGRAMS DIRECTORATE.
		ASSISTANT DIRECTOR, OFFICE OF TRAINING AND CAREER DEVELOPMENT, FEDERAL PROTECTIVE SERVICE.
		DIRECTOR, STRATEGY, PLANS AND POLICY.
		PRINCIPAL DEPUTY DIRECTOR, FEDERAL PROTECTIVE SERVICE.
		ASSISTANT DIRECTOR OF OPERATIONS, FEDERAL PROTECTIVE SERVICES.
		ASSISTANT DIRECTOR OF FIELD OPERATIONS (WEST), FEDERAL PROTECTIVE SERVICES.
		ASSISTANT DIRECTOR OF FIELD OPERATIONS (CENTRAL), FEDERAL PROTECTIVE SERVICES.
		PRINCIPAL DEPUTY DIRECTOR, NATIONAL CYBERSECURITY AND COMMUNICATIONS INTEGRATION CENTER.
		DIRECTOR, NETWORK SECURITY DEPLOYMENT.
		DIRECTOR, NATIONAL CYBERSECURITY AND COMMUNICATIONS INTEGRATION CENTER.
		DIRECTOR OF ADMINISTRATION.
		CHIEF FINANCIAL OFFICER.
		CHIEF TECHNOLOGY OFFICER, CYBER SECURITY AND COMMUNICATIONS.
		DEPUTY ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.
		DIRECTOR MISSION INTEGRATION.
		ASSISTANT DIRECTOR, OFFICE OF RESOURCE MANAGEMENT, FEDERAL PROTECTIVE SERVICE.
		DEPUTY DIRECTOR, OFFICE OF CYBER AND INFRASTRUCTURE ANALYSIS.
		COMPONENT ACQUSITION EXECUTIVE.
		DEPUTY DIRECTOR, TECHNOLOGY AND INNOVATION (CHIEF TECHNOLOGY OFFICER).
		SENIOR ADVISOR, OFFICE OF INFRASTRUCTURE PROTECTION.
		ASSISTANT DIRECTOR, FUTURES IDENTITY.
		DIRECTOR, FEDERAL PROTECTIVE SERVICE.
		DIRECTOR, PROTECTIVE SECURITY COORDINATION.
		DEPUTY DIRECTOR, OFFICE OF BIOMETRIC IDENTITY MANAGEMENT.
		DEPUTY DIRECTOR OF MANAGEMENT (BUSINESS SERVICE DELIVERY LEAD).
		DIRECTOR, NATIONAL INFRASTRUCTURE COORDINATING CENTER.
		DIRECTOR, FEDERAL NETWORK RESILIENCE.
		DIRECTOR, OFFICE OF EMERGENCY COMMUNICATIONS.
		ASSISTANT DIRECTOR PROTECTIVE SECURITY OFFICER OVERSIGHT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.	DIRECTOR OF MANAGEMENT.
		ASSISTANT DIRECTOR FOR FIELD OPERATIONS (EAST), FEDERAL PROTECTIVE SERVICE.
		DEPUTY ASSISTANT SECRETARY FOR CYBERSECURITY AND COMMUNICATION.
		DIRECTOR, SECTOR OUTREACH AND PROGRAMS DIVISION.
		DEPUTY DIRECTOR FOR OPERATIONS, NATIONAL CYBERSECURITY AND COMMUNICATIONS INTEGRATION CENTER.
		DIRECTOR, STAKEHOLDER ENGAGEMENT AND CYBER INFRASTRUCTURE RESILIENCE DIVISION.
		DIRECTOR, CHEMICAL BIOLOGICAL DEFENSE DIVISION.
		SENIOR ADVISOR TO THE DEPUTY UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.
		DIRECTOR, BORDERS AND MARITIME SECURITY DIVISION.
		CHIEF SCIENTIST.
		EXECUTIVE DIRECTOR, NATIONAL BIO AND AGRO–DEFENSE FACILITY.
		DIRECTOR, CYBER SECURITY DIVISION.
		DIRECTOR, OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.
		DIRECTOR, EXPLOSIVES DIVISION.
		DIRECTOR, INFRASTRUCTURE PROTECTION AND DISASTER MANAGEMENT DIVISION.
		DIRECTOR, FINANCE AND BUDGET DIVISION/SCIENTIFIC AND TECHNICAL CHIEF FINANCIAL OFFICER.
		DEPUTY DIRECTOR, HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.
	UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES.	CHIEF, OFFICE OF SECURITY AND INTEGRITY.
		ASSOCIATE DIRECTOR, IMMIGRATION RECORDS AND IDENTITY SERVICES DIVISION.
		DEPUTY ASSOCIATE DIRECTOR, REFUGEE, ASYLUM, AND INTERNATIONAL OPERATIONS.
		ASSOCIATE DIRECTOR, SERVICE CENTER OPERATIONS.
		CHIEF, INTAKE AND DOCUMENT PRODUCTION.
		ASSOCIATE DIRECTOR, OFFICE OF MANAGEMENT.
		ASSOCIATE DIRECTOR, FRAUD DETECTION AND NATIONAL SECURITY.
		DEPUTY ASSOCIATE DIRECTOR, CUSTOMER SERVICE AND PUBLIC ENGAGEMENT.
		CENTRAL REGIONAL DIRECTOR (DALLAS, TEXAS).
		WESTERN REGIONAL DIRECTOR (LAGUNA NIGUEL, CALIFORNIA).
		NORTHEAST REGIONAL DIRECTOR (BURLINGTON, VERMONT).
		CHIEF FINANCIAL OFFICER.
		DISTRICT DIRECTOR, FIELD SERVICES, MIAMI, FLORIDA.
		DEPUTY ASSOCIATE DIRECTOR, OFFICE OF FIELD OPERATIONS.
		DIRECTOR, OFFICE OF REFUGEE AFFAIRS.
		CHIEF, ASYLUM DIVISION.
		DISTRICT DIRECTOR, FIELD SERVICES, NEW YORK CITY, NEW YORK.
		DEPUTY ASSOCIATE DIRECTOR, IMMIGRATION RECORDS AND IDENTITY SERVICES DIVISION.
		DEPUTY CHIEF INFORMATION OFFICER.
		DEPUTY GENERAL COUNSEL.
		ASSOCIATE DIRECTOR, REFUGEE, ASYLUM AND INTERNATIONAL OPERATIONS.
		DEPUTY ASSOCIATE DIRECTOR, FRAUD DETECTION AND NATIONAL SECURITY.
		CHIEF, HUMAN CAPITAL AND TRAINING.
		CHIEF, OFFICE OF CONTRACTING.
		DISTRICT DIRECTOR, FIELD SERVICES, DALLAS, TEXAS.
		CHIEF DATA OFFICER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY CHIEF FINANCIAL OFFICER.
		DEPUTY CHIEF INFORMATION OFFICE FOR OPERATIONS.
		CHIEF TECHNOLOGY OFFICER.
		DEPUTY ASSOCIATE DIRECTOR, SERVICE CENTER OPERATIONS.
		CHIEF, IMMIGRANT INVESTOR PROGRAM.
		DEPUTY DIRECTOR, POTOMAC SERVICE CENTER.
		DIRECTOR, POTOMAC SERVICE CENTER.
		DEPUTY CHIEF COUNSEL FOR FIELD MANAGEMENT.
		ASSOCIATE DIRECTOR, CUSTOMER SERVICE AND PUBLIC ENGAGEMENT.
		DEPUTY CHIEF OFFICE OF SECURITY AND INTEGRITY.
		CHIEF, OFFICE OF ADMINISTRATION.
		DIRECTOR, NATIONAL BENEFITS CENTER.
		DEPUTY ASSOCIATE DIRECTOR, OFFICE OF MANAGEMENT.
		DEPUTY ASSOCIATE DIRECTOR, EXTERNAL AFFAIRS DIRECTORATE.
		DEPUTY DIRECTOR, NATIONAL BENEFITS CENTER.
		DIRECTOR, NATIONAL RECORDS CENTER.
		DEPUTY DIRECTOR, SERVICE CENTER, LAGUNA NIGUEL, CALIFORNIA.
		DEPUTY DIRECTOR, SERVICE CENTER, DALLAS, TEXAS.
		CHIEF, INTERNATIONAL OPERATIONS.
		DEPUTY DIRECTOR, SERVICE CENTER, LINCOLN, NEBRASKA.
		DEPUTY DIRECTOR, SERVICE CENTER, SAINT ALBANS, VERMONT.
		ASSOCIATE DIRECTOR, FIELD OPERATIONS.
		CHIEF, ADMINISTRATIVE APPEALS.
		CHIEF, VERIFICATION DIVISION.
		DISTRICT DIRECTOR, FIELD SERVICES, BOSTON, MASSACHUSETTS.
		DISTRICT DIRECTOR, FIELD SERVICES, CHICAGO, ILLINOIS.
		DEPUTY CHIEF, PROGRAMS, INNOVATION, AND INITIATIVES.
		CHIEF, PERFORMANCE AND QUALITY.
		CHIEF INFORMATION OFFICER.
		DISTRICT DIRECTOR, FIELD SERVICES, LOS ANGELES CALIFORNIA.
		DISTRICT DIRECTOR, FIELD SERVICES, SAN FRANCISCO CALIFORNIA.
		REGIONAL DIRECTOR, SOUTHEAST REGION.
		DIRECTOR, SERVICE CENTER, LINCOLN, NEBRASKA.
		DIRECTOR, SERVICE CENTER, LAGUNA NIGUEL, CALIFORNIA.
		DIRECTOR, SERVICE CENTER, DALLAS, TEXAS.
		DIRECTOR, VERMONT SERVICE CENTER, SAINT ALBANS, VERMONT.
		DISTRICT DIRECTOR, FIELD SERVICES, TAMPA, FLORIDA.
		DISTRICT DIRECTOR, FIELD SERVICES, NEWARK, NEW JERSEY.
		DISTRICT DIRECTOR, FIELD SERVICES, ATLANTA, GEORGIA.
	UNITED STATES CUSTOMS AND BORDER PROTECTION.	EXECUTIVE DIRECTOR, INTELLIGENCE OPERATIONS.
		EXECUTIVE DIRECTOR, INVESTIGATIVE OPERATIONS.
		ASSISTANT COMMISSIONER, INTERNATIONAL AFFAIRS.
		EXECUTIVE DIRECTOR, PRIVACY AND DIVERSITY.
		EXECUTIVE ASSISTANT COMMISSIONER, OPERATIONS SUPPORT.
		EXECUTIVE DIRECTOR, BORDER ENFORCEMENT AND MANAGEMENT SYSTEMS.
		ASSOCIATE CHIEF COUNSEL (TUCSON).
		DIRECTOR, FIELD OPERATIONS (BALTIMORE).
		PORT DIRECTOR, BUFFALO.
		PORT DIRECTOR, CALEXICO, CALIFORNIA.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		PORT DIRECTOR, NOGALES, ARIZONA.
		SENIOR INTELLIGENCE ADVISOR.
		DIRECTOR, JOINT TASK FORCE WEST COMMANDER (JOINT FORCES COMMAND) LAREDO, TEXAS.
		DIRECTOR, LEADERSHIP DEVELOPMENT CENTER.
		DIRECTOR, NATIONAL TARGETING CENTER (CARGO).
		DEPUTY JOINT FIELD COMMANDER, EAST.
		DIRECTOR, COUNTER NETWORK.
		CHIEF PATROL AGENT (DETROIT).
		DIRECTOR, FIELD OPERATIONS (PRECLEARANCE).
		CHIEF PATROL AGENT (BIG BEND).
		DIRECTOR, NATIONAL TARGETING CENTER (PASSENGER).
		ASSISTANT COMMISSIONER, OFFICE OF INTELLIGENCE.
		EXECUTIVE DIRECTOR, PROGRAMMING.
		EXECUTIVE DIRECTOR, COMMERCIAL TARGETING AND ENFORCEMENT.
		EXECUTIVE DIRECTOR, TALENT MANAGEMENT.
		EXECUTIVE DIRECTOR, TRAINING, SAFETY AND STANDARDS.
		EXECUTIVE DIRECTOR, NATIONAL AIR SECURITY OPERATIONS, AIR AND MARINE.
		EXECUTIVE DIRECTOR, PASSENGER SYSTEMS PROGRAM OFFICE.
		DIRECTOR OF OPERATIONS, SOUTHWEST BORDER, ALBUQUERQUE, NEW MEXICO, OFFICE OF CUSTOMS AND BORDER PROTECTION AIR AND MARINE.
		DIRECTOR, AIR AND MARINE OPERATIONS CENTER, RIVERSIDE, OFFICE OF CUSTOMS AND BORDER PROTECTION AIR AND MARINE.
		DIRECTOR OF OPERATIONS, SOUTHEASTERN REGION, MIAMI, FLORIDA, OFFICE OF CUSTOMS AND BORDER PROTECTION AIR AND MARINE.
		EXECUTIVE DIRECTOR, ACQUISITION MANAGEMENT.
		EXECUTIVE DIRECTOR, AUTOMATED COMMERCIAL ENVIRONMENT BUSINESS OFFICE.
		DEPUTY ASSISTANT COMMISSIONER, INTERNATIONAL AFFAIRS.
		DIRECTOR OF OPERATIONS, NORTHERN REGION, WASHINGTON DISTRICT OF COLUMBIA, CUSTOMS AND BORDER PROTECTION AIR AND MARINE OPERATIONS.
		EXECUTIVE DIRECTOR, PROGRAM MANAGEMENT OFFICE.
		DEPUTY CHIEF PATROL AGENT, SAN DIEGO.
		CHIEF PATROL AGENT, EL CENTRO, CALIFORNIA.
		DEPUTY CHIEF PATROL AGENT, TUCSON.
		PORT DIRECTOR, SAN YSIDRO.
		DEPUTY ASSISTANT COMMISSIONER, OFFICE OF ACQUISITION.
		EXECUTIVE DIRECTOR, ADMISSIBILITY AND PASSENGER PROGRAMS.
		DEPUTY CHIEF, LAW ENFORCEMENT OPERATIONAL PROGRAMS, OFFICE OF BORDER PATROL.
		EXECUTIVE DIRECTOR, CARGO SYSTEMS.
		EXECUTIVE DIRECTOR, FIELD SUPPORT.
		EXECUTIVE DIRECTOR, TARGETING AND ANALYSIS SYSTEMS.
		CHIEF PATROL AGENT, YUMA, ARIZONA.
		EXECUTIVE DIRECTOR, ENTERPRISE DATA MANAGEMENT AND ENGINEERING.
		DEPUTY ASSISTANT COMMISSIONER, OFFICE OF PROFESSIONAL RESPONSIBILITY.
		DEPUTY CHIEF, LAW ENFORCEMENT OPERATIONS, OFFICE OF BORDER PATROL.
		EXECUTIVE DIRECTOR, MISSION SUPPORT, OFFICE OF CUSTOMS AND BORDER PROTECTION AIR AND MARINE.
		EXECUTIVE ASSISTANT COMMISSIONER, ENTERPRISE SERVICES.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		EXECUTIVE DIRECTOR, TRADE POLICY AND PROGRAMS.
		EXECUTIVE DIRECTOR, OPERATIONS, AIR AND MARINE.
		CHIEF, STRATEGIC PLANNING AND ANALYSES.
		DEPUTY ASSISTANT COMMISSIONER, OFFICE OF INTELLIGENCE.
		PORT DIRECTOR, LAREDO.
		EXECUTIVE DIRECTOR, FINANCIAL OPERATIONS.
		EXECUTIVE DIRECTOR, PLANNING, PROGRAM ANALYSIS, AND EVALUATION.
		EXECUTIVE DIRECTOR, AGRICULTURE PROGRAMS AND TRADE LIAISON.
		EXECUTIVE DIRECTOR, MISSION SUPPORT.
		DEPUTY EXECUTIVE ASSISTANT COMMISSIONER, OPERATIONS SUPPORT.
		CHIEF PATROL AGENT, RIO GRANDE VALLEY.
		EXECUTIVE DIRECTOR, PROCUREMENT.
		EXECUTIVE DIRECTOR, MISSION READINESS OPERATIONS DIRECTORATE.
		EXECUTIVE DIRECTOR, ENTERPRISE NETWORKS AND TECHNOLOGY SUPPORT.
		CHIEF, LAW ENFORCEMENT OPERATIONS, OFFICE OF BORDER PATROL.
		DIRECTOR, FIELD OPERATIONS (ATLANTA).
		EXECUTIVE DIRECTOR, CARGO AND CONVEYANCE SECURITY.
		DEPUTY DIRECTOR, POLICY AND PLANNING.
		EXECUTIVE ASSISTANT COMMISSIONER, AIR AND MARINE.
		CHIEF PATROL AGENT (DEL RIO).
		ASSISTANT COMMISSIONER, OFFICE OF PROFESSIONAL RESPONSIBILITY.
		DEPUTY EXECUTIVE ASSISTANT COMMISSIONER, OFFICE OF TRADE.
		EXECUTIVE DIRECTOR, NATIONAL TARGETING CENTER.
		PORT DIRECTOR, SAN FRANCISCO.
		DIRECTOR, FIELD OPERATIONS (TUCSON).
		DIRECTOR, FIELD OPERATIONS (BOSTON).
		EXECUTIVE DIRECTOR, CYBERSECURITY OPERATIONS AND POLICY.
		DIRECTOR, FIELD OPERATIONS (SAN JUAN).
		EXECUTIVE DIRECTOR, CUSTOMS AND BORDER PROTECTION (CBP) BASIC TRAINING.
		CHIEF, PATROL AGENT (TUCSON).
		PORT DIRECTOR, LOS ANGELES/LONG BEACH SEAPORT.
		PORT DIRECTOR (EL PASO).
		DEPUTY ASSISTANT COMMISSIONER, INFORMATION AND TECHNOLOGY.
		PORT DIRECTOR, LOS ANGELES AIRPORT.
		ASSISTANT COMMISSIONER, INFORMATION AND TECHNOLOGY.
		EXECUTIVE DIRECTOR, LABORATORIES AND SCIENTIFIC SERVICES.
		EXECUTIVE ASSISTANT COMMISSIONER, FIELD OPERATIONS.
		DEPUTY EXECUTIVE ASSISTANT COMMISSIONER, FIELD OPERATIONS.
		DEPUTY CHIEF (DEPUTY EXECUTIVE ASSISTANT COMMISSIONER), BORDER PATROL.
		EXECUTIVE DIRECTOR, OPERATIONS.
		DIRECTOR, FIELD OPERATIONS (SEATTLE).
		DIRECTOR, FIELD OPERATIONS (DETROIT).
		DIRECTOR, FIELD OPERATIONS (BUFFALO).
		DEPUTY ASSISTANT COMMISSIONER, OFFICE OF TRAINING AND DEVELOPMENT.
		DIRECTOR, FIELD OPERATIONS (NEW YORK).
		CHIEF ACCOUNTABILITY OFFICER.
		PORT DIRECTOR, NEWARK.
		PORT DIRECTOR, MIAMI INTERNATIONAL AIRPORT.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, FIELD OPERATIONS (MIAMI).
		DIRECTOR, FIELD OPERATIONS (CHICAGO).
		DEPUTY COMMISSIONER.
		ASSISTANT COMMISSIONER, HUMAN RESOURCES MANAGEMENT.
		DEPUTY ASSISTANT COMMISSIONER, HUMAN RESOURCES MANAGEMENT.
		EXECUTIVE DIRECTOR, HUMAN RESOURCES POLICY AND PROGRAMS.
		ASSISTANT COMMISSIONER, FACILITIES AND ASSET MANAGMENT, CHIEF READINESS SUPPORT OFFICER.
		ASSISTANT COMMISSIONER, TRAINING AND DEVELOPMENT.
		EXECUTIVE ASSISTANT COMMISSIONER, OFFICE OF TRADE.
		EXECUTIVE DIRECTOR, REGULATORY AUDIT.
		EXECUTIVE DIRECTOR, REGLUATIONS AND RULINGS.
		ASSISTANT COMMISSIONER, FINANCE, CHIEF FINANCIAL OFFICER.
		EXECUTIVE DIRECTOR, BUDGET.
		DEPUTY CHIEF PATROL AGENT, RIO GRANDE VALLEY.
		ASSISTANT COMMISSIONER, ACQUISITION, CHIEF ACQUISITION OFFICER.
		DEPUTY CHIEF PATROL AGENT, EL PASO.
		PORT DIRECTOR, JOHN F. KENNEDY AIRPORT.
		EXECUTIVE DIRECTOR, PLANNING, PROGRAM ANALYSIS AND EVALUATION.
		DEPUTY CHIEF COUNSEL.
		DIRECTOR, FIELD OPERATIONS (LOS ANGELES).
		DIRECTOR, FIELD OPERATIONS (HOUSTON).
		DIRECTOR, FIELD OPERATIONS (LAREDO).
		DIRECTOR, FIELD OPERATIONS (SAN DIEGO).
		DEPUTY EXECUTIVE ASSISTANT COMMISSIONER, AIR AND MARINE.
		CHIEF (EXECUTIVE ASSISTANT COMMISSIONER), UNITED STATES BORDER PATROL.
		CHIEF PATROL AGENT, LAREDO.
		DIRECTOR, FIELD OPERATIONS (SAN FRANCISCO).
		CHIEF PATROL AGENT (EL PASO).
		CHIEF PATROL AGENT, SAN DIEGO.
		EXECUTIVE DIRECTOR, WIRELESS SYSTEMS PROGRAM.
		DIRECTOR, FIELD OPERATIONS (EL PASO).
		ASSOCIATE CHIEF COUNSEL—ENFORCEMENT.
		ASSOCIATE CHIEF COUNSEL—TRADE AND FINANCE.
		ASSOCIATE CHIEF COUNSEL FOR ETHICS, LABOR, AND EMPLOYMENT.
		ASSOCIATE CHIEF COUNSEL—SOUTHEAST.
		ASSOCIATE CHIEF COUNSEL—NEW YORK.
		ASSOCIATE CHIEF COUNSEL—CHICAGO.
		ASSOCIATE CHIEF COUNSEL—HOUSTON.
		ASSOCIATE CHIEF COUNSEL—LOS ANGELES.
		DEPUTY ASSISTANT COMMISSIONER, FINANCE.
		EXECUTIVE DIRECTOR, INTELLIGENCE AND ANALYSIS.
	UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT.	DEPUTY ASSISTANT DIRECTOR, MISSION SUPPORT.
		ASSISTANT DIRECTOR, MISSION SUPPORT.
		DIRECTOR OF ENFORCEMENT AND LITIGATION.
		DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS.
		SPECIAL AGENT IN CHARGE (SEATTLE).
		DEPUTY ASSISTANT DIRECTOR, INVESTIGATIONS (ILLICIT TRADE, TRAVEL, AND FINANCE).
		ASSISTANT DIRECTOR, INTERNATIONAL OPERATIONS.
		DIRECTOR, INTELLIGENCE, HOMELAND SECURITY INVESTIGATIONS.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, SEATTLE, ENFORCEMENT AND REMOVAL OPERATIONS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SPECIAL AGENT IN CHARGE, CHICAGO.
		SPECIAL AGENT IN CHARGE, PHOENIX.
		SPECIAL AGENT IN CHARGE, EL PASO.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS (WEST).
		DEPUTY ASSISTANT DIRECTOR, FIELD OPERATIONS (INTERNATIONAL), OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS, FIELD OPERATIONS.
		CHIEF COUNSEL, MIAMI.
		CHIEF COUNSEL FOR LOS ANGELES.
		ASSISTANT DIRECTOR, ENFORCEMENT DIVISION, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS.
		DIRECTOR, OFFICE OF PROCUREMENT.
		DEPUTY CHIEF FINANCIAL OFFICER.
		ASSISTANT DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS, FIELD OPERATIONS.
		ASSISTANT DIRECTOR, INFORMATION GOVERNANCE.
		ASSISTANT DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS, REPATRIATION DIVISION.
		DIRECTOR, FINANCIAL MANAGEMENT.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY.
		DIVISION DIRECTOR FOR INVESTIGATIONS, OFFICE OF PROFESSIONAL RESPONSIBILITY.
		DIRECTOR, OFFICE OF TRAINING AND DEVELOPMENT.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS, SAN DIEGO, CALIFORNIA.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS, SAN ANTONIO, TEXAS.
		ASSISTANT DIRECTOR, OPERATIONS SUPPORT, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS.
		ASSISTANT DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS, CUSTODY OPERATIONS DIVISION.
		DIRECTOR, OFFICE OF HOMELAND SECURITY INVESTIGATIONS.
		DEPUTY EXECUTIVE ASSOCIATE DIRECTOR, MANAGEMENT AND ADMINISTRATION.
		CHIEF FINANCIAL OFFICER.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS (EAST).
		ASSISTANT DIRECTOR, DIVERSITY AND CIVIL RIGHTS.
		DEPUTY ASSISTANT DIRECTOR, CRITICAL INFRASTRUCTURE, PROTECTION, AND FRAUD.
		DIRECTOR, BUDGET AND PROGRAM PERFORMANCE.
		CHIEF INFORMATION OFFICER.
		DEPUTY PRINCIPAL LEGAL ADVISOR.
		SPECIAL AGENT IN CHARGE, ATLANTA.
		SPECIAL AGENT IN CHARGE, WASHINGTON, DISTRICT OF COLUMBIA.
		DEPUTY ASSISTANT DIRECTOR, INTERNATIONAL OPERATIONS.
		DEPUTY DIRECTOR, INTERNATIONAL CRIMINAL POLICE ORGANIZATION (INTERPOL).
		EXECUTIVE DIRECTOR, MANAGEMENT AND ADMINISTRATION.
		SPECIAL AGENT IN CHARGE, HOUSTON.
		SPECIAL AGENT IN CHARGE, LOS ANGELES.
		SPECIAL AGENT IN CHARGE, NEW ORLEANS.
		SPECIAL AGENT IN CHARGE, SAN ANTONIO.
		SPECIAL AGENT IN CHARGE, SAN DIEGO.
		ASSISTANT DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY.
		SPECIAL AGENT IN CHARGE, DALLAS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SPECIAL AGENT IN CHARGE, SAN FRANCISCO CALIFORNIA.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, SAN FRANCISCO, CALIFORNIA.
		SPECIAL AGENT IN CHARGE (MIAMI).
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS, PHILADELPHIA, PENNSYLVANIA.
		SENIOR MANAGEMENT COUNSEL, INTERNATIONAL OPERATIONS.
		ASSISTANT DIRECTOR, HUMAN RESOURCES MANAGEMENT.
		DEPUTY ASSISTANT SECRETARY FOR IMMIGRATION AND CUSTOMS ENFORCEMENT.
		DEPUTY CHIEF HUMAN CAPITAL OFFICER FOR STRATEGY AND SERVICES.
		ASSISTANT DIRECTOR, NATIONAL SECURITY INVESTIGATIONS.
		SPECIAL AGENT IN CHARGE (NEW YORK).
		DEPUTY DIRECTOR, OFFICE OF HOMELAND SECURITY INVESTIGATIONS.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, DALLAS, TEXAS.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, ST. PAUL, MINNESOTA.
		SPECIAL AGENT IN CHARGE, BALTIMORE.
		ASSISTANT DIRECTOR, OFFICE OF VICTIMS OF IMMIGRATION CRIMES ENGAGEMENT (VOICE).
		CHIEF COUNSEL, CHICAGO.
		CHIEF COUNSEL, SAN ANTONIO.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, DENVER, COLORADA.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, BUFFALO, NEW YORK.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, BOSTON, MASSACHUSETTS.
		DEPUTY ASSISTANT EXECUTIVE DIRECTOR, LAW ENFORCEMENT INFORMATION SHARING INITIATIVE.
		CHIEF COUNSEL, PHOENIX.
		ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS.
		ASSISTANT DIRECTOR FOR DETENTION OVERSIGHT AND INSPECTIONS.
		DEPUTY ASSISTANT DIRECTOR, DOMESTIC OPERATIONS.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS, PHOENIX, ARIZONA.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS, LOS ANGELES, CALIFORNIA.
		FIELD OFFICE DIRECTOR, OFFICE OF OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS, NEW YORK.
		SPECIAL AGENT IN CHARGE, SAINT PAUL, MINNESOTA.
		SPECIAL AGENT IN CHARGE, TAMPA, FLORIDA.
		SPECIAL AGENT IN CHARGE, NEWARK, NEW JERSEY.
		SPECIAL AGENT IN CHARGE, BOSTON, MASSACHUSETTS.
		SPECIAL AGENT IN CHARGE, PHILADELPHIA, PENNSYLVANIA.
		SPECIAL AGENT IN CHARGE, BUFFALO, NEW YORK.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, EL PASO, TEXAS.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, ALTANTA, GEORGIA.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, CHICAGO, ILLINOIS.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, HOUSTON, TEXAS.
		ASSISTANT DIRECTOR, INTELLECTUAL PROPERTY RIGHTS CENTER.
		SPECIAL AGENT IN CHARGE, DENVER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SPECIAL AGENT IN CHARGE, SAN JUAN, PUERTO RICO.
		DIRECTOR, FEDERAL EXPORT ENFORCEMENT COORDINATION CENTER.
		DIRECTOR, FACILITIES AND ASSET ADMINISTRATION.
		COMPONENT ACQUSITION EXECUTIVE.
		ASSISTANT DIRECTOR, HOMELAND SECURITY INVESTIGATIVE PROGRAMS.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS, MIAMI, FLORIDA.
		FIELD OFFICE DIRECTOR, OFFICE OF ENFORCEMENT AND REMOVAL, NEW ORLEANS, LOUISIANA.
		DEPUTY ASSISTANT DIRECTOR, STUDENT AND EXCHANGE VISITOR PROGRAM.
		ASSISTANT DIRECTOR, UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT SERVICES HEALTH CORPS.
		EXECUTIVE DIRECTOR, LAW ENFORCEMENT INFORMATION SHARING INITIATIVE.
		DEPUTY CHIEF HUMAN CAPITAL OFFICER FOR OPERATIONS.
		SPECIAL AGENT IN CHARGE, DETROIT.
		DEPUTY CHIEF INFORMATION OFFICER.
		CHIEF COUNSEL, NEW YORK.
		DEPUTY PRINCIPAL LEGAL ADVISOR FOR FIELD OPERATIONS.
		DEPUTY PRINCIPAL LEGAL ADVISOR FOR GENERAL AND ADMINISTRATIVE LAW.
		DEPUTY DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS.
		DEPUTY ASSISTANT DIRECTOR, CYBER DIVISION.
		ASSISTANT DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS, LAW ENFORCEMENT SYSTEMS AND ANALYSIS DIVISION.
		ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS (DOMESTIC OPERATIONS).
	UNITED STATES COAST GUARD	DEPUTY ASSISTANT COMMANDANT FOR INTELLIGENCE.
		DEPUTY CHIEF INFORMATION OFFICER.
		DEPUTY ASSISTANT COMMANDANT FOR RESOURCES AND DEPUTY CHIEF FINANCIAL OFFICER.
		CHIEF INFORMATION OFFICER AND DEPUTY ASSISTANT COMMANDANT FOR C4IT.
		DEPUTY ASSISTANT COMMANDANT FOR HUMAN RESOURCES.
		DIRECTOR, INCIDENT MANAGEMENT AND PREPAREDNESS POLICY.
		DIRECTOR OF FINANCIAL OPERATIONS/COMPTROLLER.
		DIRECTOR, NATIONAL POLLUTION FUNDS CENTER.
		HEAD OF CONTRACTING ACTIVITY.
		DEPUTY ASSISTANT COMMANDANT FOR ACQUISITION/DIRECTOR OF ACQUISITION SERVICES.
		DIRECTOR, COAST GUARD INVESTIGATIVE SERVICE.
		ASSISTANT JUDGE ADVOCATE GENERAL FOR ACQUISITION AND LITIGATION.
		DIRECTOR, MARINE TRANSPORTATION SYSTEM MANAGEMENT.
	UNITED STATES SECRET SERVICE	SPECIAL AGENT IN CHARGE—SAN FRANCISCO FIELD OFFICE.
		SPECIAL AGENT IN CHARGE—DALLAS FIELD OFFICE.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF HUMAN RESOURCES.
		SPECIAL AGENT IN CHARGE—DIGNITARY PROTECTIVE DIVISION.
		DEPUTY CHIEF, OFFICE OF STRATEGIC PLANNING AND POLICY.
		DEPUTY SPECIAL AGENT IN CHARGE—PRESIDENTIAL PROTECTIVE DIVISION.
		CHIEF, OFFICE OF STRATEGIC PLANNING AND POLICY.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS.
		SPECIAL AGENT IN CHARGE—HOUSTON FIELD OFFICE.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF TRAINING.
		DEPUTY ASSISTANT DIRECTOR, TECHNICAL DEVELOPMENT AND MISSION SUPPORT.
		DEPUTY SPECIAL AGENT IN CHARGE—OPERATIONAL.
		CHIEF INFORMATION OFFICER.
		DEPUTY SPECIAL AGENT IN CHARGE—VICE PRESIDENTIAL PROTECTIVE DIVISION.
		SPECIAL AGENT IN CHARGE—ATLANTA FIELD OFFICE.
		SPECIAL AGENT IN CHARGE—HONOLULU FIELD OFFICE.
		DEPUTY SPECIAL AGENT IN CHARGE—NEW YORK FIELD OFFICE.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS.
		DIRECTOR, UNITED STATES SECRET SERVICE.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF INTEGRITY.
		DEPUTY DIRECTOR, UNITED STATES SECRET SERVICE.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF PROTECTIVE OPERATIONS.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF PROTECTIVE OPERATIONS.
		ASSISTANT DIRECTOR, OFFICE OF TRAINING.
		CHIEF OPERATING OFFICER.
		DIRECTOR OF COMMUNICATIONS (MEDIA AFFAIRS).
		COMPONENT ACQUISITION EXECUTIVE.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF HUMAN RESOURCES.
		SPECIAL AGENT IN CHARGE—PARIS FIELD OFFICE.
		SPECIAL AGENT IN CHARGE—MIAMI FIELD OFFICE.
		DEPUTY CHIEF COUNSEL/PRINCIPAL ETHICS OFFICIAL.
		ASSISTANT DIRECTOR, OFFICE OF STRATEGIC INTELLIGENCE AND INFORMATION.
		DEPUTY ASSISTANT DIRECTOR, STRATEGIC INTELLIGENCE AND INFORMATION.
		ASSISTANT DIRECTOR—OFFICE OF INTERGOVERNMENTAL AND LEGISLATIVE AFFAIRS.
		SPECIAL AGENT IN CHARGE, PROTECTIVE INTELLIGENCE AND ASSESSMENT DIVISION.
		EQUITY AND EMPLOYEE SUPPORT SERVICES EXECUTIVE.
		SPECIAL AGENT IN CHARGE—CRIMINAL INVESTIGATIVE DIVISION.
		SPECIAL AGENT IN CHARGE—ROWLEY TRAINING CENTER.
		SPECIAL AGENT IN CHARGE—ROME FIELD OFFICE.
		DEPUTY ASSISTANT DIRECTOR—OFFICE OF INVESTIGATIONS.
		SPECIAL AGENT IN CHARGE, CHICAGO FIELD OFFICE.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF INTERGOVERNMENTAL AND LEGISLATIVE AFFAIRS.
		CHIEF FINANCIAL OFFICER.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF PROTECTIVE OPERATIONS.
		SPECIAL AGENT IN CHARGE—PHILADELPHIA FIELD OFFICE.
		SPECIAL AGENT IN CHARGE, SPECIAL OPERATIONS DIVISION.
		DEPUTY CHIEF FINANCIAL OFFICER.
		SPECIAL AGENT IN CHARGE—WASHINGTON FIELD OFFICE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SPECIAL AGENT IN CHARGE—LOS ANGELES FIELD OFFICE.
		TALENT DEVELOPMENT EXECUTIVE.
		ASSISTANT DIRECTOR, INVESTIGATIONS.
		ASSISTANT DIRECTOR, PROTECTIVE OPERATIONS.
		ASSISTANT DIRECTOR/CHIEF TECHNOLOGY OFFICER, OFFICE OF TECHNICAL DEVELOPMENT AND MISSION SUPPORT.
		ASSISTANT DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILTY.
		SPECIAL AGENT IN CHARGE—PRESIDENTIAL PROTECTIVE DIVISION.
		SPECIAL AGENT IN CHARGE—NEW YORK FIELD OFFICE.
		ASSISTANT DIRECTOR, OFFICE OF HUMAN RESOURCES.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF PROTECTIVE OPERATIONS.
		SPECIAL AGENT IN CHARGE—VICE PRESIDENTIAL PROTECTIVE DIVISION.
		SPECIAL AGENT IN CHARGE—TECHNICAL SECURITY DIVISION.
		CHIEF COUNSEL.
	OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES.	DEPUTY CIVIL RIGHTS AND CIVIL LIBERTIES OFFICER, PROGRAMS AND COMPLIANCE.
		DIRECTOR CIVIL RIGHTS AND CIVIL LIBERTIES PROGRAMS BRANCH.
		DEPUTY CIVIL RIGHTS AND CIVIL LIBERTIES OFFICER, EQUAL EMPLOYMENT OPPORTUNITY AND DIVERSITY DIRECTOR.
		DIRECTOR, COMPLIANCE BRANCH.
	OFFICE OF OPERATIONS COORDINATION AND PLANNING DIRECTORATE.	PRINCIPAL DEPUTY DIRECTOR, TERRORIST SCREENING CENTER.
	OFFICE OF PARTNERSHIP AND ENGAGEMENT.	DEPUTY ASSISTANT SECRETARY.
	OFFICE OF THE EXECUTIVE SECRETARIAT.	DEPUTY EXECUTIVE SECRETARY, OPERATIONS AND ADMINISTRATION.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DEPUTY BUDGET DIRECTOR, OFFICE OF BUDGET.
		DIRECTOR, RISK MANAGEMENT AND ASSURANCE.
		DIRECTOR, DEPARTMENTAL GENERAL ACCOUNTING OFFICE/INPSECTOR GENERAL LIAISON OFFICE.
		DIRECTOR, OFFICE OF BUDGET.
		DIRECTOR, RESOURCE MANAGEMENT TRANSFORMATION OFFICE.
		DIRECTOR, FINANCIAL MANAGEMENT.
	OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER.	EXECUTIVE DIRECTOR, HUMAN CAPITAL POLICY AND PROGRAMS.
		EXECUTIVE DIRECTOR, WORKFORCE HEALTH AND SAFETY.
		EXECUTIVE DIRECTOR, DIVERSITY AND INCLUSION.
		DEPUTY CHIEF HUMAN CAPITAL OFFICER.
		EXECUTIVE DIRECTOR, HUMAN RESOURCES MANAGEMENT AND SERVICES.
		EXECUTIVE DIRECTOR, HUMAN CAPITAL BUSINESS SYSTEMS.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	DEPUTY CHIEF INFORMATION OFFICER.
		SENIOR ADVISOR, CHIEF INFORMATION OFFICER.
		DEPUTY DIRECTOR, INFORMATION SHARING AND SERVICES, CHIEF INORMATION OFFICER.
		DEPUTY DIRECTOR, STRATEGY AND MISSION.
		EXECUTIVE DIRECTOR, INFORMATION SHARING AND SERVICES OFFICE.
		DEPUTY CHIEF SECURITY OFFICER CYBERSECURITY.
		EXECUTIVE DIRECTOR, INFORMATION TECHNOLOGY SERVICES.
		EXECUTIVE DIRECTOR, ENTERPRISE BUSINESS MANAGEMENT OFFICE.
		EXECUTIVE DIRECTOR, CHIEF INFORMATION SECURITY OFFICER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY EXECUTIVE DIRECTOR, INFORMATION TECHNOLOGY SERVICES OFFICE.
		EXECUTIVE DIRECTOR, OFFICE OF THE CHIEF TECHNOLOGY OFFICER.
		EXECUTIVE DIRECTOR, ENTERPRISE ARCHITECTURE.
		EXECUTIVE DIRECTOR, PRODUCT AND SERVICE MANAGEMENT.
		DEPUTY CHIEF, INFORMATION SECURITY OFFICER (FEDERAL INFORMATION SECURITY MANAGEMENT ACT).
		EXECUTIVE DIRECTOR, MISSION SYSTEMS AND SERVICES DIVISION.
		EXECUTIVE DIRECTOR, HEADQUARTER SERVICES.
		EXECUTIVE DIRECTOR, STRATEGIC TECHNOLOGY MANAGEMENT.
	OFFICE OF THE CHIEF PROCUREMENT OFFICER.	EXECUTIVE DIRECTOR, OFFICE OF PROCUREMENT OPERATIONS.
		DEPUTY DIRECTOR, PROGRAM ACCOUNTABILITY AND RISK MANAGEMENT.
		EXECUTIVE DIRECTOR, PROGRAM ACCOUNTABILITY AND RISK MANAGEMENT OFFICE.
		EXECUTIVE DIRECTOR, STRATEGIC PROGRAMS DIVISION.
		CHIEF PROCUREMENT OFFICER.
		DEPUTY CHIEF PROCUREMENT OFFICER.
		DEPUTY DIRECTOR, OFFICE OF PROCUREMENT OPERATIONS.
		EXECUTIVE DIRECTOR, OVERSIGHT, SYSTEMS AND SUPPORT DIVISION.
		DIRECTOR, POLICY AND ACQUISITION WORKFORCE.
	OFFICE OF THE CHIEF READINESS SUPPORT OFFICER.	DEPUTY CHIEF READINESS SUPPORT OFFICER.
		EXECUTIVE DIRECTOR, SUSTAINABILITY AND ENVIRONMENTAL PROGRAMS.
		DEPUTY CHIEF READINESS SUPPORT OFFICER, FACILITIES AND OPERATIONAL SUPPORT.
	OFFICE OF THE CHIEF SECURITY OFFICER.	EXECUTIVE DIRECTOR, HEADQUARTERS SUPPORT.
		CHIEF SECURITY OFFICER.
		DEPUTY CHIEF SECURITY OFFICER.
		EXECUTIVE DIRECTOR, THREAT MANAGEMENT OPERATIONS.
		EXECUTIVE DIRECTOR, ENTERPRISE SECURITY OPERATIONS AND SUPPORT.
DEPARTMENT OF HOMELAND SECURITY, OFFICE OF THE INSPECTOR GENERAL.	DEPARTMENT OF HOMELAND SECURITY, OFFICE OF THE INSPECTOR GENERAL.	DEPUTY ASSISTANT INSPECTOR GENERAL, AUDITS (LAW ENFORCEMENT AND TERRORISM).
		ASSISTANT INSPECTOR GENERAL, INTEGRITY AND QUALITY OVERSIGHT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS (2).
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		ASSISTANT INSPECTOR GENERAL , AUDITS.
		COUNSEL TO THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL, INVESTIGATIONS.
		ASSISTANT INSPECTOR GENERAL, INFORMATION TECHNOLOGY AUDITS.
		ASSISTANT INSPECTOR GENERAL, INSPECTIONS AND EVALUATIONS.
		ASSISTANT INSPECTOR GENERAL FOR EMERGENCY MANAGEMENT OVERSIGHT.
		DEPUTY ASSISTANT INSPECTOR GENERAL, AUDIT (DISASTER & IMMIGRATION).
		DEPUTY ASSISTANT INSPECTOR GENERAL, AUDITS.
		DEPUTY INSPECTOR GENERAL.
		CHIEF OF STAFF.
		WHISTLEBLOWER PROTECTION OMBUDSMAN.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.	SENIOR VICE PRESIDENT AND CHIEF FINANCIAL OFFICER.
		SENIOR VICE PRESIDENT, OFFICE OF CAPITAL MARKETS.
		SENIOR VICE PRESIDENT AND CHIEF RISK OFFICER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SENIOR VICE PRESIDENT, OFFICE OF ENTERPRISE DATA AND TECHNOLOGY SOLUTIONS.
		SENIOR VICE PRESIDENT OF ADMINISTRATION AND SENIOR ADVISOR TO THE OFFICE OF THE PRESIDENT.
		SENIOR VICE PRESIDENT FOR MORTGAGE–BACKED SECURITIES.
	OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT.	DEPUTY ASSISTANT SECRETARY FOR SPECIAL NEEDS PROGRAMS.
		DEPUTY ASSISTANT SECRETARY FOR GRANT PROGRAMS.
	OFFICE OF DEPARTMENTAL EQUAL EMPLOYMENT OPPORTUNITY.	DIRECTOR, OFFICE OF DEPARTMENTAL EQUAL EMPLOYMENT OPPORTUNITY.
	OFFICE OF HOUSING	DIRECTOR, PROGRAM SYSTEMS MANAGEMENT OFFICE.
		HOUSING FEDERAL HOUSING ADMINISTRATION—COMPTROLLER.
		DEPUTY ASSISTANT SECRETARY FOR HEALTHCARE PROGRAMS.
		DEPUTY ASSISTANT SECRETARY FOR FINANCE AND BUDGET.
		HOUSING FEDERAL HOUSING ADMINISTRATION DEPUTY COMPTROLLER.
	OFFICE OF POLICY DEVELOPMENT AND RESEARCH.	DEPUTY ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH.
	OFFICE OF PUBLIC AND INDIAN HOUSING.	DIRECTOR FOR BUDGET AND FINANCIAL MANAGEMENT.
		DEPUTY ASSISTANT SECRETARY FOR PUBLIC HOUSING INVESTMENTS.
		DEPUTY ASSISTANT SECRETARY FOR POLICY PROGRAM AND LEGISLATIVE INITIATIVES.
		DEPUTY ASSISTANT SECRETARY FOR THE REAL ESTATE ASSESSMENT CENTER.
	OFFICE OF THE ADMINISTRATION ...	CHIEF PRIVACY OFFICER AND CHIEF FOIA OFFICER.
		CHIEF DISASTER AND NATIONAL SECURITY OFFICER.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	ASSISTANT CHIEF FINANCIAL OFFICER FOR ACCOUNTING.
		ASSISTANT CHIEF FINANCIAL OFFICER FOR FINANCIAL MANAGEMENT.
		ASSISTANT CHIEF FINANCIAL OFFICER FOR BUDGET.
		ASSISTANT CHIEF FINANCIAL OFFICER FOR SYSTEMS.
		DEPUTY CHIEF FINANCIAL OFFICER.
	OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER.	CHIEF PERFORMANCE OFFICER.
		CHIEF HUMAN CAPITAL OFFICER.
		DIRECTOR, OFFICE OF HUMAN CAPITAL SERVICES.
		CHIEF LEARNING OFFICER.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	PRINCIPAL DEPUTY CHIEF INFORMATION OFFICER.
		DEPUTY CHIEF INFORMATION OFFICER FOR INFRASTRUCTURE AND OPERATIONS.
		DEPUTY CHIEF INFORMATION OFFICER FOR BUSINESS AND INFORMATION TECHNOLOGY RESOURCE MANAGEMENT OFFICER.
	OFFICE OF THE GENERAL COUNSEL.	ASSOCIATE GENERAL COUNSEL FOR PROGRAM ENFORCEMENT.
		DIRECTOR, DEPARTMENTAL ENFORCEMENT CENTER.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OFFICE OF THE INSPECTOR GENERAL.	.....	ASSISTANT INSPECTOR GENERAL FOR OFFICE OF MANAGEMENT AND TECHNOLOGY.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT—SPECIAL OPERATIONS.
		COUNSEL TO THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATION.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT (FIELD OPERATIONS).
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATION (HEADQUARTERS OPERATIONS).
		ASSISTANT INSPECTOR GENERAL FOR OFFICE OF EVALUATION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INFORMATION TECHNOLOGY.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT (FIELD OPERATIONS).
		DEPUTY INSPECTOR GENERAL.
DEPARTMENT OF THE INTERIOR	NATIONAL PARK SERVICE	CHIEF FINANCIAL OFFICER.
		COMPTROLLER.
		ASSOCIATE DIRECTOR, INTERPRETATION AND EDUCATION.
	UNITED STATES FISH AND WILDLIFE SERVICE.	CHIEF, OFFICE OF LAW ENFORCEMENT.
	BUREAU OF INDIAN AFFAIRS	SENIOR ADVISOR—LAW ENFORCEMENT, SECURITY AND SCHOOL SAFETY.
	BUREAU OF LAND MANAGEMENT	SENIOR ADVISOR TO THE DIRECTOR, OFFICE OF LAW ENFORCEMENT AND SECURITY.
		ASSISTANT DIRECTOR, HUMAN CAPITAL MANAGEMENT.
	BUREAU OF OCEAN ENERGY MANAGEMENT.	STRATEGIC RESOURCES CHIEF.
	OFFICE OF HEARINGS AND APPEALS.	DIRECTOR, OFFICE OF HEARINGS AND APPEALS.
	OFFICE OF NATURAL RESOURCES REVENUE MANAGEMENT.	DEPUTY DIRECTOR, OFFICE OF NATURAL RESOURCES REVENUE MANAGEMENT.
		PROGRAM DIRECTOR FOR FINANCIAL AND PRODUCTION MANAGEMENT.
		PROGRAM DIRECTOR FOR AUDIT AND COMPLIANCE MANAGEMENT.
		PROGRAM DIRECTOR FOR COORDINATION, ENFORCEMENT, VALUATION AND APPEALS.
	BUREAU OF RECLAMATION	DIRECTOR, SECURITY, SAFETY AND LAW ENFORCEMENT.
		DIRECTOR, MANAGEMENT SERVICES OFFICE.
	UNITED STATES GEOLOGICAL SURVEY.	ASSOCIATE DIRECTOR FOR NATURAL HAZARDS.
		ASSOCIATE DIRECTOR FOR CORE SCIENCE SYSTEMS.
		ASSOCIATE DIRECTOR FOR ECOSYSTEMS.
		ASSOCIATE DIRECTOR FOR ENERGY AND MINERALS.
		DIRECTOR, EARTH RESOURCES OBSERVATION AND SCIENCE CENTER AND POLICY ADVISOR.
		ASSOCIATE DIRECTOR FOR COMMUNICATIONS AND PUBLISHING.
		ASSOCIATE DIRECTOR FOR BUDGET, PLANNING, AND INTEGRATION.
		ASSOCIATE DIRECTOR FOR ADMINISTRATION.
		DEPUTY DIRECTOR.
		CHIEF SCIENTIST FOR HYDROLOGY.
		ASSOCIATE DIRECTOR FOR WATER.
	FIELD OFFICES—BUREAU OF LAND MANAGEMENT.	DIRECTOR, NATIONAL OPERATIONS CENTER.
	ASSISTANT SECRETARY—INDIAN AFFAIRS.	DIRECTOR OF HUMAN CAPITAL MANAGEMENT.
	ASSISTANT SECRETARY—POLICY, MANAGEMENT AND BUDGET.	DIRECTOR, BUSINESS SERVICES.
		CHIEF, BUDGET ADMINISTRATION AND DEPARTMENTAL MANAGEMENT.
		CHIEF DIVERSITY OFFICER/DIRECTOR, OFFICE OF CIVIL RIGHTS.
		DEPUTY ASSISTANT SECRETARY—HUMAN CAPITAL AND DIVERSITY.
		DIRECTOR, OFFICE OF EMERGENCY MANAGEMENT.
		DEPUTY DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT.
		DIRECTOR, OFFICE OF LAW ENFORCEMENT AND SECURITY.
		DIRECTOR, OFFICE OF HUMAN RESOURCES.
		DEPUTY ASSISTANT SECRETARY—BUDGET, FINANCE, PERFORMANCE AND ACQUISITION.
		DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT AND DEPUTY CHIEF FINANCIAL OFFICER.
		CHIEF DIVISION OF BUDGET AND PROGRAM REVIEW.
		DEPUTY ASSISTANT SECRETARY—PUBLIC SAFETY, RESOURCE PROTECTION AND EMERGENCY SERVICES.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF THE SOLICITOR	DESIGNATED AGENCY ETHICS OFFICIAL.
		ASSOCIATE SOLICITOR FOR ADMINISTRATION.
	FIELD OFFICES—NATIONAL PARK SERVICE.	PARK MANAGER, YELLOWSTONE NATIONAL PARK.
		PARK MANAGER, GRAND CANYON NATIONAL PARK.
	FIELD OFFICES—OFFICE OF SURFACE MINING.	REGIONAL DIRECTOR, MID-CONTINENT REGION.
		REGIONAL DIRECTOR, APPALACHIAN REGION.
	FIELD OFFICES—UNITED STATES GEOLOGICAL SURVEY.	REGIONAL DIRECTOR—ALASKA.
		REGIONAL DIRECTOR—NORTHEAST.
		REGIONAL DIRECTOR—SOUTHEAST.
		REGIONAL DIRECTOR—SOUTHWEST.
		ASSOCIATE DIRECTOR FOR CLIMATE AND LAND USE CHANGE.
		REGIONAL DIRECTOR—MIDWEST.
		REGIONAL DIRECTOR—NORTHWEST.
		REGIONAL DIRECTOR—PACIFIC.
DEPARTMENT OF THE INTERIOR, OFFICE OF THE INSPECTOR GENERAL.	OFFICE OF THE INSPECTOR GENERAL.	CHIEF OF STAFF.
		DEPUTY INSPECTOR GENERAL.
	OFFICE OF AUDITS, INSPECTIONS, AND EVALUATIONS.	ASSISTANT INPECTOR GENERAL FOR AUDITS, INSPECTIONS, AND EVALUATIONS.
	OFFICE OF GENERAL COUNSEL	GENERAL COUNSEL.
	OFFICE OF INVESTIGATIONS	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
	OFFICE OF MANAGEMENT	ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
DEPARTMENT OF JUSTICE	EXECUTIVE OFFICE FOR ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCES.	DIRECTOR.
	OFFICE OF THE DEPUTY ATTORNEY GENERAL.	CHIEF, PROFESSIONAL MISCONDUCT REVIEW UNIT.
	OFFICE OF TRIBAL JUSTICE	DIRECTOR.
	ANTITRUST DIVISION	EXECUTIVE OFFICER.
		CHIEF, TELECOMMUNICATIONS AND MEDIA SECTION.
		DIRECTOR, ECONOMIC ENFORCEMENT.
	CIVIL DIVISION	DEPUTY BRANCH DIRECTOR, FEDERAL PROGRAMS.
		DEPUTY DIRECTOR (OPERATIONS), OFFICE OF IMMIGRATION LITIGATION, DISTRICT COURT SECTION.
		SPECIAL COUNSEL TO THE ASSOCIATE ATTORNEY GENRAL.
		DEPUTY DIRECTOR, CONSTITUTIONAL AND SPECIALIZED TORT LITIGATION.
		DEPUTY DIRECTOR CONSUMER PROTECTION BRANCH.
		DEPUTY DIRECTOR, OFFICE OF IMMIGRATION LITIGATION, APPELLATE SECTION.
		DEPUTY DIRECTOR, COMMERCIAL LITIGATION, FRAUD SECTION.
		DEPUTY DIRECTOR, OFFICE OF IMMIGRATION LITIGATION, APPELLATE SECTION.
		DEPUTY DIRECTOR, COMMERCIAL LITIGATION BRANCH.
		DEPUTY DIRECTOR APPELLATE BRANCH.
		DEPUTY BRANCH DIRECTOR.
		DEPUTY DIRECTOR, APPELLATE STAFF.
		DIRECTOR, CONSUMER LITIGATION BRANCH, FOREIGN LITIGATION SECTION.
		SPECIAL LITIGATION COUNSEL, AVIATION AND ADMIRALTY SECTION.
		APPELLATE LITIGATION COUNSEL.
		DEPUTY DIRECTOR, COMMERCIAL LITIGATION BRANCH (INTELLECTUAL PROPERTY).
		DIRECTOR, OFFICE OF MANAGEMENT PROGRAMS.
		DEPUTY DIRECTOR, COMMERCIAL LITIGATION BRANCH.
		DEPUTY BRANCH DIRECTOR, FEDERAL PROGRAMS.
		DIRECTOR, CONSUMER PROTECTION BRANCH.
		DEPUTY DIRECTOR, COMMERCIAL LITIGATION BRANCH.
		DEPUTY BRANCH DIRECTOR, FEDERAL PROGRAMS.
	CIVIL RIGHTS DIVISION	CHIEF, POLICY STRATEGY SECTION.
		PRINCIPAL DEPUTY CHIEF, HOUSING AND CIVIL ENFORCEMENT SECTION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		EXECUTIVE OFFICER.
		DEPUTY ASSISTANT ATTORNEY GENERAL (2).
		PRINCIPAL DEPUTY CHIEF, DISABILITY RIGHTS SECTION.
		PRINCIPAL DEPUTY CHIEF, SPECIAL LITIGATION SECTION.
		PRINCIPAL DEPUTY CHIEF, CRIMINAL SECTION.
		PRINCIPAL DEPUTY CHIEF, VOTING SECTION.
		DEPUTY SPECIAL COUNSEL FOR IMMIGRATION–RELATED UNFAIR EMPLOYMENT PRACTICES.
		CHIEF FEDERAL COORDINATION AND COMPLIANCE SECTION.
		COUNSEL TO THE ASSISTANT ATTORNEY GENERAL.
		CHIEF, EMPLOYMENT LITIGATION SECTION.
		CHIEF APPELLATE SECTION.
		CHIEF CRIMINAL SECTION.
		CHIEF, HOUSING AND CIVIL ENFORCEMENT SECTION.
		CHIEF, VOTING SECTION.
		CHIEF, EDUCATIONAL OPPORTUNITIES SECTION.
		CHIEF–SPECIAL LITIGATION SECTION.
		CHIEF, DISABILITY RIGHTS SECTION.
		PRINCIPAL DEPUTY CHIEF, EMPLOYMENT LITIGATION SECTION.
	ENVIRONMENT AND NATURAL RESOURCES DIVISION.	DEPUTY SECTION CHIEF, NATURAL RESOURCES SECTION.
		DEPUTY CHIEF, ENVIRONMENTAL CRIMES SECTION.
		CHIEF, ENVIRONMENTAL DEFENSE SECTION.
		CHIEF, INDIAN RESOURCES SECTION.
		DEPUTY CHIEF, ENVIRONMENTAL DEFENSE SECTION.
		DEPUTY CHIEF ENVIRONMENTAL ENFORCEMENT SECTION.
		SENIOR LITIGATION COUSEL.
		EXECUTIVE OFFICER.
		CHIEF ENVIRONMENTAL ENFORCEMENT SECTION.
		CHIEF ENVIRONMENTAL CRIMES SECTION.
		CHIEF, NATURAL RESOURCES SECTION.
		CHIEF, LAND ACQUISITION SECTION.
		CHIEF, WILDLIFE AND MARINE RESOURCES SECTION.
		CHIEF–APPELLATE SECTION.
		DEPUTY CHIEF, ENVIRONMENTAL ENFORCEMENT SECTION.
		DEPUTY CHIEF, NATURAL RESOURCES SECTION.
		DEPUTY CHIEF, ENVIRONMENTAL ENFORCEMENT SECTION.
		DEPUTY CHIEF, APPELLATE SECTION.
	OFFICE OF JUSTICE PROGRAMS	DIRECTOR, OFFICE OF ADMINISTRATION.
		CHIEF FINANCIAL OFFICER.
		DEPUTY CHIEF FINANCIAL OFFICER.
		DIRECTOR, OFFICE OF AUDIT, ASSESSMENT AND MANAGEMENT.
		DIRECTOR OF COMMUNICATIONS.
		DEPUTY DIRECTOR, OFFICE FOR VICTIMS OF CRIME.
	TAX DIVISION	DEPUTY CHIEF, APPELLATE SECTION.
		CHIEF, CRIMINAL APPEALS AND TAX ENFORCEMENT POLICY SECTION.
		CHIEF, CRIMINAL ENFORCEMENT SECTION, SOUTH REGION.
		CHIEF, CRIMINAL ENFORCEMENT SECTION, NORTH REGION.
		CHIEF, CRIMINAL ENFORCEMENT SECTION, WESTERN REGION.
		CHIEF, APPELLATE SECTION.
		CHIEF, COURT OF FEDERAL CLAIMS SECTION.
		DEPUTY ASSISTANT ATTORNEY GENERAL.
		CHIEF, CIVIL TRIAL SECTION, CENTRAL REGION.
		CHIEF, CIVIL TRIAL SECTION NORTHERN.
		CHIEF, CIVIL TRIAL SECTION (SOUTHERN REGION).
		CHIEF, CIVIL TRIAL SECTION, WESTERN REGION.
		SPECIAL LITIGATION COUNSEL.
		SENIOR LITIGATION COUNSEL.
		CHIEF CIVIL TRIAL SECTION SOUTHWESTERN REGION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.	CHIEF CIVIL TRIAL SECTION EASTERN REGION.
		CHIEF OFFICE OF REVIEW.
		EXECUTIVE OFFICER.
		ASSISTANT DIRECTOR, MANAGEMENT AND CHIEF FINANCIAL OFFICER.
		DEPUTY ASSISTANT DIRECTOR FOR INFORMATION TECHNOLOGY AND DEPUTY CHIEF INFORMATION OFFICER.
		DEPUTY ASSISTANT DIRECTOR, FIELD OPERATIONS—WEST.
		SPECIAL AGENT IN CHARGE, LOS ANGELES.
		SPECIAL AGENT IN CHARGE, NEW YORK.
		SPECIAL AGENT IN CHARGE, WASHINGTON DISTRICT OF COLUMBIA.
		SPECIAL AGENT IN CHARGE, HOUSTON.
		SPECIAL ASSISTANT TO THE DIRECTOR.
		SPECIAL AGENT IN CHARGE, NATIONAL CENTER FOR EXPLOSIVES TRAINING AND RESEARCH.
		DEPUTY ASSISTANT DIRECTOR HUMAN RESOURCES.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF PUBLIC AND GOVERNMENTAL AFFAIRS.
		SPECIAL AGENT IN CHARGE, SAINT PAUL.
		SPECIAL AGENT IN CHARGE, ATLANTA.
		SPECIAL AGENT IN CHARGE, BOSTON.
		SPECIAL AGENT IN CHARGE, CHICAGO.
		DEPUTY DIRECTOR, TERRORIST EXPLOSIVE DEVICE ANALYTICAL CENTER.
		DEPUTY ASSISTANT DIRECTOR, FIELD OPERATIONS (PROGRAMS).
		EXECUTIVE ASSISTANT TO THE DIRECTOR.
		CHIEF, SPECIAL OPERATIONS DIVISION.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY AND SECURITY OPERATIONS.
		SPECIAL AGENT IN CHARGE, KANSAS CITY.
		SPECIAL AGENT IN CHARGE, PHILADELPHIA.
		SPECIAL AGENT IN CHARGE, PHOENIX.
		SPECIAL AGENT IN CHARGE, SAN FRANCISCO.
		SPECIAL AGENT IN CHARGE, MIAMI.
		SPECIAL AGENT IN CHARGE, CHARLOTTE.
		SPECIAL AGENT IN CHARGE, DETROIT.
		SPECIAL AGENT IN CHARGE, LOUISVILLE.
		SPECIAL AGENT IN CHARGE, SEATTLE.
		SPECIAL AGENT IN CHARGE, TAMPA.
		DEPUTY ASSISTANT DIRECTOR, FIELD OPERATIONS—EAST.
		DEPUTY ASSISTANT DIRECTOR, INDUSTRY OPERATIONS.
		SPECIAL AGENT IN CHARGE, NASHVILLE.
		SPECIAL AGENT IN CHARGE, DALLAS.
		ASSISTANT DIRECTOR, OFFICE OF STRATEGIC INTELLIGENCE AND INFORMATION.
		DEPUTY ASSISTANT DIRECTOR, OFFICE OF STRATEGIC INTELLIGENCE AND INFORMATION.
		ASSISTANT DIRECTOR, OFFICE OF PUBLIC AND GOVERNMENTAL AFFAIRS.
		ASSISTANT DIRECTOR, SCIENCE AND TECHNOLOGY.
		DEPUTY ASSISTANT DIRECTOR, FORENSIC SERVICES.
		SPECIAL AGENT IN CHARGE, COLUMBUS.
		SPECIAL AGENT IN CHARGE, NEW ORLEANS.
		SPECIAL AGENT IN CHARGE, BALTIMORE.
		SPECIAL AGENT IN CHARGE, NEWARK.
		SPECIAL AGENT IN CHARGE, DENVER.
		DEPUTY DIRECTOR.
		ASSISTANT DIRECTOR, FIELD OPERATIONS.
		DEPUTY ASSISTANT DIRECTOR, FIELD OPERATIONS–CENTRAL.
		ASSISTANT DIRECTOR, ENFORCEMENT PROGRAMS AND SERVICES.
		DEPUTY ASSISTANT DIRECTOR, ENFORCEMENT PROGRAMS AND SERVICES.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY ASSISTANT DIRECTOR, HUMAN RESOURCES AND PROFESSIONAL DEVELOPMENT.
		ASSISTANT DIRECTOR, HUMAN RESOURCES AND PROFESSIONAL DEVELOPMENT.
		ASSISTANT DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY AND SECURITY OPERATIONS.
		DEPUTY ASSISTANT DIRECTOR, MANAGEMENT AND CHIEF FINANCIAL OFFICER.
	CRIMINAL DIVISION	CHIEF, COMPUTER CRIME AND INTELLECTUAL PROPERTY SECTION.
		DEPUTY CHIEF, COMPUTER CRIME AND INTELLECTUAL PROPERTY SECTION.
		SENIOR COUNSEL FOR CYBERCRIME.
		DEPUTY CHIEF, NARCOTIC AND DANGEROUS DRUG SECTION.
		DIRECTOR, OFFICE OF OVERSEAS PROSECUTORIAL DEVELOPMENT, ASSISTANCE, AND TRAINING.
		DEPUTY CHIEF FOR ORGANIZED CRIME AND GANG SECTION.
		CHIEF, CHILD EXPLOITATION AND OBSCENITY SECTION.
		DIRECTOR, INTERNATIONAL CRIMINAL INVESTIGATIVE TRAINING ASSISTANCE PROGRAM.
		DEPUTY CHIEF, APPELLATE SECTION.
		EXECUTIVE OFFICER.
		DEPUTY, CHIEF FRAUD SECTION.
		CHIEF, ASSET FORFEITURE AND MONEY LAUNDERING SECTION.
		DEPUTY CHIEF PUBLIC INTEGRITY SECTION.
		CHIEF, ORGANIZED CRIME AND GANG SECTION.
		CHIEF, APPELLATE SECTION.
		CHIEF, FRAUD SECTION.
		CHIEF, PUBLIC INTEGRITY SECTION.
		CHIEF, NARCOTIC AND DANGEROUS DRUG SECTION.
		CHIEF, HUMAN RIGHTS AND SPECIAL PROSECUTIONS SECTION.
		DEPUTY CHIEF, ASSET FORFEITURE AND MONEY LAUNDERING SECTION.
		DEPUTY CHIEF, CHILD EXPLOITATION AND OBSCENITY SECTION.
	EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.	CHAIRMAN, BOARD OF IMIGRATION APPEALS.
		ASSISTANT DIRECTOR FOR ADMINISTRATION.
		VICE CHAIRMAN, BOARD OF IMMIGRATION APPEALS.
		ASSISTANT DIRECTOR FOR POLICY.
		GENERAL COUNSEL.
		CHIEF IMMIGRATION JUDGE.
		CHIEF ADMINISTRATIVE HEARING OFFICER.
		DEPUTY CHIEF IMMIGRATION JUDGE.
	EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS.	COUNSEL, LEGAL PROGRAMS AND POLICY.
		DEPUTY DIRECTOR.
		GENERAL COUNSEL.
		DEPUTY DIRECTOR FOR ADMINISTRATION AND MANAGEMENT.
		CHIEF HUMAN RESOURCES OFFICER.
		CHIEF FINANCIAL OFFICER.
		ASSOCIATE DIRECTOR, OFFICE OF LEGAL EDUCATION.
		CHIEF, INFORMATION OFFICER.
	FEDERAL BUREAU OF PRISONS	COMPLEX WARDEN, UNITED STATES PENITENTIARY, TUCSON, ARIZONA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, CUMBERLAND, MARYLAND.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, GREENVILLE, ILLINIOIS.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, MCKEAN, PENNSYLVANIA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, PEKIN, ILLINOIS.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, SCHUYLKILL, PENNSYLVANIA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, THREE RIVERS, TEXAS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		WARDEN, METROPOLITAN DETENTION CENTER, GUAYNABO, PUERTO RICO.
		WARDEN, FCI, MENDOTA, CALIFORINA.
		CHIEF, EDUCATION ADMINISTRATOR.
		ASSISTANT DIRECTOR, INFORMATION, POLICY AND PUBLIC AFFAIRS.
		SENIOR DEPUTY GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, BENNETTSVILLE, SOUTH CAROLINA.
		SENIOR DEPUTY ASSISTANT DIRECTOR, INFORMATION, POLICY, AND PUBLIC AFFAIRS DIVISION.
		ASSISTANT DIRECTOR, REENTRY SERVICES DIVISION.
		SENIOR DEPUTY ASSISTANT DIRECTOR, ADMINISTRATION DIVISION.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, FORT WORTH TEXAS.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, THOMSON, IL.
		SENIOR DEPUTY ASSISTANT DIRECTOR, PROGRAM REVIEW DIVISION.
		SENIOR DEPUTY GENERAL COUNSEL, OFFICE OF THE GENERAL COUNSEL.
		SENIOR ADVISOR.
		SENIOR DEPUTY ASSISTANT DIRECTOR, INDUSTRIES, EDUCATION, AND VOCATIONAL TRAINING DIVISION.
		ASSISTANT DIRECTOR, HEALTH SERVICES DIVISION.
		CHIEF, OFFICE OF PUBLIC AFFAIRS.
		SENIOR DEPUTY ASSISTANT DIRECTOR, PROGRAM REVIEW DIVISION.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, MARIANNA, FLORIDA.
		ASSISTANT DIRECTOR, HUMAN RESOURCES MANAGEMENT DIVISION.
		ASSISTANT DIRECTOR FOR ADMINISTRATION.
		ASSISTANT DIRECTOR, CORRECTIONAL PROGRAMS DIVISION.
		ASSISTANT DIRECTOR, OFFICE OF GENERAL COUNSEL.
		REGIONAL DIRECTOR, NORTHEAST REGION.
		REGIONAL DIRECTOR, SOUTHEAST REGION.
		REGIONAL DIRECTOR, NORTH CENTRAL REGION.
		REGIONAL DIRECTOR, WESTERN REGION.
		REGIONAL DIRECTOR, SOUTH CENTRAL REGION.
		WARDEN, UNITED STATES PENITENTIARY, ATLANTA, GEORGIA.
		WARDEN, UNITED STATES PENITENTIARY, LEAVENWORTH, KANSAS.
		WARDEN, UNITED STATES PENITENTIARY, LEWISBURG, PENNSYLVANIA.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, LOMPOC, CALIFORNIA.
		WARDEN, UNITED STATES MEDICAL CENTER FEDERAL PRISONERS, SPRINGFIELD, MISSOURI.
		WARDEN, FEDERAL MEDICAL CENTER, LEXINGTON, KENTUCKY.
		WARDEN, UNITED STATES PENITENTIARY, MARION ILLINOIS.
		ASSISTANT DIRECTOR, INDUSTRIES, EDUCATION, AND VOCATIONAL TRAINING DIVISION.
		SENIOR DEPUTY ASSISTANT DIRECTOR, REENTRY SERVICES.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, TERRE HAUTE, INDIANA.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, BUTNER, NORTH CAROLINA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, PHOENIX, ARIZONA.
		WARDEN, FEDERAL MEDICAL CENTER, ROCHESTER, MINNESOTA.
		REGIONAL DIRECTOR, MIDDLE ATLANTIC REGION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY DIRECTOR.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, TALLADEGA, ALABAMA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, JESUP, GEORGIA.
		COMPLEX WARDEN, FEDERAL CORRECTIONAL COMPLEX, VICTORVILLE, CALIFORNIA.
		WARDEN, UNITED STATES PENITENTIARY, MCCREARY, KENTUCKY.
		WARDEN, UNITED STATES PENITENTIARY, POLLOCK, LOUISIANA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, MEMPHIS, TENNESSEE.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, SHERIDAN, OREGON.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, GILMER, WEST VIRGINIA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, MANCHESTER, KENTUCKY.
		COMPLEX WARDEN, FEDERAL CORRECTION COMPLEX, PETERSBURG, VIRGINIA.
		WARDEN, UNITED STATES PENITENTIARY, HAZELTON, WEST VIRIGINA.
		COMPLEX WARDEN, FEDERAL CORRECTIONAL COMPLEX, YAZOO CITY, MISSISSIPPI.
		WARDEN, UNITED STATES PENITENTIARY, CANAAN, PENNSYLVANIA.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, FORREST CITY, ARKANSAS.
		SENIOR DEPUTY ASSISTANT DIRECTOR, RE-ENTRY SERVICES DIVISION.
		WARDEN, UNITED STATES PENITENTIARY COLEMAN–I, COLEMAN, FLORIDA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, WILLIAMSBURG, SOUTH CAROLINA.
		SENIOR DEPUTY ASSISTANT DIRECTOR, ADMINISTRATION DIVISION.
		SENIOR DEPUTY ASSISTANT DIRECTOR, INFORMATION, POLICY, AND PUBLIC AFFAIRS DIVISION.
		WARDEN, UNITED STATES PENITENTIARY, BIG SANDY, KENTUCKY.
		SENIOR COUNSEL, OFFICE OF GENERAL COUNSEL.
		WARDEN, METROPOLITAN DETENTION CENTER, BROOKLYN, NEW YORK.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, BEAUMONT, TEXAS.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, COLEMAN, FLORIDA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, BECKLEY, WEST VIRGINIA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, OTISVILLE, NEW YORK.
		WARDEN, UNITED STATES PENITENTIARY, LEE, VIRGINIA.
		WARDEN, UNITED STATES PENITENTIARY, ATWATER, CALIFORNIA.
		WARDEN, METROPOLITAN CORRECTIONAL CENTER, NEW YORK, NEW YORK.
		SENIOR DEPUTY ASSISTANT DIRECTOR, CORRECTIONAL PROGRAMS DIVISION.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, FORT DIX, NEW JERSEY.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, FLORENCE, COLORADO.
		WARDEN, UNITED STATES PENITENTIARY—HIGH, FLORENCE, COLORADO.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, OAKDALE, LOUISIANA.
		WARDEN, FEDERAL MEDICAL CENTER, CARSWELL, TEXAS.
		WARDEN, FEDERAL CORRECTIONAL COMPLEX, ALLENWOOD, PENNSYLVANIA.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		WARDEN, FEDERAL TRANSFER CENTER, OKLAHOMA CITY, OKLAHOMA.
		SENIOR DEPUTY ASSISTANT DIRECTOR, HUMAN RESOURCES MANAGEMENT DIVISION.
		WARDEN, FEDERAL DETENTION CENTER, MIAMI, FLORIDA.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, FAIRTON, NEW JERSEY.
		ASSISTANT DIRECTOR, PROGRAM REVIEW DIVISION.
		WARDEN, FEDERAL CORRECTIONAL INSTITUTION, EDGEFIELD, SOUTH CAROLINA.
		WARDEN, FEDERAL MEDICAL CENTER, DEVENS, MASSACHUSETTS.
		WARDEN, METROPOLITAN DETENTION CENTER, LOS ANGELES, CALIFORNIA.
	JUSTICE MANAGEMENT DIVISION	DEPUTY DIRECTOR, BUDGET STAFF, PROGRAMS AND PERFORMANCE.
		DEPUTY DIRECTOR, AUDITING, FINANCE STAFF.
		DEPUTY DIRECTOR, HUMAN RESOURCES.
		DEPUTY CHIEF INFORMATION OFFICER.
		CHIEF TECHNOLOGY OFFICER.
		DIRECTOR, CYBERSECURITY SERVICES STAFF.
		SENIOR ADVISOR.
		DIRECTOR, SERVICE ENGINEERING STAFF.
		DIRECTOR, SERVICE DELIVERY STAFF.
		DEPUTY DIRECTOR, CYBERSECURITY STAFF/DEPUTY CHIEF INFORMATION SECURITY OFFICER.
		DEPUTY DIRECTOR, SERVICE DELIVERY STAFF.
		DIRECTOR, DEPARTMENTAL ETHICS OFFICE.
		DEPUTY DIRECTOR, BUDGET STAFF, OPERATIONS AND FUNDS CONTROL.
		DEPUTY ASSISTANT ATTORNEY GENERAL FOR INFORMATION RESOURCES MANAGEMENT/CHIEF INFORMATION OFFICER.
		DIRECTOR, PROCUREMENT SERVICES STAFF.
		GENERAL COUNSEL.
		DIRECTOR, EQUAL EMPLOYMENT OPPORTUNITY STAFF.
		DIRECTOR, BUDGET STAFF.
		DIRECTOR, DEBT COLLECTION MANAGEMENT STAFF.
		DIRECTOR, FACILITIES AND ADMINISTRATIVE SERVICES STAFF.
		DIRECTOR, OFFICE OF ATTORNEY RECRUITMENT AND MANAGEMENT.
		DIRECTOR, FINANCE STAFF.
		DEPUTY ASSISTANT ATTORNEY GENERAL (CONTROLLER).
		DEPUTY ASSISTANT ATTORNEY GENERAL FOR HUMAN RESOURCES AND ADMINISTRATION.
		DIRECTOR, LIBRARY STAFF.
		ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION.
		DEPUTY ASSISTANT ATTORNEY GENERAL, POLICY, MANAGEMENT, AND PLANNING.
		DIRECTOR, HUMAN RESOURCES.
		DIRECTOR, SECURITY AND EMERGENCY PLANNING STAFF.
		DIRECTOR, ASSET FORFEITURE MANAGEMENT STAFF.
		DIRECTOR, INFORMATION TECHNOLOGY POLICY AND PLANNING STAFF.
	NATIONAL SECURITY DIVISION	CHIEF, FOREIGN INVESTMENT REVIEW STAFF.
		DIRECTOR OF RISK MANAGEMENT AND SENIOR COUNSEL.
		DIRECTOR, FREEDOM OF INFORMATION ACT AND DECLASSIFICATION PROGRAM.
		CHIEF, APPELLATE UNIT.
		DEPUTY CHIEF, COUNTERTERRORISM SECTION.
		DEPUTY ASSISTANT ATTORNEY GENERAL, FOREIGN INVESTMENT REVIEW STAFF, OPERATIONS AND INTELLIGENCE OVERSIGHT.
		CHIEF, OPERATIONS SECTION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		CHIEF, OVERSIGHT SECTION.
		EXECUTIVE OFFICER.
		SPECIAL COUNSEL FOR NATIONAL SECURITY.
	OFFICE OF PROFESSIONAL RESPONSIBILITY.	DEPUTY COUNSEL ON PROFESSIONAL RESPONSIBILITY.
		COUNSEL ON PROFESSIONAL RESPONSIBILITY.
	OFFICE OF THE LEGAL COUNSEL	SPECIAL COUNSEL (2).
	PROFESSIONAL RESPONSIBILITY ADVISORY OFFICE.	DIRECTOR, PROFESSIONAL RESPONSPONSIBILITY ADVSIORY OFFICE.
	UNITED STATES MARSHALS SERVICE.	ASSISTANT DIRECTOR, HUMAN RESOURCES.
		ASSISTANT DIRECTOR, FINANCIAL SERVICES.
		ASSISTANT DIRECTOR, WITNESS SECURITY.
		ASSISTANT DIRECTOR, MANAGEMENT SUPPORT.
		ASSISTANT DIRECTOR, ASSET FORFEITURE.
		ASSISTANT DIRECTOR, TRAINING.
		ASSISTANT DIRECTOR, INVESTIGATIVE OPERATIONS.
		DEPUTY DIRECTOR.
		ASSISTANT DIRECTOR OFFICE OF INSPECTION.
		ASSISTANT DIRECTOR JUDICIAL SECURITY.
		DEPUTY ASSISTANT DIRECTOR ACQUISITION AND PROCUREMENT.
		ASSISTANT DIRECTOR, JUSTICE PRISONER AND ALIEN TRANSPORTATION SYSTEM.
		ATTORNEY ADVISOR.
		ASSOCIATE DIRECTOR, OPERATIONS.
		ASSOCIATE DIRECTOR, ADMINISTRATION.
		ASSISTANT DIRECTOR, TACTICAL OPERATIONS.
		ASSISTANT DIRECTOR FOR PRISONER OPERATIONS.
		ASSISTANT DIRECTOR, INFORMATION TECHNOLOGY.
DEPARTMENT OF JUSTICE, OFFICE OF THE INSPECTOR GENERAL.	AUDIT DIVISION	DEPUTY ASSISTANT INSPECTOR GENERAL, AUDIT DIVISION.
		ASSISTANT INSPECTOR GENERAL, AUDIT DIVISION.
	EVALUATION AND INSPECTIONS DIVISION.	ASSISTANT INSPECTOR GENERAL, EVALUATION AND INSPECTIONS DIVISION.
	FRONT OFFICE	DEPUTY INSPECTOR GENERAL.
		GENERAL COUNSEL.
	INVESTIGATIONS DIVISION	ASSISTANT INSPECTOR GENERAL, INVESTIGATIONS DIVISION.
		DEPUTY ASSISTANT INSPECTOR GENERAL, INVESTIGATIONS DIVISION.
	MANAGEMENT AND PLANNING DIVISION.	DEPUTY ASSISTANT INSPECTOR GENERAL, MANAGEMENT AND PLANNING.
		ASSISTANT INSPECTOR GENERAL, MANAGEMENT AND PLANNING DIVISION.
	OVERSIGHT AND REVIEW DIVISION	DEPUTY ASSISTANT INSPECTOR GENERAL, OVERSIGHT AND REVIEW DIVISION.
		ASSISTANT INSPECTOR GENERAL, OVERSIGHT AND REVIEW DIVISION.
DEPARTMENT OF LABOR	BUREAU OF INTERNATIONAL LABOR AFFAIRS.	DIRECTOR, OFFICE OF CHILD LABOR, FORCED LABOR HUMAN TRAFFICKING.
		DIRECTOR, OFFICE OF TRADE AND LABOR AFFAIRS.
	BUREAU OF LABOR STATISTICS	ASSISTANT COMMISSIONER FOR COMPENSATION LEVELS AND TRENDS.
		ASSISTANT COMMISSIONER FOR SAFETY, HEALTH AND WORKING CONDITIONS.
		ASSOCIATE COMMISSIONER FOR COMPENSATION AND WORKING CONDITIONS.
		DIRECTOR OF TECHNOLOGY AND COMPUTING SERVICES.
		DIRECTOR OF SURVEY PROCESSING.
		DEPUTY COMMISSIONER FOR LABOR STATISTICS.
		ASSOCIATE COMMISSIONER FOR EMPLOYMENT AND UNEMPLOYMENT STATISTICS.
		ASSISTANT COMMISSIONER FOR INDUSTRIAL PRICES AND PRICE INDEXES.
		ASSISTANT COMMISSIONER FOR INTERNATIONAL PRICES.
		ASSOCIATE COMMISSIONER FOR PUBLICATIONS AND SPECIAL STUDIES.
		ASSOCIATE COMMISSIONER FOR SURVEY METHODS RESEARCH.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSISTANT COMMISSIONER FOR CURRENT EMPLOYMENT ANALYSIS.
		ASSISTANT COMMISSIONER FOR INDUSTRY EMPLOYMENT STATISTICS.
		ASSOCIATE COMMISSIONER FOR TECHNOLOGY AND SURVEY PROCESSING.
		ASSISTANT COMMISSIONER FOR OCCUPATIONAL STATISTICS AND EMPLOYMENT PROJECTIONS.
		ASSISTANT COMMISSIONER FOR CONSUMER PRICES AND PRICES INDEXES.
		ASSOCIATE COMMISSIONER, PRODUCTIVITY AND TECHNOLOGY.
		ASSOCIATE COMMISSIONER FOR PRICES AND LIVING CONDITIONS.
		ASSOCIATE COMMISSIONER FOR ADMINISTRATION.
		ASSOCIATE COMMISSIONER FOR FIELD OPERATIONS.
		ASSISTANT COMMISSIONER FOR REGIONAL OPERATIONS (3).
	EMPLOYEE BENEFITS SECURITY ADMINISTRATION.	DIRECTOR OF EXEMPTION DETERMINATIONS.
		DIRECTOR OF REGULATIONS AND INTERPRETATIONS.
		CHIEF ECONOMIST AND DIRECTOR OF POLICY AND RESEARCH.
		DIRECTOR, OFFICE OF OUTREACH EDUCATION AND ASSISTANCE.
		DIRECTOR OF HEALTH PLAN STANDARDS COMPLIANCE AND ASSISTANCE.
		DIRECTOR OF INFORMATION MANAGEMENT.
		REGIONAL DIRECTOR—BOSTON.
		REGIONAL DIRECTOR—ATLANTA.
		REGIONAL DIRECTOR—KANSAS CITY.
		REGIONAL DIRECTOR—SAN FRANCISCO.
		DIRECTOR OF ENFORCEMENT.
		REGIONAL DIRECTOR (2).
		REGIONAL DIRECTOR—CHICAGO.
		REGIONAL DIRECTOR—NEW YORK.
		CHIEF ACCOUNTANT.
		REGIONAL DIRECTOR—PHILADELPHIA.
		DEPUTY ASSISTANT SECRETARY FOR PROGRAM OPERATIONS.
	EMPLOYMENT AND TRAINING ADMINISTRATION.	REGIONAL ADMINISTRATOR (6).
		ADMINISTRATOR, APPRENTICESHIP AND TRAINING, EMPLOYEE AND LABOR SERVICES.
		ADMINISTRATOR, OFFICE OF GRANTS MANAGEMENT.
		ADMINISTRATOR, OFFICE OF INFORMATION SYSTEMS & TECHNOLOGY.
		ADMINISTRATOR, OFFICE OF TRADE ADJUSTMENT ASSISTANCE.
		ADMINISTRATOR, OFFICE OF POLICY DEVELOPMENT AND RESEARCH.
		ADMINISTRATOR, OFFICE OF FOREIGN LABOR CERTIFICATION.
		ADMINISTRATOR, OFFICE OF WORKFORCE SECURITY.
		ASSOCIATE ADMINISTRATOR.
		COMPTROLLER.
		DEPUTY ASSISTANT SECRETARY (OPERATIONS AND MANAGEMENT).
		DEPUTY ADMINISTRATOR JOB CORP.
		ADMINISTRATOR, OFFICE OF CONTRACT MANAGEMENT.
		ADMINISTRATOR, OFFICE OF JOB CORPS.
	MINE SAFETY AND HEALTH ADMINISTRATION.	DEPUTY ASSISTANT SECRETARY.
		ADMINISTRATOR FOR COAL MINE SAFETY AND HEALTH.
		DIRECTOR OF ADMINISTRATION AND MANAGEMENT.
		DIRECTOR, OFFICE OF ASSESSMENTS, ACCOUNTABILITY, SPECIAL ENFORCEMENT, AND INVESTIGATIONS.
		DIRECTOR OF TECHNICAL SUPPORT.
		DEPUTY ADMINISTRATOR FOR COAL MINE SAFETY AND HEALTH.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ADMINISTRATOR FOR METAL AND NONMETAL.
		DIRECTOR OF PROGRAM EVALUATION AND INFORMATION RESOURCES.
		DIRECTOR, EDUCATIONAL POLICY AND DEVELOPMENT.
	OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.	DIRECTOR, DIRECTORATE OF STANDARDS AND GUIDANCE.
		DIRECTOR OF CONSTRUCTION.
		DIRECTOR, OFFICE OF TRAINING AND EDUCATION.
		REGIONAL ADMINISTRATOR—SEATTLE.
		DIRECTOR OF TECHNICAL SUPPORT AND EMERGENCY MANAGEMENT.
		DIRECTOR, DIRECTORATE OF ENFORCEMENT PROGRAMS.
		REGIONAL ADMINISTRATOR—DENVER.
		REGIONAL ADMINISTRATOR—SAN FRANCISCO.
		REGIONAL ADMINISTRATOR—DALLAS.
		REGIONAL ADMINISTRATOR—PHILADELPHIA.
		REGIONAL ADMINISTRATOR—NEW YORK.
		DIRECTOR, DIRECTORATE OF COOPERATIVE AND STATE PROGRAMS.
		REGIONAL ADMINISTRATOR—ATLANTA.
		SAFETY AND HEALTH ADMINISTRATOR—CHICAGO.
		DIRECTOR, ADMINISTRATIVE PROGRAMS.
		REGIONAL ADMINISTRATOR—BOSTON.
		DEPUTY ASSISTANT SECRETARY.
	OFFICE OF CHIEF FINANCIAL OFFICER.	ASSOCIATE DEPUTY CHIEF FINANCIAL OFFICER FOR FINANCIAL SYSTEMS.
		DEPUTY CHIEF FINANCIAL OFFICER.
	OFFICE OF DISABILITY EMPLOYMENT POLICY.	DEPUTY ASSISTANT SECRETARY FOR OFFICE OF DISABILITY EMPLOYMENT POLICY.
	OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS.	ADMINISTRATIVE OFFICER.
		REGIONAL DIRECTOR FOR OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (6).
	OFFICE OF LABOR—MANAGEMENT STANDARDS.	DEPUTY DIRECTOR, OFFICE OF LABOR MANAGEMENT STANDARDS.
		SENIOR ADVISOR AND DIRECTOR OF REPORTS AND DISCLOSURES.
		DIRECTOR, OFFICE OF ENFORCEMENT AND INTERNATIONAL UNION AUDITS.
	OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT.	DIRECTOR OF HUMAN RESOURCES.
		CHIEF CYBER SECURITY OFFICER.
		CHIEF PROCUREMENT OFFICER.
		DIRECTOR BUSINESS OPERATIONS CENTER.
		DEPUTY ASSISTANT SECRETARY FOR OPERATIONS.
		DIRECTOR, CUSTOMER SERVICE.
		DIRECTOR OF ENTERPRISE SERVICES.
		DIRECTOR, PROGRAM PLANNING AND RESULTS CENTER.
		DIRECTOR OF CIVIL RIGHTS.
		DIRECTOR, OFFICE OF BUDGET.
		DEPUTY DIRECTOR OF HUMAN RESOURCES.
	OFFICE OF THE ASSISTANT SECRETARY FOR POLICY.	DEPUTY ASSISTANT SECRETARY FOR POLICY.
		DIRECTOR, OFFICE OF REGULATORY AND PROGRAMMATIC POLICY.
	OFFICE OF THE SOLICITOR	ASSOCIATE SOLICITOR FOR OCCUPATIONAL SAFETY AND HEALTH.
		ASSOCIATE SOLICITOR FOR MINE SAFETY AND HEALTH.
		ASSOCIATE SOLICITOR, MANAGEMENT AND ADMINISTRATIVE LEGAL SERVICES DIVISION.
		ASSOCIATE SOLICITOR FOR CIVIL RIGHTS AND LABOR MANAGEMENT.
		ASSOCIATE SOLICITOR FOR LEGISLATION AND LEGAL COUNSEL.
		ASSOCIATE SOLICITOR FOR BLACK LUNG AND LONGSHORE LEGAL SERVICES.
		DEPUTY SOLICITOR (NATIONAL OPERATIONS).
		ASSOCIATE SOLICITOR FOR FAIR LABOR STANDARDS.
		REGIONAL SOLICITOR—ATLANTA.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSOCIATE SOLICITOR FOR FEDERAL EMPLOYEES' AND ENERGY WORKERS' COMPENSATION.
		REGIONAL SOLICITOR—PHILADELPHIA.
		REGIONAL SOLICITOR—DALLAS.
		REGIONAL SOLICITOR—SAN FRANCISCO.
		ASSOCIATE SOLICITOR FOR PLAN BENEFITS SECURITY.
		DEPUTY SOLICITOR (REGIONAL OPERATIONS).
		REGIONAL SOLICITOR—BOSTON.
		REGIONAL SOLICITOR—NEW YORK.
		REGIONAL SOLICITOR—CHICAGO.
	OFFICE OF WORKERS COMPENSATION PROGRAMS.	REGIONAL DIRECTOR—DALLAS.
		REGIONAL DIRECTOR (2).
		COMPTROLLER.
		ADMINISTRATIVE OFFICER.
		REGIONAL DIRECTOR (NORTHEAST REGION).
		DIRECTOR FOR FEDERAL EMPLOYEES' COMPENSATION.
		DEPUTY DIRECTOR FOR OFFICE OF WORKERS' COMPENSATION PROGRAMS.
		DIRECTOR, ENERGY EMPLOYEES' OCCUPATIONAL ILLNESS COMPENATION.
	VETERANS EMPLOYMENT AND TRAINING SERVICE.	DIRECTOR OF NATIONAL PROGRAMS.
		DEPUTY ASSISTANT SECRETARY FOR OPERATIONS AND MANAGEMENT.
		DIRECTOR, OFFICE OF FIELD OPERATIONS.
		DEPUTY DIRECTOR, OFFICE OF FIELD OPERATIONS.
	WAGE AND HOUR DIVISION	REGIONAL ADMINISTRATOR FOR WAGE AND HOUR.
		ASSISTANT ADMINISTRATOR, OPERATIONS.
		DEPUTY ADMINISTRATOR FOR PROGRAM OPERATIONS.
		ASSISTANT ADMINISTRATOR, OFFICE OF GOVERNMENT CONTRACTS.
		REGIONAL ADMINISTRATOR FOR WAGE AND HOUR.
	WOMEN'S BUREAU	DEPUTY DIRECTOR, WOMEN'S BUREAU.
DEPARTMENT OF LABOR OFFICE OF INSPECTOR GENERAL.	DEPARTMENT OF LABOR OFFICE OF INSPECTOR GENERAL.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		CHIEF, PERFORMANCE AND RISK MANAGEMENT OFFICER.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND POLICY.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS—LABOR RACKETEERING.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS—LABOR RACKETEERING.
		COUNSEL TO THE INSPECTOR GENERAL.
		DEPUTY INSPECTOR GENERAL.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND POLICY.
MERIT SYSTEMS PROTECTION BOARD.	DALLAS REGIONAL OFFICE	REGIONAL DIRECTOR, DALLAS.
	ATLANTA REGIONAL OFFICE	REGIONAL DIRECTOR, ATLANTA.
	CENTRAL REGION, CHICAGO REGIONAL OFFICE.	REGIONAL DIRECTOR, CHICAGO.
	NORTHEAST REGION, PHILADELPHIA REGIONAL OFFICE.	REGIONAL DIRECTOR, PHILADELPHIA.
	WASHINGTON, DISTRICT OF COLUMBIA REGION, WASHINGTON REGIONAL OFFICE.	REGIONAL DIRECTOR, WASHINGTON, DISTRICT OF COLUMBIA.
	WESTERN REGION, SAN FRANCISCO REGIONAL OFFICE.	REGIONAL DIRECTOR, SAN FRANCISCO.
	OFFICE OF FINANCIAL AND ADMINISTRATIVE MANAGEMENT.	DIRECTOR, FINANCIAL AND ADMINISTRATIVE MANAGEMENT.
	OFFICE OF INFORMATION RESOURCES MANAGEMENT.	DIRECTOR, INFORMATION RESOURCES MANAGEMENT.
	OFFICE OF POLICY AND EVALUATION.	DIRECTOR, OFFICE OF POLICY AND EVALUATION.
	OFFICE OF REGIONAL OPERATIONS	DIRECTOR, OFFICE OF REGIONAL OPERATIONS.
	OFFICE OF THE CLERK OF THE BOARD.	CLERK OF THE BOARD.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	GROUND SYSTEMS INTEGRATION MANAGER, GROUND SYSTEMS DEVELOPMENT AND OPERATIONS PROGRAM.
		DEPUTY DIRECTOR FOR SCIENCE.
		DIRECTOR, HUMAN RESOURCES.
		DIRECTOR, SPACEPORT INTEGRATION AND SERVICES.
		DIRECTOR, COMMUNICATION AND PUBLIC ENGAGEMENT.
		DIRECTOR, EXPLORATION RESEARCH AND TECHNOLOGY PROGRAMS.
	AMES RESEARCH CENTER	ASSOCIATE DIRECTOR FOR RESEARCH AND TECHNOLOGY.
		DEPUTY DIRECTOR, EXPLORATION TECHNOLOGY.
		DIRECTOR OF ENGINEERING.
		PROGRAM MANAGER FOR STRATOSPHERIC OBSERVATORY FOR INFRARED ASTRONOMY (SOFIA).
		HUMAN CAPITAL DIRECTOR.
		PROCUREMENT OFFICER.
		CHIEF INFORMATION OFFICER.
		DIRECTOR, EXPLORATION TECHNOLOGY DIRECTORATE.
		DEPUTY DIRECTOR, AMES RESEARCH CENTER.
		DIRECTOR OF SAFETY AND MISSION ASSURANCE.
		DEPUTY DIRECTOR OF AERONAUTICS.
		CHIEF FINANCIAL OFFICER.
		DIRECTOR OF CENTER OPERATIONS.
		DIRECTOR OF AERONAUTICS.
		DIRECTOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION RESEARCH PARK.
		DIRECTOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AERONAUTICS AND RESEARCH INSTITUTE.
		ASSOCIATE DIRECTOR FOR MISSION SUPPORT.
		DIRECTOR, SOLAR SYSTEM EXPLORATION RESEARCH VIRTUAL INSTITUTE.
		DIRECTOR, PROGRAMS AND PROJECTS.
		DIRECTOR, PARTNERSHIPS.
	GLENN RESEARCH CENTER	CHIEF FINANCIAL OFFICER.
		ASSOCIATE DIRECTOR.
		DIRECTOR OF CENTER OPERATIONS.
		CHIEF, OFFICE OF ACQUISITION.
		DEPUTY DIRECTOR, OFFICE OF TECHNOLOGY INCUBATION AND INNOVATION.
		DEPUTY DIRECTOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.
		DIRECTOR, VENTURE AND PARTNERSHIPS.
		ASSOCIATE DIRECTOR FOR STRATEGY.
		DIRECTOR, SAFETY AND MISSION ASSURANCE DIRECTORATE.
		DIRECTOR, OFFICE OF HUMAN CAPITAL MANAGEMENT.
		DIRECTOR, OFFICE OF TECHNOLOGY INCUBATION AND INNOVATION.
		PLUM BROOK STATION MANAGER.
	LANGLEY RESEARCH CENTER	DIRECTOR, OFFICE OF PROCUREMENT.
		CHIEF FINANCIAL OFFICER.
		DIRECTOR, SAFETY AND MISSION ASSURANCE OFFICE.
		SPECIAL ASSISTANT TO THE CENTER DIRECTOR FOR REGIONAL ECONOMIC DEVELOPMENT.
		DIRECTOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ENGINEERING AND SAFETY CENTER.
		DEPUTY DIRECTOR, LANGLEY RESEARCH CENTER.
		DEPUTY DIRECTOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ENGINEERING AND SAFETY CENTER.
		DIRECTOR, SCIENCE DIRECTORATE.
		DIRECTOR, SYSTEMS ANALYSIS AND ADVANCED CONCEPTS DIRECTORATE.
		DIRECTOR, RESEARCH SERVICES DIRECTORATE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, OFFICE OF HUMAN CAPITAL MANAGEMENT.
		MANAGER, NASA ENGINEERING & SAFETY CENTER (NESC) INTEGRATION OFFICE.
		DIRECTOR, ENGINEERING DIRECTORATE.
		DEPUTY DIRECTOR, ENGINEERING DIRECTORATE.
		DIRECTOR, RESEARCH DIRECTORATE.
		DEPUTY DIRECTOR, RESEARCH DIRECTORATE.
		DIRECTOR, CENTER OPERATIONS DIRECTORATE.
		DIRECTOR, AERONAUTICS RESEARCH DIRECTORATE.
		DEPUTY DIRECTOR FOR MISSION ASSURANCE.
		DIRECTOR, OFFICE OF STRATEGIC ANALYSIS, COMMUNICATIONS, AND BUSINESS DEVELOPMENT.
		SENIOR ADVISOR FOR ENGINEERING DEVELOPMENT.
		DEPUTY DIRECTOR FOR AEROSCIENCES.
		DEPUTY DIRECTOR FOR SAFETY.
		DIRECTOR, EARTH SYSTEM SCIENCE PATHFINDER PROGRAM OFFICE.
		SENIOR ADVISOR FOR TECHNOLOGY AND STRATEGY.
		DEPUTY DIRECTOR FOR TECHNICAL CAPABILITIES.
		DIRECTOR, FLIGHT PROJECTS DIRECTORATE.
		DIRECTOR, SPACE TECHNOLOGY AND EXPLORATION DIRECTORATE.
		ASSOCIATE DIRECTOR, LANGLEY RESEARCH CENTER.
		DEPUTY DIRECTOR FOR INTELLIGENT FLIGHT SYSTEMS.
		CHIEF INFORMATION OFFICER.
	ASTROBIOLOGY AND SPACE RESEARCH.	DIRECTOR OF SCIENCE.
	AERONAUTICS DIRECTORATE	DIRECTOR, AERONAUTICS DIRECTORATE.
	DEPUTY DIRECTOR, FACILITIES, TEST AND MANUFACTURING DIRECTORATE.	DEPUTY DIRECTOR OF FACILTIES, TEST AND MANUFACTURING DIRECTORATE.
	FACILITIES, TEST AND MANUFACTURING DIRECTORATE.	DIRECTOR, FACILITIES, TEST AND MANUFACTURING DIRECTORATE.
	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION SAFETY CENTER.	DIRECTOR, TECHNICAL EXCELLENCE.
		DIRECTOR, AUDITS AND ASSESSMENTS.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	CHIEF INFORMATION OFFICER.
	RESEARCH AND ENGINEERING DIRECTORATE.	CHIEF, POWER DIVISION.
		DIRECTOR, RESEARCH AND ENGINEERING DIRECTORATE.
		DEPUTY DIRECTOR, RESEARCH AND ENGINEERING DIRECTORATE.
		CHIEF, CHIEF ENGINEER OFFICE.
		DEPUTY CHIEF, POWER DIVISION.
	SPACE FLIGHT SYSTEMS DIRECTORATE.	MANAGER, EUROPEAN SERVICE MODULE INTEGRATION OFFICE.
		DIRECTOR, SPACE FLIGHT SYSTEMS DIRECTORATE.
		DEPUTY DIRECTOR, SPACE FLIGHT SYSTEMS.
	APPLIED ENGINEERING AND TECHNOLOGY DIRECTORATE.	CHIEF, ELECTRICAL SYSTEMS DIVISION.
		CHIEF, INSTRUMENT SYSTEMS AND TECHNOLOGY DIVISION.
		CHIEF, MECHANICAL SYSTEMS DIVISION.
		DIRECTOR OF APPLIED ENGINEERING AND TECHNOLOGY.
		DEPUTY DIRECTOR OF APPLIED ENGINEERING AND TECHNOLOGY.
		CHIEF, SOFTWARE ENGINEERING DIVISION.
		DEPUTY DIRECTOR OF APPLIED ENGINEERING AND TECHNOLOGY FOR PLANNING AND BUSINESS MANAGEMENT.
		DEPUTY DIRECTOR FOR TECHNICAL MANAGEMENT.
		CHIEF, MISSION ENGINEERING AND SYSTEMS ANALYSIS DIVISION.
	COMPTROLLER	DEPUTY CHIEF FINANCIAL OFFICER.
		CHIEF FINANCIAL OFFICER/COMPTROLLER.
	FLIGHT ASSURANCE	DEPUTY DIRECTOR OF SAFETY AND MISSION ASSURANCE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR OF SYSTEMS SAFETY AND MISSION ASSURANCE.
	FLIGHT PROJECTS	ASSOCIATE DIRECTOR FOR EXPLORERS AND HELIOPHYSICS PROJECTS DIVISION.
		DIRECTOR OF FLIGHT PROJECTS.
		DEPUTY DIRECTOR OF FLIGHT PROJECTS.
		ASSOCIATE DIRECTOR OF FLIGHT PROJECTS FOR JAMES WEBB SPACE TELESCOPE.
		ASSOCIATE DIRECTOR OF FLIGHT PROJECTS FOR THE INSTRUMENT PROJECTS DIVISION.
		ASSOCIATE DIRECTOR OF FLIGHT PROJECTS FOR JAMES WEBB SPACE TELESCOPE.
		DEPUTY ASSOCIATE DIRECTOR OF FLIGHT PROJECTS FOR JOINT POLAR SATELLITE SYSTEM FLIGHT.
		ASSOCIATE DIRECTOR FOR JOINT POLAR SATELLITE SYSTEM PROGRAM.
		ASSOCIATE DIRECTOR FOR SPACE SERVICING CAPABILITIES PROJECT.
		ASSOCIATE DIRECTOR FOR EARTH SCIENCE TECHNOLOGY OFFICE.
		ASSOCIATE DIRECTOR FOR EARTH SCIENCE PROJECTS DIVISION.
		ASSOCIATE DIRECTOR FOR EXPLORATION AND SPACE COMMUNICATIONS PROJECTS DIVISION.
		DEPUTY DIRECTOR FOR PLANNING AND BUSINESS MANAGEMENT.
		ASSOCIATE DIRECTOR FOR ASTROPHYSICS PROJECTS DIVISION.
	HUMAN RESOURCES	DIRECTOR OF HUMAN CAPITAL MANAGEMENT.
	INFORMATION TECHNOLOGY	CHIEF INFORMATION OFFICER.
	MANAGEMENT OPERATIONS	DIRECTOR OF MANAGEMENT OPERATIONS.
		ASSOCIATE DIRECTOR FOR ACQUISITION.
		DEPUTY DIRECTOR OF MANAGEMENT OPERATIONS.
	SCIENCES AND EXPLORATION	CHIEF, GODDARD INSTITUTE FOR SPACE STUDIES.
		DEPUTY DIRECTOR FOR INSTITUTIONS, PROGRAMS, AND BUSINESS MANAGEMENT.
		DIRECTOR, HELIOPHYSICS SCIENCE DIVISION.
		DIRECTOR OF SCIENCES AND EXPLORATION.
		DIRECTOR, ASTROPHYSICS SCIENCE DIVISION.
		DEPUTY DIRECTOR OF SCIENCES AND EXPLORATION.
		DIRECTOR, EARTH SCIENCES DIVISION.
		DIRECTOR, SOLAR SYSTEM EXPLORATION DIVISION.
	SUBORBITAL PROJECTS AND OPERATIONS.	DIRECTOR OF WALLOPS FLIGHT FACILITY.
		SPECIAL ASSISTANT FOR PROJECT MANAGEMENT TRAINING.
	CENTER OPERATIONS	DIRECTOR, CENTER OPERATIONS.
	ENGINEERING	CHIEF, AEROSCIENCE AND FLIGHT MECHANICS DIVISION.
		CHIEF, PROPULSION AND POWER DIVISION.
		DEPUTY DIRECTOR, ENGINEERING.
		CHIEF, SOFTWARE, ROBOTICS AND SIMULATION DIVISION.
		DIRECTOR, ENGINEERING.
	EXPLORATION INTEGRATION AND SCIENCE.	DEPUTY DIRECTOR, EXPLORATION INTEGRATION AND SCIENCE.
		DIRECTOR, EXPLORATION INTEGRATION AND SCIENCE.
		DIRECTOR, STRATEGIC OPPORTUNITIES AND PARTNERSHIP DEVELOPMENT.
		CHIEF, PARTNERSHIPS DEVELOPMENT OFFICE.
		ASSOCIATE DIRECTOR, EXPLORATION, INTEGRATION AND SCIENCE.
		MANAGER, EXTRA VEHICULAR ACTIVITY MANAGEMENT OFFICE.
	FLIGHT OPERATIONS	CHIEF, FLIGHT DIRECTOR OFFICE.
		CHIEF, AIRCRAFT OPERATIONS DIVISION.
		DEPUTY DIRECTOR, FLIGHT OPERATIONS.
		DIRECTOR, FLIGHT OPERATIONS.
	HUMAN HEALTH AND PERFORMANCE.	DEPUTY DIRECTOR, HUMAN HEALTH AND PEFORMANCE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, HUMAN HEALTH AND PERFORMANCE.
	INFORMATION RESOURCES	DIRECTOR, INFORMATION RESOURCES.
	OFFICE OF PROCUREMENT	DEPUTY ASSISTANT ADMINISTRATOR FOR OFFICE OF PROCUREMENT.
		DIRECTOR, OFFICE OF PROCUREMENT.
	ORION PROGRAM	MANAGER, AVIONICS, POWER AND SOFTWARE OFFICE.
		DEPUTY MANAGER, ORION PROGRAM.
		MANAGER, VEHICLE INTEGRATION OFFICE.
		MANAGER, ORION PROGRAM.
		MANAGER, CREW AND SERVICE MODULE OFFICE.
	SPACE STATION PROGRAM OFFICE	DEPUTY MANAGER FOR UTILIZATION.
		MANAGER, INTERNATIONAL SPACE STATION RESEARCH INTEGRATION OFFICE.
		MANAGER, OPERATIONS INTEGRATION.
		MANAGER, INTERNATIONAL SPACE STATION TRANSPORTATION INTEGRATION.
		MANAGER, PROGRAM PLANNING AND CONTROL OFFICE, INTERNATIONAL SPACE STATION.
		MANAGER, AVIONICS AND SOFTWARE OFFICE.
		DEPUTY MANAGER, INTERNATIONAL SPACE STATION PROGRAM.
		MANAGER, VEHICLE OFFICE.
		MANAGER, INTERNATIONAL SPACE STATION PROGRAM.
	WHITE SANDS TEST FACILITY	MANAGER, WHITE SANDS TEST FACILITY.
	INFORMATION TECHNOLOGY AND CUMMUNICATIONS SERVICES.	DIRECTOR, INFORMATION TECHNOLOGY AND COMMUNICATIONS SERVICES.
	LAUNCH SERVICES PROGRAM	MANAGER, LAUNCH SERVICES PROGRAM.
	SAFETY AND MISSION ASSURANCE	DIRECTOR, SAFETY AND MISSION ASSURANCE.
	SPACE LAUNCH SYSTEM PROGRAM OFFICE.	MANAGER, SPACECRAFT/PAYLOAD INTEGRATION AND EVOLUTION OFFICE.
	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT OFFICE.	DIRECTOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT OFFICE.
	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION SHARED SERVICES CENTER.	FEDERAL SHARED SERVICES IMPLEMENTATION PROGRAM MANAGER.
		EXECUTIVE DIRECTOR OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT SHARED SERVICES CENTER.
		DIRECTOR, SERVICE DELIVERY DIRECTORATE.
		DIRECTOR, SUPPORT OPERATIONS DIRECTORATE.
	OFFICE OF CHIEF HEALTH AND MEDICAL OFFICER.	CHIEF HEALTH AND MEDICAL OFFICER.
		DEPUTY CHIEF HEALTH AND MEDICAL OFFICER.
	OFFICE OF HEADQUARTERS OPERATIONS.	DIRECTOR, HUMAN RESOURCE MANGEMENT DIVISION.
		EXECUTIVE DIRECTOR, HEADQUARTERS OPERATIONS.
		DIRECTOR, HEADQUARTERS INFORAMTION TECHNOLOGY AND COMMUNICATIONS DIVISION.
		DIRECTOR, BUDGET MANAGEMENT AND SYSTEMS SUPPORT.
	OFFICE OF HUMAN CAPITAL MANAGEMENT.	DIRECTOR, WORKFORCE CULTURE DIVISION.
		ASSISTANT ADMINISTRATOR FOR HUMAN CAPITAL MANAGEMENT.
		DEPUTY ASSISTANT ADMINISTRATOR FOR HUMAN CAPITAL MANAGEMENT.
		SPECIAL ASSISTANT TO THE CHIEF HUMAN CAPITAL OFFICER.
		DEPUTY ASSISTANT ADMINISTRATIOR FOR TRANSFORMATION.
		DEPUTY ASSISTANT ADMINISTRATOR FOR HIRING.
		DIRECTOR, WORKFORCE STRATEGY DIVISION.
	OFFICE OF PROCUREMENT	DIRECTOR, ANALYSIS DIVISION.
		DIRECTOR, CONTRACT MANAGEMENT DIVISION.
		ASSISTANT ADMININSTRATOR FOR PROCUREMENT.
		DIRECTOR, PROGRAM OPERATIONS DIVISION.
	OFFICE OF PROTECTIVE SERVICES	ASSISTANT ADMINISTRATOR FOR PROTECTIVE SERVICES.
		DEPUTY ASSISTANT ADMINISTRATOR FOR PROTECTIVE SERVICES.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR OF COUNTERINTELLIGENCE/COUNTER-TERRORISM FOR PROTECTIVE SERVICES.
	OFFICE OF STRATEGIC INFRA-STRUCTURE.	DIRECTOR, ENVIRONMENTAL MANAGEMENT DIVI-SION.
		DEPUTY ASSISTANT ADMINISTRATOR FOR STRA-TEGIC INFRASTRUCTURE.
		DIRECTOR, SPACE ENVIRONMENTS TESTING MAN-AGEMENT OFFICE.
		ASSISTANT ADMINISTRATOR FOR INFRASTRUCTURE AND ADMININSTRATION.
		DIRECTOR, FACILITIES AND REAL ESTATE.
	OFFICE OF THE CHIEF ENGINEER ...	CHIEF ENGINEER.
		DEPUTY FOR MANAGEMENT.
	OFFICE OF THE CHIEF FINANCIAL OFFICER/COMPTROLLER.	DIRECTOR, POLICY DIVISION.
		DIRECTOR, BUDGET DIVISION.
		DIRECTOR, STRATEGIC INVESTMENT DIVISION.
		DIRECTOR, FINANCIAL MANAGEMENT DIVISION.
		DIRECTOR, QUALITY ASSURANCE.
		DEPUTY CHIEF FINANCIAL OFFICER (FINANCE).
		DEPUTY CHIEF FINANCIAL OFFICER (APPROPRIA-TIONS).
	OFFICE OF SAFETY AND MISSION ASSURANCE.	DIRECTOR, INDEPENDENT VERIFICATION AND VALI-DATION PROGRAM.
	OFFICE OF THE ADMINISTRATOR	WHITE HOUSE LIASION.
		DEPUTY ASSOCIATE ADMINISTRATOR.
		ASSOCIATE ADMINSTRATOR.
	OFFICE OF THE CHIEF FINANCIAL OFFICER/COMPTROLLER.	DEPUTY CHIEF FINANCIAL OFFICER FOR INTEGRA-TION.
		ASSOCIATE DEPUTY CHIEF FINANCIAL OFFICER (FI-NANCE).
		DEPUTY CHIEF FINANCIAL OFFICER (STRATEGY AND PERFORMANCE).
	GODDARD SPACE FLIGHT CENTER	ASSISTANT DIRECTOR FOR ADVANCED CONCEPTS.
		DEPUTY DIRECTOR FOR TECHNOLOGY AND RE-SEARCH INVESTMENTS.
		ASSOCIATE DIRECTOR.
		DEPUTY DIRECTOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION GODDARD SPACE FLIGHT CENTER.
	OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS.	DEPUTY ASSOCIATE ADMINISTRATOR FOR LEGISLA-TIVE AND INTERGOVERNMENTAL AFFAIRS.
	JOHNSON SPACE CENTER	DIRECTOR OF HUMAN RESOURCES.
		ASSOCIATE DIRECTOR, JOHNSON SPACE CENTER.
		DIRECTOR, EXTERNAL RELATIONS.
		DEPUTY DIRECTOR, JOHNSON SPACE CENTER.
		CHIEF FINANCIAL OFFICER.
		MANAGER, PROGRAM PLANNING AND CONTROL, MULTI-PURPOSE CREW VEHICLE.
		DEPUTY MANAGER, FLIGHT DEVELOPMENT & OPER-ATIONS, COMMERCIAL CREW PROGRAM.
		SPECIAL ASSISTANT TO THE CENTER DIRECTOR FOR ORGANIZATIONAL CHANGE.
	KENNEDY SPACE CENTER	MANAGER, COMMERCIAL CREW PROGRAM.
		CHIEF, EXPLORATION SYSTEMS AND OPERATIONS DI-VISION, ENGINEERING.
		CHIEF, LABORATORIES AND TEST FACILITIES DIVI-SION, ENGINEERING.
		CHIEF, TECHNICAL PERFORMANCE AND INTEGRA-TION DIVISION, ENGINEERING.
		CHIEF, EXPLORATION SYSTEMS AND OPERATIONS DI-VISION, ENGINEERING.
		ASSOCIATE MANAGER, TECHNICAL, GROUND SYS-TEMS DEVELOPMENT AND OPERATIONS PROGRAM.
		DEPUTY DIRECTOR, SAFETY AND MISSION ASSUR-ANCE.
		CHIEF, COMMERCIAL SYSTEMS DIVISION, ENGINEER-ING.
		ASSOCIATE DIRECTOR, ENGINEERING.
		DIRECTOR, ENGINEERING.
		DEPUTY DIRECTOR, JOHN F KENNEDY SPACE CEN-TER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	MARSHALL SPACE FLIGHT CENTER	ASSOCIATE DIRECTOR, JOHN F KENNEDY SPACE CENTER.
		CHIEF FINANCIAL OFFICER.
		DIRECTOR, PROCUREMENT OFFICE.
		DEPUTY DIRECTOR, ENGINEERING.
		DEPUTY MANAGER, LAUNCH SERVICES PROGRAM.
		MANAGER, GROUND SYSTEMS DEVELOPMENT AND OPERATIONS PROGRAM.
		DEPUTY MANAGER, GROUND PROCESSING DEVELOPMENT AND OPERATIONS PROGRAM.
		CHIEF, EXPLORATION SYSTEMS AND OPERATIONS DIVISION, ENGINEERING.
		DEPUTY DIRECTOR, SPACEPORT INTEGRATION AND SERVICES.
		CHIEF, COMMERCIAL SYSTEMS DIVISION, ENGINEERING.
		KENNEDY SPACE CENTER ASSOCIATE MANAGER, COMMERCIAL CREW PROGRAM.
		DEPUTY MANAGER, SCIENCE AND TECHNOLOGY OFFICE.
		MANAGER, SCIENCE & TECHNOLOGY OFFICE.
		ASSOCIATE MANAGER, SCIENCE AND TECHNOLOGY OFFICE.
		DEPUTY DIRECTOR, MICHOUD ASSEMBLY FACILITY.
		CHIEF ENGINEER, SPACE LAUNCH SYSTEM, ENGINEERING DIRECTORATE.
		SENIOR EXECUTIVE FOR TECHNOLOGY AND INTEGRATION, OFFICE OF THE CENTER DIRECTOR.
		DEPUTY CENTER DIRECTOR.
		DEPUTY DIRECTOR, ENTERPRISE INTEGRATION OFFICE, OFFICE OF THE CHIEF INFORMATION OFFICER.
		CHIEF ENGINEER, EXPLORATION SYSTEMS DEVELOPMENT, OFFICE OF THE CENTER DEPUTY DIRECTOR.
		MANAGER, AGENCY APPLICATIONS OFFICE, OFFICE OF THE CHIEF INFORMATION OFFICER.
		MANAGER, PROGRAM PLANNING AND CONTROL OFFICE, SPACE LAUNCH SYSTEM PROGRAM OFFICE.
		ASSOCIATE PROGRAM MANAGER, SPACE LAUNCH SYSTEM PROGRAM OFFICE.
		MANAGER, OFFICE OF THE CHIEF FINANCIAL OFFICER.
		MANAGER, CHIEF ENGINEERS OFFICE, ENGINEERING DIRECTORATE.
		SPACE LAUNCH SYSTEM CHIEF SAFETY OFFICER, SAFETY & MISSION ASSURANCE DIRECTORATE.
		INTERNATIONAL SPACE STATION COST ACCOUNT MANAGER.
		MANAGER, SYSTEMS ENGINEERING AND INTEGRATION OFFICE, SPACE LAUNCH SYSTEM PROGRAM OFFICE.
		MANAGER, HUMAN EXPLORATION DEVELOPMENT AND OPERATIONS OFFICE.
		DEPUTY MANAGER, HUMAN EXPLORATION DEVELOPMENT AND OPERATIONS OFFICE.
		DEPUTY DIRECTOR, ENGINEERING DIRECTORATE.
		DEPUTY DIRECTOR, SPACE SYSTEMS DEPARTMENT, ENGINEERING DIRECTORATE.
		DIRECTOR, SPACE SYSTEMS DEPARTMENT, ENGINEERING DIRECTORATE.
		DIRECTOR, MATERIELS AND PROCESSES LABORATORY, ENGINEERING DIRECTORATE.
		DIRECTOR, PROPULSION SYSTEMS DEPARTMENT, ENGINEERING DIRECTORATE.
		DEPUTY DIRECTOR, PROPULSION SYSTEMS DEPARTMENT, ENGINEERING DIRECTORATE.
		DIRECTOR, TEST LABORATORY, ENGINEERING DIRECTORATE.
		DIRECTOR, SPACECRAFT AND VEHICLE SYSTEMS DEPARTMENT, ENGINEERING DIRECTORATE.
		DEPUTY DIRECTOR, SPACECRAFT AND VEHICLE SYSTEMS DEPARTMENT, ENGINEERING DIRECTORATE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SPECIAL ASSISTANT TO THE DIRECTOR, OFFICE OF HUMAN CAPITAL.
		DIRECTOR, OFFICE OF HUMAN CAPITAL.
		DIRECTOR, OFFICE OF THE CHIEF INFORMATION OFFICER.
		DIRECTOR, OFFICE OF STRATEGIC ANALYSIS AND COMMUNICATIONS.
		ASSOCIATE CENTER DIRECTOR, TECHNICAL.
		ASSOCIATE DIRECTOR FOR TECHNICAL OPERATIONS, ENGINEERING DIRECTORATE.
		DIRECTOR, MICHOUD ASSEMBLY FACILITY.
		DEPUTY MANAGER, CHIEF ENGINEERS OFFICE, ENGINEERING DIRECTORATE.
		ASSOCIATE DIRECTOR FOR OPERATIONS, ENGINEERING DIRECTORATE.
		DIRECTOR, OFFICE OF CENTER OPERATIONS.
		MANAGER, SPACE LAUNCH SYSTEM PROGRAM OFFICE.
		DEPUTY MANAGER, SPACE LAUNCH SYSTEM PROGRAM OFFICE.
		MANAGER, ENGINES OFFICE, SPACE LAUNCH SYSTEM PROGRAM OFFICE.
		MANAGER, STAGES OFFICE, SPACE LAUNCH SYSTEM PROGRAM OFFICE.
		MANAGER, BOOSTERS OFFICE, SPACE LAUNCH SYSTEM PROGRAM OFFICE.
		DEPUTY DIRECTOR, SAFETY AND MISSION ASSURANCE DIRECTORATE.
		DIRECTOR, OFFICE OF PROCUREMENT.
		DIRECTOR, SAFETY AND MISSION ASSURANCE DIRECTORATE.
		ASSOCIATE CENTER DIRECTOR.
		DIRECTOR, ENGINEERING DIRECTORATE.
		DEPUTY DIRECTOR, OFFICE OF CENTER OPERATIONS.
	STENNIS SPACE CENTER	DIRECTOR, ENGINEERING AND SCIENCE DIRECTORATE.
		DIRECTOR, CENTER OPERATIONS DIRECTORATE.
		DIRECTOR, OFFICE OF SAFETY AND MISSION ASSURANCE.
		DEPUTY DIRECTOR, ENGINEERING AND TEST DIRECTORATE.
		CHIEF FINANCIAL OFFICER.
		ASSOCIATE DIRECTOR.
		DEPUTY DIRECTOR, STENNIS SPACE CENTER.
	AERONAUTICS RESEARCH MISSION DIRECTORATE.	DEPUTY ASSOCIATE ADMINISTRATOR FOR STRATEGY.
		DIRECTOR, PORTFOLIO ANALYSIS AND MANAGEMENT OFFICE.
		DIRECTOR OF ADVANCED AIR VEHICLES PROGRAM OFFICE.
		DIRECTOR FOR INTEGRATED AVIATION SYSTEMS PROGRAM.
		DIRECTOR OF AIRSPACE OPERATIONS AND SAFETY PROGRAM OFFICE.
		DIRECTOR OF TRANSFORMATIVE AERONAUTICS CONCEPTS PROGRAM OFFICE.
	CHIEF OF STAFF	ASSOCIATE ADMINISTRATOR, STRATEGY AND PLANS.
	HUMAN EXPLORATION AND OPERATIONS MISSION DIRECTORATE.	DIRECTOR, STRATEGIC INTEGRATION AND MANAGEMENT DIVISION.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR POLICY AND PLANS.
		DIRECTOR, PROGRAM AND STRATEGIC INTEGRATION OFFICE.
		DIRECTOR, SPACE LIFE AND PHYSICAL SCIENCES RESEARCH AND APPLICATIONS.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR HUMAN EXPLORATION AND OPERATIONS.
		ASTEROID REDIRECT MISSION, PROGRAM DIRECTOR.
		DIRECTOR, HUMAN RESEARCH PROGRAM.
		DIRECTOR, LAUNCH SERVICES OFFICE.
		DIRECTOR, NETWORK SERVICES.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, HUMAN SPACEFLIGHT CAPABILITIES DIVISION.
		ASSISTANT DEPUTY ASSOCIATE ADMINISTRATOR FOR EXPLORATION SYSTEMS DEVELOPMENT.
		DIRECTOR, RESOURCES MANAGEMENT OFFICE.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR EXPLORATION SYSTEMS DEVELOPMENT.
		DIRECTOR, COMMERCIAL SPACEFLIGHT DEVELOPMENT DIVISION.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR SPACE COMMUNICATIONS AND NAVIGATION.
		DIRECTOR, ADVANCED EXPLORATION SYSTEMS.
		DIRECTOR, INTERNATIONAL SPACE STATION.
		ASSISTANT DEPUTY ASSOCIATE ADMINISTRATOR FOR SPACE COMMUNICATIONS AND NAVIGATION.
		MANAGER, ROCKET PROPULSION TEST PROGRAM OFFICE.
	MISSION SUPPORT DIRECTORATE ..	DEPUTY ASSOCIATE ADMINISTRATOR FOR MISSION SUPPORT.
		BUSINESS SERVICES ASSESSMENT IMPLEMENTATION MANAGER.
		ASSISTANT ASSOCIATE ADMINISTRATOR FOR RESOURCES AND PERFORMANCE.
	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT OFFICE.	DEPUTY DIRECTOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT OFFICE.
	OFFICE OF EDUCATION	INFORMATION TECHNOLOGY MANAGER.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR EDUCATION.
	OFFICE OF SAFETY AND MISSION ASSURANCE.	DIRECTOR, MISSION SUPPORT DIVISION.
		CHIEF, SAFETY AND MISSION ASSURANCE OFFICER.
		DIRECTOR, SAFETY AND ASSURANCE REQUIREMENTS DIVISION.
		DIRECTOR, NASA SAFETY CENTER.
		DEPUTY CHIEF, SAFETY AND MISSION ASSURANCE OFFICER.
	OFFICE OF THE CHIEF ENGINEER ...	DEPUTY CHIEF ENGINEER.
		DEPUTY CHIEF ENGINEER FOR ENGINEERING INTEGRATION.
		HUMAN EXPLORATION AND OPERATIONS MISSION DIRECTORATE CHIEF ENGINEER.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	ASSOCIATE CHIEF INFORMATION OFFICER FOR ENTERPRISE SERVICE AND INTEGRATION DIVISION.
		DEPUTY CHIEF INFORMATION OFFICER FOR INFORMATION TECHNOLOGY SECURITY.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR CAPTIAL PLANNING AND GOVERNANCE.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR TECHNOLOGY AND INNOVATION, CHIEF TECHNOLOGY OFFICER.
		DEPUTY CHIEF INFORMATION OFFICER.
	OFFICE OF THE CHIEF SCIENTIST ...	CHIEF SCIENTIST.
		DEPUTY CHIEF SCIENTIST.
	OFFICE OF THE CHIEF TECHNOLOGIST.	DEPUTY CHIEF TECHNOLOGIST.
	SCIENCE MISSION DIRECTORATE ...	DEPUTY ASSOCIATE ADMINISTRATOR FOR RESEARCH.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR PROGRAMS.
		DIRECTOR, SCIENCE ENGAGEMENT AND PARTNERSHIPS.
		DEPUTY DIRECTOR, EARTH SCIENCE DIVISION.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR THE SCIENCE MISSION DIRECTORATE.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR MANAGEMENT.
	ARMSTRONG FLIGHT RESEARCH CENTER.	DEPUTY DIRECTOR, ARMSTRONG FLIGHT RESEARCH CENTER.
		DIRECTOR FOR MISSION INFORMATION AND TEST SYSTEMS.
		DIRECTOR FOR PROGRAMS.
		DIRECTOR FOR SAFETY AND MISSION ASSURANCE.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		CHIEF FINANCIAL OFFICER (FINANCIAL MANAGER).
		ASSOCIATE CENTER DIRECTOR.
		ASSISTANT DIRECTOR FOR STRATEGIC IMPLEMENTATION.
		DIRECTOR FOR FLIGHT OPERATIONS.
		DIRECTOR FOR MISSION SUPPORT.
		DIRECTOR FOR RESEARCH AND ENGINEERING.
	OFFICE INTERNATIONAL AND INTERAGENCY RELATIONS.	DIRECTOR, EXPORT CONTROL AND INTERAGENCY LIAISON DIVISION.
		DIRECTOR, ADVISORY COMMITTEE MANAGEMENT DIVISION.
		SPECIAL ADVISOR.
		DEPUTY DIRECTOR, EXPORT CONTROL AND INTERAGENCY LIAISON DIVISION.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR INTERNATIONAL AND INTERAGENCY RELATIONS.
		DIRECTOR, AERONAUTICS AND CROSS AGENCY SUPPORT DIVISION N.
		DIRECTOR, HUMAN EXPLORATION AND OPERATIONS DIVISION.
	OFFICE OF DIVERSITY AND EQUAL OPPORTUNITY.	DIRECTOR, COMPLAINTS MANAGEMENT DIVISION.
		DIRECTOR, PROGRAMS, PLANNING AND EVALUATION DIVISION.
	SPACE TECHNOLOGY MISSION DIRECTORATE.	DEPUTY ASSOCIATE ADMINISTRATOR.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR MANAGEMENT.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR PROGRAMS.
	COMMUNICATIONS AND INTELLIGENT SYSTEMS DIVISION.	CHIEF, COMMUNICATIONS AND INTELLIGENT SYSTEMS DIVISION.
	MATERIELS AND STRUCTURES DIVISION.	CHIEF, MATERIELS AND STRUCTURES DIVISION.
	PROPULSION DIVISION	CHIEF, PROPULSION DIVISION.
		DEPUTY CHIEF, PROPULSION DIVISION.
	SYSTEMS ENGINEERING AND ARCHITECTURE DIVISION.	CHIEF, SYSTEMS ENGINEERING AND ARCHITECTURE DIVISION.
		DEPUTY CHIEF, SYSTEMS ENGINEERING AND ARCHITECTURE DIVISION.
	SAFETY AND MISSION ASSURANCE	ASSISTANT TO THE DIRECTOR, SAFETY AND MISSION ASSURANCE.
		DEPUTY DIRECTOR, SAFETY AND MISSION ASSURANCE.
		DIRECTOR, SAFETY AND MISSION ASSURANCE.
	ASTROPHYSICS DIVISION	DIRECTOR, ASTROPHYSICS DIVISION.
		DEPUTY, DIRECTOR, ASTROPHYSICS DIVISION.
	EARTH SCIENCE DIVISION	DIRECTOR, EARTH SCIENCE DIVISION.
		PROGRAM DIRECTOR FOR FLIGHT PROGRAMS.
		PROGRAM DIRECTOR RESEARCH AND ANALYSIS PROGRAM.
	HELIOPHYSICS DIVISION	DEPUTY, DIRECTOR, HELIOPHYISCS DIVISION.
		DIRECTOR, HELIOPHYSICS DIVISION.
	JAMES WEBB SPACE TELESCOPE PROGRAM OFFICE.	DIRECTOR JAMES WEBB SPACE TELESCOPE PROGRAM.
	JOINT AGENCY SATELLITE DIVISION	DIRECTOR, JOINT AGENCY SATELLITE DIVISION.
		DEPUTY DIRECTOR JOINT AGENCY SATELLITE DIVISION.
	PLANETARY SCIENCE DIVISION	DEPUTY DIRECTOR, PLANETARY SCIENCE DIVISION.
		MARS EXPLORATION PROGRAM DIRECTOR.
		DIRECTOR, PLANETARY SCIENCE DIVISION.
	RESOURCES MANAGEMENT DIVISION.	DIRECTOR, RESOURCES MANAGEMENT DIVISION.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR MANAGEMENT.
	STRATEGIC INTEGRATION AND MANAGEMENT DIVISION.	DIRECTOR, STRATEGIC INTEGRATION AND MANAGEMENT DIVISION.
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	DEPUTY INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		ASSISTANT INSPECTOR GENERAL FOR AUDITING.
		COUNSEL TO THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND PLANNING.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.	CONGRESSIONAL AFFAIRS STAFF ..	DIRECTOR, CONGRESSIONAL AND LEGISLATIVE AFFAIRS.
	GENERAL COUNSEL	GENERAL COUNSEL.
	OFFICE OF HUMAN CAPITAL	CHIEF HUMAN CAPITAL OFFICER.
	OFFICE OF INNOVATION	CHIEF INNOVATION OFFICER.
	OFFICE OF THE CHIEF OF MANAGEMENT AND ADMINISTRATION.	CHIEF ACQUISITION OFFICER.
		CHIEF OF MANAGEMENT AND ADMINISTRATION.
	OFFICE OF THE CHIEF OF STAFF	CHIEF OF STAFF.
	OFFICE OF THE CHIEF OPERATING OFFICER.	CHIEF OPERATING OFFICER.
	OFFICE OF PRESIDENTIAL LIBRARIES.	DEPUTY FOR PRESIDENTIAL LIBRARIES.
	ARCHIVIST OF THE UNITED STATES AND DEPUTY ARCHIVIST OF THE UNITED STATES.	DEPUTY ARCHIVIST OF THE UNITED STATES.
	AGENCY SERVICES	DIRECTOR, RECORDS CENTER PROGRAMS.
		DIRECTOR, OFFICE OF GOVERNMENT INFORMATION SERVICES.
		AGENCY SERVICES EXECUTIVE.
		DIRECTOR, NATIONAL DECLASSIFICATION CENTER.
		DIRECTOR, INFORMATION SECURITY OVERSIGHT OFFICE.
		DIRECTOR, NATIONAL PERSONNEL RECORDS CENTER.
		CHIEF RECORDS OFFICER.
	BUSINESS SUPPORT SERVICES	CHIEF FINANCIAL OFFICER.
		BUSINESS SUPPORT SERVICES EXECUTIVE.
	INFORMATION SERVICES	INFORMATION SERVICES EXECUTIVE/CHIEF INFORMATION OFFICER.
		CHIEF TECHNOLOGY OFFICER.
	LEGISLATIVE ARCHIVES, PRESIDENTIAL LIBRARIES AND MUSEUM SERVICES.	LEGISLATIVE ARCHIVES, PRESIDENTIAL LIBRARIES AND MUSEUM SERVICES EXECUTIVE.
	OFFICE OF THE FEDERAL REGISTER.	DIRECTOR OF THE FEDERAL REGISTER.
	RESEARCH SERVICES	DIRECTOR, PRESERVATION PROGRAMS.
		RESEARCH SERVICES EXECUTIVE.
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	NATIONAL ARCHIVES AND RECORDS ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	ASSISTANT INSPECTOR GENERAL FOR AUDITING.
		INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
NATIONAL CAPITAL PLANNING COMMISSION.	NATIONAL CAPITAL PLANNING COMMISSION STAFF.	EXECUTIVE DIRECTOR.
		CHIEF OPERATING OFFICER.
		GENERAL COUNSEL.
		DEPUTY EXECUTIVE DIRECTOR.
NATIONAL ENDOWMENT FOR THE ARTS.	NATIONAL ENDOWMENT FOR THE ARTS.	DEPUTY CHAIRMAN FOR MANAGEMENT AND BUDGET.
		DIRECTOR , RESEARCH AND ANALYSIS.
		CHIEF INFORMATION OFFICER.
NATIONAL ENDOWMENT FOR THE ARTS OFFICE OF THE INSPECTOR GENERAL.	NATIONAL ENDOWMENT FOR THE ARTS OFFICE OF THE INSPECTOR GENERAL.	INSPECTOR GENERAL.
NATIONAL ENDOWMENT FOR THE HUMANITIES.	NATIONAL ENDOWMENT FOR THE HUMANITIES.	ASSISTANT CHAIRMAN FOR PLANNING AND OPERATIONS.
NATIONAL LABOR RELATIONS BOARD.	NATIONAL LABOR RELATIONS BOARD.	DEPUTY ASSOCIATE GENERAL COUNSEL, DIVISION OF ENFORCEMENT LITIGATION.
	REGIONAL OFFICES	REGIONAL DIRECTOR, REGION 10, ATLANTA, GEORGIA.
		REGIONAL DIRECTOR, REGION 2, NEW YORK.
		REGIONAL DIRECTOR, REGION 3, BUFFALO, NEW YORK.
		REGIONAL DIRECTOR, REGION 4, PHILADELPHIA, PENNSYLVANIA.
		REGIONAL DIRECTOR, REGION 5, BALTIMORE, MARYLAND.
		REGIONAL DIRECTOR, REGION 6, PITTSBURGH, PENNSYLVANIA.
		REGIONAL DIRECTOR, REGION 7, DETROIT, MICHIGAN.
		REGIONAL DIRECTOR, REGION 8, CLEVELAND, OHIO.
		REGIONAL DIRECTOR, REGION 9, CINCINNATI, OHIO.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		REGIONAL DIRECTOR, REGION 11, WINSTON SALEM, NORTH CAROLINA.
		REGIONAL DIRECTOR, REGION 13, CHICAGO, ILLINOIS.
		REGIONAL DIRECTOR, REGION 14, SAINT LOUIS, MISSOURI.
		REGIONAL DIRECTOR, REGION 15, NEW ORLEANS, LOUISIANA.
		REGIONAL DIRECTOR, REGION 16, FORT WORTH, TEXAS.
		REGIONAL DIRECTOR, REGION 17, KANSAS CITY, KANSAS.
		REGIONAL DIRECTOR, REGION 18, MINNEAPOLIS, MINNESOTA.
		REGIONAL DIRECTOR, REGION 19, SEATTLE, WASHINGTON.
		REGIONAL DIRECTOR, REGION 20, SAN FRANCISCO, CALIFORNIA.
		REGIONAL DIRECTOR, REGION 21, LOS ANGELES, CALIFORNIA.
		REGIONAL DIRECTOR, REGION 22, NEWARK, NEW JERSEY.
		REGIONAL DIRECTOR, REGION 24, HATO REY, PUERTO RICO.
		REGIONAL DIRECTOR, REGION 25, INDIANAPOLIS, INDIANA.
		REGIONAL DIRECTOR, REGION 26, MEMPHIS, TENNESSEE.
		REGIONAL DIRECTOR, REGION 1, BOSTON, MASSACHUSETTS.
		REGIONAL DIRECTOR, REGION 28, PHOENIX, ARIZONA.
		REGIONAL DIRECTOR, REGION 29, BROOKLYN, NEW YORK.
		REGIONAL DIRECTOR, REGION 30, MILWAUKEE, WISCONSIN.
		REGIONAL DIRECTOR, REGION 32, OAKLAND, CALFORNIA.
		REGIONAL DIRECTOR, REGION 31, LOS ANGELES, CALIFORNIA.
		REGIONAL DIRECTOR, REGION 27, DENVER, COLORADO.
	OFFICE OF THE BOARD MEMBERS ..	CHIEF INFORMATION OFFICER.
		EXECUTIVE SECRETARY.
		DEPUTY EXECUTIVE SECRETARY.
		REGIONAL DIRECTOR, REGION 12, TAMPA, FLORIDA.
		DEPUTY CHIEF COUNSEL.
		INSPECTOR GENERAL.
	OFFICE OF THE GENERAL COUNSEL.	ASSOCIATE GENERAL COUNSEL (DESIGNATED AGENCY ETHICS OFFICIAL).
	DIVISION OF ADMINISTRATION	DIRECTOR OF ADMINISTRATION.
		DIRECTOR, DIVISION OF ADMINISTRATION.
	DIVISION OF ADVICE	DEPUTY ASSOCIATE GENERAL COUNSEL, DIVISION OF ADVICE.
		ASSOCIATE GENERAL COUNSEL, DIVISION OF LEGAL COUNSEL.
	DIVISION OF ENFORCEMENT LITIGATION.	DIRECTOR, OFFICE OF APPEALS.
		DEPUTY ASSOCIATE GENERAL COUNSEL, APPELLATE COURT BRANCH.
	DIVISION OF OPERATIONS MANAGEMENT.	ASSOCIATE TO THE GENERAL COUNSEL, DIVISION OF OPERATION—MANAGEMENT.
		DEPUTY ASSOCIATE GENERAL COUNSEL, DIVISION OF OPERATIONS—MANAGEMENT.
		ASSISTANT TO GENERAL COUNSEL (2).
		ASSISTANT GENERAL COUNSEL (2).
NATIONAL SCIENCE FOUNDATION	DIVISION OF ENGINEERING EDUCATION AND CENTERS.	DEPUTY DIVISION DIRECTOR.
	DIVISION OF INDUSTRIAL INNOVATION AND PARTNERSHIPS.	DEPUTY DIVISION DIRECTOR.
	DIVISION OF ATMOSPHERIC AND GEOSPACE SCIENCES.	SECTION HEAD, NATIONAL CENTER FOR ATOMOSPHERIC RESEARCH/FACILITIES SECTION.
	DIVISION OF EARTH SCIENCES	SECTION HEAD, INTEGRATED ACTIVITIES SECTION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	DIVISION OF OCEAN SCIENCES	SECTION HEAD, INTERGRATIVE PROGRAMS SECTION.
	OFFICE OF POLAR PROGRAMS	HEAD, SECTION FOR ANTARCTIC INFRASTRUCTURE AND LOGISTIC.
	DIVISION OF ASTRONOMICAL SCIENCES.	DEPUTY DIVISION DIRECTOR.
	NATIONAL CENTER FOR SCIENCE AND ENGINEERING STATISTICS.	DIVISION DIRECTOR.
	DIRECTORATE FOR BIOLOGICAL SCIENCES.	DEPUTY ASSISTANT DIRECTOR.
	DIRECTORATE FOR COMPUTER AND INFORMATION SCIENCE AND ENGINEERING.	DEPUTY ASSISTANT DIRECTOR.
	DIRECTORATE FOR GEOSCIENCES	DEPUTY ASSISTANT DIRECTOR.
	DIRECTORATE FOR MATHEMATICAL AND PHYSICAL SCIENCES.	DEPUTY ASSISTANT DIRECTOR.
	DIRECTORATE FOR SOCIAL, BEHAVIORAL AND ECONOMIC SCIENCES.	DEPUTY ASSISTANT DIRECTOR.
	OFFICE OF BUDGET, FINANCE AND AWARD MANAGEMENT.	CHIEF FINANCIAL OFFICER AND HEAD, OFFICE OF BUDGET, FINANCE AND AWARD MANAGEMENT.
		DEPUTY OFFICE HEAD.
	OFFICE OF INFORMATION AND RESOURCE MANAGEMENT.	DEPUTY OFFICE HEAD.
		HEAD, OFFICE OF INFORMATION AND RESOURCE MANAGEMENT AND CHIEF HUMAN CAPITAL OFFICER.
	OFFICE OF THE DIRECTOR	CHIEF TECHNOLOGY OFFICER.
		SENIOR ADVISOR.
	BUDGET DIVISION	DIVISION DIRECTOR (2).
		DEPUTY DIRECTOR.
	DIVISION OF ACQUISITION AND COOPERATIVE SUPPORT.	DIVISION DIRECTOR.
	DIVISION OF FINANCIAL MANAGEMENT.	DEPUTY CHIEF FINANCIAL OFFICER AND DIVISION DIRECTOR.
		CONTROLLER AND DEPUTY DIVISION DIRECTOR.
	DIVISION OF GRANTS AND AGREEMENTS.	DIVISION DIRECTOR.
	DIVISION OF INSTITUTIONAL AND AWARD SUPPORT.	DIVISION DIRECTOR.
		DEPUTY DIVISION DIRECTOR.
	DIVISION OF ADMINISTRATIVE SERVICES.	DIVISION DIRECTOR.
		DEPUTY DIVISION DIRECTOR.
	DIVISION OF HUMAN RESOURCE MANAGEMENT.	DEPUTY DIVISION DIRECTOR.
		DIVISION DIRECTOR.
		DEPUTY DIVISION DIRECTOR.
	DIVISION OF INFORMATION SYSTEMS.	DEPUTY DIVISION DIRECTOR.
	OFFICE OF THE DIVERSITY AND INCLUSION.	OFFICE HEAD.
	OFFICE OF THE GENERAL COUNSEL.	DEPUTY GENERAL COUNSEL.
NATIONAL SCIENCE FOUNDATION OFFICE OF THE INSPECTOR GENERAL.	NATIONAL SCIENCE FOUNDATION OFFICE OF THE INSPECTOR GENERAL.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS/CHIEF INFORMATION OFFICER TO THE OFFICE OF THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT, LEGAL AND EXTERNAL AFFAIRS.
		DEPUTY INSPECTOR GENERAL.
NATIONAL TRANSPORTATION SAFETY BOARD.	OFFICE OF CHIEF FINANCIAL OFFICER.	CHIEF FINANCIAL OFFICER.
	OFFICE OF SAFETY RECOMMENDATIONS AND COMMUNICATIONS.	DEPUTY DIRECTOR, OFFICE OF SAFETY RECOMMENDATIONS AND COMMUNICATIONS.
	OFFICE OF ADMINISTRATION	DEPUTY MANAGING DIRECTOR.
		DEPUTY MANAGING DIRECTOR.
	NATIONAL TRANSPORTATION SAFETY BOARD.	DIRECTOR, OFFICE OF ADMINISTRATION.
	OFFICE OF AVIATION SAFETY	DEPUTY DIRECTOR, REGIONAL OPERATIONS.
		DIRECTOR OFFICE OF AVIATION SAFETY.
		DEPUTY DIRECTOR, OFFICE OF AVIATION SAFETY.
	OFFICE OF CHIEF INFORMATION OFFICER.	CHIEF INFORMATION OFFICER.
	OFFICE OF HIGHWAY SAFETY	DIRECTOR, OFFICE OF HIGHWAY SAFETY.
	OFFICE OF MARINE SAFETY	DIRECTOR, OFFICE OF MARINE SAFETY.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF RAILROAD, PIPELINE AND HAZARDOUS MATERIELS INVESTIGATIONS.	DIRECTOR, OFFICE OF RAILROAD, PIPELINE AND HAZARDOUS MATERIELS INVESTIGATIONS.
		DEPUTY DIRECTOR, OFFICE OF RAILROAD, PIPELINE AND HAZARDOUS MATERIELS SAFETY.
	OFFICE OF RESEARCH AND ENGINEERING.	DEPUTY DIRECTOR, OFFICE OF RESEARCH AND ENGINEERING.
		DIRECTOR OFFICE OF RESEARCH AND ENGINEERING.
NUCLEAR REGULATORY COMMISSION.	OFFICE OF ADMINISTRATION	DIRECTOR, ACQUISITION MANAGEMENT DIVISION.
		DEPUTY DIRECTOR, OFFICE OF ADMINISTRATION.
		DIRECTOR, DIVISION OF FACILITIES AND SECURITY.
	OFFICE OF COMMISSION APPELLATE ADJUDICATION.	DIRECTOR, OFFICE OF COMMISSION APPELLATE ADJUDICATION.
	OFFICE OF NEW REACTORS	DEPUTY DIRECTOR, DIVISION OF CONSTRUCTION INSPECTION AND OPERATIONAL PROGRAMS.
		DIRECTOR, DIVISION OF ENGINEERING, INFRASTRUCTURE, AND ADVANCED REACTORS.
		DEPUTY DIRECTOR, DIVISION OF ENGINEERING, INFRASTRUCTURE, AND ADVANCED REACTORS.
		DEPUTY DIRECTOR, DIVISION OF NEW REACTOR LICENSING.
		DEPUTY DIRECTOR, OFFICE OF NEW REACTORS.
		DIRECTOR, DIVISION OF NEW REACTOR LICENSING.
		DIRECTOR, DIVISION OF SITE SAFETY AND ENVIRONMENTAL ANALYSIS.
		DEPUTY DIRECTOR, DIVISION OF SITE SAFETY AND ENVIRONMENTAL ANALYSIS.
		DIRECTOR, DIVISION OF SAFETY SYSTEMS AND RISK ASSESSMENT.
		DEPUTY DIRECTOR, DIVISION OF SAFETY SYSTEMS AND RISK ASSESSMENT.
		DEPUTY DIRECTOR, DIVISION OF ENGINEERING, INFRASTRUCTURE, AND ADVANCED REACTORS.
		DIRECTOR, DIVISION OF CONSTRUCTION INSPECTION AND OPERATIONAL PROGRAMS.
	OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS.	DEPUTY DIRECTOR, DIVISION OF MATERIELS SAFETY, STATE, TRIBAL, AND RULEMAKING PROGRAMS.
		DIRECTOR, DIVISION OF FUEL CYCLE SAFETY, SAFEGUARDS, AND ENVIRONMENTAL REVIEW.
		DIRECTOR, DIVISION OF MATERIELS SAFETY, STATE, TRIBAL, AND RULEMAKING PROGRAMS.
		DEPUTY DIRECTOR, DIVISION OF FUEL CYCLE SAFETY, SAFEGUARDS, AND ENVIRONMENTAL REVIEW.
		DEPUTY DIRECTOR, DIVISION OF SPENT FUEL MANAGEMENT.
		DIRECTOR, DIVISION OF DECOMMISSIONING, URANIUM RECOVERY, AND WASTE PROGRAMS.
		DEPUTY DIRECTOR, DIVISION OF DECOMMISSIONING, URANIUM RECOVERY, AND WASTE PROGRAMS.
		DIRECTOR, DIVISION OF RULEMAKING.
	OFFICE OF NUCLEAR REACTOR REGULATION.	DEPUTY DIRECTOR FOR ENGINEERING.
		DEPUTY DIRECTOR, DIVISION OF RISK ASSESSMENT.
		DIRECTOR, DIVISION OF SAFETY SYSTEMS.
		DEPUTY DIRECTOR, DIVISION OF SAFETY SYSTEMS.
		DEPUTY DIRECTOR, DIVISION OF LICENSING PROJECTS.
		DIRECTOR, DIVISION OF MATERIELS AND LICENSE RENEWAL.
		DEPUTY DIRECTOR, DIVISION OF INSPECTION AND REGIONAL SUPPORT.
		DEPUTY DIRECTOR FOR REACTOR SAFETY PROGRAMS AND MISSION SUPPORT.
		DEPUTY DIRECTOR, DIVISION OF ENGINEERING.
		DEPUTY DIRECTOR, DIVISION OF MATERIELS AND LICENSE RENEWAL.
		DIRECTOR, DIVISION OF OPERATING REACTOR LICENSING.
		DEPUTY DIRECTOR, DIVISION OF OPERATING REACTOR LICENSING.
		DEPUTY DIRECTOR, DIVISION OF OPERATING REACTOR LICENSING.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, DIVISION OF INSPECTION AND REGIONAL SUPPORT.
		DIRECTOR, DIVISION OF RISK ASSESSMENT.
		DIRECTOR, DIVISION OF LICENSING PROJECTS.
		DIRECTOR, DIVISION OF ENGINEERING.
	OFFICE OF NUCLEAR REGULATORY RESEARCH.	DEPUTY DIRECTOR, DIVISION OF RISK ANALYSIS.
		DIRECTOR, DIVISION OF RISK ANALYSIS.
		DEPUTY DIRECTOR, DIVISION OF SYSTEMS ANALYSIS.
		DIRECTOR, DIVISION OF SYSTEMS ANALYSIS.
		DIRECTOR, DIVISION OF ENGINEERING.
		DEPUTY DIRECTOR, DIVISION OF ENGINEERING.
	OFFICE OF NUCLEAR SECURITY AND INCIDENT RESPONSE.	DEPUTY DIRECTOR, OFFICE OF NUCLEAR SECURITY AND INCIDENT RESPONSE.
		DEPUTY DIRECTOR, DIVISION OF PREPAREDNESS AND RESPONSE.
		DEPUTY DIRECTOR, DIVISION OF SECURITY OPERATIONS.
		DEPUTY DIRECTOR, DIVISION OF PHYSICAL AND CYBER SECURITY POLICY.
		DIRECTOR, DIVISION OF PREPAREDNESS AND RESPONSE.
		DIRECTOR, DIVISION OF SECURITY OPERATIONS.
		DIRECTOR, DIVISION OF PHYSICAL AND CYBER SECURITY POLICY.
	OFFICE OF SMALL BUSINESS AND CIVIL RIGHTS.	DIRECTOR, OFFICE OF SMALL BUSINESS AND CIVIL RIGHTS.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	CONTROLLER.
		DEPUTY CHIEF FINANICAL OFFICER.
		BUDGET DIRECTOR.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	DIRECTOR FOR TRANSFORMATIONAL ORGANIZATION.
		SPECIAL ASSISTANT.
		DIRECTOR, GOVERNANCE AND ENTERPRISE MANAGEMENT SERVICES DIVISION.
		DIRECTOR, CUSTOMER SERVICE DIVISION.
		DIRECTOR, INFORMATION TECHNOLOGY SERVICES DEVELOPMENT AND OPERATIONS DIVISION.
	REGION I	DEPUTY DIRECTOR, DIVISION OF REACTOR PROJECTS.
		DIRECTOR, DIVISION OF NUCLEAR MATERIELS SAFETY.
		DEPUTY DIRECTOR, DIVISION OF REACTOR SAFETY.
		DIRECTOR DIVISION OF REACTOR SAFETY.
		DIRECTOR, DIVISION OF REACTOR PROJECTS.
		DEPUTY REGIONAL ADMINISTRATOR.
	REGION II	DIRECTOR, DIVISION OF FUEL FACILITY INSPECTION.
		DIRECTOR, DIVISION OF REACTOR PROJECTS.
		DEPUTY DIRECTOR, DIVISION OF REACTOR PROJECTS.
		DIRECTOR, DIVISION OF REACTOR SAFETY.
		DEPUTY REGIONAL ADMINISTRATOR.
		DIRECTOR, DIVISION OF CONSTRUCTION OVERSIGHT.
		DIRECTOR, DIVISION OF CONSTRUCTION INSPECTION.
		DEPUTY DIRECTOR, DIVISION OF CONSTRUCTION INSPECTION.
		DEPUTY DIRECTOR, DIVISION OF REACTOR SAFETY.
	REGION III	DIRECTOR, DIVISION OF REACTOR PROJECTS.
		DIRECTOR, DIVISION OF NUCLEAR MATERIELS SAFETY.
		DEPUTY DIRECTOR, DIVISION OF REACTOR PROJECTS.
		DEPUTY DIRECTOR, DIVISION OF REACTOR SAFETY.
		DEPUTY REGIONAL ADMINISTRATOR.
		DIRECTOR, DIVISION OF REACTOR SAFETY.
	REGION IV	DEPUTY DIRECTOR, DIVISION OF REACTOR PROJECTS.
		DIRECTOR DIVISION OF REACTOR PROJECTS.
		DIRECTOR, DIVISION OF NUCLEAR MATERIELS SAFETY.
		DEPUTY REGIONAL ADMINISTRATOR.
		DEPUTY DIRECTOR, DIVISION OF REACTOR SAFETY.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, DIVISION OF REACTOR SAFETY.
	DIVISION OF SPENT FUEL MANAGEMENT.	DIRECTOR, DIVISION OF SPENT FUEL MANAGEMENT.
	DIVISION OF LICENSE RENEWAL	DIRECTOR, DIVISION OF LICENSE RENEWAL.
	DIVISION OF POLICY AND RULEMAKING.	DEPUTY DIRECTOR, DIVISION OF POLICY AND RULEMAKING.
	CYBER SECURITY DIRECTORATE	DIRECTOR, CYBER SECURITY DIRECTORATE.
NUCLEAR REGULATORY COMMISSION OFFICE OF THE INSPECTOR GENERAL.	NUCLEAR REGULATORY COMMISSION OFFICE OF THE INSPECTOR GENERAL.	DEPUTY INSPECTOR GENERAL.
	ASSISTANT INSPECTOR GENERAL FOR AUDITS.	ASSISTANT INSPECTOR GENERAL FOR AUDITS.
	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.	OFFICE OF THE EXECUTIVE DIRECTOR.	EXECUTIVE DIRECTOR.
OFFICE OF GOVERNMENT ETHICS	OFFICE OF GOVERNMENT ETHICS	DEPUTY GENERAL COUNSEL.
		CHIEF OF STAFF AND PROGRAM COUNSEL.
		DEPUTY DIRECTOR FOR INTERNAL OPERATIONS DIVISION.
		DEPUTY DIRECTOR FOR COMPLIANCE.
OFFICE OF MANAGEMENT AND BUDGET.	HOUSING, TREASURY AND COMMERCE DIVISION.	CHIEF, HOUSING BRANCH.
		CHIEF, COMMERCE BRANCH.
		DEPUTY ASSOCIATE DIRECTOR FOR HOUSING, TREASURY AND COMMERCE.
		CHIEF, TREASURY BRANCH.
	TRANSPORTATION, HOMELAND, JUSTICE AND SERVICES DIVISION.	CHIEF, JUSTICE BRANCH.
		CHIEF, TRANSPORTATION/GENERAL SERVICES ADMINISTRATION BRANCH.
		CHIEF, HOMELAND SECURITY BRANCH.
		DEPUTY ASSOCIATE DIRECTOR, TRANSPORTATION, HOMELAND, JUSTICE AND SERVICES.
	HEALTH DIVISION	CHIEF, HEALTH INSURANCE AND DATA ANALYSIS BRANCH.
		DEPUTY ASSOCIATE DIRECTOR FOR HEALTH.
		CHIEF, MEDICARE BRANCH.
		CHIEF, MEDICAID BRANCH.
		CHIEF, PUBLIC HEALTH BRANCH.
		CHIEF, HEALTH AND HUMAN SERVICES BRANCH.
	INTERNATIONAL AFFAIRS DIVISION	CHIEF, STATE/UNITED STATES INFORMATION AGENCY BRANCH.
		DEPUTY ASSOCIATE DIRECTOR FOR INTERNATIONAL AFFAIRS.
		CHIEF, ECONOMIC AFFAIRS BRANCH.
	NATIONAL SECURITY DIVISION	CHIEF, FORCE STRUCTURE AND INVESTMENT BRANCH.
		CHIEF, VETERANS AFFAIRS AND DEFENSE HEALTH BRANCH.
		CHIEF, COMMAND, CONTROL, COMMUNICATION, COMPUTERS, AND INTELLIGENCE BRANCH.
		CHIEF OPERATIONS AND SUPPORT BRANCH.
		DEPUTY ASSOCIATE DIRECTOR FOR NATIONAL SECURITY.
	ENERGY, SCIENCE AND WATER DIVISION.	CHIEF SCIENCE AND SPACE PROGRAMS BRANCH.
		CHIEF, WATER AND POWER BRANCH.
		DEPUTY ASSOCIATE DIRECTOR FOR ENERGY, SCIENCE, AND WATER DIVISION.
		CHIEF, ENERGY BRANCH.
	NATURAL RESOURCES DIVISION	CHIEF, AGRICULTURAL BRANCH.
		DEPUTY ASSOCIATE DIRECTOR FOR NATURAL RESOURCES.
		CHIEF, ENVIRONMENT BRANCH.
		CHIEF, INTERIOR BRANCH.
	OFFICE OF E-GOVERNMENT AND INFORMATION TECHNOLOGY.	CHIEF, ARCHITECT.
	STAFF OFFICES	ASSISTANT DIRECTOR FOR MANAGEMENT AND OPERATIONS.
		DEPUTY ASSISTANT DIRECTOR FOR MANAGEMENT.
		DEPUTY ASSOCIATE DIRECTOR FOR ECONOMIC POLICY.
	BUDGET REVIEW	DEPUTY ASSISTANT DIRECTOR FOR BUDGET REVIEW.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY CHIEF, BUDGET REVIEW BRANCH.
		DEPUTY CHIEF, BUDGET ANALYSIS BRANCH.
		CHIEF, BUDGET CONCEPTS BRANCH.
		CHIEF, BUDGET ANALYSIS BRANCH.
		ASSISTANT DIRECTOR FOR BUDGET REVIEW.
		CHIEF, BUDGET REVIEW BRANCH.
		CHIEF, BUDGET SYSTEMS BRANCH.
	EDUCATION, INCOME MAINTENANCE AND LABOR PROGRAMS.	CHIEF, LABOR BRANCH.
		CHIEF, EDUCATION BRANCH.
		DEPUTY ASSOCIATE DIRECTOR FOR EDUCATION, INCOME MAINTAINENCE AND LABOR.
		CHIEF, INCOME MAINTENANCE BRANCH.
	LEGISLATIVE REFERENCE DIVISION	CHIEF, ECONOMICS, SCIENCE AND GOVERNMENT BRANCH.
		CHIEF, RESOURCES–DEFENSE–INTERNATIONAL BRANCH.
		CHIEF, HEALTH, EDUCATION, VETERANS, AND SOCIAL PROGRAMS BRANCH.
		ASSISTANT DIRECTOR LEGISLATIVE REFERENCE.
	OFFICE OF FEDERAL FINANCIAL MANAGEMENT.	CHIEF, FINANCIAL INTEGRITY AND RISK MANAGEMENT BRANCH.
	OFFICE OF FEDERAL PROCUREMENT POLICY.	ASSOCIATE ADMINISTRATOR.
		DEPUTY ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.
	OFFICE OF INFORMATION AND REGULATORY AFFAIRS.	CHIEF, STATISTICAL AND SCIENCE POLICY BRANCH.
		CHIEF, FOOD, HEALTH AND LABOR BRANCH.
		CHIEF, NATURAL RESOURCES AND ENVIRONMENT BRANCH.
		CHIEF, PRIVACY BRANCH.
		CHIEF, INFORMATION POLICY BRANCH.
OFFICE OF NATIONAL DRUG CONTROL POLICY.	OFFICE OF SUPPLY REDUCTION	ASSISTANT DEPUTY DIRECTOR OF SUPPLY REDUCTION.
		ASSOCIATE DIRECTOR FOR INTELLIGENCE.
OFFICE OF PERSONNEL MANAGEMENT.	FACILITIES, SECURITY AND EMERGENCY MANAGEMENT.	DIRECTOR, FACILITIES, SECURITY AND EMERGENCY MANAGEMENT.
	HEALTHCARE AND INSURANCE	ASSISTANT DIRECTOR, FEDERAL EMPLOYEE INSURANCE OPERATIONS.
		DEPUTY DIRECTOR, ACTUARY.
	MERIT SYSTEM ACCOUNTABILITY AND COMPLIANCE.	DEPUTY ASSOCIATE DIRECTOR, MERIT SYSTEM AUDIT AND COMPLIANCE.
	NATIONAL BACKGROUND INVESTIGATION BUREAU.	DEPUTY ASSISTANT DIRECTOR, OPERATIONS.
		DEPUTY ASSISTANT DIRECTOR, STRATEGIC SOURCING.
	OFFICE OF PROCUREMENT OPERATIONS.	DIRECTOR, OFFICE OF PROCUREMENT OPERATIONS.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	ASSOCIATE CHIEF FINANCIAL OFFICER FINANCIAL SERVICES.
		CHIEF FINANCIAL OFFICER.
		DEPUTY CHIEF FINANCIAL OFFICER.
		CHIEF FINANCIAL OFFICER AND DEPUTY CHIEF MANAGEMENT OFFICER.
	PLANNING AND POLICY ANALYSIS ..	DEPUTY DIRECTOR, ACTUARY.
	RETIREMENT SERVICES	ASSOCIATE DIRECTOR, RETIREMENT SERVICES.
		DEPUTY ASSOCIATE DIRECTOR, RETIREMENT OPERATIONS.
		DEPUTY ASSOCIATE DIRECTOR, RETIREMENT SERVICES.
OFFICE OF PERSONNEL MANAGEMENT, OFFICE OF THE INSPECTOR GENERAL.	OFFICE OF AUDITS	ASSISTANT INSPECTOR GENERAL FOR AUDITS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITS.
	OFFICE OF INVESTIGATIONS	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
	OFFICE OF LEGAL AFFAIRS	ASSISTANT INSPECTOR GENERAL FOR LEGAL AFFAIRS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF POLICY, RESOURCES MANAGEMENT, AND OVERSIGHT.	CHIEF INFORMATION TECHNOLOGY OFFICER.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
	OFFICE OF THE INSPECTOR GENERAL.	DEPUTY INSPECTOR GENERAL.
OFFICE OF SPECIAL COUNSEL	HEADQUARTERS, OFFICE OF SPECIAL COUNSEL.	CHIEF OPERATING OFFICER.
		ASSOCIATE SPECIAL COUNSEL FOR INVESTIGATION AND PROSECUTION.
		ASSOCIATE SPECIAL COUNSEL FOR GENERAL LAW DIVISION.
		ASSOCIATE SPECIAL COUNSEL FOR INVESTIGATION AND PROSECUTION.
		ASSOCIATE SPECIAL COUNSEL FOR INVESTIGATION AND PROSECUTION (HEADQUARTERS).
		DIRECTOR OF MANAGEMENT AND BUDGET.
		DIRECTOR, OFFICE OF PLANNING AND ANALYSIS.
		CHIEF FINANCIAL OFFICER AND DIRECTOR OF ADMINISTRATIVE SERVICES.
		SENIOR ASSOCIATE SPECIAL COUNSEL FOR INVESTIGATION AND PROSECUTION.
		ASSOCIATE SPECIAL COUNSEL FOR INVESTIGATION AND PROSECUTION.
		DIRECTOR OF MANAGEMENT AND BUDGET.
		ASSOCIATE SPECIAL COUNSEL FOR LEGAL COUNSEL AND POLICY.
	OFFICE OF SPECIAL COUNSEL	ASSOCIATE SPECIAL COUNSEL FOR INVESTIGATION AND PROSECUTION (FIELD OFFICES).
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.	INDUSTRY, MARKET ACCESS AND TELECOMMUNICATIONS.	ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR INDUSTRY, MARKET ACCESS AND TELECOMMUNICATIONS.
	LABOR	ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR LABOR.
	MONITORING AND ENFORCEMENT	DIRECTOR OF INTERAGENCY CENTER FOR TRADE IMPLEMENTATION, MONITORING, AND ENFORCEMENT.
	SOUTH ASIAN AFFAIRS	ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SOUTH ASAIN AFFAIRS.
RAILROAD RETIREMENT BOARD	BOARD STAFF	CHIEF OF TECHNOLOGY SERVICE.
		CHIEF ACTUARY.
		DIRECTOR OF FIELD SERVICE.
		DEPUTY GENERAL COUNSEL.
		CHIEF FINANCIAL OFFICER.
		GENERAL COUNSEL.
		DIRECTOR OF PROGRAMS.
		CHIEF INFORMATION OFFICER.
		DIRECTOR OF OPERATIONS.
		DIRECTOR OF FISCAL OPERATIONS.
		DIRECTOR OF ADMINISTRATION.
	OFFICE OF INSPECTOR GENERAL	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT.
SELECTIVE SERVICE SYSTEM	SELECTIVE SERVICE SYSTEM	ASSOCIATE DIRECTOR FOR OPERATIONS.
	OFFICE OF THE DIRECTOR	ASSOCIATE DIRECTOR FOR OPERATIONS.
		SENIOR ADVISOR TO THE DIRECTOR.
SMALL BUSINESS ADMINISTRATION	OFFICE OF INTERNATIONAL TRADE	DEPUTY ASSOCIATE ADMINISTRATOR FOR INTERNATIONAL TRADE.
	OFFICE OF INVESTMENT AND INNOVATION.	DEPUTY ASSOCIATE ADMINISTRATOR FOR INVESTMENT AND INNOVATION.
	OFFICE OF CAPITAL ACCESS	DIRECTOR FOR SURETY GUARANTEES.
		DIRECTOR OF ECONOMIC OPPORTUNITY.
	OFFICE OF ENTREPRENEURIAL DEVELOPMENT.	DEPUTY ASSOCIATE ADMINISTRATOR FOR ENTREPRENEURIAL DEVELOPMENT.
		ASSOCIATE ADMINISTRATOR FOR SMALL BUSINESS DEVELOPMENT CENTERS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF FIELD OPERATIONS	DISTRICT DIRECTOR (4).
		DISTRICT DIRECTOR WASHINGTON METRO AREA DISTRICT OFFICE.
		DISTRICT DIRECTOR NEW YORK.
		DISTRICT DIRECTOR.
	OFFICE OF GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT.	DIRECTOR FOR POLICY PLANNING AND LIAISON.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT.
		DIRECTOR OF HUBZONE.
	OFFICE OF HEARINGS AND APPEALS.	ASSISTANT ADMINISTRATOR FOR HEARINGS AND APPEALS.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DEPUTY CHIEF FINANCIAL OFFICER.
		CHIEF FINANCIAL OFFICER.
	OFFICE OF THE CHIEF OPERATING OFFICER.	DEPUTY CHIEF INFORMATION OFFICER.
		DEPUTY CHIEF HUMAN CAPITAL OFFICER.
		CHIEF HUMAN CAPITAL OFFICER.
	OFFICE OF THE GENERAL COUNSEL.	ASSOCIATE GENERAL COUNSEL FOR PROCUREMENT LAW.
		ASSOCIATE GENERAL COUNSEL FOR FINANCIAL LAW AND LENDER OVERSIGHT.
		ASSOCIATE GENERAL COUNSEL LITIGATION.
SMALL BUSINESS ADMINISTRATION, OFFICE OF THE INSPECTOR GENERAL.	SMALL BUSINESS SMALL BUSINESS ADMINISTRATION, OFFICE OF THE INSPECTOR GENERAL.	ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND POLICY.
		COUNSEL TO THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR AUDITING DIVISION.
SOCIAL SECURITY ADMINISTRATION	OFFICE OF ACQUISITION AND GRANTS.	DEPUTY ASSOCIATE COMMISSIONER FOR ACQUISITION AND GRANTS.
		ASSOCIATE COMMISSIONER FOR ACQUISITION AND GRANTS.
	OFFICE OF ANTI-FRAUD PROGRAMS	ASSOCIATE COMMISSIONER FOR ANTI-FRAUD PROGRAMS.
	OFFICE OF BUDGET	ASSOCIATE COMMISSIONER FOR BUDGET.
		DEPUTY ASSOCIATE COMMISSIONER FOR BUDGET.
	OFFICE OF FINANCIAL POLICY AND OPERATIONS.	DEPUTY ASSOCIATE COMMISSIONER FINANCIAL POLICY AND OPERATIONS.
		ASSOCIATE COMMISSIONER, OFFICE OF FINANCE POLICY AND OPERATIONS.
	OFFICE OF APPELLATE OPERATIONS.	DEPUTY EXECUTIVE DIRECTOR, OFFICE OF APPELLATE OPERATIONS.
		EXECUTIVE DIRECTOR, OFFICE OF APPELLATE OPERATIONS.
	OFFICE OF CIVIL RIGHTS AND EQUAL OPPORTUNITY.	ASSOCIATE COMMISSIONER FOR CIVIL RIGHTS AND EQUAL OPPORTUNITY.
		DEPUTY ASSOCIATE COMMISSIONER FOR CIVIL RIGHTS AND EQUAL OPPORTUNITY.
	OFFICE OF LABOR-MANAGEMENT AND EMPLOYEE RELATIONS.	DEPUTY ASSOCIATE COMMISSIONER FOR LABOR-MANAGEMENT AND EMPLOYEE RELATIONS.
		ASSOCIATE COMMISSIONER FOR LABOR–MANAGEMENT AND EMPLOYEE RELATIONS.
	OFFICE OF PERSONNEL	DEPUTY ASSOCIATE COMMISSIONER FOR PERSONNEL.
		ASSOCIATE COMMISSIONER FOR PERSONNEL.
	OFFICE OF DISABILITY DETERMINATIONS.	ASSOCIATE COMMISSIONER FOR DISABILITY DETERMINATIONS.
	OFFICE OF INFORMATION SECURITY.	ASSOCIATE COMMISSIONER FOR INFORMATION SECURITY.
	OFFICE OF TELECOMMUNICATIONS AND SYSTEMS OPERATIONS.	DEPUTY ASSOCIATE COMMISSIONER FOR HARDWARE ENGINEERING.
		ASSISTANT ASSOCIATE COMMISSIONER FOR ENTERPRISE INFORMATION TECHNOLOGY SERVICES MANAGEMENT.
		DEPUTY ASSOCIATE COMMISSIONER FOR TELECOMMUNICATIONS AND SYSTEMS OPERATIONS.
		DEPUTY ASSOCIATE COMMISSIONER FOR TELECOMMUNICATIONS AND SYSTEMS OPERATIONS (TELECOMMUNICATIONS).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSOCIATE COMMISSIONER FOR TELECOMMUNICATIONS AND SYSTEMS OPERATIONS.
	OFFICE OF GENERAL LAW	ASSOCIATE GENERAL COUNSEL FOR GENERAL LAW.
		DEPUTY ASSOCIATE GENERAL COUNSEL FOR GENERAL LAW.
	OFFICE OF PRIVACY AND DISCLOSURE.	EXECUTIVE DIRECTOR FOR PRIVACY AND DISCLOSURE.
	OFFICE OF PROGRAM LAW	DEPUTY ASSOCIATE GENERAL COUNSEL FOR PROGRAM LAW.
	OFFICE OF BUDGET, FINANCE, QUALITY AND MANAGEMENT.	ASSISTANT DEPUTY COMMISSIONER FOR BUDGET, FINANCE, QUALITY, AND MANAGEMENT.
	OFFICE OF DISABILITY ADJUDICATION AND REVIEW.	DEPUTY COMMISSIONER FOR DISABILITY ADJUDICATION AND REVIEW.
		ASSISTANT DEPUTY COMMISSIONER FOR DISABILITY ADJUDICATION AND REVIEW.
	OFFICE OF SYSTEMS	ASSISTANT DEPUTY COMMISSIONER FOR SYSTEMS (INFORMATION TECHNOLOGY BUSINESS SUPPORT).
	OFFICE OF THE CHIEF ACTUARY	DEPUTY CHIEF ACTUARY (SHORT-RANGE).
		DEPUTY CHIEF ACTUARY (LONG-RANGE).
		CHIEF ACTUARY.
	OFFICE OF THE CHIEF STRATEGIC OFFICER.	CHIEF STRATEGIC OFFICER.
SOCIAL SECURITY ADMINISTRATION, OFFICE OF THE INSPECTOR GENERAL.	IMMEDIATE OFFICE OF THE INSPECTOR GENERAL.	DEPUTY INSPECTOR GENERAL.
		SENIOR ADVISOR TO THE INSPECTOR GENERAL (LE).
		CHIEF OF STAFF.
	OFFICE OF AUDIT	DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT (FINANCIAL SYSTEMS AND OPERATIONS AUDITS).
		ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT (PROGRAM AUDIT AND EVALUATIONS).
	OFFICE OF COMMUNICATIONS AND RESOURCE MANAGEMENT.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR COMMUNICATIONS AND RESOURCE MANAGEMENT.
		ASSISTANT INSPECTOR GENERAL FOR COMMUNICATIONS AND RESOURCE MANAGEMENT.
	OFFICE OF COUNSEL TO THE INSPECTOR GENERAL.	COUNSEL TO THE INSPECTOR GENERAL.
	OFFICE OF INVESTIGATIONS	DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS (EASTERN FIELD OPERATIONS).
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS (WESTERN FIELD OPERATIONS).
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
DEPARTMENT OF STATE	OFFICE OF CIVIL RIGHTS	DEPUTY DIRECTOR.
	OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT.	OMBUDSMAN.
	BUREAU OF ARMS CONTROL, VERIFICATION, AND COMPLIANCE.	DIRECTOR, OFFICE OF STRATEGIC NEGOTIATIONS AND IMPLEMENTAITON.
	BUREAU OF INTERNATIONAL SECURITY AND NONPROLIFERATION.	OFFICE DIRECTOR (2).
	BUREAU OF ADMINISTRATION	DIRECTOR, OFFICE OF ACQUISITIONS.
		PROCUREMENT EXECUTIVE.
	BUREAU OF HUMAN RESOURCES	PRINCIPAL DEPUTY ASSISTANT SECRETARY.
		HUMAN RESOURCES OFFICER.
DEPARTMENT OF STATE, OFFICE OF THE INSPECTOR GENERAL.	OFFICE OF INSPECTOR GENERAL	DEPUTY ASSISTANT INSPECTOR GENERAL FOR INSPECTIONS.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		ASSISTANT INSPECTOR GENERAL FOR ENTERPRISE RISK MANAGEMENT.
		DEPUTY GENERAL COUNSEL.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INSPECTIONS.
		ASSISTANT INSPECTOR GENERAL FOR EVALUATIONS AND SPECIAL PROJECTS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		ASSISTANT INSPECTOR GENERAL FOR INSPECTIONS.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		GENERAL COUNSEL TO THE INSPECTOR GENERAL.
		ASSISTANT INSPECTOR GENERAL FOR AUDITS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR MIDDLE EAST REGIONAL OFFICE.
		DEPUTY INSPECTOR GENERAL.
TRADE AND DEVELOPMENT AGENCY	OFFICE OF THE GENERAL COUNSEL.	GENERAL COUNSEL.
	OFFICE OF THE DIRECTOR	DEPUTY DIRECTOR.
		ASSISTANT DIRECTOR FOR POLICY AND PROGRAMS.
DEPARTMENT OF TRANSPORTATION	ASSOCIATE ADMINISTRATOR FOR ENFORCEMENT.	DIRECTOR, OFFICE OF VEHICLE SAFETY COMPLIANCE.
		DIRECTOR, OFFICE OF DEFECTS INVESTIGATION.
		ASSOCIATE ADMINISTRATOR FOR ENFORCEMENT.
	ASSOCIATE ADMINISTRATOR FOR INJURY CONTROL OPERATIONS AND RESOURCES.	ASSOCIATE ADMINISTRATOR FOR INJURY CONTROL OPERATIONS AND RESOURCES.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	DIRECTOR, OFFICE OF ACQUISITION MANAGEMENT.
		DEPUTY CHIEF FINANCIAL OFFICER AND CHIEF BUDGET OFFICER.
		CHIEF FINANCIAL OFFICER.
	OFFICE OF THE SENIOR PROCUREMENT EXECUTIVE.	SENIOR PROCUREMENT EXECUTIVE.
	OFFICE OF BUDGET AND PROGRAM PERFORMANCE.	DIRECTOR OF BUDGET AND PROGRAM PERFORMANCE.
	OFFICE OF SAFETY, ENERGY AND ENVIRONMENT.	DIRECTOR.
	OFFICE OF ENFORCEMENT AND COMPLIANCE.	DIRECTOR, OFFICE OF ENFORCEMENT AND COMPLIANCE.
	OFFICE OF REAL ESTATE SERVICES	DIRECTOR, OFFICE OF REAL ESTATE SERVICES.
	OFFICE OF BUS AND TRUCK STANDARDS AND OPERATIONS.	DIRECTOR, OFFICE OF BUS AND TRUCK STANDARDS AND OPERATIONS.
	OFFICE OF SAFETY RESEARCH AND DEVELOPMENT.	DIRECTOR, OFFICE OF SAFETY RESEARCH, DEVELOPMENT AND TECHNOLOGY.
	OFFICE OF LICENSING AND SAFETY INFORMATION.	DIRECTOR, OFFICE FOR LICENSING AND SAFETY INFORMATION.
	ADMINISTRATOR	DIRECTOR OF INNOVATIVE PROGRAM DELIVERY.
		EXECUTIVE DIRECTOR.
	ASSOCIATE ADMINISTRATOR FOR SAFETY.	ASSOCIATE ADMINISTRATOR FOR SAFETY.
	ADMINISTRATOR	CHIEF FINANCIAL OFFICER.
		ASSISTANT ADMINISTRATOR/CHIEF SAFETY OFFICER.
	ASSOCIATE ADMINISTRATOR FOR FIELD OPERATIONS.	REGIONAL FIELD ADMINISTRATOR, MIDWEST REGION.
		REGIONAL FIELD ADMINISTRATOR, SOUTHERN REGION.
	ADMINISTRATOR	EXECUTIVE DIRECTOR.
		CHIEF FINANCIAL OFFICER.
	ASSOCIATE ADMINISTRATOR FOR RAILROAD SAFETY.	ASSOCIATE ADMINISTRATOR FOR RAILROAD SAFETY/CHIEF SAFETY OFFICER.
	ADMINISTRATOR	EXECUTIVE DIRECTOR.
		EXECUTIVE SECRETARY, COMMITTEE ON MARINE TRANSPORTATION SYSTEMS.
	ASSOCIATE ADMINISTRATOR FOR ENVIRONMENT AND COMPLIANCE.	ASSOCIATE ADMINISTRATOR FOR ENVIRONMENT AND COMPLIANCE.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR ENVIRONMENT AND COMPLIANCE.
	ASSOCIATE ADMINISTRATOR FOR STRATEGIC SEALIFT.	DEPUTY ASSOCIATE ADMINISTRATOR FOR FEDERAL SEALIFT.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR MARITIME EDUCATION AND TRAINING.
	CHIEF COUNSEL	DEPUTY CHIEF COUNSEL.
	ADMINISTRATOR	EXECUTIVE DIRECTOR.
	ASSISTANT SECRETARY FOR ADMINISTRATION.	DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATION.
	ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS.	DEPUTY CHIEF FINANCIAL OFFICER.
		DEPUTY ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS.
		CHIEF FINANCIAL OFFICER.
	CHIEF INFORMATION OFFICER	CHIEF TECHNOLOGY OFFICER.
		CHIEF INFORMATION SECURITY OFFICER.
		DEPUTY CHIEF INFORMATION OFFICER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	OFFICE OF INTELLIGENCE, SECURITY AND EMERGENCY RESPONSE.	DIRECTOR, OFFICE OF INTELLIGENCE, SECURITY AND EMERGENCY RESPONSE.
		DEPUTY DIRECTOR.
	PUBLIC AFFAIRS	SENIOR ADVISOR FOR STRATEGIC COMMUNICATIONS.
	SECRETARY	EXECUTIVE DIRECTOR FOR THE OFFICE OF THE UNDER SECRETARY OF TRANSPORTATION FOR POLICY.
	OFFICE OF CHIEF SAFETY OFFICER	ASSISTANT ADMINISTRATOR AND CHIEF SAFETY OFFICER.
	OFFICE OF HAZARDOUS MATERIELS SAFETY.	ASSOCIATE ADMINISTRATOR FOR HAZARDOUS MATERIELS SAFETY.
	OFFICE OF PIPELINE SAFETY	ASSOCIATE ADMINISTRATOR FOR PIPELINE SAFETY.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR FIELD OPERATIONS.
		DEPUTY ASSOCIATE ADMINISTRATOR FOR POLICY AND PROGRAMS.
	OFFICE OF THE MANAGING DIRECTOR.	MANAGING DIRECTOR.
	PROCEEDINGS	DEPUTY DIRECTOR—LEGAL ANALYSIS.
DEPARTMENT OF TRANSPORTATION, OFFICE OF THE INSPECTOR GENERAL.	OFFICE OF ASSISTANT INSPECTOR GENERAL FOR ADMINISTRATION AND MANAGEMENT.	ASSISTANT INSPECTOR GENERAL FOR ADMINISTRATION AND MANAGEMENT.
	OFFICE OF ASSISTANT INSPECTOR GENERAL FOR LEGAL, LEGISLATIVE AND EXTERNAL AFFAIRS.	ASSISTANT INSPECTOR GENERAL FOR LEGAL, LEGISLATIVE AND EXTERNAL AFFAIRS.
	OFFICE OF DEPUTY INSPECTOR GENERAL.	DEPUTY INSPECTOR GENERAL.
	OFFICE OF PRINCIPAL ASSISTANT INSPECTOR GENERAL FOR AUDITING AND EVALUATION.	PRINCIPAL ASSISTANT INSPECTOR GENERAL FOR AUDITING AND EVALUATION.
	OFFICE OF PRINCIPAL ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.	PRINCIPAL ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
	OFFICE OF ASSISTANT INSPECTOR GENERAL FOR ACQUISITION AND PROCUREMENT AUDITS.	ASSISTANT INSPECTOR GENERAL FOR ACQUISTION AND PROCUREMENT AUDITS.
	OFFICE OF ASSISTANT INSPECTOR GENERAL FOR AUDIT OPERATIONS AND SPECIAL REVIEWS.	ASSISTANT INSPECTOR GENERAL FOR AUDIT OPERATIONS AND SPECIAL REVIEWS.
	OFFICE OF ASSISTANT INSPECTOR GENERAL FOR AVIATION AUDITS.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR AVIATION AUDITS.
		ASSISTANT INSPECTOR GENERAL FOR AVIATION AUDITS.
	OFFICE OF ASSISTANT INSPECTOR GENERAL FOR FINANCIAL AND INFORMATION TECHNOLOGY AUDITS.	ASSISTANT INSPECTOR GENERAL FOR FINANCIAL AND INFORMATION TECHNOLOGY AUDITS.
	OFFICE OF ASSISTANT INSPECTOR GENERAL FOR SURFACE TRANSPORTATION AUDITS.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR SURFACE TRANSPORTATION AUDITS.
		ASSISTANT INSPECTOR GENERAL FOR SURFACE TRANSPORTATION AUDITS.
	OFFICE OF DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
DEPARTMENT OF THE TREASURY	ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.	ASSISTANT ADMINISTRATOR, HEADQUARTER OPERATIONS.
		ASSISTANT ADMINISTRATOR, MANAGEMENT/CHIEF FINANCIAL OFFICER.
		DEPUTY ADMINISTRATOR, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.
		ASSISTANT ADMINISTRATOR, FIELD OPERATIONS.
		ASSISTANT ADMINISTRATOR INFORMATION RESOURCES/CHIEF INFORMATION OFFICER.
		ASSISTANT ADMINISTRATOR, EXTERNAL AFFAIRS/CHIEF OF STAFF.
		ADMINISTRATOR, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.
	ASSISTANT SECRETARY (TAX POLICY).	DIRECTOR, ECONOMIC MODELING AND COMPUTER APPLICATIONS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	ASSISTANT SECRETARY FOR MANAGEMENT.	DIRECTOR OFFICE OF MINORITY AND WOMEN INCLUSION.
		DIRECTOR, OFFICE OF PROCUREMENT.
		DEPUTY CHIEF FINANCIAL OFFICER.
	GENERAL COUNSEL	SPECIAL COUNSEL ASSET FORFEITURE.
	INTERNAL REVENUE SERVICE	DIRECTOR, FIELD OPERATIONS EAST.
		CHIEF OF STAFF.
		DIRECTOR, MEDIA AND PUBLICATIONS (WASHINGTON, DISTRICT OF COLUMBIA).
		DIRECTOR, HUMAN RESOURCES.
		DIRECTOR, STRATEGY AND FINANCE.
		DEPUTY DIRECTOR (CONTENT DEVELOPMENT), PREFILING & TECHNICAL GUIDANCE.
		DEPUTY ASSOCIATE CHIEF FINANCIAL OFFICER FOR ADMINISTRATIVE FINANCIAL MANAGEMENT.
		DIRECTOR, EXAMINATION—CAMPUS.
		FIELD DIRECTOR, SUBMISSION PROCESSING—OGDEN.
		DIRECTOR, COLLECTION SOUTHWEST.
		CHIEF, AGENCY-WIDE SHARED SERVICES.
		DIRECTOR, MICROSOFT INITIATIVES PROGRAM.
		NATIONAL DIRECTOR LEGISLATIVE AFFAIRS.
		DIRECTOR, ENTERPRISE ARCHITECTURE.
		DEPUTY ASSOCIATE CHIEF INFORMATION OFFICER FOR APPLICATIONS DEVELOPMENT.
		DIRECTOR, REFUNDABLE CREDITS EXAMINATION OPERATIONS.
		DEPUTY CHIEF INFORMATION OFFICER FOR STRATEGY/MODERNIZATION.
		DIRECTOR, E-FILE SERVICES.
		DEPUTY CHIEF PROCUREMENT OFFICER.
		FIELD DIRECTOR, SUBMISSION PROCESSING—FRESNO.
		DIRECTOR, COLLECTION—CAMPUS.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR APPLICATIONS DEVELOPMENT.
		DIRECTOR, SPECIALIZED EXAMINATION PROGRAMS AND REFERRALS.
		PROJECT DIRECTOR FOR DEPUTY COMMISSIONER SERVICES AND ENFORCEMENT.
		DIRECTOR, MODERNIZATION, DEVELOPMENT AND DELIVERY.
		DIRECTOR, DATA MANAGEMENT SERVICES AND SUPPORT.
		DIRECTOR, WORKFORCE RELATIONS.
		DIRECTOR, SERVICEWIDE OPERATIONS.
		DIRECTOR, ENTERPRISE ACTIVITIES.
		ASSISTANT DEPUTY COMMISSIONER FOR SERVICES AND ENFORCEMENT.
		DIRECTOR, COLLECTION AREA—GULF STATE.
		DIRECTOR, COLLECTION—CENTRAL.
		DIRECTOR, EXAMINATION—CENTRAL.
		DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY.
		DIRECTOR, REFUNDABLE CREDITS POLICY AND PROGRAM MANAGEMENT.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR USER AND NETWORK SERVICES.
		DIRECTOR, FACILITIES MANAGEMENT AND SEC SERVICES.
		DIRECTOR, SECURITY OPERATIONS AND STANDARDS.
		DIRECTOR, COLLECTION—HEADQUARTERS.
		DEPUTY ASSOCIATE CHIEF INFORMATION OFFICER FOR CYBERSECURITY.
		DIRECTOR, COLLECTION APPEALS.
		DIRECTOR, DEMAND MANAGEMENT AND PROJECT GOVERNANCE.
		PROJECT DIRECTOR.
		DIRECTOR, COLLECTION—QUALITY AND TECHNICAL SUPPORT.
		DIRECTOR, COLLECTION.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		SPECIAL ASSISTANT.
		DIRECTOR, DATA MANAGEMENT DIVISION.
		DIRECTOR, CORPORATE ISSUES AND CREDITS.
		DIRECTOR, KNOWLEDGE DEVELOPMENT AND APPLICATION.
		DIRECTOR, SOLUTION ENGINEERING.
		DIRECTOR, MAINFRAME SUPPORT AND SERVICES.
		SPECIAL ASSISTANT TO THE CHIEF, APPEALS.
		DIRECTOR, FILING SEASON INTEGRATION.
		DIRECTOR, AFFORDABLE CARE ACT.
		DIRECTOR, CAMPUS COLLECTION FRESNO.
		IRS IDENTITY ASSURANCE EXECUTIVE.
		DEPUTY DIRECTOR, SUBMISSION PROCESSING.
		SUBMISSION PROCESSING FIELD DIRECTOR.
		DIRECTOR, OPERATIONS SUPPORT.
		ASSOCIATE CHIEF INFORMATION OFFICER, ENTERPRISE INFORMATION TECHNOLOGY PROGRAM MANAGEMENT.
		SENIOR DIRECTOR FOR OPERATIONS, AFFORDABLE CARE ACT.
		DIRECTOR, FOREIGN ACCOUNT TAX COMPLIANCE ACT—PROGRAM MANAGEMENT OFFICE.
		DIRECTOR, INFRASTRUCTURE SERVICES.
		DIRECTOR, UNIFIED COMMUNICATIONS.
		ACIO, AFFORDABLE CARE ACT PMO.
		DIRECTOR, ENTERPRISE NETWORKS OPERATIONS.
		DIRECTOR, ONLINE SERVICES.
		DEPUTY COMMISSIONER, WAGE AND INVESTMENTS.
		DIRECTOR, TECHNOLOGY SOLUTIONS.
		DEPUTY DIRECTOR, RETURN INTEGRITY AND CORRESPONDENCE SERVICES.
		DIRECTOR, SERVICE DELIVERY MANAGEMENT.
		COMPLIANCE SERVICES FIELD DIRECTOR.
		DIRECTOR, CAMPUS COMPLIANCE OPERATIONS.
		DIRECTOR, CAMPUS OPERATIONS.
		DIRECTOR, IMPLEMENTATION AND TESTING.
		DIRECTOR, BUSINESS PLANNING AND RISK MANAGEMENT.
		EXECUTIVE DIRECTOR, BUSINESS MODERNIZATION.
		DIRECTOR, COLLECTION STRATEGY AND ORGANIZATION.
		DIRECTOR OF FIELD OPERATIONS, HEAVY MANUFACTURING AND PHARMACEUTICALS, SOUTHEAST.
		DIRECTOR, FIELD OPERATIONS, ENGINEERING.
		ASSISTANT DEPUTY COMMISSIONER COMPLIANCE INTEGRATION.
		DIRECTOR, ADVANCED PRICING AND MUTUAL AGREEMENT.
		DIRECTOR, RETURN INTEGRITY AND COMPLIANCE SERVICES.
		DIRECTOR, CYBERSECURITY POLICY AND PROGRAMS.
		DIRECTOR, FIELD OPERATIONS, RETAIL FOOD, PHARMACEUTICALS, AND HEALTHCARE—WEST.
		DIRECTOR, CONTACT CENTER SUPPORT DIVISION.
		DIRECTOR, FILING AND PAYMENT COMPLIANCE.
		DIRECTOR, LARGE SYSTEMS AND STORAGE INFRASTRUCTURE DIVISION.
		EXECUTIVE DIRECTOR, INVESTIGATIVE AND ENFORCEMENT OPERATIONS.
		DIRECTOR, EXAMINATION AREA—NORTH ATLANTIC.
		DIRECTOR, STRATEGIC SUPPLIER MANAGEMENT.
		DIRECTOR, DATA DELIVERY SERVICES.
		PROJECT DIRECTOR.
		DIRECTOR, COMPLIANCE STRATEGY AND POLICY.
		DIRECTOR, STRATEGY, RESEARCH AND PROGRAM PLANNING.
		DIRECTOR, PRIVACY AND INFORMATION PROTECTION.
		DIRECTOR, DETROIT PROGRAM MANAGEMENT OFFICE.
		DIRECTOR, NETWORK ENGINEERING.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, EXAMINATION—SPECIALITY TAX.
		DIRECTOR, PORTFOLIO CONTROL AND PERFORMANCE.
		DEPUTY ASSOCIATE CHIEF FINANCIAL OFFICER FOR FINANCIAL MANAGEMENT.
		DIRECTOR, CUSTOMER SERVICE AND STAKEHOLDERS.
		DIRECTOR, TAX FORMS AND PUBLICATIONS.
		DIRECTOR, FILING AND PAYMENT COMPLIANCE.
		ASSISTANT DEPUTY COMMISSIONER GOVERNMENT ENTITIES AND SHARED SERVICES.
		DIRECTOR, CASE AND OPERATIONS SUPPORT.
		DEPUTY DIRECTOR, RETURN PREPARER OFFICE.
		ACCOUNTS MANAGEMENT FIELD DIRECTOR.
		DIRECTOR, FILING AND PREMIUM TAX CREDIT.
		ASSISTANT DEPUTY COMMISSIONER (INTERNATIONAL).
		DIRECTOR, EMERGING PROGRAMS AND INITIATIVES.
		DIRECTOR, FIELD OPERATIONS, NATURAL RESOURCES AND CONSTRUCTION—WEST.
		DIRECTOR, COLLECTION AREA.
		DIRECTOR, CAMPUS COMPLIANCE OPERATIONS.
		DEPUTY DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY OPERATIONS.
		DIRECTOR, ABUSIVE TRANSACTIONS AND TECHNICAL ISSUES.
		DIRECTOR, CUSTOMER SERVICE SUPPORT.
		DIRECTOR, PRODUCT MANAGEMENT.
		DIRECTOR, INTERNATIONAL BUSINESS COMPLIANCE.
		DIRECTOR, FIELD OPERATIONS, RETAILERS, FOOD, TRANSPORTATION AND HEALTHCARE—EAST.
		DEPUTY DIRECTOR, RESEARCH, ANALYSIS, AND STATISTICS.
		AREA DIRECTOR, FIELD ASSISTANCE.
		DIRECTOR, REFUND CRIMES.
		AREA DIRECTOR, STAKEHOLDER PARTNERSHIP, EDUCATION, AND COMMUNICATION.
		AREA DIRECTOR, STAKEHOLDER PARTNERSHIP, EDUCATION, AND COMMUNICATION.
		DIRECTOR, EXAMINATION FIELD.
		DEPUTY ASSOCIATE CHIEF INFORMATION OFFICER FOR ENTERPRISE NETWORKS.
		DEPUTY COMMISSIONER, OPERATIONS SUPPORT.
		DIRECTOR, OPERATIONS SERVICE SUPPORT.
		DEPUTY DIRECTOR, STRATEGY AND FINANCE.
		DIRECTOR, RETURN PREPARER OFFICE.
		DIRECTOR, EXAMINATION AREA.
		DIRECTOR, IMPLEMENTATION OVERSIGHT.
		DIRECTOR, EXAMINATION AREA MIDWEST.
		DIRECTOR, FINANCIAL MANAGEMENT SERVICES.
		DIRECTOR, COLLECTION AREA, GULF STATES.
		AREA DIRECTOR, FIELD ASSISTANCE.
		DIRECTOR, EXAMINATION AREA.
		DIRECTOR, CUSTOMER SERVICE.
		ACCOUNTS MANAGEMENT FIELD DIRECTOR.
		DIRECTOR, APPEALS POLICY AND VALUATION.
		ASSOCIATE CHIEF INFORMATION OFFICER, STRATEGY AND PLANNING.
		DIRECTOR, BUSINESS SYSTEMS PLANNING.
		DEPUTY CHIEF OF STAFF.
		DIRECTOR, MANAGEMENT SERVICES.
		ASSOCIATE CHIEF INFORMATION OFFICER FOR ENTERPRISE OPERATIONS.
		DIRECTOR, GLOBAL HIGH WEALTH INDUSTRY.
		DIRECTOR, COLLECTION POLICY.
		DEPUTY DIRECTOR, SUBMISSION PROCESSING.
		PROJECT DIRECTOR, CUSTOMER ACCOUNT DATA ENGINE.
		DEPUTY DIVISION COUNSEL #2 (OPERATIONS)/SMALL BUSINESS AND SELF EMPLOYED.
		DEPUTY COMMISSIONER (DOMESTIC), LARGE BUSINESS AND INTERNATIONAL.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY ASSOCIATE CHIEF INFORMATION OFFICER, ENTERPRISE OPERATIONS.
		DIRECTOR, DATA STRATEGY IMPLEMENTATION.
		DIRECTOR, REPORTING COMPLIANCE.
		SPECIAL AGENT IN CHARGE—CRIMINAL INVESTIGATION.
		DIRECTOR, FIELD OPERATIONS EAST.
		DEPUTY CHIEF INFORMATION OFFICER FOR OPERATIONS.
		DIRECTOR, INFORMATION TECHNOLOGY SECURITY ENGINEERING.
		ASSOCIATE CHIEF INFORMATION OFFICER, CYBERSECURITY.
		DIRECTOR, ENTERPRISE NETWORKS OPERATIONS.
		DIRECTOR, OFFICE OF PRIVACY, INFORMATION PROTECTION AND DATA SECURITY.
		DIRECTOR, PASS THROUGH ENTITIES.
		PROGRAM MANAGER.
		DEPUTY DIRECTOR, SUBMISSION PROCESSING.
		DIRECTOR, SUBMISSION PROCESSING.
		DIRECTOR, INTERNAL MANAGEMENT.
		DIRECTOR, CORPORATE DATA.
		DIRECTOR, ENTERPRISE SYSTEMS TESTING.
		DIRECTOR, REPORTIING COMPLIANCE.
		DIRECTOR, EXAMINATION MIDWEST AREA.
		SPECIAL AGENT IN CHARGE.
		DIRECTOR, WHISTLEBLOWER OFFICE.
		DIRECTOR, EMERGENCY MANAGEMENT PROGRAMS.
		DIRECTOR, EXAMINATION PLANNING AND DELIVERY.
		BUSINESS MODERNIZATION EXECUTIVE.
		SUBMISSION PROCESSING FIELD DIRECTOR.
		PROJECT DIRECTOR, ENTERPRISE PROGRAM MANAGEMENT.
		ACCOUNTS MANAGEMENT FIELD DIRECTOR.
		DIRECTOR, EXAMINATION—GULF STATES.
		DIRECTOR, EMPLOYEE PLANS, RULINGS, AND AGREEMENTS.
		DEPUTY DIRECTOR, ACCOUNTS MANAGEMENT.
		DIRECTOR, RESEARCH.
		DIRECTOR, EXAMINATION HEADQUARTERS.
		DIRECTOR, JOINT OPERATIONS CENTER.
		DEPUTY CHIEF HUMAN CAPITAL OFFICER, INTERNAL REVENUE SERVICE.
		DIRECTOR, COLLECTION—FIELD.
		DIRECTOR, COLLECTION—ATLANTA.
		DIRECTOR, COLLECTION—ANDOVER.
		DIRECTOR, EXAMINATION AREA.
		DIRECTOR, EXAMINATION LEGISLATIVE PROGRAM.
		DIRECTOR, EXAMINATION AREA.
		DIRECTOR, EXAMINATION—OGDEN.
		DIRECTOR, EXAMINATION SOUTHWEST AREA.
		SPECIAL AGENT IN CHARGE.
		DEPUTY COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED.
		PROJECT DIRECTOR.
		DIRECTOR, STAKEHOLDER, PARTNERSHIP, EDUCATION AND COMMUNICATIONS.
		CHIEF FINANCIAL OFFICER, INTERNAL REVENUE SERVICE.
		CHIEF, CRIMINAL INVESTIGATION.
		DIRECTOR, RESEARCH AND ORGANIZATIONAL.
		DIRECTOR, ENTERPRISE TECHNOLOGY IMPLEMENTATION.
		AREA DIRECTOR, FIELD ASSISTANCE—ATLANTA.
		DIRECTOR OF FIELD OPERATIONS.
		CHIEF, COMMUNICATIONS AND LIAISON.
		DEPUTY CHIEF FINANCIAL OFFICER.
		DIRECTOR, ACCOUNTS MANAGEMENT, WAGE AND INVESTMENT.
		DIRECTOR, DATA SOLUTIONS.
		COMMISSIONER, SMALL BUSINESS AND SELF EMPLOYED.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		COMMISSIONER, LARGE AND MID-SIZED BUSINESS DIVISION.
		CHIEF INFORMATION OFFICER.
		CHIEF HUMAN CAPITAL OFFICER, INTERNAL REVENUE SERVICE.
		DIRECTOR, STRATEGY AND FINANCE, APPEALS.
		DEPUTY DIRECTOR, ENTERPRISE COMPUTING CENTER.
		DEPUTY CHIEF, CRIMINAL INVESTIGATION.
		INDUSTRY DIRECTOR—FINANCIAL SERVICES—LARGE AND MID-SIZE BUSINESS.
		DIRECTOR, BUSINESS SYSTEMS PLANNING—LARGE AND MID-SIZE BUSINESS.
		DEPUTY CHIEF, APPEALS.
		DEPUTY DIVISION COMMISSIONER, TAX EXEMPT AND GOVERNMENT ENTITIES.
		EXECUTIVE DIRECTOR, CASE ADVOCACY INTAKE AND TECHNICAL SUPPORT.
		EXECUTIVE DIRECTOR, OFFICE OF EQUITY, DIVERSITY, AND INCLUSION.
		DEPUTY DIRECTOR, FACILITIES MANAGEMENT AND SECURITY SERVICES.
		CHIEF, APPEALS.
		DEPUTY COMMISSIONER, LARGE AND MID-SIZE BUSINESS.
		CHIEF RISK OFFICER AND SENIOR ADVISOR.
		DIRECTOR, ADVANCE PRICING AND MUTUAL AGREEMENT.
		DIRECTOR, HUMAN RESOURCES CUSTOMER SERVICE.
		ACCOUNTS MANAGEMENT FIELD DIRECTOR—ANDOVER.
		DIRECTOR, CUSTOMER ACCOUNT SERVICES—WAGE AND INVESTMENT.
		DIRECTOR, COMMUNICATION, ASSISTANCE, RESEARCH AND EDUCATION.
		DIRECTOR, FIELD ASSISTANCE—WAGE AND INVESTMENT.
		DIRECTOR, RESEARCH, APPLIED ANALYTICS AND STATISTICS.
		DEPUTY NATIONAL TAXPAYER ADVOCATE.
		COMMISSIONER, TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION.
		DIRECTOR, EXEMPT ORGANIZATIONS.
		DEPUTY DIRECTOR, RESEARCH, ANALYSIS AND STATS.
		COMMISSIONER, WAGE AND INVESTMENT.
		DIRECTOR, OPERATIONS SUPPORT.
		DIRECTOR, EMPLOYEE PLANS.
		DIRECTOR, ENTERPRISE CASE MANAGEMENT.
		PROJECT DIRECTOR.
		DIRECTOR, INTERNET DEVELOPMENT SERVICES.
		DIRECTOR, SERVER SUPPORT & SERVICES.
		DIRECTOR, PROCUREMENT.
		ASSOCIATE CHIEF FINANCIAL OFFICER FOR INTERNAL FINANCIAL MANAGEMENT—NATIONAL HEADQUARTERS.
		DIRECTOR, IDENTITY THEFT VICTIM ASSISTANCE.
		DIRECTOR, STATISTICS OF INCOME.
	SECRETARY OF THE TREASURY	DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.
	UNDER SECRETARY FOR DOMESTIC FINANCE.	DIRECTOR OF POLICY.
	UNITED STATES MINT	PLANT MANAGER, PHILADELPHIA.
		ASSOCIATE DIRECTOR FOR INFORMATION TECHNOLOGY (CHIEF INFORMATION OFFICER).
		ASSOCIATE DIRECTOR FOR FINANCIAL MANAGEMENT/CHIEF FINANCIAL OFFICER.
		ASSOCIATE DIRECTOR FOR MANUFACTURING.
		DIRECTOR, OFFICE OF COIN STUDIES.
		PLANT MANAGER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	BUREAU OF THE FISCAL SERVICE ..	ASSOCIATE DIRECTOR FOR WORKFORCE SOLUTIONS.
		ASSOCIATE DIRECTOR, ENVIRONMENT, SAFETY AND HEALTH.
		ASSOCIATE DIRECTOR FOR NUMISMATICS.
		CHIEF ADMINISTRATIVE OFFICER.
		ASSISTANT COMMISSIONER (FINANCING).
		EXECUTIVE DIRECTOR (ADMINISTRATIVE RESOURCE CENTER).
		DEPUTY ASSISTANT COMMISSIONER, GOVERNMENTWIDE ACCOUNTING.
		DEPUTY ASSISTANT COMMISSIONER FOR PROGRAM SOLUTIONS AND SUPPORT (TREASURY SECURITIES SERVICES).
		ASSISTANT COMMISSIONER (OFFICE OF MANAGEMENT SERVICES).
		DEPUTY CHIEF INFORMATION OFFICER.
		DIRECTOR, COMPLIANCE AND REPORTING GROUP.
		DEPUTY ASSISTANT COMMISSIONER, PAYMENT MANAGEMENT.
		ASSISTANT COMMISSIONER, PAYMENT MANAGEMENT.
		DEPUTY ASSISTANT COMMISSIONER FOR INFRASTRUCTURE AND OPERATIONS (OFFICE OF INFORMATION AND SECURITY SERVICES).
		DEPUTY ASSISTANT COMMISSIONER (FISCAL ACCOUNTING OPERATIONS).
		DIRECTOR, DEBT MANAGEMENT SERVICES OPERATIONS, WEST.
		DEPUTY ASSISTANT COMMISSIONER FOR SECURITIES MANAGEMENT (TREASURY SECURITIES SERVICES).
		ASSISTANT COMMISSIONER, WHOLESALE SECURITIES SERVICES.
		DEPUTY ASSISTANT COMMISSIONER, COMPLIANCE AND REPORTING GROUP.
		EXECUTIVE DIRECTOR (DO NOT PAY BUSINESS CENTER STAFF).
		EXECUTIVE DIRECTOR (MYRA).
		DIRECTOR, DEBT MANAGEMENT SERVICES OPERATIONS, EAST.
		ASSISTANT COMMISSIONER, INFORMATION AND SECURITY SERVICES (CHIEF INFORMATION OFFICER).
		DEPUTY ASSISTANT COMMISSIONER (SHARED SERVICES).
		DEPUTY COMMISSIONER, ACCOUNTING AND SHARED SERVICES.
		DEPUTY COMMISSIONER, FINANCE AND ADMINISTRATION.
		DEPUTY COMMISSIONER, FINANCIAL SERVICES AND OPERATIONS.
		COMMISSIONER, BUREAU OF THE FISCAL SERVICE.
		DEPUTY ASSISTANT COMMISSIONER FOR INFORMATION SERVICES.
		DEPUTY ASSISTANT COMMISSIONER (DEBT MANAGEMENT SERVICES).
		ASSISTANT COMMISSIONER, GOVERNMENTWIDE ACCOUNTING.
		DIRECTOR, REGIONAL FINANCIAL CENTER (PHILADELPHIA).
		DIRECTOR, REGIONAL FINANCIAL CENTER (KANSAS CITY).
		ASSISTANT COMMISSIONER, DEBT MANAGEMENT SERVICES.
		ASSISTANT COMMISSIONER (PUBLIC DEBT ACCOUNTING).
		ASSISTANT COMMISSIONER, MANAGEMENT (CHIEF FINANCIAL OFFICER).
		DIRECTOR, REVENUE COLLECTION GROUP.
		ASSISTANT COMMISSIONER, FEDERAL FINANCE.
		DIRECTOR, REGIONAL FINANCIAL CENTER (SAN FRANCISCO).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
	INTERNAL REVENUE SERVICE CHIEF COUNSEL.	EXECUTIVE DIRECTOR, GOVERNMENT SECURITIES REGULATIONS.
		AREA COUNSEL (LARGE BUSINESS AND INTERNATIONAL).
		DEPUTY DIVISION COUNSEL (SMALL BUSINESS AND SELF EMPLOYED).
		AREA COUNSEL (SMALL BUSINESS AND SELF EMPLOYED)—NEW YORK.
		AREA COUNSEL (SMALL BUSINESS AND SELF EMPLOYED)—PHILADELPHIA.
		AREA COUNSEL (SMALL BUSINESS AND SELF EMPLOYED)—JACKSONVILLE.
		AREA COUNSEL (SMALL BUSINESS AND SELF EMPLOYED)—CHICAGO.
		AREA COUNSEL (SMALL BUSINESS AND SELF EMPLOYED).
		AREA COUNSEL (SMALL BUSINESS AND SELF EMPLOYED)—DENVER.
		AREA COUNSEL (SMALL BUSINESS AND SELF EMPLOYED)—LOS ANGELES.
		AREA COUNSEL (SMALL BUSINESS AND SELF EMPLOYED) (AREA 7).
		DIVISION COUNSEL/ASSOCIATE CHIEF COUNSEL (CRIMINAL TAX).
		DEPUTY DIVISION COUNSEL/DEPUTY ASSOCIATE CHIEF COUNSEL (TAX EXEMPT AND GOVERNMENT ENTITIES).
		AREA COUNSEL (LARGE BUSINESS AND INTERNATIONAL) (AREA 1).
		DEPUTY ASSOCIATE CHIEF COUNSEL (FINANCIAL INSTITUTIONS AND PRODUCTS).
		DIVISION COUNSEL (WAGE AND INVESTMENT).
		DEPUTY ASSOCIATE CHIEF COUNSEL (GENERAL LEGAL SERVICES) (LABOR AND PERSONNEL LAW).
		DEPUTY CHIEF COUNSEL (OPERATIONS).
		SPECIAL COUNSEL TO THE NATIONAL TAXPAYER ADVOCATE.
		DEPUTY ASSOCIATE CHIEF COUNSEL (INTERNATIONAL TECHNICAL).
		DIVISION COUNSEL/ASSOCIATE CHIEF COUNSEL (TAX EXEMPT AND GOVERNMENT ENTITIES).
		DEPUTY CHIEF COUNSEL (TECHNICAL).
		DEPUTY ASSOCIATE CHIEF COUNSEL (GENERAL LEGAL SERVICES).
		ASSOCIATE CHIEF COUNSEL (GENERAL LEGAL SERVICES).
		DIVISION COUNSEL (SMALL BUSINESS AND SELF EMPLOYED).
		AREA COUNSEL, LARGE AND MID SIZE BUSINESS (AREA 3) (FOOD, MASS RETAILERS, AND PHARMACEUTICALS).
		DEPUTY ASSOCIATE CHIEF COUNSEL #2 (INCOME TAX AND ACCOUNTING).
		DIVISION COUNSEL (LARGE AND MID-SIZE BUSINESS).
		DEPUTY ASSOCIATE CHIEF COUNSEL #2 (PASSTHROUGHS AND SPECIAL INDUSTRIES).
		DEPUTY ASSOCIATE CHIEF COUNSEL (CORPORATE).
		DEPUTY DIVISION COUNSEL (LARGE AND MID-SIZE BUSINESS).
		ASSOCIATE CHIEF COUNSEL (PASSTHROUGHS AND SPECIAL INDUSTRIES).
		DEPUTY ASSOCIATE CHIEF COUNSEL (PROCEDURE AND ADMINISTRATION).
		ASSOCIATE CHIEF COUNSEL (INCOME TAX AND ACCOUNTING).
		DEPUTY DIVISION COUNSEL/DEPUTY ASSISTANT CHIEF COUNSEL (CRIMINAL TAX).
		DEPUTY ASSOCIATE CHIEF COUNSEL (PROCEDURE AND ADMINISTRATION).
		ASSISTANT CHIEF COUNSEL (DISCLOSURE AND PRIVACY LAW).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSOCIATE CHIEF COUNSEL (PROCEDURE AND ADMINISTRATION).
		ASSOCIATE CHIEF COUNSEL (CORPORATE).
		DEPUTY ASSOCIATE CHIEF COUNSEL (FINANCE AND MANAGEMENT).
		AREA COUNSEL (LARGE AND MID-SIZE BUSINESS) (AREA 2) (HEAVY MANUFACTURING, CONSTRUCTION AND TRANSPORTATION).
		AREA COUNSEL (LARGE AND MID-SIZE BUSINESS) (AREA 4) (NATURAL RESOURCES).
		ASSOCIATE CHIEF COUNSEL (FINANCE AND MANAGEMENT).
		ASSOCIATE CHIEF COUNSEL (INTERNATIONAL).
		ASSOCIATE CHIEF COUNSEL (FINANCIAL INSTITUTIONS AND PRODUCTS).
		ASSISTANT CHIEF COUNSEL (INTERNATIONAL) (LITIGATION).
		SPECIAL COUNSEL TO THE CHIEF COUNSEL.
		DEPUTY DIVISION COUNSEL AND DEPUTY ASSOCIATE CHIEF COUNSEL (TAX EXEMPT AND GOVERNMENT ENTITIES).
		DEPUTY DIVISION COUNSEL/DEPUTY ASSOCIATE CHIEF COUNSEL.
		DEPUTY DIVISION COUNSEL (TECHNICAL), LARGE BUSINESS AND INTERNATIONAL.
		DEPUTY ASSOCIATE CHIEF COUNSEL (INTERNATIONAL FIELD SERVICE AND LITIGATION).
		AREA COUNSEL, SMALL BUSINESS AND SELF EMPLOYED, AREA 9.
		DEPUTY TO THE SPECIAL COUNSEL TO THE CHIEF COUNSEL.
		HEALTHCARE COUNSEL (OFFICE OF HEALTHCARE).
		DEPUTY ASSOCIATE CHIEF COUNSEL, TRANSFER PRICING AND INTERNATIONAL PROGRAMS.
		ASSOCIATE CHIEF COUNSEL (TAX EXEMPT AND GOVERNMENT ENTITIES).
		DEPUTY ASSOCIATE CHIEF COUNSEL (PROCEDURE AND ADMINISTRATION).
		DEPUTY ASSOCIATE CHIEF COUNSEL (PROCEDURE AND ADMINISTRATION).
		DEPUTY ASSOCIATE CHIEF COUNSEL, (PASSTHROUGHS AND SPECIAL INDUSTRIES).
		ASSOCIATE CHIEF COUNSEL (PASSTHROUGHS AND SPECIAL INDUSTRIES).
		DIVISION COUNSEL (TAX EXEMPT AND GOVERNMENT ENTITIES) DISTRICT OF COLUMBIA.
	ASSISTANT SECRETARY FOR FINANCIAL INSTITUTIONS.	DIRECTOR, FEDERAL INSURANCE OFFICE.
		DEPUTY DIRECTOR, FEDERAL INSURANCE OFFICE.
	ASSISTANT SECRETARY FOR FINANCIAL MARKETS.	DIRECTOR, CAPITAL MARKETS.
	FISCAL ASSISTANT SECRETARY	DEPUTY ASSISTANT SECRETARY, OFFICE OF ACCOUNTING POLICY & FINANCIAL TRANSPARENCY.
		FISCAL ASSISTANT SECRETARY.
		DEPUTY ASSISTANT SECRETARY FOR FISCAL OPERATIONS AND POLICY.
	ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS.	DEPUTY ASSISTANT SECRETARY FOR SECURITY.
	ASSISTANT SECRETARY FOR TERRORIST FINANCING.	DIRECTOR, EXECUTIVE OFFICE FOR ASSET FORFEITURE.
	FINANCIAL CRIMES ENFORCEMENT NETWORK.	ASSOCIATE DIRECTOR, TECHNOLOGY SOLUTIONS AND SERVICES DIVISION/CHIEF INFORMATION OFFICER.
		CHIEF COUNSEL, FINANCIAL CRIMES ENFORCEMENT NETWORK.
		DEPUTY DIRECTOR.
		ASSOCIATE DIRECTOR, POLICY DIVISION.
		ASSOCIATE DIRECTOR, INTELLIGENCE DIVISION.
		ASSOCIATE DIRECTOR, MANAGEMENT PROGRAMS DIVISION.
		ASSOCIATE DIRECTOR, ENFORCEMENT DIVISION.
		ASSOCIATE DIRECTOR, LIAISON DIVISION.
		EXECUTIVE ADVISOR.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DIRECTOR, FINANCIAL CRIMES ENFORCEMENT NETWORK.
DEPARTMENT OF THE TREASURY, OFFICE OF THE INSPECTOR GENERAL.	OFFICE OF AUDIT	DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT (FINANCIAL SECTOR AUDITS).
		ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT (FINANCIAL MANAGEMENT & TRANSPARENCY AUDIT.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT (PROGRAM AUDITS).
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT (FINANCIAL MANAGEMENT).
	OFFICE OF COUNSEL	COUNSEL TO THE INSPECTOR GENERAL.
	OFFICE OF INVESTIGATIONS	DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
	OFFICE OF MANAGEMENT	ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
DEPARTMENT OF THE TREASURY, SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.	DEPARTMENT OF THE TREASURY SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.	DEPUTY SPECIAL INSPECTOR GENERAL AUDIT.
		CHIEF INVESTIGATIVE COUNSEL.
		ASSISTANT DEPUTY SPECIAL INSPECTOR GENERAL FOR AUDIT AND EVALUATION.
		ASSISTANT DEPUTY SPECIAL INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY SPECIAL INSPECTOR GENERAL OPERATIONS.
		DEPUTY SPECIAL INSPECTOR GENERAL, INVESTIGATIONS.
		GENERAL COUNSEL FOR THE OFFICE OT THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.
DEPARTMENT OF THE TREASURY, TAX ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	DEPARTMENT OF THE TREASURY TAX ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS—FIELD.
		DEPUTY INSPECTOR GENERAL FOR INSPECTIONS AND EVALUATIONS.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS—FIELD.
		DEPUTY COUNSEL.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, CYBER, OPERATIONS AND INVESTIGATIVE SUPPORT DIRECTORATE.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT, COMPLIANCE AND ENFORCEMENT OPERATIONS.
		CHIEF INFORMATION OFFICER.
		DEPUTY INSPECTOR GENERAL FOR AUDIT.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT, MANAGEMENT SERVICES AND EXEMPT ORGANIZATIONS.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT, SECURITY AND INFORMATION TECHNOLOGY SERVICES.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT, MANAGEMENT, PLANNING AND WORKFORCE DEVELOPMENT.
		ASSISTANT INSPECTOR GENERAL FOR AUDIT, RETURNS PROCESSING AND ACCOUNTING SERVICES.
		DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, THREAT, AGENT SAFETY AND SENSITIVE INVESTIGATIONS DIRECTORATE.
		CHIEF COUNSEL.
		DEPUTY INSPECTOR GENERAL FOR MISSION SUPPORT/CHIEF FINANCIAL OFFICER.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS—FIELD.
UNTED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.	BUREAU FOR DEMOCRACY, CONFLICT, AND HUMANITARIAN ASSISTANCE.	DEPUTY DIRECTOR, OFFICE OF FOREIGN DISASTER ASSISTANCE.
	BUREAU FOR MANAGEMENT	DEPUTY ASSISTANT ADMINISTRATOR.
		DEPUTY DIRECTOR, OFFICE OF THE ASSISTANT ADMINISTRATOR OPERATIONS.
		CHIEF INFORMATION OFFICER.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		DEPUTY DIRECTOR, ACCOUNTABILITY, COMPLIANCE, TRANSPARENCY AND SYSTEM SUPPORT.
		DIRECTOR, OFFICE OF MANAGEMENT, POLICY, BUDGET AND PERFORMANCE.
		CHIEF FINANCIAL OFFICER.
		DEPUTY CHIEF FINANCIAL OFFICER.
	HUMAN CAPITAL TALENT MANAGEMENT.	CHIEF HUMAN CAPITAL OFFICER.
		DEPUTY CHIEF HUMAN CAPITAL OFFICER.
	OFFICE OF SECURITY	DIRECTOR, OFFICE OF SECURITY.
	OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.	DIRECTOR, OFFICE OF SMALL AND DISADVANTAGE BUSINESS UTILIZATION.
	OFFICE OF THE GENERAL COUNSEL.	ASSISTANT GENERAL COUNSEL, ETHICS AND ADMINISTRATION.
		ASSISTANT GENERAL COUNSEL, CHIEF INNOVATION COUNSEL.
		DEPUTY GENERAL COUNSEL.
	OFFICE OF BUDGET AND RESOURCE MANAGEMENT.	DIRECTOR, BUDGET AND RESOURCE MANAGEMENT.
UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, OFFICE OF THE INSPECTOR GENERAL.	UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF THE INSPECTOR GENERAL.	ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		COUNSELOR TO THE INSPECTOR GENERAL.
		DEPUTY INSPECTOR GENERAL.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT.
		ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT.
UNITED STATES INTERNATIONAL TRADE COMMISSION.	OFFICE OF ECONOMICS	DIRECTOR OFFICE OF ECONOMICS.
	OFFICE OF INDUSTRIES	DIRECTOR OFFICE OF INDUSTRIES.
	OFFICE OF INVESTIGATIONS	DIRECTOR, OFFICE OF INVESTIGATIONS.
	OFFICE OF TARIFF AFFAIRS AND TRADE AGREEMENTS.	DIRECTOR, OFFICE TARIFF AFFAIRS AND TRADE AGREEMENTS.
	OFFICE OF UNFAIR IMPORT INVESTIGATIONS.	DIRECTOR, OFFICE OF UNFAIR IMPORT INVESTIGATIONS.
	OFFICE OF ADMINISTRATIVE SERVICES.	CHIEF ADMINISTRATIVE OFFICER.
	OFFICE OF EXTERNAL RELATIONS	DIRECTOR, OFFICE OF EXTERNAL RELATIONS.
	OFFICE OF OPERATIONS	DIRECTOR OFFICE OF OPERATIONS.
	OFFICE OF THE CHIEF FINANCIAL OFFICER.	CHIEF FINANCIAL OFFICER.
	OFFICE OF THE CHIEF INFORMATION OFFICER.	CHIEF INFORMATION OFFICER.
	OFFICE OF THE GENERAL COUNSEL.	GENERAL COUNSEL.
	OFFICE OF THE INSPECTOR GENERAL.	INSPECTOR GENERAL.
DEPARTMENT OF VETERANS AFFAIRS.	BOARD OF VETERANS' APPEALS	DEPUTY VICE CHAIRMAN.
		PRINCIPAL DEPUTY VICE CHAIRMAN.
		DIRECTOR, MANAGEMENT, PLANNING AND ANALYSIS.
		DEPUTY VICE CHAIRMAN.
		VICE CHAIRMAN.
	NATIONAL CEMETERY ADMINISTRATION.	DEPUTY UNDER SECRETARY FOR FINANCE AND PLANNING/CHIEF FINANCIAL OFFICER.
	OFFICE OF ACQUISITIONS, LOGISITICS AND CONSTRUCTION.	ASSOCIATE EXECUTIVE DIRECTOR, PROGRAMS AND PLANS.
		ASSOCIATE EXECUTIVE DIRECTOR, TECHNOLOGY ACQUISITION CENTER.
		ASSOCIATE EXECUTIVE DIRECTOR, STRATEGIC ACQUISITION CENTER.
		EXECUTIVE DIRECTOR, CONSTRUCTION AND FACILITIES MANAGEMENT.
		PRINCIPAL EXECUTIVE DIRECTOR.
		ASSOCIATE EXECUTIVE DIRECTOR, RESOURCE MANAGEMENT.
		ASSOCIATE EXECUTIVE DIRECTOR, FACILITIES ACQUISITIONS.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		ASSOCIATE EXECUTIVE DIRECTOR, FACILITIES PLANNING.
		ASSOCIATE EXECUTIVE DIRECTOR, OFFICE OF OPERATIONS.
	OFFICE OF THE ASSISTANT SECRETARY FOR INFORMATION AND TECHNOLOGY.	EXECUTIVE DIRECTOR, FIELD SECURITY SERVICE.
		EXECUTIVE DIRECTOR, IT SPACE AND FACILITIES MANAGEMENT.
		EXECUTIVE DIRECTOR, ENTERPRISE RISK MANAGEMENT.
		EXECUTIVE DIRECTOR (ENTERPRISE OPERATIONS).
		EXECUTIVE DIRECTOR, BUDGET AND FINANCE.
		DEPUTY CHIEF INFORMATION SECURITY OFFICER.
		EXECUTIVE DIRECTOR, PRIVACY.
		CHIEF FINANCIAL OFFICER.
		EXECUTIVE DIRECTOR FOR QUALITY AND PERFORMANCE.
		EXECUTIVE DIRECTOR, SECURITY OPERATIONS.
	OFFICE OF THE ASSISTANT SECRETARY FOR MANAGEMENT.	PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR MANAGEMENT.
	OFFICE OF THE ASSISTANT SECRETARY FOR OPERATIONS, SECURITY AND PREPAREDNESS.	EXECUTIVE DIRECTOR, OFFICE OF PERSONNEL SECURITY AND IDENTITY MANAGEMENT.
	OFFICE OF THE GENERAL COUNSEL.	CHIEF COUNSEL, PERSONNEL LAW GROUP.
		CHIEF COUNSEL REAL PROPERTY LAW GROUP.
		CHIEF COUNSEL, INFORMATION LAW GROUP.
		CHIEF COUNSEL, BENEFITS LAW GROUP.
		CHIEF COUNSEL, SOUTHEAST DISTRICT—NORTH.
		CHIEF COUNSEL, TORTS AND ADMINISTRATIVE LAW.
		COUNSELOR/ADVISOR.
		CHIEF COUNSEL COLLECTIONS NATIONAL PRACTICE GROUP.
		REGIONAL COUNSEL (19).
		EXECUTIVE DIRECTOR, MANAGEMENT PLANNING AND ANALYSIS.
		DEPUTY GENERAL COUNSEL, LEGAL OPERATIONS.
		SENIOR ADVISOR (STRATEGIC PLANNING).
		DEPUTY GENERAL COUNSEL, LEGAL POLICY.
		COUNSELOR TO THE GENERAL COUNSEL/DIRECTOR OFFICE OF ACCOUNTABILITY REVIEW.
		CHIEF COUNSEL (9).
		EXECUTIVE DIRECTOR, OFFICE OF ACCOUNTABILITY REVIEW.
		CHIEF COUNSEL, LOAN GUARANTY.
		CHIEF COUNSEL, DISTRICT CONTRACTING.
		CHIEF COUNSEL HEALTH LAW GROUP.
		CHIEF COUNSEL, PROCUREMENT LAW GROUP.
		CHIEF COUNSEL, SOUTHEAST DISTRICT—SOUTH.
	OFFICE OF THE SECRETARY AND DEPUTY.	EXECUTIVE DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.
		EXECUTIVE DIRECTOR.
	VETERANS BENEFITS ADMINISTRATION.	DEPUTY EXECUTIVE DIRECTOR FOR OPERATIONS.
		DEPUTY CHIEF FINANCIAL OFFICER.
		DEPUTY EXECUTIVE DIRECTOR FOR POLICY AND PROCEDURES.
		EXECUTIVE DIRECTOR, LOAN GUARANTY SERVICE.
		EXECUTIVE DIRECTOR, OFFICE OF PERFORMANCE ANALYSIS AND INTEGRITY.
		CHIEF FINANCIAL OFFICER.
	VETERANS HEALTH ADMINISTRATION.	DIRECTOR, SERVICE AREA OFFICE (EAST).
		DIRECTOR SERVICE AREA OFFICE (CENTRAL).
		DIRECTOR, SERVICE AREA OFFICE (WEST).
		ASSOCIATE CHIEF FINANICAL OFFICER, FINANCIAL MANAGEMENT AND ACCOUNTING SYSTEMS.
		DEPUTY CHIEF PROCUREMENT OFFICER.
		DEPUTY CHIEF FINANCIAL OFFICER.
		EXECUTIVE DIRECTOR VETERANS CANTEEN SERVICE.
		CHIEF FINANCIAL OFFICER.
		CHIEF COMPLIANCE AND BUSINESS INTEGRITY OFFICER.
		ASSOCIATE CHIEF FINANCIAL OFFICER FOR MANAGERIAL COST ACCOUNTING.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 2017—Continued

Agency	Organization	Title
		CHIEF PROCUREMENT AND LOGISTICS OFFICER.
		ASSOCIATE CHIEF FINANCIAL OFFICER.
		CHIEF OPERATING OFFICER VETERANS CANTEEN SERVICE.
	OFFICE OF ACQUISITION AND MATERIAL MANAGEMENT.	DEPUTY ASSISTANT SECRETARY FOR ACQUISITION AND MATERIAL MANAGEMENT.
		ASSOCIATE EXECUTIVE DIRECTOR, PROCUREMENT POLICY, SYSTEMS AND OVERSIGHT.
		ASSOCIATE EXECUTIVE DIRECTOR, ACQUISITION PROGRAM SUPPORT.
		ASSOCIATE EXECUTIVE DIRECTOR, NATIONAL HEALTHCARE ACQUISITION.
	OFFICE OF CORPORATE SENIOR EXECUTIVE MANAGEMENT.	EXECUTIVE DIRECTOR.
	OFFICE OF DIVERSITY MANAGEMENT AND EQUAL EMPLOYMENT OPPORTUNITY.	EXECUTIVE DIRECTOR, OFFICE OF DIVERSITY AND INCLUSION.
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	OFFICE OF OPERATIONS, SECURITY AND PREPAREDNESS.	EXECUTIVE DIRECTOR FOR SECURITY AND LAW ENFORCEMENT.
DEPARTMENT OF VETERANS AFFAIRS, OFFICE OF THE INSPECTOR GENERAL.	IMMEDIATE OFFICE OF THE INSPECTOR GENERAL.	DEPUTY COUNSELOR TO THE INSPECTOR GENERAL.
		DEPUTY INSPECTOR GENERAL.
		COUNSELOR TO THE INSPECTOR GENERAL.
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	OFFICE OF THE ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND ADMINISTRATION.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND ADMINISTRATION.
		ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND ADMINISTRATION.

Authority: 5 U.S.C. 3132.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

[FR Doc. 2018–13328 Filed 6–21–18; 8:45 am]

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FEDERAL REGISTER

Vol. 83 Friday,

No. 121 June 22, 2018

Part V

The President

Executive Order 13840—Ocean Policy To Advance the Economic, Security, and Environmental Interests of the United States

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Vol. 83, No. 121
Friday, June 22, 2018

Presidential Documents

Title 3—

The President

Executive Order 13840 of June 19, 2018

Ocean Policy To Advance the Economic, Security, and Environmental Interests of the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Purpose.* The ocean, coastal, and Great Lakes waters of the United States are foundational to the economy, security, global competitiveness, and well-being of the United States. Ocean industries employ millions of Americans and support a strong national economy. Domestic energy production from Federal waters strengthens the Nation's security and reduces reliance on imported energy. Our Armed Forces protect our national interests in the ocean and along the Nation's coasts. Goods and materials that support our economy and quality of life flow through maritime commerce. Our fisheries resources help feed the Nation and present tremendous export opportunities. Clean, healthy waters support fishing, boating, and other recreational opportunities for all Americans.

This order maintains and enhances these and other benefits to the Nation through improved public access to marine data and information, efficient interagency coordination on ocean-related matters, and engagement with marine industries, the science and technology community, and other ocean stakeholders. To advance these national interests, this order recognizes and supports Federal participation in regional ocean partnerships, to the extent appropriate and consistent with national security interests and statutory authorities.

Sec. 2. *Policy.* It shall be the policy of the United States to:

(a) coordinate the activities of executive departments and agencies (agencies) regarding ocean-related matters to ensure effective management of ocean, coastal, and Great Lakes waters and to provide economic, security, and environmental benefits for present and future generations of Americans;

(b) continue to promote the lawful use of the ocean by agencies, including United States Armed Forces;

(c) exercise rights and jurisdiction and perform duties in accordance with applicable domestic law and—if consistent with applicable domestic law—international law, including customary international law;

(d) facilitate the economic growth of coastal communities and promote ocean industries, which employ millions of Americans, advance ocean science and technology, feed the American people, transport American goods, expand recreational opportunities, and enhance America's energy security;

(e) ensure that Federal regulations and management decisions do not prevent productive and sustainable use of ocean, coastal, and Great Lakes waters;

(f) modernize the acquisition, distribution, and use of the best available ocean-related science and knowledge, in partnership with marine industries; the ocean science and technology community; State, tribal, and local governments; and other ocean stakeholders, to inform decisions and enhance entrepreneurial opportunity; and

(g) facilitate, as appropriate, coordination, consultation, and collaboration regarding ocean-related matters, consistent with applicable law, among Federal, State, tribal, and local governments, marine industries, the ocean science

and technology community, other ocean stakeholders, and foreign governments and international organizations.

Sec. 3. *Definitions.* For the purposes of this order, the following definitions apply:

(a) ''Ocean-related matters'' means management, science, and technology matters involving the ocean, coastal, and Great Lakes waters of the United States (including its territories and possessions), and related seabed, subsoil, waters superadjacent to the seabed, and natural resources.

(b) ''Regional ocean partnership'' means a regional organization of coastal or Great Lakes States, territories, or possessions voluntarily convened by governors to address cross-jurisdictional ocean matters, or the functional equivalent of such a regional ocean organization designated by the governor or governors of a State or States.

Sec. 4. *Interagency Coordination.* (a) To ensure appropriate coordination by Federal agencies on ocean-related matters, there is hereby established the interagency Ocean Policy Committee (Committee).

(i) The Committee shall consist of the following:

(1) The Chairman of the Council on Environmental Quality (CEQ) and the Director of the Office of Science and Technology Policy (OSTP), who shall serve as Co-Chairs;

(2) The Secretary of State, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Transportation, Secretary of Energy, Secretary of Homeland Security, Administrator of the Environmental Protection Agency, Director of the Office of Management and Budget, Administrator of the National Aeronautics and Space Administration, Director of the National Science Foundation, Director of National Intelligence, Chairman of the Joint Chiefs of Staff, Under Secretary of Commerce for Oceans and Atmosphere, Assistant Secretary of the Army (Civil Works), and Commandant of the Coast Guard;

(3) The Assistants to the President for National Security Affairs, Homeland Security and Counterterrorism, Domestic Policy, and Economic Policy;

(4) A representative from the Office of the Vice President designated by the Vice President; and

(5) Such other officers or employees of the Federal Government as the Co-Chairs may from time to time designate.

(b) The Co-Chairs, in coordination with the Assistants to the President for National Security Affairs, Homeland Security and Counterterrorism, Domestic Policy, and Economic Policy, shall regularly convene and preside at meetings of the Committee, determine its agenda, and direct its work, and shall establish and direct subcommittees of the Committee as appropriate. The Committee shall, as appropriate, establish subcommittees with responsibility for advising the Committee on matters pertaining to ocean science and technology and ocean-resource management.

(i) Committee members may designate, to perform their Committee or subcommittee functions, any person who is within their department, agency, or office who is:

(1) a civilian official appointed by the President;

(2) a member of the Senior Executive Service or the Senior Intelligence Service;

(3) a general officer or flag officer; or

(4) an employee of the Office of the Vice President.

(ii) Consistent with applicable law and subject to the availability of appropriations, OSTP or CEQ shall provide the Committee with funding, including through the National Science and Technology Council pursuant to title VII, section 723 of the Consolidated Appropriations Act, 2018 (Public

Law 115–141), or any successor provision, or through the Office of Environmental Quality pursuant to the Office of Environmental Quality Management Fund, 42 U.S.C. 4375. OSTP or CEQ shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative support as needed to implement this order.

(iii) The Committee shall be administered by an Executive Director and such full-time staff as the Co-Chairs recommend.

Sec. 5. *Functions.* To implement the policy set forth in section 2 of this order, the Committee shall, to the extent permitted by law:

(a) provide advice regarding policies concerning ocean-related matters to:

(i) the President; and

(ii) the head of any agency who is a member of the Committee;

(b) engage and collaborate, under existing laws and regulations, with stakeholders, including regional ocean partnerships, to address ocean-related matters that may require interagency or intergovernmental solutions;

(c) coordinate the timely public release of unclassified data and other information related to the ocean, coasts, and Great Lakes that agencies collect, and support the common information management systems, such as the Marine Cadastre, that organize and disseminate this information;

(d) coordinate and inform the ocean policy-making process and identify priority ocean research and technology needs, to facilitate:

(i) the use of science in the establishment of policy; and

(ii) the collection, development, dissemination, and exchange of information between and among agencies on ocean-related matters;

(e) coordinate and ensure Federal participation in projects conducted under the National Oceanographic Partnership Program through the Committee's members, as appropriate, to maximize the effectiveness of agency investments in ocean research; and

(f) obtain information and advice concerning ocean-related matters from:

(i) State, tribal, and local governments; and

(ii) private-sector entities and individuals.

Sec. 6. *Cooperation.* To the extent permitted by law, agencies shall cooperate with the Committee and provide it such information as it, through the Co-Chairs, may request. The Committee shall base its decisions on the consensus of its members. With respect to those matters for which consensus cannot be reached, the Assistant to the President for National Security Affairs shall coordinate with the Co-Chairs to present the disputed issue or issues for decision by the President. Within 90 days of the date of this order, agencies shall review their regulations, guidance, and policies for consistency with this order, and shall consult with CEQ, OSTP, and the Office of Management and Budget (OMB) regarding any modifications, revisions, or rescissions of any regulations, guidance, or policies necessary to comply with this order.

Sec. 7. *Revocation.* Executive Order 13547 of July 19, 2010 (Stewardship of the Ocean, Our Coasts, and the Great Lakes), is hereby revoked.

Sec. 8. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

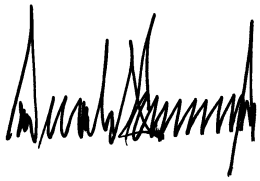
(i) the authority granted by law to an executive department, agency, or the head thereof;

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals; or

(iii) functions assigned by the President to the National Security Council or Homeland Security Council (including subordinate bodies) relating to matters affecting foreign affairs, national security, homeland security, or intelligence.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
June 19, 2018.

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